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6 Vol.

W. T. M. Kennedy.

STATE-TRACTS

FOR

Impeachments for HIGH TREASON

CERTAIN

The Reign of King HENRY

In Four VOLUMES

A Compleat Collection OF STATE-TRYALS, AND PROCEEDINGS UPON Impeachments for HIGH TREASON, AND OTHER CRIMES and MISDEMEANOURS; FROM The Reign of King *HENRY* the Fourth, TO The End of the Reign of Queen *ANNE*.

In Four Volumes.

With an Exact Alphabetical Table *to the Whole.*

LONDON;

Printed for TIMOTHY GOODWIN, againſt *St. Dunſtan's* Church in *Fleet-Street*; JOHN WALTHOE in the *Middle-Temple* Cloyſters; BENJ. TOOKE at the *Middle-Temple* Gate in *Fleet-Street*; JOHN DARBY in *Bartholomew-Cloſe*; JACOB TONSON againſt *Katherine-Street* in the *Strand*; and JOHN WALTHOE *Jun.* againſt the *Royal-Exchange* in *Cornhill*. M. DCC. XIX.

B41

A

Compleat Collection

OF

STATE-TRYALS,

AND

PROCEEDINGS

FOR

HIGH-TREASON,

AND

CRIMES and MISDEMEANOURS;

From the Reign of King HENRY the Fourth,

To the End of the Reign of Queen ANNE.

This is a Learning that remains entirely untouch'd, and may have been to any private Undertaker.

As to the Crown-Law already extant, it is so far from being defective, even in the most ordinary Tryals, that it affords Precedents: This is a Learning that remains entirely untouch'd, and may have been to any private Undertaker.

The Undertakers of this Work therefore have prepar'd no Preface, but refer the Reader to the Tryals themselves, which will be found to be collected from former Precedents, as the most authentick Records, and the most numerous Authors of Reports and Inftitutes, that one has had the Opportunity to make any confiderable Collection of in a Reign or two. Nor can any probable Reason be given for Learning the Laws of this Realm from Records, and neglecting the Records themselves.

In Two Volumes.

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THE PREFACE.

SINCE 'tis obſervable that the Beſt and Braveſt of Mankind are far from being exempted from criminal Proſecutions, and that potent Malice, or prevailing Faction, have too often attempted the moſt conſummate Merit; that Learning which ſhews how Life, Honour, and Innocence are to be defended, when they ſhall happen to be injuriouſly attack'd, will not, 'tis preſum'd, be thought inferiour to that, which inſtructs us how to defend our leſs important Rights.

And as the Common Law is nothing elſe but immemorial Cuſtom, and the Cuſtom and Methods of Tryal, and bringing Offenders to Puniſhment, is no inconſiderable Branch of that Law; and ſince theſe, as other Cuſtoms, are only to be collected from former Precedents, 'tis ſomething ſtrange, that amongſt the numerous Authors of Reports and Inſtitutes, not one has hitherto thought fit to make any conſiderable Collection of this kind, or thorowly to methodize or digeſt this ſort of Learning: nor can any probable Reaſon be aſſign'd for this Neglect, unleſs they have been deterr'd by the vaſt Trouble and Expence it muſt have been to any private Undertaker.

As to the Crown-Law already extant, 'tis ſo far from being a compleat Direction, even in the moſt ordinary Tryals, that it affords little more than ſome imperfect Hints of what the Authors intended. And as to the Doctrine of Impeachments, Tryals of Peers by Commiſſion, or in Parliament, Bills of Attainder, and the Cuſtoms and Uſage of Parliaments, in relation to theſe Matters: This is a Learning that remains entirely untouch'd, and is only to be collected from Precedents of this Nature.

The Undertakers of this Work therefore have ſpar'd no Pains or Expence to procure whatever is valuable of this kind: They have had Recourſe to every Library publick and private, where they had intimation there was any thing worth inſerting; and they have for ſome time ſince offer'd large Encouragement to thoſe who ſhould contribute either Manuſcripts or printed Tryals, towards rendring the Deſign compleat.

And having at length finiſh'd their Collection, they have added a Table to the whole, wherein all the various Learning the Work contains is reduc'd under proper Heads. And that which before lay diſpers'd in many Volumes, very difficult to be obtain'd, and ſeveral valuable Manuſcripts that have been perfectly buried in private Hands, are here brought to light; and ſo diſpos'd, that the ſtudious Reader may make himſelf Maſter of the Subject, with much leſs Labour and Expence than has hitherto been requiſite.

And as to the Manuſcripts, ſuch Care has been taken to avoid all Miſtakes, that the Judges and Counſel, who were concern'd in ſuch Tryals, and are ſtill living, have been attended with their reſpective Arguments, and have been pleaſed ſo far to encourage the Undertaking, as to correct whatever was amiſs.

Nor are the Publiſhers conſcious they have omitted one remarkable Tryal that could poſſibly be obtain'd, unleſs that of Mr. *Hampden* in the Caſe of Ship-Mony, and that of my Lord *Strafford*; both which being to be found in Mr. *Ruſhworth*, are already in the hands of moſt Gentlemen, who are ſuppos'd to purchaſe theſe: and the inſerting them could be of no other uſe than to increaſe the Bulk, and enhance the Price of the Book. There is indeed another Account of my Lord *Strafford*'s Tryal, which differs in ſome Inſtances from Mr. *Ruſhworth*'s, and is more conciſe; and this it has been thought proper to inſert.

And as the Union of the two Kingdoms of *England* and *Scotland* is ſo near compleated, and there remains little elſe to diſtinguiſh us at preſent but the municipal Laws of the reſpective Kingdoms, it has been thought adviſable to add ſome remarkable *Scots* Tryals: In which (to do that Nation Right) are diſcover'd great Learning, Eloquence, and ſtrong Reaſoning. And indeed as the Civil Law prevails very much there, they have at leaſt as large a Field to exerciſe their Parts and Learning as our more *Southern* Orators, who are ſo unalterably attach'd to their Common Law; and it muſt be admitted, that the Party accus'd has in *Scotland* all the fair Play imaginable: He has what Counſel he thinks fit; he has a Copy of his Charge in his own Language, his Counſel are permitted to inſpect the very Depoſitions againſt him before he is brought to Tryal; and they are ſo little in haſte to diſpatch a State-Priſoner, that the Tryal often laſts ſome Months.

This Specimen of *Scotch* Tryals, as it will at preſent be acceptable to the Curious; ſo as we have one Senate, and one Legiſlature, it may hereafter give Birth to the introducing ſuch Methods of Tryal in each Kingdom, as in either ſhall appear to be founded on the greateſt Reaſon and Juſtice.

As to any Partiality in this Undertaking, it ſeems almoſt needleſs to diſclaim it; for the Reader has the Evidence and Arguments entire, without any Alteration or Diminution. It is true, as it falls out in Hiſtory, ſo it will do here; The farther we ſearch into Antiquity, and the higher we go, the leſs perfect will our Accounts be; the ſame Exactneſs cannot be expected there as in Tryals of a more modern Date: but thus much may be ſaid for the more antient Tryals, that they are the moſt perfect and compleat that could poſſibly be procur'd.

We ſhall detain the Reader no longer than to obſerve, that this Collection will not only be uſeful to the Learned in the Law, and to thoſe whoſe Misfortune it may be to fall under a criminal Proſecution, but in many Inſtances it corrects as well as illuſtrates our *Engliſh* Hiſtory: And there is ſcarce a controverted Point in Divinity or Politicks, but the Reader will find has been fully debated here by the greateſt Men our Nation has bred. And if Juſtneſs of Argument and true Eloquence have any Attraction, and theſe are Talents worth improving, here will be found the greateſt Collection of fine Speeches and Arguments, on the moſt important Subjects, that have hitherto been exhibited to the World.

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A Compleat

A Compleat

COLLECTION

OF

TRIALS, &c.

The Examinacion of Maſter WILLIAM THORPE, *Preſte, accuſed of Hereſye before* Thomas Arundel, *Archebiſhop of* Canterbury, *the Yere of ower Lorde, M.CCCC. and ſeven, and the eighth Yere of King* Henry *IV.*

KNOWEN be yt to all Men that rede or heare thys Writyng benethe, That on the Sondaye next after the Feſte of Seynt *Peter*, that we call Lammeſſe, in the yeare of our Lorde a M.CCCC. and vii. yeare, I *William* of *Thorpe* beyng in Preſon in the Caſtell of *Saltwode*, was brought before *Thomas Arundell* Archebyſhope of *Canterbury*, and Chaunceller than of *Ingland*: And when that I came to hym, he ſtoode in a great Chamber, and moch People aboute hym; and when that he ſawe me, he went faſte into a Cloſett, hyddyng all ſeculer Men that folowed hym to go forth from hym ſone; ſo that no Man was left than in that Cloſet but the Archebyſhop hymſelfe, and a Phyſician that was callyd *Malueren*, Perſon of Seynt *Dunſtanys* in *London*, and other two Perſonys unknowen to me, whych ware Minyſterys of the Lawe. And I ſtandyng before them, by-and-by the Archebyſhop ſeyd to me, *William*, I know well that thou haſt thys twenty Wynter and more trauelyd about beſyly in the *North* Contre, and in other diverſe Contres of *Ingland*, ſowyng about falſe Doctrine, hauyng great Buſyneſſe yf thou myght wyth thyne untrew Teachyng, and ſhrewyd Wyll for to enfecte and poyſon all this Lande: But through the Grace of God thou art now wythſtonded and brought in to my Warde, ſo that I ſhall now ſequeſter the from thyne euill purpoſe, and lett the to enuenyme the Shepe of my Provynce. Never the leſſe Seynt *Paul* ſeythe, *Yf it may be as ferre as in us is, we owe to have Peace wyth all Men*: Therefore, *William*, yf thou wyll now mekely, and of good Harte, without onye feynyng, knele downe and leye thy Hande upon a Booke and kyſſe yt, promyſyng feythfully, as I ſhall here charge the, that thou wilt ſubmyt the to my Correccyon, and ſtande to myne Ordinance, and fulfyll yt dewly by all thy Connyng and Power, thou ſhall yet fynde me gracyouſe unto the. Than ſeyd I to the Archebyſhop, Syr, ſyns ye deme me an Heretyke out of Beleue, wyll ye gyue me here Audience to tell my Beleue; and he ſeyd, ye tell on. And I ſeyd, I beleue that ther is not but one God Almyghty, and in thys Godheed, and of thys Godhede ar thre Perſones; that is, the Fader, the Sonne, and the ſothe faſte Holy Goſte: And I beleue that all thes thre Perſones ar euen in Power, and in Connyng, and in Myght, full of Grace and of all Goodneſſe; for whatſoever that the Father dothe, or can, or wyll, that thyng alſo the Sonne dothe, and can, and wyll; and in all their Power, Connyng and Wyll, the Holy Goſte is equall to the Father and to the Sonne. Ouer thys I beleue, that thrugh Counſell of thys moſte bleſſyd Trinitie, in moſte conuenient tyme before ordenyd for the Salvacyon of Man kynde, the ſeconde Peerſon of thys Trinite was ordenyd to take the Fourme of Man, that is the kynde of Man. And I beleue that thys ſeconde Perſon, our Lorde Jeſu Chriſte, was conceiuyd thorough the Holy Ghoſte into the Wombe of the moſt bleſſyd Virgyn *Marye*, wythout Manys Seede: And I beleue that after nyne monthys Chriſte was borne of thys moſte bleſſyd Vergyn, without one Peyne, or brekyng of the Cloſter of hyr Wombe, and wythout Fylthe of hyr Virginite: And I beleue that Chriſte our Sauyour was circunciſyd in the eyghte daye after hys Byrthe in fulfillyng of the Lawe, and hys Name was callyd *Jeſu*, which was callyd of the Angell before that he was conceiuyd in the Wombe of *Marie* hys Moder: And I beleue that Chriſte, as he was about thyrty yeare old, was baptyzed in the Fludde of *Jordane* of *John Baptiſt*; and, in lykeneſs of a Dove, the Holy Goſte deſcendyd there upon hym, and a Voyce was herde from Heuen, ſeiyng, *Thou art my welbloued Sonne, in the I am full pleaſyd.* And I beleue that Chriſte was moeuyd than by the Holy Goſte for to goo into Deſert, and there he faſtyd fourty dayes and forty nyghtes wythout bodely Meate and Drynk: And I beleue that by

and by, after hys Faſtyng, when the Manhode of Chriſte hongeryd, the Feende came to hym and temptyd hym in Glotony, in veyn Glory, and in Couetyſe; but in all thoes Temptacyons Chriſte concludyd the Fende, and withſtoode hym; and than wythout tariyng, Jeſu began to preache and to ſeye unto the People, *Doe ye Penaunce, for the Relme of Heven is now at hande*: And I beleue that Chriſt, in all hys tyme here, lyued moſte holyly, and taught the Wyll of hys Fader moſte trewly; and I beleue that he ſufferyd therefore moſte wrongfully greatyſt Repreuys and Deſpyſynges: And after thys whan Chriſte wolde make an ende here of hys temporall Lyfe, I beleue that in the daye next before that he wolde ſuffer Paſſyon in the Morne, in fourme of Brede and of Wyne he ordenyd the Sacramente of hys Fleſh and hys Blood, that ys, hys owne precyous Body, and gave it to hys Apoſtles for to eate, commaundying them, and by them all their Aftercomers, that they ſholde doo it in thys fourme that he ſhewyd to them, uſe them ſelf, and teache and commone forthe to other Men and Woomen thys moſte worſhypfull holieſt Sacrament, in myndefulneſſe of hys holyeſt Lyuyng, and of hys moſte trew Teachyng, and of hys wilfull and pacient Sufferyng of the moſte peynful Paſſion: And I beleue that thus Chriſte our Savyour, after that he had ordenid thys moſt woorthy Sacrament of hys owne preciouſe Body, he went forthe wyllfully agenſt hys Enemyes, and he ſufferyd them moſt paciently to ley their Handys moſte violently uppon hym, and to bynde hym, and to leade hym forthe as a Thefe, and to skorne hym, and buffet, and all to blow or fyle him with their Spittinges. Over this I beleue that Chriſte ſuffered moſt mekely and paciently his Enemies for to dinge out with ſharpe Scourges the Bloude that was betwene his Skyn and his Fleſh; yee without grudginge Chriſte ſuffered the cruell *Jewes* to crown hym with moſt ſharp Thornes, and to ſtrike him with a Rede: And after Chriſte ſuffered wicked *Jewes* to draw him out upon the Croſſe, and for to nayle hym there upon Fote and Hande; and ſo, thorow this pitiefull Naylinge, Chriſte ſhed out wilfully for Man's Lyfe the Bloude that was in his Vaynes: And then Chriſte gave wilfully his Spirite in to the Handes or Power of his Father, and ſo as he wolde, and when he wold, Chriſt deid wilfully for Man's ſake upon the Croſſe. And notwithſtandinge that Chriſte was wilfully, paynfully, and moſt ſhamefully put to deeth as to the Worlde, there was left Bloude and Water in his Herte, as he before ordened, that he wolde ſhede out this Bloude and this Water for Man's Saluacion: And therefore he ſuffered the *Jewes* to make a blinde Knight to thruſt him in to the Herte with a Spere, and this the Bloude and Water that was in his Hert Chriſte wolde ſhede out for Man's Love. And after this I beleue that Chriſte was taken downe from the Croſſe, and buried; and I beleue that on the third daye, by power of his Godheed, Chriſt roſe again from Deth to Life; and the xlth day ther after, I beleue that Chriſte aſcended up into Heven, and that he there ſitteth on the right Hande of God the Father Almyghty; and the tenth daye after this up goinge, he ſente to his Apoſtles the Holy Gooſt that he had promyſed them before; and I beleue that Chriſte ſhall come and judge all Mankinde, ſome to euerlaſtinge Peace, and ſome to euerlaſtinge Paynes. And as I beleue in the Father and in the Sonne, that they are one God Almyghty; ſo I beleue in the Holy Gooſt, that is alſo with them the ſame God Almyghty. And I beleue an holy Chirche, that is, all thei that haue byn, and that now are, and alwayes to the ende of the Worlde ſhal be a People, the which ſhall endeuer them to knowe and to kepe the Commaundments of God, dredinge over all thynge to offende God, and lovynge and ſekynge moſt to pleaſe hym. And I beleue that all they that haue had, and yet haue, and all they that yet ſhall haue the foreſayde vertuous ſurely ſtandynge in the Belefe of God, hopyng ſtedfaſtly in hys merciſull Doynges, continuynge to their ende in perfect Charitie, wilfully, paciently, and gladly ſoferynge Perſecutions, by the example of Chriſt chefly and his Apoſtles, all theſe haue their Names wryten in the Boke of Life: Therefore I beleue that the gaderynge together of this People, lyuynge now here in this Lyfe, ys the holye Chyrche of God, feyghtynge here on Erth agaynſt the Fende, the Proſperyte of the Worlde, and their fleſhely Luſtes. Wherfore ſeyng that all the gadering together of this Church before ſaid, and euery parte therof, nother coueteth, nor willeth, nor loveth, nor ſeketh any thinge but to eſchew the Offence of God, and to do his pleaſing Will; mekely, gladly, and wilfully of all myne Herte I ſubmitt my ſelfe unto thys holye Church of Chriſte, to be ever buxom and obedient to the Ordinaunce of it, and of euery Member thereof, after my Knowlege and Power by the helpe of God. Therefore I knowlege now and euermore ſhall, if God will, that of all my Harte, and off all my Might, I will ſubmyt me only to the Rule and Gouernaunce of them whome, after my Knowlege, I may perceave, by the havynge and uſynge of the beforeſayd Vertues, to be Membres of the holy Churche: Wherfore theſe Articles of Belefe, and all other bothe of the olde Lawe and of the newe, which after the Commaundement of God any Man oughte to beleue, I beleue verely in my Soule, as a ſynneſull deedly Wretche, of my Cunnynge and Power oughte to beleue, prayenge the Lorde God, for his holye Name, for to encreaſe my Belefe, and help my Unbelefe.

And forbycauſe to the prayſynge of Goddes Name, I deſyre above all thynge to be a faythfull Membre of holy Churche, I make this Proteſtacyon before you all foure that are now here preſente, covetynge that all Men and Women that nowe abſente knewe the ſame, that what thynge ſo ever before this tyme I haue ſayde or done, or what thynge here I ſhall doo or ſaye, at any tyme here after; I beleve that all the olde Lawe and the newe Lawe, geuen and ordened by the Councell of theſe thre Perſones of the Trynite, were geuen and wrytten to the Saluacyon of Mankynde: And I beleue that theſe Lawes are ſufficient for Man's Saluacyon: And I beleue every Article of theſe Lawes, to the entente that theſe Articles were ordened and commaunded of theſe thre Perſones off the moſte bleſſed Trynyte to be beleued. And therfore to the Rule and the Ordynaunce of theſe Goddes Lawes, mekely, gladly, and wilfully I ſubmytte me with all myne Harte, that who ever can or wyll by ouctoryte of Goddes Lawe, or by open Reaſon, tell me that I haue erred, or now erre, or any tyme here after ſhall erre in any Article of Belefe (fro whyche Inconvenience God kepe me for his Goodneſſe) I ſubmytte me to be reconcyled, and to be buxum and obedyente unto

to theſe Lawes of God, and to every Article of them. For by Auctorite, ſpecyally of theſe Lawes, I will, thorowe the Grace of God, be vnyed charytably unto theſe Lawes. Yee, Syr, and ouer thys I beleue and admytte all the Sentences, Auctorites, and Reaſons of the Sayncte and Doctoures, accordynge unto Holy Scripture, and declarynge it truely.

I ſubmytte me wylfully and mekely to be ever obediente after my connynge and power to all theſe Sayncte and Doctoures, as they are obedyente in Worke and in Worde to God and to his Lawe, and forther not to my Knowlege, not for any erthly Power, Dignity or State, thorowe the helpe of God. But Syr, I praye you tell me yf after youre biddying I ſhall laye my Hande upon the Boke to the entente to ſwere thereby?

And the Archebiſhope ſaid to me, ye, wherfore els? And I ſayde to him, Syr, a Boke is nothyng els but a thyng coupled together of dyuerſe Creatures, and to ſwere by any Creature both Gods Lawe and Mans Lawe is agaynſt.

But Syr, this thinge I ſaye here to you before theſe your Clerckes, with my forſayd Proteſtacion, that how, where, when and to whom Men are bounden to ſwere or to obey in ony wyſe after Gods Lawe, and Sayntes and trewe Doctours according with Gods Lawe: I will thorow Gods Grace be ever redy thereto with all my conning and power. But I pray you Syr, for the Charity of God, that ye will before that I ſwere as I have here reherſed to you, tell me how or whereto that I ſhall ſubmytt me; and ſhewe me whereof that ye will correct me, and what is the Ordinaunce that ye will thus oblige me to fulfyll.

And the Archebiſhop ſeid unto me, I will ſhortely that nowe thou ſwere here to me that thou ſhalt forſake all the Opinions which the Secte of *Lollards* holde, and is ſlaundred with; ſo that after this tyme nother pryuely nor apertly thou holde any Opinion which I ſhall after that thou haſte ſworne reherſe to the here. Nor thou ſhalt fauer no Man nor Woman, young nor old, that holdeth any of thes foreſeid Opinions; but after thi Knowledge and Power thou ſhalt enforſe the to withſtand all ſoche diſtroblers of Holye Chyrche in euery Dioceſe that thou comeſt in: and them that will not leaue their falſe and dampnable Opinions, thou ſhalt put them up, publeſhyng them and their Names, and make them knowen to the Biſhop of the Dioceſe that they are in, or to the Biſhopes Miniſtres. And ouer this I will that thou preach no more unto the tyme that I know by good Witneſſe and trewe, that thy Conuerſacion be ſoch that thy Hart and thy Mouth accorde treuly in one contrariyng all the leude Learnying that thou haſt taught here before.

And I hearying thes Wordes, thought in my Harte, that this was an vnlefull asking; and I demyd myſelf curſed of God, yf I conſented hereto, and I thought howe *Suſan* ſeid, *Anguyſſch is to me on euery ſyde.* And in that I ſtode ſtill, and ſpake not, the Archebiſhop ſeid to me, Anſwere one wyſe or a nother: and I ſeid, Syr, if I conſented to you thus, as ye haue here reherſed to me, I ſhould become an Appelar, or euery Biſhopis eſpye, ſomonour of all *Englonde.* For, and I ſholde thus put up, and publeſhe the Names of Men and Women, I ſholde herein deceiue full many Perſones; ye Syr, as it is likely by the dome of my Conſcience I ſholde herein, becauſe of the dethe both of Men and Women, ye both bodely and goſtely. For many Men and Women that ſtand now in the Treuthe, and are in the waye of Salvation; yf I ſholde for the Learnying and Reding of their Beleve publeſhe them, and put them therfor up to Biſhopes, or to their unpituouſe Miniſters, I know ſome dele by Experience, that they ſholde be ſo diſtrobled and diſeaſed with Perſecucion or otherwiſe, that many of them (I thinke) would rather chole to forſake the waye of Treuthe, than to be traveled, skorned and ſlaundred, or puniſhed as Biſhopes and their Miniſtres now uſe for to conſtreyne Men and Women to conſent to them. But I fynde in no place in Holy Scripture, that this Office that ye wolde now enfeſſe me with accordith to ony Priſte of Chriſtes Secte, nor to any other Chriſten Man. And therefore to do thus wer to me a full'noycous bonde to be bounden with, and over grevouſe Charge. For I ſuppoſe, that yf I thus dede many Men and Women would, ye Syr, might juſtly unto my Confuſion ſey to me, that I wer a Traitur to God and to them; ſyns (as I thinke in myne Hert) many Men and Women truſte ſo mekle in me in this caſe, that I wold not for ſavyng of my Lyfe do thus to them. For yf I thus ſholde do, full many Men and Women wolde (as they might full truly ſey) that I hadde falſly and cowerdly forſaken the Truthe, and ſlaundred ſhamefully the Word of God. For yf I conſented to you to do hereafter your Will for bon chefe or miſchef that may befall to me in this Lyfe, I deme in my Conſcience that I were worthy herefore to be curſed of God, and alſo of all his Seyntes, fro which inconuenience kepe me, and all Chriſten People Almighti God now and ever for his Holy Name. And than the Archebiſhop ſaid vnto me, O thine Hart is full hard endured as was the Herte of *Pharao*, and the Deuell hath ouercomen the and perverted the; and he hath ſo blynded the in all thy Wittes, that thou haſt no Grace to know the Treuthe, nor the meſure of Mercy thot I haue profered to the. Therefor, as I perceyue now by thy foliſh Anſwere, thou haſt no will to leaue thyne olde Errours. But I ſey to the leude Loſell, other thou quickly conſente to myne Ordinaunce, and ſubmit the to ſtand to my Decrees, or by Seynt *Thomas* thou ſhalt be diſgraded, and folowe thy Felowe in *Smithfelde.* And at this ſeying I ſtode ſtyll and ſpake not, but I thought in myne Harte that God did to me a greate Grace, if he wolde of his great Mercy bring me to ſoch an ende. And in myne Harte I was nothing frayde with this menaſing of the Archebiſhop. And I conſidered there two things in him: one, that he was not yet ſorofull for that he had made *William Soutre* wrongfully to be burnt. And as I conſydered that the Archebiſhop thyrſted yet after more ſheding out of innocent Bloode. And faſt therfore I was moved in all my Wittes, for to hold the Archebiſhop nother for Prelate nor for Preiſt of God; and for that myne inward Man was thus altogether departed from the Archebiſhop, methought I ſhould not haue ony dread of him. But I was right heuy and ſorouful, for that ther was none Audience of Seculer Men by: but in myne Hart I praid the Lord God for to comforte me and ſtrengith me ageinſt them that there ware agaynſte the ſothefaſteneſſe. And I purpoſed to ſpeak no more to the Archebiſhop and his Clerckes than me nede behoved: and all thus I praied God for his Goodneſſe to geue me than and alwaye Grace to ſpeake with a meke and an eaſy Spyrit;

and whatſoeuer thinge that I ſhulde ſpeke, that I might haue true Authorities of Scriptures, or open Reaſon. And for that I ſtode thus ſtill, and nothing ſpake, one of the Archebiſhopes Clerkes ſeid vnto me,

What thing muſiſte thou? Do thou as my Lord hath now commanded to the here.

And yet I ſtode ſtill, and anſwered him not; and than ſone after the Archebiſhope ſeid to me, Arte thou not yet bethought, whether thou wilt do, as I haue here ſeid to the? And I ſeid than to hym;

Syr, my Father and my Mother, on whoſe Soules God haue Mercy (if it be his will) ſpent mekyll Money in diuerſe Places about my Learning, for the entent to haue made me a Prieſte to God: but when I came to Yeares of Diſcretion I had no will to be Prieſte, and therfore my Friends were right heuy to me; and than me thought their grudging agenſt me was ſo peynfull to me, that I purpoſed therfor to haue left their Company: and when they perceiued this in me, they ſpake ſome tyme full feire and pleaſaunt Wordes to me; but for that they might not make me to conſent of good Harte to be a Prieſte, thei ſpake to me full ofte tymes very grevous Wordes, and manaſſed me in diuerſe manners, ſhewing to me full heuy chere. And thus one while in feire manner, a nother while in greuous they wer long tyme as me thought full beſy about me, or I conſented to them to be a Prieſte: but at the laſte, whan in this matter they wold no longer ſuffer myne Excuſacions; but other I ſhould conſent to them, or I ſholde ever bear their Indignation, ye, their Curſe, (as they ſeide) than I ſeing this, praid them that they wold gyue me licence for to go to them that wer named wyſe Prieſtis and of vertuous Conuerſacion, to haue their Counſell, and to know of them the Office and the Charge of Prieſthode. And hereto my Father and my Mother conſented full gladly, and gaue me their Bliſſing and goode leaue to go, and alſo Money to ſpende in this Journey. And ſo than I went to tho Prieſts, whom I herde to be of beſte Name, and of moſte holy lyvyng, and beſte learnid, and moſte wyſe of heauenly Wiſdom; and ſo I communed with them vnto the tyme that I perceiuyd by their verteuous and continuall Occupacions that their honeſte and charitable werks paſſed their Fame wich I herde before of them. Wherefore, Syr, by the example of the Doctrine of them, and ſpecially for the godly and innocent Workis wich I perceiued than of them and in them; after my Conning and Power I have exerciſed me than and in this tyme to knowe perfectly Goddis Lawe, hauing a will and a deſyre to lyve ther after, willing that all Men and Women exerciſed them ſelf feithfully theraboute. Yf than, Syr, other for Pleaſure or Diſpleaſure of them that ar nother ſo wiſe, nor of ſo verteuouſe Conuerſation to my Knowledge; nor by comone Fame to ony other Mannis Knowledge in this Land, as thes Men wer of whome I toke my Counſell and Information: I ſholde now forſake thus ſodenly and ſhortely, and unwarnid all the Learning that I exerciſed my ſelf in this thirty Winter and more; my Conſcience ſhulde ever be herewith out of meſure vnquieted: and as, Syr, I knowe well that many Men and Women ſhould be therthrowe greatly troublid and ſclaunderid, and as I ſaid Syr to you before, for myne Untrewthe and falſe Cowardneſs many a one ſholde be put into full great repreſe: ye Syr I drede, that many a one, as thei might then iuſtely, wolde curſe me full bitterly, and Syr I feare not but the Curſe of God, which I ſholde deſerve herein, wolde bring me to a full euyll end, yf I continewid thus. And if thorow remorſe of Conſcience I repentid me any tyme retourning into the way, which you doo your diligence to conſtreine me now to forſake ye Syr, all the Biſhopis of this Lande with full many other Prieſtis wolde defame, and purſew me as a Relapſe, and thei that now have (though I be unworthy) ſome Confidence in me, hereafter wolde neuer truſte to me though I cowlde teache and liue neuer ſo verteuouſly more than I can or may. For if after your Counſell I lefte vtterly all my Learning, I ſholde hereby firſte wounde and defyle myne owne ſoule; and alſo I ſholde here through geue occaſion to many Men and Women of full ſore hurting: ye Syr, as it is likely to me, if I conſented to your will I ſholde herein by myne euill Example in it, as ferre as in me wer, ſlee many Folke goſtely, that I ſholde neuer deſerue for to haue Grace of God to the edifying of his Chirche nother of my ſelf, nor of none other Mannes Lyfe, and undone bothe before God and Man. But Syr, by Example chefely of ſome whos Names I will not now reherſe, *H.* of *J. P.* and *B.* and alſo by the preſent doyng of *Philip* of *Rampenton* that is now becomen Biſhop of *Lincoln*, I am now learnid as many mo hereafter thorow Goddis Grace ſhall be learned, to hate and to fle all ſoche ſclander, that thes foreſeid Men chefely hathe defyled principally themſelves with. And in it that in them is they haue enuenemid all the Chirche of God for that ſclanderous reuoking at the Croſſe of *Paulis* of *H. P.* and of *B.* and how now *Philip Rampenton* perſewith Criſtis People. And that feining, that thes Men diſſemble by worldly Prudence keping them cowerdly in their Preaching and Communing within the Bondis and Termis (wich without blame may be ſpokyn and ſhewid out to the moſte worldly lyuers) will not be vnponiſhid of God. For to the point of Trewthe that thes Men ſhewid out ſome tyme they will not now ſtreche forth their Lyues. But by Example eche one of them as their Wordis and their Works ſhewe they beſy them thorow their feinyng; for to ſclaunder and to perſewe Chriſte in his Membres, rather than they will be perſewed.

And the Archebiſhop ſeid to me, Thes Men the which thou ſpekiſt of now wer Foolis and Heretiques, whan they were countid wyſe Men of the and other ſoche loſelles. But now they ar wyſe Men, though thou and ſoche other deme them vnwyſe. Neuertheleſſe I wiſte neuer none, that right ſeide, that eny while were enuenymed with your contagiouſneſſe, that is, contaminate and ſpottid Doctrine.

And I ſeid to the Archebiſhop, Syr, I think well that thes Men and ſuch other ar now wyſe as to this Worlde; but as their Wordis ſoundid ſometyme, and their Workis ſhewid outwardly, it was likely to move me that they had earneſte of the Wiſdome of God; and that they ſholde haue deſerud mickell Grace of God to haue ſauyd their own Soules, and meny other Mennis, if they had continewid feithfully in wilfull pouerte, and in other ſympie verteuous lyvyng; and ſpecially if they hadde with thes foreſeide vertuels continewid in their beſy fruteſull ſowing of Goddis Worde; as to many Mennys Knowledge they

occupied

occupied them a Seaſon in all their Wittes full beſyly to know the pleſaunt Will of God, trauelyng all their Membres full beſily for to doo therafter, purely and chefely to the praiſing of the moſt Holy Name of God, and for grace of Edification and Saluacion of Chriſten People; but wo worthe falſe Couetiſe, and euill Counſell, and Tyrannye, by wiche they and many Men and Women are ledde blyndely into an evill ende.

Than the Archebiſhop ſeide to me, Thou and ſoche other loſellis of thy Secte wolde ſhaue your Herdis full nere for to have a Benefice. For by Jeſu I know none more couetouſe ſhrewis than ye ar, when that ye haue a Benefice. For lo I gave to *John Puruay* a Benefice but a Myle out of this Caſtell, and I herde more Compleintis aboute his Covetouſneſſe for Tythes and other Myſdoyngys, than I didde of all Men that wer auancid within my Dioceſſe.

And I ſeid to the Archebiſhop, Syr, *Puruay* is nother with you now for the Benefice that ye gaue him, nor he holdith feithfully with the Learnying that he tawght and writ before tyme, and thus he ſhewith hymſelf nother to be hote nor cold; and therfore he and his Felaws may fore drede, that if they torne not haſtely to the waye that they have forſaken, perauenture they be put out of the nombre of Criſtis choſyn People.

And the Archebiſhop ſaid, Though *Puruay* be now a falſe Harlot, I quyte me to him; but come he more for ſoche Cauſe before me, or we depart, I ſhall knowe with whome he holdith. But I ſey to the, Whiche ar thes holy Men and Wyſe of whom thou haſte takyn thyne Informacion?

And I ſeid, Sir, Maſter *John Wicliff* was holden of full many Men the greatiſte Clerke that they knewe than lyvyng; and therwith he was namid a paſſing ruely Man, and an ynnocent in his lyuynge, and herefore greate Men commonyd ofte with him, and they louyd ſo his Learnying that they writ it, and beſily enforſid them to rule themſelf there after. Therefore Syr, this foreſeid Learnying of Maſter *John Wicliff* is yet holden of full many Men and Women, the moſt agreable Learning unto the lyuing and teachyng of Criſte and of his Apoſtles, and moſte openly ſhewing and declaring how the Chirche of Criſte hathe ben, and yet ſhulde be rewlid and gouern'd. Therfore ſo many Men and Women couet this Learnying, and purpoſe through Goddis Grace to conforme their lyuying Life to this Learnying of *Wicliff*. Maſter *John Aiſton* tawght and writ accordingly, and full beſily wher and whan, and to whome that he might; and he vſid it hymſelf right perfitely unto his Lifes ende. And alſo *Philip* of *Rampenton* while he was a Chanone of *Laceſter*, *Nicholas Herforde*, *Dauy Gotray* of *Pakring*, Monk of *Bylande*, and a Maſter of Diuinitie, and *John Purnay* and many other wich wer holden right wiſe Men and prudent tawcht, and writ beſily this foreſeid Learnyng, and conformid them thereto. And with all thes Men I was ofte right homely, and communyd with them long tyme and ofte; and ſo before all other Men I choes wilfully to be informid of them and by them, and ſpecially of *Wicleff* himſelf, as of the moſte verteuous and godly wiſe Men that I herde of or knewe. And therefore of him ſpecially, and of thes Men, I tooke the Learning that I haue taucht, and purpoſe to liue there after (if God will) to my Liues end. For though ſome of thes Men be contrary to the Learning that they taucht, before I wote well that their Learning was trewe wich they taught; and therfore with the helpe of Gode I purpoſe to holde and to uſe the Learning wich I harde of them, while they ſat on *Moſes* Chaire, and ſpecially while they ſat on the Chaire of Criſte. But after the Werkis that they now do, I will not doo with Goddis helpe. For they feine and hide, and contrary the Trewthe wich before they taucht out plenily and trewly. For as I know well when ſome of thes Men hathe been blamid for their ſclaunderous doing, they graunte not that they haue tauchte a miſſe, or erryd before time; but that they were conſtreinid by peine to leave to tell out the ſothe, and thus they choeſe now rather to blaſpheme God than to ſuffer a while here Perſecution bodely for ſothefaſtneſſe that Chriſte ſhed out his Harte Bloode for.

And the Archebiſhop ſeid, That Learning that thou calliſt Trewthe and Sothefaſtneſſe, is open ſclaunder to Holy Chirche, as it is prouid of Holy Chirche. For all be it, that *Wicliff* your Autour was a great Clerke, and though that many Men held him a perfite liuer, yet his Doctrine is not approuid of Holy Cherche, but many Sentences of his Learning are dampnid as they well woorthy ar. But as touching *Philip* of *Rampenton* that was firſt Chanone, and after Abbot of *Laceſter*, which is now Biſhop of *Lincoln*: I tell the that the Day is comen for wich he faſtid the euene. For nother he holdeth now, nor will hold the Learning that he thought when he was a Chanon of *Laceſter*: For no Biſhop of this Land perſeweth now more ſharpely them that holde thy way than he doeth.

And I ſaid, Syr, full many Men and Women wonderith upon him, and ſpeakith him mekill Shame, and holdith him for a curſid Enemy of the Trewthe.

And the Archebiſhop ſeid to me, Wherefore tarieſt thou me thus here with ſoche Fables, wilt thou ſhortely (as I have ſeid to the) ſubmit the to me or no?

And I ſeid, Syr, I tell you at one word, I dare not for the drede of God ſubmit me to yon, after the Tenour and Sentence that ye have aboue reherſed to me.

And than as if he hadde been wrothe he ſeid to one of his Clerkis, fetch hider quikely the Certification that came to me fro *Shrewisbury* under the Bailiues Seal, witneſſing the Errours and Hereſies which this loſell hath venemouſly ſowen there.

Then haſtely the Clerke tooke out, and leid forth on a Cupborde diverſe Rollis and Writings, among which there was a little one, which the Clerke delivered to the Archebiſhop. And by and by the Archebiſhop redde this Rolle, conteining this Sentence.

¶ The thirde *Sonday* after *Eaſter*, the Yere of our Lorde M.CCCC. and Seuen, *William Thorpe* came vnto the Towne of *Shrewisbury*, and thorow leaue graunted vnto him to preache:

He ſaid openly in Seynt *Chaddis* Chirche in his Sermone, that the Sacrament of the Altare after the Conſecration was material Brede.

And that Ymages ſhulde in no wiſe be worſhiped.

And that Men ſhulde not go on Pilgremages.

And that Prieſtes have no Title to Tythes.

And that it is not lefull for to ſwere in any wiſe.

And when the Archebiſhop had red thus this Rolle, he rolled it up agein, and ſaid to me,

Ys

Ys this holſome Learninge to be amonge the People?

And I ſaid to him, Syr, I am both aſhamed on their behalfe, and right ſorouſull for them that haue certified you thes things thus vntrewly: for I preached never nor taught thus priuely nor apertly.

And the Archebiſhop ſaid to me, I will give Credence to thes worſhipfull Men which haue written to me, and witneſſed vnder their Sealis there among them. Though thou now denieſt this, weniſt thou that I will give Credence to the? Thou loſell haſte trobled the worſhipful Cominalte of *Shrewisbury*; ſo that the Bailives and Cominalte of that Towne haue written to me, praynge me that am Archbiſhop of *Cauuterbury*, Primate and Chaunceler of *Englond*, that I will vouchſafe to graunte them, that if thou ſhalt be made (as thou art worthy) to ſuffer open Joureſſe for thine Hereſyes, that thou maye haue thi youreſſe openly ther among them: ſo that all they whome thou and ſoche other loſelles haue ther peruerted, may thorow feare of thy Dede be reconſyled ageyn to the vnite of Holy Chirche. And alſo they that ſtande in true Faithe of Holy Churche may thorowe thy Dede be more ſtabliſhed therin. And as yf thys askyng hadde pleaſed the Archebiſhop, he ſaid, By my thrifte this hartye Prayoure and feruente Requeſte ſhall be thought on.

But certeynly nother the Prayer of the Men of *Shrewisbury*, nor the manaſſynge of the Archebiſhop made me any thing a frayde. But in reherſyng of this malice, and in the hearynge of it my herte greatly rejoyſed and yet dothe. I thanke God for the Grace that I than thought and yet thinke ſhall come to all the Chirche of God here thorowe, by the ſpeciall mercifull doynge of the Lord. And as hauynge no dreade of the Malice of Tyrauntes, by truſtynge ſtedfaſtly in the helpe of the Lorde with full purpoſe for to knowlege the ſothefaſteneſſe, and to ſtande thereby after my connyng and power, I ſaid to the Archebiſhop; Syr, yf the Truthe of Gods Worde might now be accepted as it ſholde be, I doute not to proue by lykely evidence, that they that are famed to be out of the Faythe of Holy Church in *Shrewisbury*, and in other Places alſo, are in the true Faith of Holy Chirche. For as their Wordes ſounde, and their Workes ſhewe to Mannis Judgment, dreading and louing faithfully God, their Will, their Deſyre, their Loue, and their Beſineſſe are moſte ſett to dreade to offend God, and to loue for to pleaſe him in true and faithfull keping of his Commandments. And agene, they that are ſaid to be in the Faithe of Holy Chirche in *Shrewisbury* and in other places, by open euidence of their proude, enuiouſe, maliciouſe, couetouſe, lecherouſe and other foule Wordes and Workes, nother knowe nor haue will to knowe, nor to occupye their Wittes truely and effectuouſly in the right Faith of Holy Churche. Wherfore all theſe, nor none that folowe their maners, ſhall ony time come verely in the Faith of Holy Churche, except they enforce them more truelye to come in the waye whiche nowe they deſpiſe. For theſe Men and Women that are now called feithfull and holden juſte, nother knowe nor will exerciſe themſelfe to know of Faithfulneſſe one Commaundement of God. And thus full many Men and Women now, and ſpecially Men that are named to be principall Lymmes of Holy Church, ſtiere God to greate Wrathe, and deſerue his Curſe, for that they call or holde them juſte Men, which are full vnjuſte, as their viciouſe Wordes, their great cuſtomable Sweringe, and their ſlaunderouſe and ſhamefull Workes ſhew openly and witneſſe. And herefore ſoche viciouſe Men and unjuſte in their owne Confuſion call them unjuſte Men and Women, which after their power and conning beſy them ſelf to liue juſtely after the Commaundement of God. And where Syr ye ſay, that I haue diſtrobled the Cominaltie of *Shrewisbery*, and many other Men and Women with my teaching, if it thus be, it is not to be wondred of wiſe Men, ſins all the Cominalte of the Cite of *Jeruſalem* was deſtrobled of Chriſtes awne Perſon that was very God and Man, and moſt prudent Precher that ever was or ſhall be. And alſo all the Synagogue of *Nazareth* was moued ageinſt Chriſte, and ſo fulfilled with ire towardes him for his preaching, that the Men of the Synagogue roſe up and caſt Chriſte out of their Cyte, and ledde him vppe to the top of a Mountaine for to caſt him doune ther hedeling. Alſo accordingly hereto the Lord witneſſyth by *Moſes*, that he ſhall put Diſſenſion betwixt his People and the People that contrarieth and perſewith his People. Who, Syr, is he that ſhall preache the Treuthe of Goddes Worde to the vnfeithful People, and ſhall lett the ſothefaſteneſſe of the Goſpell, and the Prophecye of God Almightie to be fulfilled?

And the Archebiſhop ſaid to me, It foloweth of thes thy Words, that thou and ſoche other thinkeſt that ye do right well for to preach and teach as ye do without Authoritie of any Biſhop. For ye preſume, that the Lord hath choſen you only for to preache as faithfull Diſciples and ſpeciall Folowars of Chriſte.

And I ſaid, Syr, by Authoritie of Gods Lawe, and alſo of Seintes and Doctours, I am learned to deme, that it is euery Prieſtes Office and Deutie for to preache beſily frely and truely the Worde of God. For no doute euery Prieſt ſhould purpoſe firſt in his Soule, and couett to take the Order of Prieſthode chefly for to make knowen to the People the Worde of God after his conning and power, approuing his Wordes euer to be true by his vertuous Workes: and for this entent we ſuppoſe that Biſhopes and other Prelates of Holy Chirch ſhold chefely take and uſe ther Prelacie. And for the ſame cauſe Biſhopes ſholde giue to Prieſtes their Orders. For Biſhopes ſholde accept no Man to Prieſthode, except that he had good Will and full purpoſe, and were well diſpoſed, and well learned to preache. Wherefore, Syr, by the bidding of Chriſt, and by Example of his moſte holy liuing, and alſo by the witneſſing of his Holy Apoſtles and Prophets, we are bounde under full great Peine to exerciſe vs after our conning and power (as euery Prieſte is likewiſe charged of God) to fulfill dewly the Office of Prieſthode. We preſume not here of oure ſelfes for to be eſtemed (nother in our owne Reputacion, nor in none other Mannes) feithfull Diſciples, and ſpeciall Folowers of Chriſte: but Syr, as I ſaid to you before, we deme this by Authoritie chefely of Goddes Worde, that it is the chefe deutie of euery Prieſte to beſy them feithfully to make the Law of God knowen to his People, and ſo to comune the Commaundement of God charitably, howe that we may beſte, where, whan, and to whom that euer we may, is our very deutie. And for the will and beſineſſe that we owe of our dewe dette to do juſtely our Office thorow the ſteiring and ſpecial helpe (as

we

we truſte) of God, hoping ſtedfaſtely in his mercie, we deſire to be the feithfull Diſciples of Chriſte; and we pray this gracious Lorde for his holy Name, that he make us able ſo to pleaſe him with deuout Prayers, and charitable Prieſtly workes, that we may obteine of him to folowe him thankfully.

And the Archebiſhop ſaid to me, Lewde Loſell, wherto makiſt thou ſoche veyne Reaſones to me? Asketh not Seynt *Paul*, *How ſholde Prieſtes preche, except they be ſent?* but I ſent the neuer to preche; for thy venemous Doctryne is ſo knowen thorow out *Englond*, that no Biſhop will admitt the for to preche by witneſſyng of their Letters. Why than, lewde Ydiot, willeſt thou preſume to preach, ſyns thou art not ſent, nor licenſed of thy Souereyn to preach? Saith not Seynt *Paule*, *That Subjectes owe to obeye their Souereyns*, and not only good and vertuous, but alſo Tyrauntis that are vicious?

And I ſaid to the Archebiſhop, Syr, As touching your Letter of Licence or other Biſhopes, whiche ye ſay we ſholde haue to witneſſe that we wer able to be ſent for to preache; we knowe well that nother you, Syr, nor ony other Biſhop of this Lande will graunte to us ony ſoche Letters of Licence, but we ſholde oblige us to you and to other Biſhopes, by unlefull Othes, for to paſſe not the Bondes and Termes which ye, Syr, or other Biſhopes wil limyt to us. And ſins in this Matter your Term is be ſome to large, and ſome to ſtreite, we dare not oblige vs thus to be bounden to you for to kepe the Termes, which you will lymitt to us, as ye do to Friere and ſoch other Prechers: and therfor though we haue not your Letter, Sir, nor Letters of other Biſhops writen with Ynke upon Perchement, we dare not herefor leaue the Office of Preching; to which Preching all Prieſtes, after there Connying and Power, are bounde by diuerſe Teſtimonies of God's Lawe, and of great Doctours, without ony mencion making of Biſhopes Lettres. For as mekell as we haue taken upon vs the Office of Prieſthode (though we are vnworthy thereto) we come and purpoſe to fulfyll it with the helpe of God, by Authoritie of his owne Lawe, and by witneſſe of great Doctours and Seintes accordingly, hereto truſting ſtedfaſtly in the mercye of God: For that he commaundeth vs to do the Office of Prieſthode, he will be our ſufficient Letters and Witneſſe, if we by example of his holy lyuing and teaching ſpecially occupye vs feithfully to do our Office juſtly, ye the People to whome we preache, be they feithfull or unfeithfull, ſhall be our Letters, that is, our Witneſſeberers; for the Treuthe, where it is ſowen, maye not be unwitneſſed: For all that are conuerted and ſaued by learninge of Goddes Worde, and by working therafter, are Witneſſeberers, that the Trewith and Sothfaſtneſſe which they harde and dyd after, is cauſe of their Saluacion. And ageyn, all unfeythfull Men and Women, which herde the Treuthe tolde out to them, and wolde not do there after; alſo all they that might haue herde the Treuthe, and wold not heare it, becauſe that they wolde not do thereafter: all thes ſhall beare witneſſe againſt themſelfes, and the Treuth which they wold not heare, or elſe harden and deſpiſed to do thereafter thorow their Unfeythfulneſſe, is and ſhall be cauſe of their Dampnacion. Therfore, Syr, ſyns this forſeide witneſſing of God, and of diverſe Seintes and Doctours, and of all the People good and evyll, ſufficeth to all true Prechers; we thinke that we do not the Office of Preſthode, if that we leaue our Preaching, becauſe that we haue not, or maye not, haue dewly Biſhopes Letters to witneſſe that we are ſent of them to preache. This Sentence approueth Seynt *Paul*, wher he ſpeketh of himſelfe, and of feithfull Apoſtles and Diſciples, ſaing thus: *We neede no Letters of Commendacion, as ſome other Preachers do, whiche preache for Couetouſnes of temporal Goodes, and for Mennes praiſing.* And where ye ſay, Syr, that *Paul* biddeth Subjectes obey their Souereyns; this is ſoth, and may not be denied: But ther is ij. maner of Souereyns, vertuous Sufferenys, and vicious Tyrauntes; therefore to thes laſt Souereyns nother Men nor Women that be ſubjecte owe to obey in ij. maners. To vertuous Suffereins and charitable, Subjectes owe to obey wilfully and gladly, in hearing of their good Counſell, in conſenting to their charitable Biddinges, and in werkynge after their frutefull Workes. This Sentence *Paul* approueth, wher he ſaith thus to Subjectis: *Be ye mindefull of your Souereyns that ſpeke to you the Worde of God, and folow you the Feithe of them whos Conuerſacion you know to be vertuous.* For as *Paul* ſaith after, *Thes Souereyns, to whome Subjectis owe to obeye in folowing of their Maners; worke befily in holy ſtudiyng, how they may withſtande and deſtroye Vices firſte in themſelf, and after in all their Subjectis, and how they may beſte plante in them Vertues.* Alſo thes Souereyns make deuoute and feruent Prayers for to purchaſe Grace of God, that they and their Subjectis may ouer all thing dreade to offende hym, and to loue for to pleaſe hym. Alſo theſe Souereyns to whome *Paul* biddeth vs obey, as it is ſeid before, lyue ſo vertuouſly, that all they that will lyue well may take of them goode Example to knowe and to kepe the Commaundmentis of God. But in this foreſeid wyſe, Subjectis owe not to obey, nor to be obedient to Tyrauntis, while they ar vicious Tyrauntis, ſyns their Will, their Counſell, their Biddingis, and their Workis ar ſo vicious, that they owe to be hatid and lefte. And though ſoche Tyrauntis be maſterfull and cruell in Boſtyng, and manaſing in Oppreſſions and diverſe Punyſhyngis; Seynt *Peter* biddeth the Seruauntis of ſoche Tyrauntis to obey mekely to ſoche Tyrauntis, ſuffering paciently their malicious Cruelnes: But *Petyr* counſellith not ony Seruant or Subjecte to obey to ony Lorde, or Prince, or Souereyn in ony thyng that is not pleaſing to God.

And the Archebiſhop ſaid vnto me, Yf a Souereyn bidde his Subject doo that thing that is vicious, this Souerym herein is to blame; but the Subjecte for his Obedience deſerueth mede of God, for Obedience pleaſith more to God than ony Sacrifice.

And I ſaid, *Samuel* the Prophete ſaid to *Saul* the wickyd King, *That God was more pleaſed with the Obedience of his Commaundement, than with ony Sacrifice of Beſtis:* But *Dauid* ſaith, and Seynt *Paul*, and Seynt *Gregory* accordingly to gither, *That not onely they that doe Euyll is worthy of Dethe and Dampnacion, but alſo all they that conſente to euyll Doers.* And, Syr, the Law of holy Chirche teachith in the Decrees, That no Seruant to his Lorde, nor Childe to the Father or Mother, nor Wyfe to hyr Husbond, nor Monke to his Abot, ought to obey except in lefull thingis and lawfull.

And the Archebiſhop ſaid to me, All theſe Allegingis that thou bringeſt forth ar not els but proude

proude Presumptuousnes; for hereby thou enforcist the to prove, that thou and soche other ar so juste, that ye owe not to obeye to Prelatis. And thus agenst the Learning of Seynt *Paul*, that teachith you not to preache but if ye wer sent, of your owne Authorite ye will go forthe, and preache, and doo what ye liste.

And I said, Sir, presentith not every Priestе the Office of the Apostles, or the Office of the Disciples of Christe? And the Archebishop said ye. ¶ And I said, Syr, as the tenthe Chaptre of *Mathew*, and the laste Chaptre of *Marke* witnesseth, Christe sent his Apostles for to preache: And the tenthe Chaptre of *Luke* witnesseth, that Christe sent his two and seuentie Disciples for to preache in every place that Christe was to come to. And Seynt *Gregory* in the common Lawe saith, That every Man that goth to Priesthode, takith upon hym the Office of Preaching; for as he saith, that Priestе steirith God to great Wrathe, of whos Mouthe is not herde the Voice of Preaching. And as other more gloses upon *Ezechiel* witnesse, That the Priestе that prechith not besily to the People, shall be Partetaker of their Dampnacion that perishe thorow his Defaute; and though the People be sauyd by other speciall Grace of God than by the Priestis Preachyng, yet the Priestis, in that they ar ordenyd to preache and preache not, as before God they ar Manslears, for as ferre as in them is; soche Priestes as preache not besily and trewly sleeth all the People gostely, in that they withhold from them the Worde of God, that is Lyfe and Sustenaunce of Menes Soules. And Seynt *Isidore* saith, Priestis shall be dampnid for Wickednesse of the People, if they teache not them that ar ignorant, or blame not them that are Synners: For all the Worke or Besinesse of Priestis standith in preaching and teaching, that they edifye all Men as well by Connyng of Feithe, as by Disciplinе of Workes, that is vertuous teaching. And as the Gospell witnessith, Christe said in his teaching, *I am borne and comen into this Worlde to beare witnesse to the Trewthe, and he that is of the Trewthe hearith my Voice.* ¶ Than, Syr, syns by the Worde of Christe specially, that is, his Voice, Priestis ar commaundid to preache, whatsoeuer Priestе that it be that hathe not Goodwill and full Purpose to doo thus, and ableth not hymself, after his Conning and Power, to doo his Office by the Example of Christe and of his Apostles, whatsoever other thing that he dothe displeasith God. For lo Seynt *Gregory* saith, that thing leste that a Man is bounde chefely to doo, whatsoeuer other thing that a Man dothe, it is unthankefull to the Holy Goste: And therfore saithe *Lincoln*, That Priestе that preachith not the Worde of God, though he be siene to have none other Defaute, he is Antichristе and Sathanas, a Night-thefe and a Day-thefe, a Slear of Soules, and an Angell of Light tournid into Derkenesse. Wherfore, Syr, thes Authorites and other well considered, I deme my self dampnable if I, other for Pleesure or Displeasure of ony Creature, applye me not diligently to preache the Worde of God. And in the same Dampnacion I deme all those Priestis, which of goode Purpose and Will enforse them not besily to doo thus; and also all them that have Purpose or Will to lett ony Priestе of this Businesse.

And the Archebishop said to those three Clerkis that stoode before hym, Lo, Syrs, this is the Manner and Businesse of this Losell and soche other, to pike out soche sharpe Sentencis of holy Scripture, and of Doctoris, to mainteine their Secte and Lore ageinste the Ordinaunce of Holy Chirche. And therefore, Losell, it is that thou couetist to have ageyn the Psalter that I made to be takyn from the at *Canterbury*, to recorde sharpe Versys ageinst vs; but thou shalt neuer haue that Psalter, nor none other Boke, tyll that I know that thy Harte and thy Mouthe accorde fully to be gouernid by holy Chirche.

And I said, Syr, all my Will and Power is and euer shall be (I truste to God) to be gouernyd by holy Chirche.

And the Archebishop asked me, What was holy Chirche?

And I said, Sir, I tolde you before what was holy Chirche; but syns ye aske me this Demaunde, I call Christe and his Seyntes holy Chirche.

And the Archebishop said unto me, I wote well that Christe and his Seyntes ar holy Chirche in Heuene; but what is holy Chirche in Erthe?

And I said, Syr, though holy Chirche be euery one in Charite, yet it hath two Partis: The firste and principall Parte hath ouercomen perfitely all the Wretchednesse of this Lyfe, and reigneth joyfully in Heuene with Christe; and the tother Parte is here yet in Erth, besily and continually fighting day and night ageinst Temptacions of the Fende, forsakyng and hatyng the Prosperite of this Worlde, despising and withstonding their fleschely Lustis; which onely ar the Pilgrimes of Christe, wandering toward Heuene by stedfast Feith, and groundid Hope, and by perfite Charite: For thes heuenly Pilgremis may not, nor will not be lettid of their goode purpos, by the reason of eny Doctours discording fro holy Scripture, nor by the Fluddis of any Tribulacion temporall, nor by the Winde of any Pride of Boste, or of manasing of ony Creature; for they ar all faste grounded upon the suer Stone Christe, hearing his Worde, and louing it, exercising them feithfully, and continually in all their Wittes to doo thereafter.

And the Archebishop said to his Clerkis, Se ye not how his Harte is endured, and how he is traueled with the Deuill, occupiyng him thus besely to allege soche Sentencis to mainteyne hys Errours and Heresies? Certeyn thus he wold occupie vs here all day, if we wold suffer hym.

One of the Clerkes answered, Syr, he said right now, that this Certificacion that came to you fro *Shrewisbery* is untrewly forged againste hym; therfore, Syr, appose you hym now here in all the Pointis which ar certified ageinst hym, and so we shall heare of his owne Mouthe his Answers, and witnesse them.

And the Archebishop tooke the Certificacion in his Honde, and looked theron a while, and than he said to me.

Lo here it is certified ageinst the by worthy Men and feithfull of *Shrewisbury*, that thou preachedst there openly in Seynt *Chaddis* Chirche, that the Sacramente of the Altare was materiall Brede after the Confecracion: What saist thou? Was this trewly preached?

And I said, Syr, I tell you trewly that I touchid nothing there of the Sacrament of the Altare, but in this wyse, as I will with Goddis Grace tell you here. As I stoode ther in the Pulpet, besiyng me to teache the Commaundement of God, ther knylled a sacring Bell, and therfore mekill People toornid awaye hastely, and with great noyse

noyſe ran fro towardis me. And I ſeyng this, ſaid to them thus: Goode Men, ye wer better to ſtand here ſtill, and to heare Goddis Worde; for certis the Vertue and the Mede of the moſte holy Sacrament of the Altare ſtandith mekill more in the Beleue thereof that ye ought to haue in your Soule, than it dothe in the outward Sighte thereof. And therefor ye were better to ſtande ſtill quietely to heare Goddis Worde, becauſe that thorow the hearing therof Men come to very trewe Belefe. And otherwyſe, Syr, I am certein I ſpake not there of the woorthy Sacrament of the Altare.

And the Archebiſhop ſaid to me; I beleue the not what ſo euer thou ſaiſt, ſyns ſo worſhipfull Men haue witneſſed thus ageinſt the; but ſyns thou denyeſt that thou ſaidiſt thus there, what ſaiſt thou now? Reſtith there, after the Conſecracion, in the oſte materiall Brede or no?

And I ſaid, Sir, I knowe in no place in holy Scripture where this Terme materiall Brede is writen; and therfore, Sir, when I ſpeake of this matter, I vſe not to ſpeake of materiall Brede.

Than the Archebiſhop ſaid to me, How teacheſt thou Men to beleue in this Sacrament?

And I ſaid, Sir, as I beleue my ſelf, ſo I teache other Men.

He ſaid, Tell out pleinly thy Beleue hereof.

And I ſaid with my Proteſtacion, Sir, I beleue that the Nyght before that Chriſte Jeſu wold ſuffer wilfully Paſſion for Mankynde on the Morne after, he toke Breade in his holy and moſte worſhipfull Handis, lifting vp his Eyes, and gyuyng Thankis to God his Father, bleſſed this Breade and brake it, and gaue it to his Diſciples, ſaiyng to them, *Take and eate of this all you, this is my Body*; and tho this is and ought to be all Mennis Beleſe, *Mathew*, *Marke*, *Luke*, and *Paul* witneſſith: other Beleue, Sir, haue I none, nor will haue none elſe; for I beleue that this ſufficeth in this matter: For in this Beleue, with Goddis Grace, I purpoſe to lyue and dye, knoleging as I beleue and teache other Men to beleue, that the worſhipfull Sacrament of the Altare ys the Sacramente of Chriſtis Fleſche, and his Bloode in fourme of Breade and of Wine.

And the Archebiſhop ſaid to me, It is ſothe that this Sacrament is very Chriſtis Body in fourme of Breade; but thou and thy Secte techiſt it to be Subſtaunce of Brede: Thynke you this true Teachinge?

And I ſaid, Nother I nor ony other of the Secte that ye dampne, teache ony other wyſe than I haue tolde you, nor beleue other wiſe to my knowynge. Neuertheleſſe, Syr, I aske of you for Charyte, that ye will tell me here pleynly, how ye ſhall vnderſtonde this Text of Saynt *Paule*, wher he ſayth thus; *This thinge feale you in youre ſelfe, that is in Chriſte Jeſu, while he was in the fourme of God.* Sir, calleth not *Paule* here the Fourme of God, the Subſtaunce or Kynde of God? Alſo, Sir, ſaith not the Chirche in the houres of the moſt bleſſed Virgine accordinly hereto, where it is written thus: *Thou Auctour of Healthe remembre, that ſometyme thou toke of the vndefyled Vyrgyne the Fourme off oure Bodye?* Tell me for Charyte therfore, whether the Fourme of our Bodye be called here the Kynde of oure Body or no?

And the Archebiſhop ſaid to me, Woldeſt thou make me to declare this Texte after thy Purpoſe, ſyns the Chirche hathe nowe determyned, that there abideth no Subſtaunce of Breade after the Conſecracion in the Sacrament of the Altare? Beleueſt thou not on this Ordinaunce of the Churche?

And I ſaid, Syr, What ſoeuer Prelates haue ordened in the Churche, our Beleue ſtandith euer hooll. I haue not herde that the Ordinaunce of Men under Beleue ſhulde be putt in to Beleue. And the Archebiſhop ſaide to me, Yf thou haſt not learned this before, learne now to knowe that thou art out of Beleue, if in this matter and other thou beleueſt not as holy Chirche beleueth. What ſaye Doctours treatinge of this Sacrament?

And I ſaid, Syr, Seynt *Paule* that was a greate Doctour of holy Chirche, ſpeakynge to the People, and teaching them the right Beleue of this moſte holy Sacrament, calleth it Breade that we breake. And alſo in the Canon of the Maſſe, after the Conſecracion, this moſt worthy Sacrament is called holy Breade; and euery Prieſte in this Lande, after that he hathe receyued this Sacrament, ſaythe in thys wyſe: That thynge that we haue taken with oure Mouthe, we praye God that we maye take it with a pure and clene Mynde; that is, as I underſtonde, we praye God that we maye receyue, thorowe very Beleue, this holy Sacrament worthely. And, Syr, Seynt *Auguſtine* ſaith, That thing that is ſene is Breade; but that Mennys Feithe asketh to be informed of, is verye Chriſtes Body. And alſo *Fulgence*, an ententyfe Doctour, ſaith, As it were an Errour to ſaye that Chriſte was but a Subſtaunce, that is, very Man, and not very God, or to ſay, that Chriſte was very God, and not very Man; ſo is it (this Doctour ſayth) an Errour to ſay, that the Sacrament of the Altar is but a Subſtaunce. And alſo, Syr, acordingly hereto in the Secrete of the midde Maſſe on *Chriſtmaſſe* Day, it is writen thus: *Idem refulſit Deus, ſic terrena ſubſtantia nobis conferat quod divinum eſt*; which Sentence, Syr, with the Secrete of the forth ferye, *quatuor temporum Septembris*; I pray you, Syr, declare here openly in Engliſh.

And the Archebiſhop ſaid to me, I perceiue well ynough wher about thou art, and how the Deuell blyndeth the, that thou may not underſtond the Ordinaunce of holy Churche, nor conſent therto: But I commaunde the now anſwere me ſhortly; Beleueſt thou that, after the Conſecracion of this forſaid Sacrament, there abideth Subſtaunce of Breade or not?

And I ſaid, Sir, as I vnderſtond, it is all one to graunte or to beleue, that there dwelleth Subſtaunce of Breade, and to graunte and to beleue, that this moſt worthy Sacrament of Chriſtes owne Body is one Accident without Subjecte. But, Syr, for as mekell as your asking paſſeth myne Underſtonding, I dare nother denye it nor graunte it; for it is Skole-Mater, aboute which I beſyed me neuer for to know it: and therfore I commit this Terme, *Accidens ſine Subjecto*, to thoſe Clerkes which delyte them ſo in curiouſe and ſuttill Sophiſtrie, becauſe they determine oft ſo difficulte and ſtraunge Maters, and wade and wander ſo in them, from Argument to Argument with *pro & contra*, till that they wote not where they are, nor underſtonde not themſelfe: But the Shame that thes proude Sophiſtrers haue to yelde them to Men and before Men, maketh them ofte Foolis, and to be concluded ſhamefully before God.

And the Archebiſhop ſaid to me, I purpoſe not to oblige the to the ſuttyll Argumentes of Clerkes, ſyns thou art vnable therto; but I purpoſe to make the obeye to the Determinacion of holy Chirche.

And I ſaid, Syr, by open Evidence and great Witneſſe a thouſand yeare after the Incarnacion of Chriſte, the Determinacion which I haue here before you reherſed was accepte of holy Church, as ſufficient to the Saluacion of all them that wolde beleue it faithfully, and worke therafter charitably. But, Syr, the Determinacion of this Mater, which was brought in ſyns the Fende was loſed by Frier *Thomas* agayn, ſpecially calling the moſte worſhipful Sacrament of Chriſtes owne Body an Accident witheut Subjecte, which Terme ſyns I knowe not that Goddes Lawe approueth it in this mater, I dare not graunte, but vtterly I denye to make this Frier's Sentence, or ony ſoche other my Beleue, do with me God what thou wilt.

And the Archebiſhop ſaide to me, Well, well, thou ſhalt ſaye other wyſe or that I leaue the.

But what ſaiſt thou to this ſeconde Poynte that is recorded ageinſt the by woorthy Men of *Shrewisbury*, ſaing, that thou preachedſt openly there, that Ymages oughte not to be worſhipped in ony wiſe?

And I ſaid, Syr, I preached neuer thus, nor thorow Gods Grace I will not any tyme conſent to thinke nor to ſay thus nother pryuely nor apertly: For, lo! the Lorde witneſſeth by *Moſes*, that the thinges which he made were righte good, and ſo than they were, and yet they are and ſhall be good, and worſhipfull in their kynde; and therfore to the ende that God made them to, they are all preiſable and worſhipfull, and ſpecially Man, that was made after the Ymage and Likeneſſe of God, is full worſhipfull in his kynde: ye this holy Ymage, that is Man, God worſhippeth; and herefore euery Man ſhuld worſhippe other in kynde, and alſo for heuenly Vertues that Men uſe charitably. Alſo I ſaye, Woode, Tynne, Gold, Syluer, or any other Mater that Ymages are made of, all theſe Creatures are worſhipfull in theire kynde, and to the ende that God made them for; but the keruyng, caſtyng, nor peyntyng of ony Ymagery made with Mannes Hande, all behit that this doing be accepte of Man of hyeſt State and Dignite, and ordened of them to be a Kalendar to leude Men, that nother can nor will be learned to know God in his Worde, nother by his Creatures, nor by hys wonderfull and diuerſe Workinges; yet this Ymagery ought not to be worſhipped in the Forme nor in the Likeneſſe of Mannes Crafte, neuertheleſſe that euery Mater that Peinters peynte with, ſyns it is Gods Creature, ought to be worſhipped in the kynde, and to the ende that God made and ordened it to ſerue Man.

Than the Archebiſhop ſaid to me, I graunte well that no body oweth to do worſhippe to any ſoche Ymages for them ſelfe; but a Crucifyxe ought to be worſhipped for the Paſſion of Chriſte that is peynted therein, and ſo brought ther thorow to Mannes Mynde: And thus the Ymages of the bleſſed Trinite, and of Virgyn *Mary*, Chriſtes Mother, and other Ymages of Sayntes ought to be worſhipped. For lo earthely Kynges and Lordes, which uſe to ſend their Letters enſealid with their Armes, or with their preuy Signer, to Men that are with them, are worſhipped of thes Men: For whan thes Men receiue their Lordes Letters, in whiche they ſe and knowe the Willes and Biddinges of their Lordes, in worſhippe of their Lordes they do of their Cappes to thes Letters. Why not than, ſins in Ymages made with Mannes Hande, we may rede and knowe many diuerſe thinges of God, and of his Sayntes, ſhall we not worſhippe their Ymages?

And I ſayde with my forſaid Proteſtacyon, I ſay that theſe worldly Vſages of temporall Lordes that ye ſpeake now of, maye be done in caſe without Synne; but thys is no Similitude to worſhip Ymages made by Mannes Hande, ſyns that *Moſes*, *Dauid*, *Salomon*, *Baruch*, and other Seyntes in the Bible, forbidde ſo pleynly the worſhipyng of all ſoche Ymages.

Than the Archebiſhop ſaid to me, Lewde Loſell, in the olde Lawe, before that Chriſte toke Mankind, was no Likeneſſe of any Perſone of the Trinite, nother ſhewed to Man nor knowen of Man; but nowe ſyns Chriſte became Man, it is lefull to haue Ymages to ſhewe his Manhode: ye though many Men, which are right greate Clerkes, and other alſo helde it an Errour to peynte the Trinite, I ſay it is well done to make and to peynte the Trinite in Ymages: For it is great mouing of Deuocion to Men, to haue and to behold the Trinite and other Ymages of Seyntes caruyd, caſte, and peynted; for beyonde the See are the beſte Peynters that euer I ſaw. And, Syrs, I tell you this is their Maner, and it is a goode Maner. Whan that an Ymagemaker ſhall kerue, caſte in Moulde, or peynte ony Ymages, he ſhall go to a Prieſte, and ſhryue him as clene as if he ſholde than dye and take Penaunce, and make ſome certeyn Vowe of Faſtyng or of Praiynge, or of Pilgrimages doinge, praiyng the Prieſte ſpecially to praye for hym, that he may haue Grace to make a faire and a deuoute Ymage.

And I ſaid, Syr, I doute not yf thes Peynters that ye ſpeake of, or ony other Peynters, vnderſtode truely the Texte of *Moſes*, of *Dauid*, of the wiſe Man, of *Baruch*, and of other Seyntes and Doctoures, theſe Peynters ſholde be moued to ſhryue them to God wyth full inwarde Sorowe of Harte, takynge vpon them to doo right ſharpe Penaunce for the ſynfull and vayne Crafte of Peyntinge, Karuynge or Caſtinge that they had vſed, promiſing God feithfully neuer to do ſo after, knowleging openly before all Men theyr reprouable Earning. And alſo, Syr, thes Prieſtes that ſhriue (as ye do ſay) Peinters, and injoine them to do Penaunce, and praye for theire ſpede, promyſyng to them helpe of their Prayers for to be curious in their ſynfull Craftes, ſynne herein more greuouſly than the Peynters: For thes Prieſtes do comforte and gyue them Counſell to do that thynge, which of great Peyne, ye vnder the Peyne of Goddes Curſe, they ſholde vtterly forbydde them. For certis, Syr, yf the wonderfull werking of God, and the holy lyuynge and teachynge of Chriſte, and of his Apoſtles and Prophetes, were made knowen to the People by holy lyuynge, and true and beſy teachynge of Prieſtes: theſe thynges (Syr) were ſufficient Bokes and Kalendares to knowe God by and his Sayntes, without ony Ymages made with Mannes Hond; but certis the vicious lyuynge of Prieſtes, and their Couetouſneſſe, are chefe Cauſe of this Errour, and all other Viciouſneſſe that reigneth among the People.

Than the Archebiſhop ſaid unto me, I holde the a vicious Prieſt and acurſte, and all them that are of thy Secte; for all Prieſtes of holy Chirche, and all Ymages that moue Men to Deuocion, thou and ſoche other go about to deſtroy. Looſell, ware it a feire thing to come in to a Chirche, and ſee therin none Ymage?

And

And I ſaid, Syr, they that come to the Chyrch for to pray deuoutly to the Lorde God, may in their inwarde Wittes be the more feruent, that all their outwarde Wittes be cloſed fro all outwarde ſeynge and hearing, and fro all Diſtroblaunce and Lettingis. And ſyns Chriſte bleſſed them that ſaw hym not bodely, and haue beleuyd feithfully in hym; it ſufficeth than to all Men, thorow hearing and knowing of Goddis Worde, and to doo there after, for to beleue in God, though they ſee neuer Ymagis made with Mannis Hande, after ony Perſon of the Trinite, or of ony other Seynte.

And the Archebiſhop ſaid to me with a feruent Spyrite, I ſay to the, Loſell, that it is right well done to make and to haue an Ymage of the Trinite, ye what ſaiſt thou? Ys it not a ſtiering thing to beholde ſoche an Ymage?

And I ſaid, Sir, ye ſaid right now, that in the olde Lawe, or Chriſte toke Mankynde, no Likeneſſe of ony Perſon of the Trinite was ſhewid to Men: wherfore, Sir, ye ſaid it was not than lefull to haue Ymagis; but now ye ſay, ſyns Chriſte is becomen Man, it is lefull to make and to haue an Ymage of the Trinite, and alſo of other Seyntis. But, Syr, this thing wolde I learne of you, Syns the Father of Heuen, ye and euery Perſon of the Trinite was without beginnyng God Almighty, and many holy Prophetis that wer dedely Men wer martireſed violently in the olde Lawe, and alſo many Men and Women than died holy Confeſſours; why was it not than as lefull and neceſſarie as now to haue made an Ymage of the Father of Heuen, and to haue made and hadde other Ymagis of Martires, Prophetis, and holy Confeſſours, to haue ben Kalendaris to aduiſe Men, and move them to Deuocion, as ye ſay that Ymagis now doo?

And the Archebiſhop ſaid, The Sinagoge of Jues hadde not Authorite to approue thes thingis, as the Chirche of Chriſte hathe now.

And I ſaid, Sir, Seint *Gregory* was a great Man in the newe Lawe, and of great Dignite, and as the comon Lawe witneſſith, he commendid greatly a Biſhop, in that he forbadde vtterly the Ymagis made with Mannis Hande ſholde be worſhipid.

And the Archebiſhop ſaid, Vngracious Loſell, thou faueriſt no more Trewthe than an Hounde, ſyns at the Roode at the Northe Dore at *London*, at our Lady at *Walſingham*, and many other diuerſe Placis in *England*, ar many great and preiſable Miracles done; ſhulde not the Ymagis of ſoche holy Seyntis and Placis, at the Reuerence of God and our Lady, and other Seyntis, be more worſhippid than other Placis and Ymagis wher no ſoche Miracles ar done?

And I ſaid, Sir, ther is no ſoche Vertue in ony Ymagery, that ony Ymagis ſholde herefore be worſhippid; wherfore I am certein, that ther is no Miracle done of God in ony Place in Erthe, becauſe that ony Ymagis made with Mannis Hande ſholde be worſhippid. And herefore, Sir, as I preached openly at *Shrewisbury* and other Placis, I ſay now here before you, that no body ſholde truſte that ther war ony Vertue in Ymagery made with Mannis Hande, and herefor no body ſholde vowe to them, nor ſeake them, nor knele to them, nor bow to them, nor pray to them, nor offer any thing to them, nor kyſſe them, nor enſence them: For lo the moſt worthy of ſoche Ymagis, the braſen Serpente by *Moyſes* made at Goddis bidding, the goode Kyng *Ezechie* deſtroied worthily and thankefully, forbycauſe it was encenſed. Therefore, Sir, yf Men take goode hede to the writing and to the lerning of Seynt *Auguſtine*, of Seynt *Gregory*, and of Seynt *John Chriſoſtome*, and of other Seyntis and Doctours, how they ſpeake and write of Miracles that ſhall be done now in the laſte ende of the Worlde, it is to dreade that for the Vnfeithfulneſſe of Men and Women, the Fende hath great power for to worke many of the Miracles that now ar done in ſoche Placis: For bothe Men and Women delyte now more for to heare and knowe Miracles, than they doo to knowe Goddis Worde, or to heare it effectuouſly. Wherfore to the great Confuſion of all them that thus doo, Chriſte ſaith, *The Gnacion of Aduolteres requireth Tokyns, Miracles, and Wonders:* Neuertheleſſe as diuerſe Seyntis ſay, now whan the Feithe of God is publiſhed in *Chriſtendome*, the Worde of God ſufficeth to Mannis Saluacion without ſoche Miracles; and thus alſo the Worde of God ſufficeth to all feithfull Men and Women, without ony ſoche Ymagis. But, goode Sir, ſyns the Father of Heuen that is God in his Godhed, is the moſte vnknowen thing that may be, and the moſte wonderfull Spyrit, hauyng in it no Shape or Likeneſſe of ony Membres of ony dedely Creature; in what Likeneſſe or what Ymage may God the Father be ſhewid or peintyd?

And the Archebiſhop ſaid, As holy Chirche hathe ſufferid and yet ſufferith the Ymagis of all the Trinite, and other Ymagis to be peyntid and ſhewid, ſufficeth to them that ar Membres of holy Chirche; but ſyns thou art a rotten Membre, cutt away frome holy Chirche, thou fauereſt not the Ordinaunce therof. But ſyns the Daye paſſith, leaue we this Mater.

And than he ſaid to me, What ſaiſt thou to the thirde Poynte that is certified againſt the, preching openly in *Shrewisbury*, that Pilgrimage is not lefull? And ouer this thou ſaidiſt, that thoſe Men and Women that go on Pilgrimagis to *Canturbery*, to *Beuerley*, to *Karlington*, to *Walſinghame*, and to ony ſoche other Placis, ar accurſed, and made fooliſch, ſpending their Goodes in waſte.

And I ſaid, Sir, by this Certificacion I am accuſed to you, that I ſholde teache that no Pilgrimage is lefull. But I ſaid neuer thus: For I knowe that ther be trew Pilgrimagis, and lefull and full pleſaunt to God; and therfore, Sir, how ſo euer myne Enemies haue certified you of me, I tolde at *Shrewisbury* of two maner of Pilgrimagis.

And the Archebiſhop ſaid to me, whom calleſt thou trewe Pilgrimes?

And I ſaid, Sir, with my Proteſtacion I call them trew Pilgremis trauelyn toward the bliſſe of Heuen, which in the ſtate, degree, or ordre that God calleth them, doo beſy them feithfully for to occupie all their Wittes bodely and goſtely, to knowe trewly and to keape feithfully the biddinges of God, hatyng and fleyng all the ſeuen dedely ſynnes, and euery braunche of them, reulyng them verteuouſly (as it is ſaid before) with all their Wittes, doyng diſcretely, wilfully and gladly all the Werkis of mercy bodely and goſtely after their connyng and power, ablyng them to the gyftes of the Holy Goſte, diſpoſing them to receyue in their Soules, and to holde therin the right Bleſſinges of Chriſte, beſeyng them to knowe and to kepe the ſeuene principall Vertues; and ſo than they

they ſhall obteyne here thorow grace for to uſe thankfully to God all the Condicions of Charitie, and than they ſhall be moouyd with the good Spirite of God for to examyne ofte and diligently their Conſcience, that nother wilfully nor wittingly they erre in ony Article of Beleue, hauyng continually (as frailte will ſuffer) all their beſineſſe to drede and to flee the Offence of God, and to looue ouer all thing, and to ſeke euer to doo his pleſaunt Will. Of theſe Pilgremis I ſaid, what ſo euer goode thoughte that they ony tyme thinke, what vertenous Worde that they ſpeake, and what fruitefull worke that they worke, euery ſoche Thoughte, Worde and Werke is a ſteppe noumbered of God toward hym into Heuene. Thes forſaid Pilgremis of God, delyte ſore whan they heare of Seyntis or of verteuous Men and Women, how they forſoke wilfully the Proſperity of this Lyfe, how they withſtode the Suggeſtion of the Fende, how they reſtreined their fleſchly Luſtes; how diſcrete they wer in their Penaunce doyng; how pacient they wer in all their Adverſites, how prudent they wer in counſeling of Men and Women, moouyng them to hate all ſynne, and to flye them, and to ſhame euer greatly thereof, and to loue all Vertues, and to draw to them, ymaginyng how Chriſte and his Folowers by example of hym, ſuffered Skornis and Sclaunders, and how paciently they abode and toke the wrongfull manaſyng of Tyrauntis, how homely they wer and ſeruiſable to poore Men to relieue and comforte them bodely and goſtely after their power and connyng, and how deuote they wer in Praiers, how feruent they wer in heuenly Deſyres, and how they abſented them fro ſpectacles of veyne ſeyngis and hearingis, and how ſtable they were to lett and to deſtroye all Vices, and how laborious and joifull they wer to ſowe and to plante Vertues. Thes heuenly condicions and ſoche other haue the Pilgremis, or endeuer them for to haue, whoſe Pilgrimagie God acceptith. And ageyne I ſaide, as their Werkis ſhew the moſte part of Men and Women that go now on Pilgrimagis have not thes foreſaid Conditions, nor loueth to beſy them feithfully for to have. For as I well know, ſyns I have full ofte aſſaide, examyne, whoſoever will twentie of thes Pilgrimis, and he ſhall not fynde thre Men or Women that knowe ſurely a Commaundment of God, nor can ſay their *Pater-noſter* and *Ave-maria*, nor their *Credo* redely in ony maner of Language. And as I haue learnid and alſo know ſomwhat by Experience of thes ſame Pilgrimis, tellyng the Cauſe why that many Men and Women go hither and thither now on Pilgrimagis, it is more for the helthe of their Bodies than of their Soules, more for to haue Richeſſe and Proſperitie of thys Worlde, than for to be enryched with vertues in their Soules, more to haue here worldely and fleſchely Friendſhip, than for to haue Friendſhip of God, and of his Seintes in Heuen. For whatſoeuer thing Man or Woman dothe, the Friendſhip of God, nor of ony other Seynte, cannot be hadde without keaping of Goddis Commaundementis. Forther with my Proteſtacion I ſay now as I ſaid in *Shrewsbery*, though they that haue fleſchely willes trauell for their Bodies, and ſpende mekill Money to ſeake and to viſite the Bonys or Ymagis (as they ſay they do) of this Seynte or of that: ſoche Pilgrimage goyng is nother praiſable nor thankefull to God nor to ony Seinte of God: Syns in effect all ſoche Pilgrimes deſpiſe God and all his Commaundmentis and Seyntis. For the Commaundmentis of God they will nother knowe nor keape, nor conforme them to lyue verteuoſly by example of Chriſte and of his Seyntis. Wherfore Syr, I haue prechid and taucht openly, and ſo I purpoſe all my Lyfe time to do with Gods helpe, ſaying that ſoche fonde People waſt blamefully Gods Goods in ther veyne Pilgrimagis, ſpending their Goodes upon vicious Hoſtelars, which ar ofte vnclene Women of their Bodies; and at the leſte thoſe Goodes with the which thei ſholde doo Werkis of Mercie after Goddis bidding to poore nedy Men and Women. ¶ Thes poor Mennis Goodes and their lyuelode thes runnars about offer to riche Prieſtis, which have mekill more lyuelode than they neade: and thus thoſe Goodes they waſte wilfully, and ſpend them vnjuſtely ageinſt Goddis bidding upon Straungers, with which they ſholde helpe and releue after Goddis will their poor nedy Neighbours at home: ye and ouer this foly, ofte tymes diuerſe Men and Women of thes Runners thus madly hither and thither in to Pilgrimage borowe hereto other Mennis Goodes, ye and ſometyme they ſtele Mennis Goodes hereto, and they pay them neuer agein. Alſo Sir, I know well that whan diuerſe Men and Women will go thus after their own Willes, and fynding out one Pilgrimage, they will orden with them before to haue with them both Men and Women that can well ſynge wanton Songes, and ſome other Pilgremis will haue with them Bagge Pipes; ſo that euery Towne they come throwe, what with the Noyſe of their Synging, and with the ſounde of their Piping, and with the Jangelyng of their *Canterbury* Bellis, and with the Barkyng out of Doggis after them, that they make more Noiſe than if the Kyng came there awaye with all his Clarions, and many other Menſtrelles. And if thes Men and Women be a Moneth in their Pilgrimage, many of them ſhall be an half year after great Jangelers, Tale-Tellers and Lyers.

And the Archebiſhop ſaid to me, Leude loſell, thou ſeeſt not ferre ynough in this mater, for thou conſidereſt not the great Trauell of Pilgremys, therfore thou blameſt that thing that is praiſable. I ſay to the that it is right well done, that Pilgremys haue with them both Syngers, and alſo Pipers, that whan one of them that goeth barfote ſtriketh his Too upon a Stone and hurteth hym ſore, and maketh hym to blede; it is well done that he or his Felow begyn than a Songe, or elſe take out of his Boſome a Bagge-pype for to driue away with ſoche Myrthe the hurte of his Felow. For with ſoche ſalace the Trauell and Werineſſe off Pylgremes is lightely and merily broughte forthe.

And I ſaid, Sir, Seynte *Paule* teacheth Men to wepe with them that wepe.

And the Archebiſhoppe ſaid, What jangliſt thou ageinſt Mennis Deuocion? what ſoeuer thou or ſoch other ſay, I ſay that the Pilgrimage that now is uſed, is to them that doo it a prayſable and a good meane to come the rather to Grace. But I holde the unable to know this Grace; for thou enforſeſt the to lett the Deuocion of the People: ſyns by Authoritie of Holy Scripture Men maye lefully have and uſe ſoche ſolace as thou reproueſt. For *David* in his laſte Pſalme teacheth me to haue diuerſe Inſtrumentes of Muſick for to praiſe therwith God.

And I ſaide, Sir, by the Sentence of diuerſe Doctours expounding the Pſalmes of *Dauid*, the Muſike and Menſtrelcy that *Dauid* and other

Seyntes

Seyntes of the olde Lawe ſpake of, owe now nother to be taken nor uſed by the Letter, but thes Inſtrumentes with their Muſike ought to be interpreted goſtely: for all thoſe Figures are called Vertues and Grace, with which Vertues Men ſholde pleaſe God and praiſe his Name. For Saynt *Paul* ſaith, All ſoch thynges befell to them in figure. Therefore Sir, I underſtaund that the Letter of this Pſalme of *Dauid*, and of ſoche other Pſalmes and Sentences dothe ſlee them that take them now letterally. This Sentence I underſtond Syr, Chriſt approueth himſelf, putting out the Menſtrelles, or that he wolde quycken the deade Damſell.

And the Archebiſhop ſaid to me, Leude loſell, is it not lefull to us to haue Organes in the Chirche for to worſhip therwithall God? And I ſaid,

Ye, Syr, by Mannis Ordynaunce, but by the Ordinaunce of God, a goode Sermonne to the Peoples Underſtondyng were mekill more pleſaunt to God.

And the Archebiſhoppe ſayde, that Organes and goode delectable Songe quyckned and ſharpened more Mennys Wittes than ſholde ony Sermonne.

But I ſaid, Sir, luſty Men and worldly louers delyte and couete, and trauell to haue all their Wittes quickened and ſharpened with diuerſe ſenſible ſolace: but all the feithful Louers and Folowers of Chriſte haue all their delyte to heare Goddis Worde, and to vnderſtond it truely, and to worke therafter faithfully and continually. For no doute to dreade to offende God, and to loue to pleaſe him in all thing, quyckeneth and ſharpeneth all the Wittes of Chriſtes choſen People: and ableth them ſo to grace, that they joye greatly to withdrawe their Eares, and all their Wittes and Membres frome all worldly delyte, and frome all fleſchly ſolace: for Seynte *Jerome* (as I thinke) ſaith, No body may joye with this Worlde, and reigne with Chriſte.

And the Archebiſhop (as yf he had ben diſpleaſed with myne anſwere) ſaid to his Clerkes, What geſſe ye this ydiote will ſpeke there, wher he hath none dreade, ſyns he ſpeaketh thus nowe here in my Preſence? Well, well, by God thou ſhalt be ordened for. And than he ſpake to me all angerly.

What ſaiſt thou to this forthe Point, that is certified againſt the, preching openly and boldely in *Shrewisbery*, that Prieſtes haue no Title to Tythes?

And I ſaid, Sir, I named ther no Worde of Tithes in my preaching. But, more than a Moneth after that I was arreaſted, there in Pryſone a Man came to me in to the Pryſon askynge me what I ſayde of Tythes. And I ſaide to him, Sir, in this Towne are many Clerkes and Prieſtes, of which ſome are called Religious Men, though many of them be Seculers, therfore aske ye off them this Queſtion. And this Man ſaide to me, Sir, our Prelates ſay, that we ar alſo obliged to paye our Tythes of all things that renewe to us; and that they ar acurſed, that with drawe ony part wittingly fro them of their Tythes. And I ſaid, Sir, to that Man, as with my Proteſtacyon I ſay now here before you, that I hadde wonder that ony Prieſte dare ſay, Men to be acurſed without grounde of Goddis Worde. And the Man ſaid, Sir, our Prieſtes ſay that they curſe Men thus by Authoritie of Goddes Law. And I ſayde, Sir, I know not wher this Sentence of curſing is authorized now in the Bible. And therfore, Syr, I pray you that ye will aske the moſte conning Clerke of this Towne, that ye may knowe where this Sentence curſyng them that tythe not now is writen in Goddes Lawe: for yf it were writen there, I wolde right gladly be learned where. But ſhortely this Man wolde not go from me, to aske this Queſtion of another body; but required me there, as I wolde anſwere before God, it in this caſe the curſing of Prieſtes wer laufull and approued of God. And ſhortely herewith came to my Mynde the Learnyng of Seynt *Peter*, teaching Prieſtes ſpecially to halow the Lord Chriſt in their Hartes: beinge euermore redye (as ferre as in them is) to anſwere thorowe Faith and Hope to them that aske of them a reaſon. And this Leſſon *Peter* teacheth Men to uſe with a meke Spyrit, and with dreade of the Lord. Wherefore, Syr, I ſaid to this Man in this wiſe, In the old Lawe which endyd not fully till the tyme that Chriſte roſe up ageyn fro Dethe to Lyfe, God commaunded Tythes to be gyuen to the *Leuites*, for the great Beſyneſſe and dayly Trauell that pertayned to their Office. But Prieſtes, becauſe their trauell was mekyll more eaſy and light, than was the Office of the *Leuites*, God ordeyned that Prieſtes ſhould take for their lifelode to do their Office, the tenth part of tho Tythes that wer giuen to the *Leuites*. But naw (I ſaid) in the newe Lawe nother Chriſte, nor ony of his Apoſtles toke Tythes of the People, nor commaunded the People to pay Tythes nother to Prieſtes, nor to Deacons. But Chriſte taught the People to do Almeſſe, that is Werkes of Mercy, to poor nedy Men, of Surpluſe, that is ſuperfluouſe of their Temporal Goodes, which they hadde more than them nedid reaſonably to their neceſſary lyuelode. And thus (I ſaid) not of Tythes, but of pure Almeſſe of the People Chriſte lyued and his Apoſtles, whan they were ſo beſye in teachynge off the Worde of God to the People, that they myght not trauell other wyſe for to gett their lyuelode. But after Chriſtes aſcenſion, and whan the Apoſtles had receyued the Holy Goſte, they traueled with their Handes for to get their lyuelode, whan that they myght thus doo for beſye preachynge. Therefore by example of hymſelfe Seynt *Paule* teacheth all the Prieſtes of Chriſte for to trauell with theire Hande, whan for beſye teaching of the People they myght thus do. And thus all theſe Prieſtes whoſe Prieſtehode God accepteth nowe, or will accepte or dyd in the Apoſtles tyme, and after their Diſceaſe, will do to the Worldes ende. But (as *Ciſtercienſis* telleth) in the thouſande Year of oure Lorde Jeſu Chriſte, two hundreth and a leuenth Yere, one Pope the tenth *Gregory* ordened new Tythes fyrſt to be gyuen to Prieſtes now in the newe Lawe. But Seynt *Paule* in his tyme, whoſe trace or example all Prieſtes of God enforce them to folow, ſeyng the couetouſneſſe that was amonge the People, deſyrynge to deſtroye this foule Synne thorow the Grace of God and true vertuouſe lyuynge an Example of himſelfe, wrotte and taucht all Prieſtes for to folowe him as he folowed Chriſte paciently, willingly, and gladly in hys Powerte. Wherfore *Paule* ſaithe thus, the Lorde hathe ordened that they that preache the Goſpell ſhall lyue of the Goſpell. But we (ſaith *Paul*) that couet and beſy us to be feithfull Folowers of Chriſt, vſe not this Power. For lo (as *Paul* witneſſeth afterwarde) whan he was full pore and nedy preaching among the People, he was

not

not chargeous vnto them, but with his handes he traueled not only to get his owne lyuynge, but alſo the lyuyng of other poore and nedy Creatures. And ſyns the People was neuer ſo couetouſe nor ſo auarouſe (I geſſe) as thei are now, it were good Counſell, that all Prieſtes toke good hede to this heuenly Learnyng of *Paul*, folowing him here, in wilfull Pouerte, nothing charging the People for their bodely lyuelode. But becauſe that many Prieſtes do contrary to *Paule* in this forſayde Doctrine; *Paul* biddeth the People take hede to thoſe Preyſtes that folow him as he had geuen them example. As, if *Paul* wolde ſay thus to the People, Accept ye none other Prieſtes than thei that lyue after the fourme that I haue tauchte you. For certeyn in whatſoeuer Dignite or Ordre that ony Prieſte is in, yf he conforme him not to folowe Chriſte and his Apoſtles in wilfull Pouerte, and in other heuenly Vertues, and ſpecially in true preachynge of Goddes Worde: though ſoche a one be named a Prieſte, yet he is no more but a Prieſte in name, for the worke of a very Prieſte ſoch a one wanteth. This Sentence approueth *Auguſtine*, *Gregory*, *Chriſoſtome* and *Lincoln* plainly.

And the Archebiſhop ſaid to me, Thinkeſt thou this holſome Learninge for to ſowe openly, or yet priuely among the People? Certeyn this Doctryne contrarieth playnly the Ordinaunce of Holy Fathers, which haue ordened, graunted and licenſed Prieſtes to be in diuerſe Degres, and to lyue by Tythes and Offringes of the People, and by other Deuties.

And I ſaid, Syr, if Prieſtes were now in meſurable meſure and numbre, and lyued vertuouſly, and taucht beſyly and truely the Word of God by example of Chriſt, and of his Apoſtles: without Tythes, Offerynges, and other Dewties that Prieſtes now chalenge and take, the People wolde gyue them freely ſufficient lyuelode.

And a Clerke ſaid to me, How wilt thou make this good that the People will gyue frely to Prieſtes their lyuelode, ſyns that now by the Lawe euery Prieſte can ſcarcely conſtrayne the People to gyue them their lyuelode?

And I ſaid, Sir, it is now no wonder, though the People grudge to gyue Prieſtes the Lyuelode that they aske; for mekill People knowe now how that Prieſtes ſhulde luye, and how that they luye contrary to Chriſte and to his Apoſtles: And therfore the People is full heuy to paye (as they do) their temporall Goodes to Perſones, and to other Vicares and Prieſtes, which ſholde be feithfull Diſpenſatours of the Pareſhes Goodes, taking to themſelfes no more but a ſcarce Lyuing of Tythes nor of Offrynges by the Ordinaunce of the comon Lawe. For whatſoeuer Prieſtes take of the People, be it Tythe or Offering, or ony other Deutie or Seruyce, the Prieſtes ought not to haue thereof no more but a bare Lyuyng, and to departe the Reſidew to the poore Men and Women ſpecially of the Pariſhe, of whom they take this temporal Lyuynge. But the moſt dele of Prieſtes nowe waſteth their Pareſhes Goodes, and ſpendeth them at their owne Will after the Worlde in their veyne Luſtes, ſo that in few places poore Men haue dewly (as they ſholde haue) their owne Suſtenaunce, nother of Tythes nor of Offerynges, nor of other large Wages and Foundations that Prieſtes take of the People in diuerſe maners aboue it, that they nede for nedeful Suſtenaunce of Meat and Clothinge. But the poore nedy People ar forſaken, and left of Prieſtis to be ſuſteinyd of the Paroſhenis, as if the Prieſtis toke nothing of the Paroſhenis, for to help the poor People with. And thus, Syr, into ouer great Chargis of the Paroſhenis they pay their Temporal Goods twiſe, wher ones myght ſuffice, if Prieſtis wer trew Diſpenſatours. Alſo Sir, the Paroſhenis that pay their Temporal Goodes (be they Tythes or Offeringes) to Prieſtis that doo not their Office among them juſtely, are parteners of euery Synne of thoſe Prieſtis: becauſe that they ſuſteyne thoſe Prieſtis ſoly in their Synne with their Temporall Goods. Yf thes things be well conſiderid, what wonder is it than, Syr, if the Paroſhenis grudge ageinſt thes Diſpenſatours?

Than the Archebiſhop ſaid to me, Thou that ſholdeiſt be judged and reulyd by Holy Chirche, preſumptuouſly thou demeſt Holy Chirche to haue erryd in the Ordinaunce of Tythes and other Dewties to be payd to Priſtis. It ſhall be long or thou thryue Loſell, that thou deſpiceſt thy goſtely Mother, how dariſt thou ſpeake this Loſell among the People? Ar not Tythes geuyn to Priſtis for to lyue by?

And I ſaid, Sir, Seynt *Paul* ſaith that Tythes wer gyuen in the old Lawe to *Leuites* and to Prieſtis, that came of the Lynage of *Leui*; but our Prieſt he ſaith came not of the Lynage of *Leui*, but of the Lynage of *Juda*; to which *Juda* no Tythes were promiſed to be geuyn. And therfore *Paul* ſaith, ſyns the Prieſthode is chaunged from the Generacion of *Leui* to the Generacion of *Juda*, it is neceſſary that chaungyng alſo be made of the Lawe. So that Prieſtis lyue now without Tythes and other Dewties that they now claime, folowing Chriſte and his Apoſtles in wilfull Pouertie, as they haue gyuen them example. For ſyns Chriſte lyued all the tyme of his preaching by pure almes of the People, and by example of hym his Apoſtles lyued in the ſame wyſe, or els by the trauell of their Handis, as it is ſaid aboue, euery Prieſte whoſe Prieſthode Chriſte approuyth knowith well, and confeſſith in Worde and in Werke, that a Diſciple owith not to be aboue his Maſter; but it ſufficeth to a Diſciple to be as his Maſter, ſymple, and pure, meke and patient; and by example ſpecially of his Maſter Chriſte, euery Prieſte ſholde reule hym in all his lyuynge, and ſo after his connyng and power a Prieſte ſholde beſy hym to enfourme, and to reule whome ſoeuer he myght charitably.

And the Archebiſhop ſaid to me with a great Spirite, Goddis curſe haue thou and myne for this teaching; for thou woldiſt hereby make the olde Law more fre and perfect than the new Lawe. For thou ſaiſt that it is lefull to *Leuites* and to Prieſtis to take Tythes in the olde Lawe, and ſo to enjoye their Priuilegies; but to us Prieſtis in the new Lawe thou ſaiſt it is not lefull to take Tythes: and thus thou geuiſt *Leuites* of the olde Lawe more fredome than to Prieſtis of the new Lawe.

And I ſaid, Sir, I mervell that ye vnderſtonde this playne Text of *Paul* thus. Ye wote well, that the *Leuites* and Prieſts in the olde Lawe that tooke Tythes, wer not ſo fre nor ſo perfite as Chriſte and his Apoſtles that tooke no Tythes. And Sir, there is a Doctour (I thinke that it is Seynt *Jerome*) that ſaith thus, The Prieſtis that chalenge now in the new Lawe Tythes, ſay in effecte, that Chriſte is not becomen Man, nor that he hath yet ſuffered dethe for Mannis loue. Wherfore this Doctour ſaith thys Sentence, Syns Tythes were the Hyres and Wagis limyted to *Leuites*

uites and to Prieſtes of the olde Lawe for bearing about of the Tabernacle, and for ſleayng and fleayng of Beaſtis, and for burning of Sacrifice, and for keping of the Temple, and for tromping of Battell before the oſte of *Iſrael*, and other diuerſe Obſeruauncis that perteinyd to their Office; thoſe Prieſtis that will chalenge or take Tythes, denye that Chriſte is comen in Fleſhe, and doo the Prieſtis Office of the old Lawe for whome Tythes were graunted; for els (as this Doctour ſaith) Prieſtis take now Tythes wrongfully.

And the Archebiſhop ſaid to his Clerkes, Herde ye euer loſell ſpeake thus? Certeyn this is the Learnyng of them all, that wher ſo ever they come, and they may be ſuffered, they enforce them to expugne the fredome of Holy Chirche.

And I ſaid, Sir, why call you the takyng of Tythes, and of ſoche other Dewties that Prieſtes chalenge now wrongfully, the fredome of holy Chirche? ſyns nother Chriſte nor his Apoſtles chalengid nor tooke ſoche Dewties. Herefore thes takyngis of Prieſtis now ar not callyd juſtely the fredome of Holy Chirche; but all ſoche geuyng and takyng ought to be called and holden the ſclaunderous couetouſneſſe of Men of the Holy Chirche.

And the Archebiſhop ſaid to me, Why Loſell wilt not thou and other that ar confedered with the, ſeake out of Holy Scripture, and of the Sentence of Doctours, all ſharp Authorities ageinſt Lordis, and Knyghtis, and Squyeris, and ageinſt other Seculer Men, as thou doeſte ageinſt Prieſtes?

And I ſaid, Sir, what ſo euer Men or Women, Lordis or Ladies, or ony other that ar preſent in our preaching ſpecially, or in our communyng, after our connyng we tell out to them their Office and their Charges; but Syr, ſyns *Chriſoſtome* ſaith, that Prieſtis ar the Stomake of the People, it is nedefull in preaching and alſo in communyng, to be moſt beſy about this Prieſthode, ſyns by the viciouſnes of Prieſtis both Lordis and Commons ar moſte ſynfully infected and ledde into the worſte: And becauſe that the couetouſneſs of Prieſtis, and Pride and the boſte that they haue and make of their Dignity and Power, deſtroieth not onely the Vertues of Prieſthode in Prieſtis themſelfe; but alſo ouer this it ſtierith God to take greate Vengeaunce both upon Lordis and upon Comons, which ſuffer thes Prieſtes charitably.

And the Archebiſhop ſaid to me, Thou judgeſt euery Prieſte proude that will not go arayed as thou doſte. By God I deme hym to be more meke that gothe euery day in a ſcarlet Gowne, than thou in that threde bare blew Gowne. Whereby knoweſt thou a proude Man?

And I ſaid, Sir, a proude Prieſte may be knowen when he denyeth to folow Chriſte, and his Apoſtles in wilfull Pouerte and other Vertues, and couetith worldly Worſhip, and taketh it gladly, and gatherith to gither with pletyng, manaſyng, or with flattering, or with Simony ony worldly Goodis: and moſte if a Prieſte beſy hym not chefely in himſelf, and after in all other Men and Women, after his connyng and power to withſtond Synne.

And the Archebiſhop ſaid to me, Though thou kneweſt a Prieſte to haue all thes Vices, and though thou ſaweſt a Prieſte louely lye now by a Woman, knowing hir fleſchly; woldeſt thou herfore deme this Prieſte dampnable? I ſay to the, that in the tournyng about of thy Hande ſoche a Synner may be verily repented.

And I ſaid, Sir, I will not dampne any Man for any Synne that I know done or may be done, ſo that the Synner leuyth his Synne. But by Authoritie of Holy Scripture, he that ſynneth thus openly as ye ſhewe here, is dampnable for doyng of ſoche a Synne, and moſt ſpecially a Prieſte that ſholde be example to all other for to hate and flie ſynne: and in how ſhort tyme that euer ye ſay that ſoche a ſynner may be repented, he oweth not of hym that knoweth his ſynnyng to be judged verily repentaunt, without open euidence of greate ſhame and harty ſorow for his Synne. For whoſoeuer, and ſpecially a Prieſte that vſeth Pride, Enuy, Couetouſnes, Lechery, Simony, or ony other Vices; and ſhewith not as opyn euidence of Repentaunce as he hath gyuen euyll example and occaſion of ſynning, if he contynew in ony ſoche Synne as long as he may, it is likely that Synne leaueth hym, and he not Synne; and as I vnderſtonde, ſoche a one ſynneth unto Dethe, for whome no body oweth to pray, as Seynt *John* ſaith.

And a Clerke ſaid than to the Archebiſhop, Sir, the lenger that ye appoſe him, the worſe he is; and the more that ye beſy you to amende him, the waiwarder he is: for he is of ſo ſhrewde a kynde, that he ſhamyth not onely to be hymſelf a foule neſte, but without Shame he beſieth him to make his Neſte fouler.

And the Archebiſhop ſaid to his Clerke, Suffer a while, for I am at an ende with him: for there is one other poynte certified ageynſt hym, and I will heare what he ſaith thereto.

And ſo than he ſaid to me, Lo it is here certified ageinſt the, that thov preachidſt openly at *Shrewisbury*, that it is not lefull to ſweare in ony caſe.

And I ſaid, Sir, I preached neuer ſo openly, nor I haue not tauchte in this wyſe in ony place. But Sir, as I preachid in *Shrewisbery*, with my Proteſtacion I ſay to you now here: that by the Authorite of the Goſpel and of Seynt *James*, and by witneſſe of diuerſe Seyntis and Doctours I haue preachid openly in one place or other, that it is not lefull in ony caſe to ſweare by ony Creature. And ouer this, Sir, I haue alſo preachid and tauchte by the forſaid Authorities, that no body ſholde ſweare in ony caſe; if that without Othe in ony wyſe he that is charged to ſweare myght excuſe hym to them that haue power to compell hym to ſweare in lefull thyng and laufull. But if a Man may not excuſe hym without Othe to them that haue power to compell hym to ſweare, than he owght to ſweare only by God, takyng him onely that is ſothefaſteneſſe, for to witneſſe the ſothefaſteneſſe.

And than a Clerke askid me, yf it wer not lefull to a Subjecte at the bidding of his Prelate for to knele down and towche the Holy Goſpell Booke and kyſſe it, ſaying, So helpe me God and this Holy Dome; for he ſholde after his connyng and power do all thyng that his Prelate commaundeth hym.

¶ And I ſaid to them, Sirs, ye ſpeke here full generally or largely: What if a Prelate commaunded his Subjecte to doo an unlaufull thyng, ſhould he obey thereto?

And the Archebiſhop ſaid to me, a Subjecte ought not to ſuppoſe that his Prelate will bidde him doo an unlaufull thing; for a Subject ought to thinke,

thinke, that his Prelate will bidde hym doo nothing but that he will anſwere for before God that it is lefull; and than though the bidding of the Prelate be unlefull, the Subject hath no parell to fulfill it, ſyns that he thinketh and judgeth that what ſo euer thing his Prelate biddeth him doo, that it is lefull to hym for to doo it.

And I ſaid, Sir, I truſte not hereto. But to our firſte purpoſe, Sir, I tell you that I was onys in a gentill Mannis Houſe, and there war than two Clerkes there, a Maſter of Diuinite, and a Man of Lawe, which Man of Lawe was alſo communing in Diuinite; and among other thinges thes Men ſpake of Othes, and the Man of Lawe ſaid, At the bidding of his Souereign which hadde Power to charge hym to ſweare, he wold lay his Hand upon a Booke, and heare his Charge; and if his Charge to his underſtonding were unlefull, he wolde haſtely with draw his Hande frome the Booke: and if he perceiued his Charge to be lefull, he wolde holde ſtill his Hande upon the Booke, takyng there onely God to witneſſe, that he wolde fulfill that lefull Charge after his power. And the Maſter of Diuinitie ſaid than to hym thus, Certeyn he that leyeth his Hande upon a Booke in this wyſe, and makyth there a Promeſſe to doo that thing that he is commaunded, is obliged there by Booke Othe than to fulfill his Charge. For no doute he that chargeth hym to lay his Hande thus upon a Booke, towching the Booke and ſwearing by it, and kyſſing it, promiſyng in this fourme to doo this thyng or that, will ſay and witneſſe that he that towcheth thus a Booke and kyſſeth it, hath ſworne upon that Booke: and all other Men that ſee that Man thus doo, and alſo all tho that heare hereof in the ſame wyſe, will ſaye and witneſſe, that thys Man hathe ſworne upon a Boke: wherfore the Maſter of Diuinite ſayde, it was not lefull nother to gyue nor to take ony ſoche charge upon a Boke, for euery Boke is nothing els but diuerſe Creatures of whiche it is made of. Therefore to ſwear upon a Boke, is to ſweare by Creatures, and this ſweringe is euer unlefull. This Sentence witneſſeth *Chriſoſtome*, plainly blaming them greatly that bring forthe a Boke for to ſweare upon, charginge Clerkes that in no wiſe they conſtrayne ony body to ſweare, whether they think a Man to ſweare true or falſe.

And the Archebiſhop and his Clerkes ſcorned me, and blamyd me greatly for this ſaiyng. And the Archebiſhop manaſſed me with great Puniſhement and ſharpe, except I lefte this Opinion of ſweringe.

And I ſaide, Sir, this is not myne Opinion, but it is the Opinion of Chriſte our Sauyour, and of Seynt *Jamis* and of *Chriſoſtome*, and other diuerſe Seyntes and Doctours.

Than the Archebiſhope badde a Clercke rede the Homely of *Chriſoſtome*, which Homely thys Clerke helde in his Hande writen in a Roll, which Rolle the Archebiſhope cauſed to be taken fro my Felow at *Canterbury*; and ſo than this Clerke redde this Roll till he came to a Clauſe, wher *Chriſoſtome* ſaithe, that it is ſynne to ſweare well.

And than a Clerke (*Malueren*, as I geſſe) ſaid to the Archebiſhop, Sir, I pray you wete of him how that he vnderſtondeth *Chriſoſtome* here, ſaing it to be ſynne to ſwere well.

And ſo the Archebiſhop asked me how I vnderſtode here *Chriſoſtome*.

And certeyn I was ſomewhat afraide to anſwere hereto, for I had not beſyed me to ſtudy about the Senſe thereof; but lyfting up my Mynde to God, I prayed him of Grace. And as faſte as I thought how Chriſte ſaid to his Apoſtles, *Whan for my Name ye ſhall be brought before Judges, I ſhall gyue into your Mouth Wiſdome, that your Aduerſaryes ſhall not ageynſt ſaye*; and truſting feithfully in the Worde of Gode, I ſaid, Sir, I know well that many Men and Women haue now ſwearing ſo in Cuſtome, that thei know not nor will not knowe that they do euell for to ſweare as they do; but they thinke and ſay that they do well for to ſweare as they do, though they know well that they ſweare vntruely. For they ſaye, they may by their ſwearing (though it be falſe) voide blame or temporall harme, which they ſholde haue yf they ſweare not thus. And, Sir, many Men and Women maynteyne ſtrongly that they ſweare well, whan that thing is ſothe that they ſweare for. Alſo full many Men and Women ſay nowe, that it is well done to ſwear by Creatures, whan they may not (as they ſaye) otherwiſe be beleued. And alſo full many Men and Women now ſay, that it is well done to ſweare by God, and by our Ladye, and by other Seyntes, for to haue them in Mynde. But ſyns all theſe Saiynges are but Excuſations and Synne, me thinketh, Sir, that this Sentence of *Chriſoſtome* may be alleged welle ageinſte all ſoch Swerers, witneſſing that all thes ſynne greuouſly, though they thinke themſelf for to ſwear in this forſaid wyſe well. For it is euyll done and greate ſynne for to ſweare trewthe, whan in ony manner a Man may excuſe him without Othe.

And the Archebiſhop ſaid, that *Chriſoſtome* might be thus vnderſtonde.

And than a Clerke ſaid to me, Wilt thou tarye my Lorde no lenger, but ſubmit the here mekely to the Ordinaunce of Holy Chirche, and laye thyne Hande upon a Booke touching the Holy Goſpell of God, promyſinge not onely with thy Mouth, but alſo with thyne Harte to ſtande to my Lordes Ordinaunce?

And I ſaid, Sir, haue I not told you here, howe that I herde a Maſter of Diuinitie ſay that in ſoche a caſe it is all one to touche a Boke, and to ſweare by a Boke?

And the Archebiſhop ſaid, There is no Maſter of Diuinite in *Englond* ſo great, that yf he hold this Opinion before me, but I ſhall puniſhe him, as I ſhall do the, except thou ſwear as I ſhall charge the.

And I ſaid, Sir, is not *Chriſoſtome* an ententyfe Doctour?

And the Archebiſhop ſaid, Ye.

And I ſayde, Yf *Chriſoſtome* proueth hym woorthy great blame that bryngeth forthe a Boke to ſwere upon, it muſte nedes folowe that he is more to blame that ſweareth on that Booke.

And the Archebiſhop ſaid, Yf *Chriſoſtome* ment accordingly to the Ordinaunce of Holy Chirche, we will accepte him.

And than ſaid a Clerke to me, Ys not the Worde of God and God himſelf equipollent, that is, off one Authorite?

And I ſaide, Ye.

Than he ſaid to me, Why wilt thou not ſwere than by the Goſpell of God, that is Gods Worde, ſyns it is all one to ſweare by the Worde of God, and by God himſelfe?

And

And I ſaid, Sir, ſyns I may not nowe other wyſe be beleued but by ſwearynge, I perceyue (as *Auguſtine* ſaithe) that it is not ſpedefull that ye that ſhold be my Brothern ſholde not beleue me: therefore I am redy by the Worde of God (as the Lorde commaunded me by his Worde) to ſweare.

Than the Clerke ſaid to me, Laye than thyne Hande upon the Boke, touching the Holy Goſpell of God, and take thy Charge.

And I ſaid, Sir, I vnderſtonde that the Holy Goſpell of God may not be touched with Mannes Hande.

And the Clerke ſaide, I fonded, and that I ſayde not trewthe.

And I asked this Clerke whether it wer more to reade the Goſpell, or to touche the Goſpell.

And he ſaid, it was more to reade the Goſpell.

Than I ſaid, Sir, by Authorite of Seynt *Jerome*, the Goſpell is not the Goſpell for reding of the Letter; but for the beleue that Men haue in the Worde of God, that it is the Goſpell that we beleue, and not the Letter that we rede: for becauſe the Letter that is touched with Mannes Hande is not the Goſpell; but the Sentence that is verely beleued in Mannis Hart is the Goſpell. For ſo Seynt *Jerome* ſaith, The Goſpell that is the vertue of Goddes Worde is not in the Leauys of the Boke, but it is in the Root of Reaſon. Nother the Goſpell (he ſaith) is in the Writing aboue of the Letters; but the Goſpell is in the marking of the Sentence of Scriptures. This Sentence aproueth Seynt *Paule*, ſaiynge thus, The Kingdome of God is not in Worde, but in Vertue. And *Dauid* ſaith, The Voice of the Lorde, that is his Worde, is in Vertue. And after *Dauid* ſaith, Thorow the Worde of God, the Heuens were fourmed, and in the Spirite of his Mouth is all the Vertue of them. And I pray you, Syr, underſtonde ye well how *Dauid* ſaith, that in the Spirite of the Mouth of the Lorde is all the Vertue of Angells and of Men?

And the Clerke ſaid to me, Thou woldeſt make us to fonde with the: Saye we not that the Goſpellis are writen in the Maſſe-Boke?

And I ſayde, Syr, though Men uſe to ſaye thus, yet it is unperfyte Speche. For the principall parte off a thinge is properlye the hooll thynge: for lo, Mannes Soule, that may not now be ſene here, nor touched with ony ſenſible thing, is properly Man. And all the Vertue of a Tree is in the Roote thereof, that maye not be ſene; for do awaye the Roote, and the Tree is deſtroyed. And, Syr, as ye ſayde to me right nowe, God and hys Worde are of one Authorite; and, Syr, Seynte *Jerome* witneſſeth that Chriſte, very Godde and very Man, is hidde in the Letter of his Lawe: thus alſo, Syr, the Goſpell is hidde in the Letter. For, Sir, as it is full likely many diuerſe Men and Women here in the Erthe touched Chriſte, and ſawe hym and knewe his bodely Perſone, whiche nother touched nor ſawe, nor knewe goſtely his Godhede: right thus, Sir, many Men now touche and ſee, and write and rede the Scriptures of Goddis Lawe, whiche nother touche, ſee nor rede effectuallye the Goſpell. For as the Godhede of Chriſte, that is the Vertue of God, is knowen by the Vertue of thorowe Belefe, ſo is the Goſpell, that is Chriſtes Worde.

And a Clerke ſaid to me, Thes be full myſtie Maters, and unſauery, that thou ſheweſt here to vs.

And I ſaid, Sir, if ye that ar Maſters know not playnly this Sentence, ye may ſore drede that the Kingdome of Heuene be taken fro you, as it was fro the Princes of Prieſtes, and fro the Elders of the Jewes.

And than a Clerke (as I geſſe *Malueren*) ſayde to me, Thou knoweſt not thyne Equiuocacyons, for the Kyngdome of Heuene hathe diuerſe vnderſtondinges. What calleſt thou the Kingdome of Heuene, in this Sentence that thou ſheweſt here?

And I ſaid, Sir, by good Reaſon and Sentence of Doctours, the Realme of Heuene is called here the vnderſtonding of Godes Worde.

And a Clerke ſaid to me, Frome whome thinkeſt thou that this vnderſtondinge is taken awaye?

And I ſaid, Sir, by Authorite of Chriſte himſelfe, the effectuall vnderſtondinge of Chriſtes Worde is taken awaye frome all them chefely, whiche are greate lettered Men, and preſume to vnderſtonde high thynges; and will be holden wiſe Men, and deſyre Maſterſhippe and hye State and Dignite; but they will not conforme them to the lyuyng and teaching of Chriſte and off his Apoſtles.

Than the Archebiſhop ſaid, Well, well, thou wilt judge thy Souereyns. By God the Kyng doeth not his Deutie, but he ſuffer the to be condempned.

And than another Clerke ſaid to me, Why on *Friday* that laſt was, counſeldeſt thou a Man off my Lordes, that he ſholde not ſhriue him to Man, but onely to God?

And with this askyng I was abaſſhed, and than by and by I knewe that I was ſuttely betrayed of a Man that came to me in Preſone on the *Friday* before, comunynge with me in thys mater of Confeſſyon; and certeyn by his Wordes (I thoughte) that this Man came than to me of full feruent and charitable Will: But nowe I knowe he came to tempt me, and to accuſe me (God forgyue him, yf it be his will). And with all myne Harte whan I hadde thoughte thus, I ſaid to this Clerke, Sir, I pray you that ye wolde fetche this Man hither; and all the Wordes as nere as I can repete them, which that I ſpake to hym on *Fridaye* in the Pryſon, I will reherſe nowe here before you all, and before hym.

And (as I geſſe) the Archebiſhop ſaid than to me, They that are now here ſuffyſe to repete them: How ſaideſt thou to him?

And I ſaid, Sir, that Man came and asked me of diuerſe thinges; and after his askynge I anſwered hym (as I vnderſtoode) that goode was: and as he ſhewed to me by his Wordes, he was ſory of his lyuynge in Courte, and right heuy for his owne vicious lyuynge; and alſo for the Vicioufneſſe of other Men, and ſpeciallye of Prieſtes euyll lyuynge: and herefore he ſayde to me with a ſoroufull Harte (as I geſſed) that he purpoſed fully within ſhorte tyme for to leaue the Court, and beſye him to know Gods Lawe, and to conforme all his Lyfe thereafter. And whan he hadde ſaid to me thes Wordis and mo other, which I woulde reherſe and he wer preſent, he praied me to heare his Confeſſion. And I ſaid to hym, Sir, wherfore come ye to me to be confeſſed of me? ye wote well that the Archebiſhop puttith and holdeth me here as one unworthy, other to gyue or to take any Sacrament of Holy Chirche.

And he ſaid to me, Brother I wote well, and ſo wote many mo other, that you and ſoche other ar wrongfully vexed, and herefore I will comon with you the more gladly. And I ſaid to hym, Certeyn I wote well that many Men of this Court, and ſpecially the Prieſtis of this Houſholde, wolde be full euyll a payde, both with you and with me, if they wiſte that ye wer confeſſed of me. And he ſaid that he cared not therefore, for he hadde full litle Affection in them: and (as me thought) he ſpake thes Wordis, and many other, of ſo goode Will, and of ſo hye Deſire, for to haue knowen and done the pleaſant Will of God. And I ſaid than to hym, as with my fore ſaid Proteſtacion I ſay to you now here; Sir, I counſell you for to abſente you frome all euyll Company, and to drawe you to them that looue and beſy them to know and to keape the Preceptis of God: and than the good Spirite of God will mooue you for to occupie beſily all your Wittes, in gathering to gither of all your Synnes, as far as ye can bethinke you, ſhamynge greatly of them, and ſorowyng hartely for them: ye, Sir, the Holy Goſte will than put in your Harte a good Will, and a feruent Deſyre for to take and to holde a goode purpoſe to hate euer, and to flie (after your connyng and power) all occaſion of Synne: and ſo than Wyſdome ſhall come to you frome aboue, lightenyng with diuerſe Beamis of Grace, and of heuenly deſyre, all your Wittes, enfourmyng you how ye ſhall truſte ſtedfaſtely in the Mercie of the Lorde, knouledgyng to hym onely all your vicious Lyuyng, praying to hym euer deuoutely of charitable Counſell and Continuance, hoping without doute, that yf ye contynew thus beſiyng you feithfully to knowe and to kepe his biddingis, that he will (for he only may) forgyue you all your Synnes. And this Man ſaid than to me, Though God forgyue Men their Synnes, yet it behoueth Men to be aſſoyled of Prieſtis, and to doo the Penaunce that they enjoyne them. And I ſaid to him, Sir, it is all one to aſſoyle Men of their Synnes, and to forgyue Men their Synnes: Wherefore ſyns it perteinyth onely to God to forgyue Synne, yt ſuffiſith in this caſe to counſell Men and Women for to leaue their Synne, and to comforte them that beſye them thus to doo, for to hope ſtedfaſtely in the Mercie of God. And ageynwarde, Prieſtis owght to tell ſharpely to cuſtomable Synners, that if they will not make an ende of their Synne, but contynew in diuerſe Synnes while that they may ſynne, all ſoche deſerue Peyn without any ende. And herfore Prieſtis ſhoulde euer beſy them to liue well and holily, and to teache the People beſely and trewly the Worde of God, ſhewing to all folke in open preaching, and in preuy counſelyng, that the Lorde God onely forgeuyth Synne. And therfore thoſe Prieſtis that take upon them to aſſoyle Men of their Synnes, blaſpheme God: ſyns that it perteinyth only to the Lorde to aſſoyle Men of all their Synnes. For no doute a thouſande Yeare after that Chriſte was Man, no Prieſte of Chriſte durſte take upon hym to teache the People nother priuely nor apertly, that they behoouyd nedis to come to be aſſoilid of them, as Prieſtis now doo. But by Authoritie of Chriſtis Worde, Prieſtis bound indured cuſtomable Sinners to euerlaſting Peyns, which in no tyme of their lyuyng wolde beſy them feithfully to know the biddinges of God, nor to keape them. And ageyn, all they that wolde occupie all their Wittes, to hate and to flie all occaſion of Synne, dreding ouer all thing to offende God, and loouyng for to pleaſe hym continually, to thes Men and Women, Prieſtis ſhewid how the Lorde aſſoileth them of all their Synnes. And thus Chriſte promyſed to conferme in Heuen all the binding and looſyng, that Prieſtis by Authorite of his Worde bynde Men in Synne that ar indured therein, or looſe them out of Synne here upon Erthe that ar verely repentaunt. And this Man hearing thes Wordis ſaid, that he myght well in Conſcience conſent to this Sentence; but he ſaid, Is it not nedeful to the Lay People that cannot thus doo, to go ſhriue them to Prieſtis? And I ſaid, yf a Man feale himſelf ſo diſtrobled with ony Sinne that he cannot by his owne Witte auoide this Synne without Counſell of them that ar herein wyſer than he, in ſoche a caſe the Counſell of a goode Prieſte is full neceſſarie. And if a good Prieſte, faile as they doo now commonly, in ſoche a caſe Seynt *Auguſtine* ſaith that a Man may lefully comon and take Counſell of a verteuous Seculer Man; but certeyn that Man or Woman is ouer laden and to beſtely, which cannot brynge their owne Synnes into their Mynde, beſiyng them Nyght and Day for to hate and to forſake all their Synnes, doyng a ſighe for them after their connyng and power. And, Sir, full accordingly to this Sentence, upon Midlenton *Sonday* two Yeare (as I geſſe) now agone, I harde a Monke of *Feuerſham*, that Men called *Moredon*, preache at *Canterbury* at the Croſſe within *Chriſte-Church* Abbey, ſaiyng thus of Confeſſion, As thorow the Suggeſtion of the Fende, without counſell of any other body, that of themſelf many Men and Women can ymagine, and fynde meanys and wayes inough to come to Pride, to Theſte, to Lecherie, and to other diuerſe Vyces: In contrarie wyſe this Monke ſaid, Syns the Lorde God is more redy to forgyue Synne than the Fende is or may be of power to mooue ony body to Synne, than who ſo euer will ſhame and ſorow hartely for their Synnes, knouledging them feithfully to God, amending them after their power and connyng, without counſell of ony other body than of God and hymſelf, thorow the Grace of God, all ſoche Men and Women may fynde ſufficient meanys to come to Goddis Mercie, and ſo to be cleane aſſoilid of all their Synnes. This Sentence I ſaid, Sir, to this Man of yours, and the ſelfe Wordis as nere as I can geſſe.

And the Archebiſhop ſaid, Holy Chirche approuyth not this Learnyng.

And I ſaid, Sir, Holy Chirche of which Chriſte is hed in Heuen and in Erthe, muſt nedys approue this Sentence. For lo hereby all Men and Women may, if they will, be ſufficiently tauchte to know and to kepe the Commaundementis of God, and to hate and to flie continewally all occaſion of Synne, and to looue and to ſeke Vertues beſely, and to beleue in God ſtabely, and to truſte in his mercy ſtedfaſtly, and ſo to come to perfite Charite, and contynew therein perſeuerantly. And more the Lorde askith not of ony Man here now in this Lyfe; and certeyn, ſyns Jeſu Chriſte dyed upon the Croſſe wilfully to make Men fre, Men of the Chirche ar to bolde and to beſy to make Men thrall, byndyng them under the peyne of endleſſe Curſe (as they ſay) to doo many Obſervaunces and Ordinauncis, which nother the lyuyng nor teaching of Chriſte, nor of his Apoſtles approueth.

And

And a Clerke ſaid than to me, Thou ſhewiſt playnely here thy Diſceite which thou haſte learnyd of them that trauell to ſowe Popill among Wheate. But I counſell the to go away clene frome this Learnyng, and ſubmyt the lowly to my Lorde, and thou ſhalt fynde hym yet to be gracious to the.

And as faſte than another Clerke ſaid to me, How waſt thou ſo bolde at *Paulis* Croſſe in *London*, to ſtonde there harde with thi Tippet bounden about thyne Hedde, and to repreue in his Sermonne the woorthy Clerke *Alkerton*, drawyng away all that thou myghtiſt; ye and the ſame Day, at after none thou metyng that woorthy Doctour in *Watlyng-ſtreete*, callidſt hym falſe Flaterer and Ypocrite.

And I ſaid, Sir, I thynk certeinly that there was no Man nor Wooman that hated verely Synne, and loouyd Vertues, hearing the Sermonne of the Clerke of *Oxforde*, and alſo *Alkerton*'s Sermonne; but they ſayd or might juſtely ſay, that *Alkerton* reproouyd the Clerke untrewly, and ſclaundered hym wrongfully and uncharitably. For no doute if the lyuyng and teaching of Chriſte chefely, and of his Apoſtles be trewe, no body that loouyth God and his Lawe, will blame any Sentence that the Clerke than preachid there, ſyns by Authorite of Goddis Worde, and by approued Seyntis and Doctours, and by open Reaſon, this Clerke approued all thingis clerly that he preached there.

And a Clerke of the Archebiſhops ſaid to me, His Sermonne was falſe, and that he ſhewith openly, ſyns he dare not ſtande forthe, and defende his preaching that he than preached there.

And I ſaid, Sir, I thinke that he purpoſith to ſtande ſtedfaſtely thereby, or els he ſclaundereth foully hym ſelf, and alſo many other that haue great Truſte, that he will ſtande by the trewith of the Goſpell. For I wote well his Sermonne is written bothe in *Latyne* and in *Englyſch*, and many Men haue it, and they ſett great pryſe thereby. And Sir, if ye wer preſent with the Archebiſhop at *Lambeth* whan this Clerke apered, and was at his Anſwer before the Archebiſhop, ye wote well that this Clerke denyed not there his Sermonne; but two Dayes he maynteinyd it before the Archebiſhop and his Clerkis.

And than the Archebiſhop, or one of his Clerkis, ſaid, I wote not which of them, that Harlot ſhall be met with for that Sermonne. For no Man but he and thou, and ſoche other falſe Harlotis praiſith ony ſoche preaching.

And than the Archebiſhop ſaid, Your curſed Secte is beſy, and it joiethe right greatly to contrarie, and to deſtroye the Priuilege and Fredome of Holy Chirche.

§ And I ſaid, Sir, I knowe no Men that trauell ſo beſely as this Secte dothe (which you repreue) to make reſt and peace in Holy Chirche. For Pride, Couetouſneſſe and Simony which diſtrooble moſte Holy Chirche, this Secte hatith and fliethe, and trauellith beſely to mooue all other Men in lyke maner unto Meakneſſe; and wilfull Pouerte and Charite, and fre miniſtryng of the Sacramentis, this Secte louyth and vſith, and is full beſy to mooue all other Folkis thus to doo. For thes Vertues owe all Membres of Holy Chirche to their hedde Chriſte.

Than a Clerke ſaid to the Archebiſhop, Sir it is ferre Daies, and ye haue ferre to ryde to Nyght, therfore make an ende with him, for he will none make. But the more, Sir, that ye beſy you for to drawe hym toward you, the more contumax he is made, and the ferder from you.

And than *Malueren* ſaid to me, *William* knele downe and praye my Lorde of Grace, and leaue all thy Fantaſies, and become a Childe of Holy Chirche.

And I ſaid, Sir, I haue praied the Archebiſhop ofte, and yet I pray hym for the looue of Chriſte, that he will leaue his Indignacion that he hathe ageinſt me; and that he will ſuffer me after my connyng and power, for to doo myne Office of Prieſtehode, as I am chargid of God to do it. For I couete nought els but to ſerue my God to his pleaſing, in the ſtate that I ſtande in, and haue taken me to.

And the Archebiſhop ſaid to me, Yf of good Harte thou wilt ſubmyt the now here mekely to be reulid fro this tyme forthe by my counſell, obeiyng mekely and wilfully to myne Ordinaunce, thou ſhalt fynde it moſte profitable and beſt to the for to doo thus. Therefore tary thou me no lenger, graunte to doo this that I haue ſaid to the now here ſhortely, or deny it utterly.

And I ſaid to the Archebiſhop, Sir, owe we to beleue that Jeſu Chriſte was, and is very God and very Man?

And the Archebiſhop ſaid, Ye.

And I ſaid, Sir, owe we to beleue, that all Chriſtis lyuyng and his teaching is trewe in euery poynte?

And he ſaid, Ye.

And I ſaid, Sir, owe we to beleue, that the lyuyng of the Apoſtles, and the teaching of Chriſte, and of all the Prophetes, are true, which are writen in the Bible for the Helth and Saluacion of Goddes People?

And he ſaid, Ye.

And I ſaid, Syr, owe all chriſten Men and Women after their connyng and power for to conforme all their lyuyng to the teachyng ſpecially of Chriſte, and alſo to the teaching and lyuynge of his Apoſtles, and of Prophetes, in all thinges that are pleſaunt to God, and edificacion to his Churche?

And he ſaid, Ye.

And I ſaid, Sir, ought the Doctrine, the bidding or the counſell of ony body to be accepted or obeid unto, excepte this Doctrine, thes biddinges or this counſell may be graunted and affermed bi Chriſtes lyuyng and his teaching ſpecially, or by the lyuyng and teaching of his Apoſtles and Prophetes?

And the Archebiſhop ſaid to me, Other Doctrine ought not to be accepted, nor we owe not to obey to any Mannes bidding or counſell, except we can perceyue that this bidding or counſell acordeth with the bidding and teaching of Chriſte, and of his Apoſtles and Prophetes.

And I ſaid, Sir, is not all the learninge and biddinges and counſellis of Holy Chirche meanes and healfull Remedies to know and to withſtond the preuy Suggeſtions, and the aperte Temptacions of the Fende: and alſo wayes and healfull Remedies to flee Pride, and all other dedely Synnes, and the Braunches of them, and ſouereyn meanes to purcheſe Grace, for to withſtonde and ouercome all the fleſchly Luſtes and Mouynges?

And the Archebiſhop ſaid, Ye.

And I ſaid, Sir, whatſoeuer thing ye or ony other body bid or counſell me to do, accordingly to this forſaid Learning, after my connynge and power

power thorowe the helpe of God I will mekely with all myne harte obey thereto.

And the Archebiſhop ſayde to me, Submitt the than now here mekely and wilfully to the Ordinaunce of Holy Churche, which I ſhall ſhewe to the.

And I ſaid, Sir, accordingly as I haue here nowe before you reherſed, I will now be redy to obey full gladly to Chriſte the hede off all Holy Churche, and to the learnynge and biddynges and counſelles off euery pleafynge Membre of hym.

Than the Archebiſhop ſtriking with his Hande ferſelye upon a Cupborde, ſpake to me with a greate Spyrite, ſayng, By Jeſu, but yf thou leaue ſoche Addicions obliging the now here, without ony excepcion to myne Ordinaunce, or that I go out of this place, I ſhall make the as ſure as ony Theſe that is in the Pryſon of *Lamern*. Aduyſe the now what thou wilt do: and than as if he had ben angered, he went fro the Cupborde where he ſtode to a Wyndowe.

And than *Malueren* and another Clerke came nerer me, and they ſpake to me many Wordes full pleſantly: and another while they manaſed me, and counſelled full beſily to ſubmyt me, or els they ſayde, I ſholde not eſcape poniſhing ouer meſure; for they ſaide I ſholde be degraded, curſed and burned, and ſo than dampned. But now they ſaid, thou maiſte eſchewe all theſe Miſcheues, yf thou wilt ſubmit the wilfully and mekely to thys worthy Prelate that hath cure of the Soule. And for the pytie of Chriſte (ſaid they) bethinke the, howe great Clerckes the Biſhop of *Lincoln*, *Herford*, and *Purney*, wer and yet are, and alſo *B.* that is a well vnderſtondinge Man, which alſo haue forſaken and reuoked all the Learnynge and Opinions, that thou and ſoche other holde. Wherefore ſyns eche of them is mekell wyſer than thou arte, we counſell the for the beſte, that by the example off thes four Clerckes thou folowe them, ſubmyttynge the as they did.

And one of the Biſhopes Clerkes ſaid than there, that he herde *Nicoll Herforde* ſay, that ſyns he forſoke and reuoked all the Learning and Lolardes Opinions, he hathe had mekell greater Favour, and more delyte to holde ageinſt them, than euer he hadde to holde with them while he helde with them.

And therfore *Malueren* ſaid to me, I vnderſtonde and thou wilt take the to a Prieſt, and ſhryue the clene; forſake all ſoch Opinions, and take thy Penaunce of my Lord here, for the holding and teaching of them, with in ſhorte tyme thou ſhalt be greatly conforted in this doing.

And I ſaid to the Clerckes that thus beſyly counſelled me to folow theſe forſaide Men, Sirs, if thes Men, of whome ye counſell me to take example, had forſaken Benefyces of Temporall Profyte, and of worldly Worſhippe, ſo that they had abſented them and eſchewed frome all Occaſyons of Couetouſneſſe, and of fleſchely Luſtes, and had taken them to ſymple lyuynge, and wilfull Pouerte, they hadde herein geuen goode example to me, and to many other to haue folowed them. But now, ſyns all thes foure Men haue ſlanderouſly and ſhamefully done the contrarye, conſentyng to receyue and to haue and to holde Temporall Benefyces, lyuynge now more worldly and more fleſchely than they did before, conformyng them to the Maners of this Worlde; I forſake them herein, and in all their forſaid ſlaunderous doynge. For I purpoſe with the helpe of God in to Remiſſion of all my Synnes and of my foule curſed lyuyng, to hate and to flye priuely and apertly, to folow thes Men, teaching and counſellyng whomeſoeuer that I may for to flye and eſchewe the waye that they haue choſen to go in, whiche will lede them to the worſte ende, if in conuenient tyme they repente them not, verely forſakynge and reuokynge openly the Slaunder that they haue put and euery Daye yet put to Chriſtes Churche. For certeyn ſo open Blaſphemye and Slaunder as they haue ſpoken and done in their reuokyng and forſakyng of the trewthe, ought not, nor maye not priuely be amended dewly. Wherefore, Sirs, I praye you that ye beſye you not for to mooue me to folowe theſe Men in reuokynge and forſakynge of the trewthe and ſothefaſteneſſe as they haue done and yet doo, wherein by open euydence they ſteire God to greate wrothe, and not onely ageynſt them ſelfe but alſo ageynſte all them that fauoure them or conſente to them herein, or that comoneth with them, except it be for their amendement. For whereas thes Men firſte were perſued of Enemyes, now they haue obliged them by Othe for to ſlaunder and perſue Chriſte in his Membres. Wherfor as I truſte ſtedfaſtely in the Goodnes of God, the worldly Couetouſneſſe, and the luſtie lyuyng, and the flyding fro the treuth of theſe Runagates, ſhall be to me and to many other Men and Women an example, and an euidence to ſtonde the more ſtifly by the trewith of Chriſte. For certeyn, right many Men and Women doo marke and abhorre the foulneſſe and cowardneſſe of theſe forſaide untrewe Men, howe that they are ouercome and ſtopped with Benefyces, and withdrawen fro the trewith off Goddes Worde, forſaking vtterly to ſuffer therfore bodely Perſecucyon. For by this vnfeithfull doynge and Apoſtaſie of them ſpecially that ar great lettered Men, and haue knowledged openly the treuth, and now other for Pleaſure or Diſpleaſure of Tyrantes haue taken Hyer and temporal Wages to forſake the Trewthe, and to holde ageinſt it, ſlaundering and perſewing them that couete to folowe Chriſt in the waye of Rightuouſneſſe, many Men and Women therfore are nowe moued: But many mo, thorow the Grace of God, ſhall be moued hereby for to learne the Treuth of God, and to doo thereafter, and to ſtond boldely thereby.

Than the Archebiſhoppe ſayde to his Clerkes, Beſy you no lenger aboute hym, for he and other ſoche as he is are confedered ſo to gither, that they will not ſweare to be obedient, and to ſubmytte them to Prelates of holy Chirche. For nowe ſyns I ſtode here, his Felowe ſent me worde that he will not ſweare, and that he counſelled hym that he ſholde not ſweare to me. And, Loſell, in that thynge that in the is, thou haſte beſyed the to looſe thys yonge Man, but bleſſed be God, thou ſhalt not haue thy purpoſe of hym: For he hath forſaken all thy Learnynge, ſubmyttynge hym to be buxum and obedient to the Ordinaunce of holy Churche, and wepeth full bitterly, and curſeth the full hartely for the venemous Teachynge whiche thou haſte ſhewed to hym, counſellynge hym to doo thereafter. And for thy falſe councellynge of many other and hym, thou haſte greate Cauſe to be righte ſory. For long tyme thou haſte beſied the to peruert whom ſo euer thou mighteſt; therfore as many Deathes thou arte worthy of, as thou haſt geuen euell Councelles:

celles: And therfore by Jeſu thou ſhalt go thyther, where *Nicoll Harforde* and *Tom Purnay* were herbered. And I vndertake, or thys daye eyghte dayes thou ſhalt be righte gladde for to doo what thynge that euer I bydde the doo. And, Loſell, I ſhall aſſaye if I can make the there as ſoroufull (as it was tolde me) thou waſte gladde of my laſte going out of *Englond*; by Seynt *Thomas* I ſhall tourne thy Joye into Sorowe.

And I ſayde, Sir, there can no body preue laufully that I ioyed euer of the maner of youre goynge out of this Lande. But, Sir, to ſaye the ſothe, I was ioyfull whan ye were gone, for the Biſhop of *London*, in whos Pryſon ye lefte me, founde in me no Cauſe for to holde me lenger in his Pryſon, but at the requeſte of my Frendes, he deliuered me to them, asking of me no maner of ſubmittyng.

Than the Archebiſhoppe ſaide to me, Wherfore that I yede out of *Englond* is vnknowen to the; but be this thinge well knowen to the, that God (as I wote well) hath called me ageyne, and broughte me into this Lande for to deſtroye the and the falſe Secte that thou arte off, as by God I ſhall perſue you ſo naroulye, that I ſhall not leaue a ſteppe of you in thys Lande.

And I ſaid to the Archebiſhop, Sir, the holy Prophete *Jeremy* ſaid to the falſe Prophete *Anany*, *Whan the Worde that is the Prophecye of a Prophete is knowen or fulfilled, than it ſhall be knowen that the Lorde ſent the Prophete in treuthe.*

And the Archebiſhop, as if he hadde not ben pleaſid with my Saiynge, turned hym away warde hyther and thyther, and ſayde, By God I ſhall ſette upon thy Shynnes a pair of Perlis, that thou ſhult be gladde to chaunge thy Voice.

Thes and many mo wonderous and convicious wordes wer ſpoken to me, manaſſing me and all other of the ſame Secte for to be puniſhed and deſtroyed vnto the vttermoſte.

And the Archebiſhop called than to hym a Clerke, and rowned with him, and that Clerke went forthe, and ſone he brought in the Conſtable of *Saltwode-Caſtell*, and the Archebiſhop rowned a good while with hym, and than the Conſtable went forthe, and than cam in diuerſe Seculers, and they ſcorned me on euery ſyde, and manaſſed me greatly; and ſome counſelled the Archebiſhop to burne me by and by, and ſome other counſelled hym to drounde me in the See, for it is nearehande there.

And a Clerke ſtandyng beſyde me there, knelede downe to the Archebiſhoppe, praiyng hym that he wolde delyuer me to hym for to ſaye Matenes with hym, and he wolde vndertake that within thre dayes I ſholde not reſiſte any thynge that were commaunded me to doo of my Prelate.

And the Archebiſhop ſaid, that he wold ordeine for me himſelfe.

And than after came in ageyn the Conſtable, and ſpake priuely to the Archebiſhop.

And than the Archebiſhop commaunded the Conſtable to lede me forthe thens with hym, and ſo he did; and whan we wer gone forthe thens, we wer ſent after ageyn. And whan I came in ageyne before the Archebiſhop, a Clerke badde me knele downe, and aske Grace, and ſubmit me lowly, and I ſholde fynde it for the beſte.

And I ſaid than to the Archebiſhop, Sir, as I haue ſaid to you diuerſe tymes to day, I will wilfully and lowly obey and ſubmit me to be ordenid euer after my Connyng and Power to God, and to his Lawe, and to euery Membre of holy Chirche, as ferre forth as I can perceyue that thes Membres accorde with their Hedde Chriſte, and will teache me, reule me, or chaſtyſe me by Authorite ſpecially of Goddis Lawe.

And the Archebiſhop ſaid, I wiſte well he wolde not without ſoche Addicions ſubmit hym.

And than I was rebukyd, ſcornyd, and manaſyd on euery ſyde; and yet after this diuerſe Perſones cried vpon me to knele down and ſubmit me, but I ſtood ſtill and ſpake no worde: and than there was ſpokyn of me, and to me many greate Wordis; and I ſtoode and herde them manaſe, curſe, and ſcorne me; but I ſaid nothing.

Than a while after the Archebiſhop ſaid to me, Wilt thou not ſubmit the to the Ordinance of holy Chirche?

And I ſaid, Sir, I will full gladly ſubmit me, as I haue ſhewid you before.

And than the Archebiſhop badde the Conſtable to haue me forthe thens in haſte.

The Tryal and Examination of Sir JOHN OLDCASTLE, *Lord* COBHAM, *for Hereſy, the 1ſt of* Henry 5. 1413. *who was executed the 6th of* Henry 5. A. D. 1418. *Collected by* John Bale.

AFTER that the true Seruaunte of Jeſus Chryſt, *Johan Wycleue*, a Man of very excellent Lyfe and Learning, had for the ſpace of more than xxvi. yeares mooſte valeauntly battelled with the great Antichriſt of *Europa*, or Pope of *Rome*, and his dyuerſly diſgyſed Hoſt of anoynted Hypocrites, to reſtore the Church again to the pure Eſtate that Chryſt left her in at hys Aſcenſyon, he departed hens moſt chriſtely into the handes of God, the yeare of our Lord 1387, and was buried in his owne Parriſh-Church at *Lutterworth* in *Lincolnſhere*. No ſmall Nombre of godly Dyſciples left that good Man behynd hym to defend the Lowlyneſſe of the Goſpell againſt the exceading Pryde, Ambition, Symony, Auarice, Ipocryſye, Whoredom, Sacrylege, Tyrannye, ydolatrouſe Worſhipinges, and other fylthy Frutes of thoſe ſtifnecked Pharyſes. Agaynſt whome *Thomas Arundel*, than Archebiſhop of *Caunterbury*, ſo fierce as euer was *Pharao*, *Antiochus*, *Herodes*, or *Cayphas*, collected in *Pauls* Church at *London* an vnyuerſall Synode of all the Papiſticall Clergye of *England*, in the yere of our Lord a M. CCCC. and xiii. as he had done diuerſe other afore, to withſtand their mooſt godly Enterpryſe. And thys was the fyrſt Yere of King *Henry* the Fifth, whom they had than made fit for theyr hande.

As theſe hygh Prelates with their Pharyſees and Scribes were thus gathered in thys peſtilent Counſell againſt the Lord and his Woorde, fyrſt there reſorted vnto them the xii Inquiſitours of Hereſyes (whom they had appointed at *Oxford* the yere afore, to ſerche out Heretikes with all *Wicleues* Bookes) and they brought two hundreth and lxvi. faithfull Concluſyons, whome they had collected as Hereſyes of the ſeyd Bokes. The Names of the ſeyd Inquiſitours were theſe; *Johan Witnam* a Maſter in the *New-College*, *Johan Languedon* Monke of *Chry-Churche* in *Caunterbury*, *Wilyam Ufforde* Regent of the *Carmelytes*, *Thomas Claxton* Regent of the *Dominikes*, *Robert Gylbert*, *Rychard Earthyſdale*, *John Lucke*, *Rycharde Snediſham*, *Richarde Flemming*, *Thomas Rottborne*, *Robert Rondbery*, and *Richard Grafdale*. In the meane ſeaſon cauſed they their hyred Seruauntes to blowe it forth abroade throughout all the hole Reame, that they were there congregated for an wholſome Unite and Reformacion of the Churche of *Ingland*, to ſtoppe ſo the Mouthes of the comen People. Such is always the comen Practiſe of theſe ſubtile Sorcerers, whyls they are in doing Miſchief, to blere the Eyes of the vnlearned Multytude, with one falſe Craft or other.

After a certein Communication they concluded among themſelves, that it was not poſſible for them to make whole Chriſtes Cote without Seme (meaning therby their patched Popyſh Synagoge) onleſſe certeyn great Men were brought out of the way, which ſemed to be the chefe Mainteiners of the ſeyd Diſciples of *Wicleue*: Among whome the moſt noble Knyght Sir *Johan Oldcaſtell*, the Lord *Cobham*, was complained of by the generall Proctours, yea rather Betrayers of Chriſt in his faithful Membres, to be the chefe Principal. Him they acuſed firſt for a mighty Maintener of ſuſpected Preachers in the Dioceſes of *London*, *Rocheſter*, and *Herforde*, contrary to the Mindes of their Ordynaries: Not only they affirmed him to haue ſent thyder the ſeid Preachers, but alſo to haue aſſiſted them ther by force of Armes, notwithſtanding their ſinodall Conſtitucion made afore to the contrarye. Laſt of all, they accuſed him, that he was farre other wiſe in Beleue of the Sacrament of the Altre, of Penaunce, of Pilgrymage, of Ymage-worſhipping, and of the Eccleſiaſtycall Power, than the holy Churche of *Rome* had taught many years afore.

In the ende it was concluded amonge them, that wythoute anye farther Delaye, Proceſſe ſhulde oute agaynſt hym, as agaynſt a mooſt pernycyous Heretike.

Som of that Fellouſhyp, whych were of more craftye Experyence than the other, wold in no caſe haue that matter ſo raſhlye handeled, but thought thys waye moche better. Conſydering the ſeid Lord *Cobham* was a Man of great Byrth, and in fauer at that tyme with the King, theyr Counſell was to know firſt the Kinges Mynde, to ſaue all thynges right vp. This Counſell was well accepted, and ther vpon the Archebiſhop *Thomas Arundell*, wythe his other Byſſhoppes, and a great part of the Clergy, went ſtrayght wayes vnto the Kyng, as than remayninge at *Kenyngton*; and there layed forth moſt greuous Complayntes againſt the ſaied Lord *Cobham*, to his great Infamy and Blemyſh, beinge a Man moſt godly. The King gentilly harde thoſe bloud thurſty Rauenours; and farre otherwiſe than became his Princelye Dignite, he inſtauntly deſyred them, that in reſpect of his noble Stock and Knighthode, they ſhuld yet fauourably deale with him; and that they wold, if it were poſſible, without all rigour or extreme handeling, reduce him againe to the Churches Unite. He promiſed them alſo, that in caſe they were not contented to take ſome Delyberacion, his ſelfe wold ſeryouſly common the matter with him.

Anon after the Kyng ſent for the ſeyd Lord *Cobham*; and as he was come, he called him ſecretly, admoniſhing him betwixt him and him, to ſubmit him ſelfe to hys Mother the holy Church, and as an obedient Chyld to acknowledge him ſelfe culpable. Vnto whom the Chriſten Knight made

made this Anſwere, You moſt worthy Prince, ſaith he, am I always prompt and wylling to obeye, for ſo moche as I knowe you a Chriſten Kinge, and the appointed Miniſter of God, bearing the Sworde to the Puniſhement of Yll-doers, and for the Sauegarde of them that be vertuous. Unto you next my æternal God, owe I my whole Obedience, and ſubmit my thervnto, as I haue done euer, all that I haue eyther of Fortune or Nature, redy at all times to fulfill what ſo euer ye ſhall in that lorde commaund me: But as touching the Pope and hys Spiritualty, truly I owe them neyther Sute nor Seruice; for ſo moch as I knowe hym by the Scriptures to be the great Antichryſte, the Sonne of Perdicyon, the open Adverſary of God, and the Abhominacyon ſtanding in the holy place. Whan the King had hearde this, with ſochelyke Sentences more, he wolde talke no longer with him, but lefte hym ſo vtterly.

And as the Archebiſhop reſorted again vnto him for an Anſwere, he gaue him his full Auctorite to cyte him, examine hym, and punyſhe him according to the deueliſh Decrees, whiche they call the Lawes of holye Church. Then the ſeyd Archebiſhop, by the Counſell of hys other Biſhoppes and Clergy, appointed to call before him Syr *John Oldecaſtell*, the Lord *Cobham*, and to cauſe him perſonally to apeare to anſwere to ſuche ſuſpect Articles as they ſhuld lay againſt him. So ſent he forth his chefe Sommener, with a very ſharp Citacion, vnto the Caſtell of *Cowling*, where as he at that tyme dwelt for his Solace. And as the ſeyd Sommener was thether comen, he durſte in no caſe entre the Gates of ſo noble a Man without his Lycens, and therfore he returned home agayne, hys Meſſage not done. Than called the Archebyſhop one *John Butler* unto him, whych was than the Dorekeper of the Kynges Prive Chamber, and with him he covenaunted through Promiſes and Rewards to haue this matter craftely brought to paſſe vnder the King's Name. Whervppon the ſeyd *Johan Butler* toke the Archebyſhops Sommener with hym, and went vnto the ſayd Lord *Cobham*, ſhewing him that it was the Kinges Pleaſure that he ſhuld obeye that Citacyon, and ſo cyted him fraudulently. Than ſaid he vnto them in fewe woordes, that in no caſe wold he conſent to thoſe mooſt deuelyſh Practiſes of the Prieſtes. As they had informed the Archebiſhop of the Anſwere, and that it was mete for no Man priuately to cyte him after that without parell of Lyfe, he decreed by and by to haue him cyted by publike Proceſſe or open Commaundment. And in al the haſt poſſible, uppon the Wednyſday before the Natiuite of oure Ladye in *September*, he commaunded Letters Citatory to be ſet vpon the great Gates of the Cathedral Church of *Rocheſter*, (which was but iij. *Engliſh* myles from thens) charging him to apere perſonally before him at *Ledys*, in the xi. daye of the ſame moneth and yeare, all Excuſes to the contrary ſet apart. Thoſe Letters were taken downe anon after, by ſuch as bare fauer vnto the Lorde *Cobham*, and ſo conueyed aſyde: After that cauſed the Archebiſhoppe newe Letters to be ſet vpon the Natiuite day of our Ladye, which alſo were rent downe and vtterly conſumed.

Than for ſo moche as he did not apeare at the day appoynted at *Ledys* (where as he ſate in Conſiſtory, as cruell as ever was *Cayphas*, with his Court of Hipocrites aboute him) he judged hym, denounced him, and condemned him of moſt depe Contumacy: after that whan he had bene falſely infourmed by his hierd Spyes, and other gloſing Glauerers, that the ſayd Lord *Cobham* had lawghed him to Scorne, diſdayned all his Doings, mainteined his old Opinions, contemned the Churches power, the Dignite of a Biſhop, and the Ordre of Preſthode (for all theſe was he than accuſed) in hys mody Madnes, without juſt profe, dyd he openly excommunicate him. Yet was he not for all this fierce Tiranny qualifyed, but commaunded him to be cited a freſh, to apere afore him the Saturday before the Feaſt of Saint *Mathew* the Apoſtle, with theſe cruell Threatinges added therunto; That if he did not obey at that day, he wold more extremely handle him; and to make him ſelfe more ſtrong towardes the perfourmaunce therof, he compelled the Lay-Power, by moſt terrible Menacinges of Curſes and Interdictions, to aſſyſt him againſt that cedicious Apoſtate Sciſmatike, that Heretike, that Troubler of the publycke Peace, that Enemye of the Realme, and greate Aduerſarye of all holy Churche; for all theſe hatful Names dyd he giue him.

This moſt conſtaunt Seruaunt of the Lord and worthy Knight Sir *Johan Oldecaſtell*, the Lord *Cobham*, beholding the vnpacable Fury of Antichriſt thus kindeled againſt him, perceiuing him ſelf alſo compaſed on every ſide with deadly Dauntgers, he toke Paper and Penne in hand, and ſo wrote a Chriſten Confeſſion or Rekening of his Faith (which foloweth here after) and both ſigned and ſealed it with his own hande: Wherin he alſo anſwereth to the iiij. chefeſt Articles that the Archebiſhop layed againſt him; that doone, he toke the Copye with him, and wente therwith to the Kyng, truſtinge to fynd Mercy and Fauer at hys hande. None other was that Confeſſion of his, than the common Beleue or Somme of the Churches Faith, called the Apoſtles Crede, of all Chriſten Men than vſed. As thus;

The Chriſten Beleue of the Lord Cobham.

I Beleue in God the Father Almighty, Maker of Heuen and Earth; and in Jeſu Chriſt his only Sonne our Lord, which was conceyued by the Holy Goſt, borne of the Virgin *Mary*, ſuffred vnder *Ponte Pilate*, crucified, dead, and buried, went doun to Helle, the third daye roſe againe from Death, aſcended vp to Heauen, ſitteth on the right hand of God the Father Almightye, and from thens ſhall come agayne to judge the Quicke and the Dead. I beleue in the Holy Goſt, the vniuerſall holy Churche, the Communion of Sainctes, the Forgeuenes of Sinnes, the Vpriſing of the Fleſh, and everlaſting Life. *Amen.*

And for a more large Declaracion (ſaith he) of this my Faith in the Catholik Church, I ſtedfaſtly beleue that there is but one God Almighty, in and of whoſe Godhed are theſe iii. Parſonnes, the Father, the Sonne, and the Holy Goſt, and that thoſe iij. Parſones are the ſame ſelfe God Almyghtyes. I beleue alſo that the ſeconde Parſonne of this moſt bleſſed Trinite in moſt conuenient tyme appointed therunto afore, toke Fleſh and Bloud of the moſt bleſſed Virgyn *Mary*, for the Sauegard and Redempcion of the vniuerſall kynd of Man, which was afore loſt in *Adams* Offence. Moreouer, I beleue that the ſame Jeſus Chriſt our Lord, thus being both God and Man, Is the onely Head of the whole Chriſten Churche, and that all thoſe that hath bene, or ſhal be ſaued, be Membres of this moſt holy Church: And this

this Holy Church I think to be diuided in to iii. ſortes or Companyes.

Wherof the firſt ſort be now in Heauen, and they are the Saynctes from hens departed. Theſe, as they were here conuerſaunt, conformed alwayes theyre Lyues to the moſt holye Lawes and pure Examples of Chryſte, renouncyng Sathan, the Worlde, and the Fleſh, wyth all their Concupicences and Euels. The ſecond ſort are in Purgatory (yf any ſuch be by the Scriptures) abydyng the Mercy of God, and a full Delyuerance of Payne. The thyrde ſorte are here uppon the Earth, and be called the Churche Mylytaunt. For Daye and Nyght they contend agaynſt the crafty Aſſaultes of the Deuel, the flattering Proſperities of thys Worlde, and the rebellyouſe fylthynes of the Fleſhe.

Thys latter Congregation by the juſte Ordinaunce of God is alſo ſeuered into 3 diuerſe Eſtates, that is to ſay into Prieſthode, Knighthode, and the Comens. Amonge whom the Wyll of God is, that the one ſhuld ayde the other, but not deſtroye the other. The Prieſtes fyrſt of all ſecluded from all Worldlyneſſe ſhuld conforme theyr Lyues vtterly to the Examples of Chryſt and his Apoſtles. Euermore ſhulde they be occupied in preaching and teaching the Scriptures purely, and in geuing wholſom Counſels of good liuing to the other two Degrees of Men. More modeſt alſo, more louing, gentyll, and lowlye in Spirite ſhuld they be than any other ſortes of People.

In Knighthode are all they whych beare Sword by Lawe of Office. Theſe ſhuld defende Gods Lawes, and ſee that the Goſpell were purely taught, conforming their Lyues to the ſame, and ſecludynge all falſe Preachers: yea theſe ought rather to haſard their Lyues than to ſuffer ſuch wycked Decrees as eyther blemiſheth the eternal Teſtament of God, or yet letteth the fre Paſſage therof, wherby Hereſies and Sciſmes might ſpring in the Church. For of none other ryſe they as I ſuppoſe, than of erronyous Conſtitucions, craftely fyrſt creping in under Hypocrites lyes for auauntage. They ought alſo to preſerue Gods Peple from Oppreſſors, Tirauntes, and Theues, and to ſe the Clergy ſupported ſo long as they teache purely, pray rightly, and miniſter the Sacraments frely. And if they ſe them do otherwiſe, they are bound by Law of Offyce to compell them to chaunge ther doinges, and to ſe all thinges performed according to Gods Preſcript or Ordinaunce.

The latter Fellouſhip of this Church are the common People, whoſe Dewtye is to beare their good Mindes and true Obedience to the aforeſeyd Miniſters of God, theyr Kinges, Cyuile Gouernours and Prieſtes. The right Office of theſe is juſtly to occupy euery Man in his Faculte, be it Merchaundiſe, Handy-craft, or the Tilthe of the Grounde. And ſo one of them to be as an helper to another, followynge all wayes in theyr ſortes the juſt Commaundementes of theyr Lord God.

Ouer and beſydes all thys, I mooſt faithfully beleue that the Sacramentes of Chryſtes Church are neceſſary to all Chryſten Beleuers, thys alwayes ſene to, that they be truly miniſtred according to Chriſtes fyrſt Inſtitucion and Ordinaunce. And for ſo moch as I am malyciouſly and moſt falſely accuſed of a misbeleue in the Sacrament of the Aulter, to the hurtfull Slaundre of many; I ſignifye here unto al Men, that thys is my Fayth concerning that. I beleue in that Sacrament to be contayned very Chriſtes Body and Bloude under the Similytudes of Breade and Wyne, yea, the ſame Body that was conceyued of the Holy Goſt, born of *Mary* the Virgin, done on the Croſſe, dyed, that was buried, aroſe the thyrd Day from the Death, and is now glorified in Heauen. I alſo beleue the vniuerſal Lawe of God to be mooſt true and perfight, and they which do not ſo followe it in theyr Fayth and Workes at one time or other, can neuer be ſaued. Where as he that ſeketh it in Faith, accepteth it, learneth it, delyghteth therein, and perfourmeth it in Loue, ſhall taſt for it the felicity of euerlaſting Innocencye.

Finally this is my Faith alſo, that God wyll axe no more of a Chriſten Beleuer in this Lyfe, but only to obey the Preceptes of that moſt bleſſed Law. If any Prelates of the Churche require more, or elſe anye other kynd of Obedience, than thys to be vſed, he contemneth Chriſt, exalting himſelf aboue God, and ſo becometh an open Anti-chriſte. Al theſe Premiſſes I beleue particularlye, and generally all that God hath left in his Holy Scryptures that I ſhuld beleue: Inſtauntly deſiring you, my Lyege Lord and moſt worthy King, that thys Confeſſion of mine may be juſtly examined by the moſt godly, wiſe, and learned Men of your Realme. And if it be found in all Pointes agreyng to the Verite, than let it be ſo allowed, and I thervppon holden for none other than a true Chriſtiane. If it be proued otherwiſe, than let it be vtterly condemned: prouided alwaies, that I be taught a better Beleue by the Word of God, and I ſhall moſt reuerently at al times obey therunto.

Thys breſe Confeſſyon of hys Fayth, the Lorde *Cobham* wrote (as is mencyoned afore) and ſo toke it wyth hym to the Court, offeryng yt wyth all Mekeneſſe vnto the Kyng to rede it ouer. The Kyng wold in no caſe receiue it, but commaunded yt to be delyuered unto them that ſhuld be his Judges. Than deſyred he in the Kinges Preſens, that an hondred Knights and Eſquiers might be ſuffered to come in vpon hys Purgacyon, which he knewe wold clere him of all Hereſyes. Moreouer he offred hym ſelf after the Law of Armes, to fyght for Lyfe or Death with any Man lyuing, Chriſten or Heythen, in the Quarell of his Faith, the King and the Lordes of his Counſell excepted. Fynally with all gentilneſſe he proteſted before all that were preſent, that he wold refuſe no manner of Correction that ſhuld after the Lawes of God be miniſtred vnto him; but that he wold at all times with all Mekenes obey it. Notwithſtandyng all thys, the Kyng ſuffered him to be ſommoned perſonally in his own Preuy Chambre. Than ſayed the Lord *Cobham* to the Kyng, that he had appealed from the Archbyſhop to the Pope of *Rome*, and therefore he ought, he ſayd, in no caſe to be his Judge. And hauyng hys appeale there at hande redye written, he ſhewed yt wyth all Reuerence to the Kyng. Wherwith the Kyng was than moche more diſpleaſed than afore, and ſayd angerlye unto him, that he ſhuld not purſue his Appeal: but rather he ſhuld tarry in hold, tyll ſuch tyme as it were of the Pope allowed. And than, wold he or nyld he, the Archebiſhop ſhuld be his Judge. Thus was there nothing allowed that the good Lorde *Cobham* had lawfully afore required. But for ſo moch as he wold not be ſworn in all things to ſubmit himſelfe to the Churche, and ſo to take what Penaunce the Archbiſhope

biſhoppe wold enjoyne him, he was areſted againe at the Kinges Commaundment, and ſo led forth to the Towre of *London*, to kepe his day (ſo was it than ſpoken) that the Archbyſhop had appoynted hym afore in the Kinges Chambre.

Then cauſed he the aforeſayd Confeſſion of his Faith to be coppyed againe, and the Anſwere alſo (which he had made to the iiij. Articles proponed agaynſt hym) to be wryten in maner of an Indenture in two Shetes of Paper; that whan he ſhuld come to his Anſwere, he might geue the one Copy vnto the Archebiſhop, and reſerue the other to himſelfe. As the day of Examinacion was comen, whyche was the xxiij. day of *Septembre*, the Saturday before the Feaſt of Saint *Mathewe*, *Thomas Arundell* the Archebyſhop, ſytting in *Cayphas* Roume, in the Chapterhouſe of *Paules*, wyth *Rychard Clyfforde* Biſhop of *London*, and *Henry Bolingbroke* Biſhop of *Wincheſter*, Sir *Robert Morley* Knight and Leſetenaunt of the Towr, brought perſonally before him the ſeyd Lord *Cobham*, and there left hym for the time, vnto whom the Archebiſhop ſayd theſe wordes.

The fyrſt Examination of the Lord Cobham.

SIR *John*, in the laſt generall Conuocation of the Cleryge of thys our Prouynce, ye were detected of certein Hereſyes, and by ſufficient Witneſſes founde culpable; whervppon ye were by fourme of ſpirituall Lawe cyted, and wolde in no caſe appeare: In concluſion, vppon your rebellyous Contumacie, ye were both priuatelye and openlye excommunicated. Notwythſtanding we neuer yet ſhewed oure ſelfe unreadye to haue geuen you youre Abſolucion (nor yet do not to thys houre) wolde ye haue mekelye axed it. Unto this the Lord *Cobham* ſhewed as though he had geuen none eare, hauing his Mynde otherwiſe occupied, and ſo deſyred none Abſolucion: But he ſayd, he wold gladly before him and his Brethren make Reherſall of that Fayth, which he helde and entended always to ſtande to, yf it wolde pleaſe them to lycens him thereunto; and than he toke out of hys Boſome a certein Writting endented, concerning the Articles wherof he was accuſed, and ſo openly redde it before them, geuing it vnto the Archbyſhop, as he had made thereof an ende; wherof thys is the Copye.

I *Johan Oldecaſtell* Knight and Lord *Cobham*, wyll all Chryſten Men to vnderſtand, That *Thomas Arundell*, Archbyſhop of *Caunterbury*, hath not onely laid it to my Charge malityouſly, but alſo very vntruly by hys Letter and Seale, written againſt me in moſt ſlaunderouſe wyſe, that I ſhuld other wyſe fele and teach of the Sacramentes of the Church (aſſigning ſpecyally the Sacrament of the Aulter, the Sacrament of Penaunce, the worſhipping of Ymages, and the going of Pilgrimage vnto them) far other wiſe than either beleueth or teacheth the vniuerſall holye Churche. I take Almyghtye God vnto wytneſſe, that yt hath bene and nowe is, and euermore wyth the helpe of God yt ſhall be my full Intent and Wyll, to beleue faythfully and wholy all the Sacramentes that ever God ordeined, to be minyſtred in the holy Church; and moreouer, for to declare me in theſe iiij. Points afore reherſed.

I beleue that in the mooſt worſhypfull Sacrament of the Alter, is Chriſts very Body in forme of Bread, the ſame Body that was borne of the bleſſed Virgin *Mary*, done on the Croſſe, dead and buried, and that the thyrd day aroſe from Death to Lyfe, the which Body is nowe glorified wyth the Father in Heauen. And as for the Sacrament of Penaunce, I beleue that it is nedefull to all them that ſhall be ſaued, to forſake theyr Sinne, and to do Penaunce for it wyth true Contricion to God, Confeſſion of ther Fautes, and dewe Satisfactyon in Chryſte, lyke as Gods Laws limiteth and teacheth, els can they haue no Saluation: This Penaunce I deſyre all Men to do. And as for Images, I vnderſtand that they perteyn nothing to our Chriſten Beleue, but were permitted long ſins the Faith was geuen vs of Chriſt, by ſufferance of the Churche, for to be as Kalendars vnto Laymen, to repreſent or bring to mind the Paſſion of our Lorde Jeſus Chriſt, with the Martirdom and good liuing of the Saintes.

I think alſo, that whatſoeuer he which doth that worſhip to dead Ymages, that is duely belonginge vnto God, or that putteth his Faith, Hope, or Confidence in the helpe of them, as he ſhuld do only in his eternall lyuing God, or that hath Affection in one more than in an other, he perpetrateth in ſo doing, the abhominable Sine of Idolatry. Moreouer in this am I fully perſwaded, that everye Man dwellynge on thys Ærth is a Pilgrim, eyther towardes Bleſſe, or els towardes Payne.

And that he which knoweth not, nor wyll not know, nor yet kepe the holy Commaundementes of God in hys lyuyng here (all be it that he goth on Pylgrymage into all quarters of the Worlde) yf he departeth ſo, he ſhall ſurely be dampned. Agayne, he that knoweth the holy Commaundementes of God, and ſo performeth them to the ende of his Life to his power, ſhal without fayle be ſaued in Chriſt, thoughe he neuer in his Lyfe go on Pylgrimage as Men vſe now a dayes, to *Caunterbury*, *Walſingham*, *Compoſtell*, and *Rome*, or to anye other Places.

Thys Anſwere to his Articles thus ended and redde, he delyuered it to the Byſhopes, as is ſayde afore. Than counceled the Archbiſhop wyth the other two Byſhoppes, and with dyuerſe of the Doctours, what was to be done in thys matter, commaunding him for the time to ſtand aſide. In concluſion, by theyr Aſſent and Informacion, he ſayd thus vnto him: Come hyder Sir *Johan*; In this your writing are many good thinges conteyned, and ryght Catholyck alſo, we deny yt not; but ye muſt conſyder that thys daye was appoynted you to anſwere to other Poynts concerning thoſe Articles, wherof as yet no mencion is made in this your Byll: And therfore ye muſt yet declare vs your Mind more plainly: as thus, Whether that ye holde, affirme, and beleue, that in the Sacrament of the Alter, after the Conſecracion rightly done by a Pryeſt, remaineth materall Breade or not? Moreouer, whether ye do hold, affirme, and beleue, that as concerning the Sacrament of Penance (wher as a competent nombre of Prieſts are) everye Chryſten Manne is neceſſarely bound to be confeſſed of hys Synnes to a Prieſt ordayned by the Churche or not?

After certein other Communication thys was the Anſwere of the good Lord *Cobham*, That none otherwiſe wold he declare his Minde, nor yet anſwere vnto hys Articles, than was expreſſelye in hys Wrytinge there conteyned. Than ſayd the Archbiſhop againe vnto him, Syr *Johan* beware what ye do; for if ye anſwere not clerely to thoſe thinges that are here objected againſt you, ſpecially at the time appointed you only for that purpoſe, the Lawe of holy Church is, that compelled

pelled ones by a Judge, we may openly proclayme ye an Heretike. Unto whom he gaue this Anſwere, Do as ye ſhall thinke it beſte, for I am at a point. Whatſoeuer he or the other Byſshoppes did aske him after that, he bad them reſort to his Bvll, for therby wold he ſtande to the verye Death; other Anſwere wold he not geue that day: wherwith the Biſshops and Prelates were in a maner amaſed and wonderfullye diſquyeted. At the laſt the Archbiſhop counſelled again with his other Biſhops and Doctours, and in the end therof declared vnto him what the holy Church of *Rome*, folowing the Sayinges of Saint *Auſtyn*, Saint *Herom*, Saint *Ambroſe*, and of other holy Doctours, had determined in theſe maters, no maner of mencion ones made of Chriſt; which Determinacion (ſayth he) ought all Chryſten Menne bothe to beleue and to folowe.

Than ſaid the Lord *Cobham* vnto him, That he wold gladlye bothe beleue and obſerue whatſoeuer the holy Church of Chriſtes Inſtytucion had determined, or yet whatſoeuer God had willed him eyther to beleue or to do; but that the Pope of *Rome* with his Cardinals, Archbyſhopes, Biſhopes, and other Prelates of that Church, had laufull power to determyne ſuche matters as ſtode not with his Word throughly, that wolde he not (he ſayd) at that tyme affyrme. Wyth thys the Archbyſhoppe bad hym to take good Aduyſement tyll the Monday nexte followinge (whiche was the xxv. daye of *September*) and than juſtlye to anſwere ſpecyallye vnto thys Pointe, Whether there remayned materyal Breade in the Sacrament of the Aulter, after the Wordes of Conſecration, or not? He promyſed him alſo to ſende vnto him in wryting thoſe matters clerely determined, that he myght than be the more perfyghte in hys Anſwere making; and all this was not els but to blynde the multitude with ſomwhat. The next day folowing (according to his Promes) the Archbiſhop ſent unto him into the Towr this folyſh and blaſphemouſe Writting, made by him and by his vnlearned Clergye.

The Determination of the Archbiſhop and Clergye.

THE Faith and Determinacion of the holy Church touching the blesfull Sacrament of the Aulter, is this, That after the ſacramentall Wordes be ones ſpoken by a Prieſt in his Maſſe, the materiall Bread, that was before Bread, is turned into Chriſtes very Body; and the materyall Wyne, that was before Wyne, is turned into Chryſtes very Bloud; and ſo there remayneth in the Sacrament of the Aulter, from thens forth, no materyall Breade, nor materiall Wyne, which were there before the ſacramentall Wordes were ſpoken. How beleue ye this Artycle? Holy Churche hath determined, that euery Chryſten Man lyuing here bodyly vppon Earth, ought to be ſhriuen to a Prieſt ordeyned by the Church, if he may come to him: How ſele ye thys Article?

Chriſt ordeyned Saint *Peter* the Apoſtle to be his Vicar here in Earth, whoſe See is the holy Church of *Rome*; and he graunted that the ſame power which he gaue vnto *Peter*, ſhuld ſuccede to al *Peters* Succeſſours, which we call now Popes of *Rome*; by whoſe ſpeciall power in Churches particular, be ordeyned Prelates, as Archbiſhops, Byſhops, Parſons, Curates, and other Degrees more, unto whom Chriſten Men ought to obeye after the Lawes of the Churche of *Rome*. Thys is the Determinacion of holy Church; how ſele ye this Article? Holy Church hath determined, that it is meritoryous to a Chriſten Man to go on Pilgrymage to holy Places, and there ſpecially to worſhip holy Relyques and Ymages of Saintes, Apoſtles, Martirs, Confeſſours, and all other Saintes beſydes, approued by the Church of *Rome*; howe ſele ye thys Artycle?

And as the good Lord *Cobham* had red ouer thys mooſt wretched Writyng, he marueled greatly of their madde Ignoraunce; but that he conſydered agayne, that God had geuen them ouer for theyr Unbeleues ſake, into mooſt depe Errours and Blindneſſe of Soule. Agayne, he perſeyued therby, that theyr vttermooſt Malyce was purpoſed againſt him, how ſoeuer he ſhulde anſwere; and therfore he put his Lyfe into the handes of God, deſyring his onely Spyrit to aſſiſt him in his next Anſwere. Whan the ſeyd xxv. daye of *Septembre* was come (which was alſo the Monday afore *Mighelmaſſe*) in the ſayd yeare of our Lorde, M. CCCC. and xiij. *Thomas Arundell*, the Archbiſhop of *Caunterbury*, commaunded his judiciall Seate to be remoued from that Chapterhouſe of *Pauls*, to the Dominike Fryers wythin *Ludgate* at *London*; and as he was there ſet with *Rychard* the Biſhop of *London*, *Henry* the Biſhop of *Wincheſter*, and *Benet* the Biſhop of *Bangor*, he called in vnto him his Counſell and his Officers, with diuerſe other Doctours and Friers; of whom theſe are the Names here followynge.

Maſter *Henry Ware*, the Officyall of *Caunterbury*; *Philip Morgan*, Doctor of both Lawes; *Howell Kiffin*, Doctor of the Canon Lawe; *Johan Kempe*, Doctour of the Canon Lawe; *Willyam Carleton*, Doctour of the Canon Lawe; *Johan Witnam*, of the *New College* in *Oxford*; *Johan Whighthead*, a Doctour of *Oxforde* alſo; *Robert Wonbewell*, Vicar of Saint *Laurence* in the *Jewry*; *Thomas Palmer*, the Warden of the *Mynors*; *Robert Chamberlaine*, Prior of the Dominickes; *Rychard Dodington*, Prior of the Auguſtines; *Thomas Walden*, Prior of the Carmelites, all Doctours of Diuinite; *Johan Steuens* alſo, and *James Cole*, both Notaries, appointed there purpouſly to write all that ſhuld be eyther ſaid or done: All theſe, with a great ſort more of Pryeſtes, Monks, Channons, Friers, Pariſh-Clarkes, Belringers, and Pardoners, diſdained him with innumerable Mockes and Scornes, rekening him to be an horrible Heretik, and a Man acurſed afore God.

Anon the Archbyſhoppe called for a Maſſeboke, and cauſed all thoſe Prelates and Doctoures to ſweare there vpon, that everye Man ſhulde faythfullye doo hys Offyce and Dewtye that daye; and that neyther for Fauer nor Feare, Loue nor Hate of the one Partye nor the other, any thing ſhuld ther be witneſſed, ſpoken, or done, but according to the Trueth, as they wold anſwere before God and all the World at the day of Dome. Than were the two forſeyd Notaries ſworne alſo to wryt and to witnes the Wordes and Proceſſe that ther ſhuld be vttered on both Parties, and to ſaye their Mindes (if they otherwiſe knewe it) before they ſhuld regeſter it; and all thys Diſſimulacion was but to colour their Miſcheues before the ignoraunt Multytude.

Conſydre herin (gentyll Reader) what this wicked Generacion is, and how farre wyde from the juſt Feare of God; for as they were than, ſo are they yet to this daye.

After that cam forth before them Sir *Robert Morley* Knight, and Lefetenaunt of the *Tower*, and he brought with him the good Lord *Cobham*, there

leauing him among them, as a Lambe among Wolues, to his Examinacion and Anſwere.

The latter Examinacion of the Lord Cobham.

THAN ſayd the Archbyſhoppe vnto hym, Lord *Cobham*, ye be aduyſed (I am ſure) yf the Woordes and Proceſſe which we had vnto you vppon Saturdaye laſt paſt in the Chapterhouſe of *Paules*, which Proces were now no long to be reherſed agayne: I ſayd vnto you than, that ye were acurſed for your Contumacy and Diſobedience to holy Church, thinking that ye ſhulde with Mekenes haue deſired your Abſolucion.

Than ſpake the Lorde *Cobham* with a moſt cherefull Contenaunce, and ſayd, God ſayth by his holye Prophet, *Maledicam benedictionibus veſtris*, which is as much as to ſay, I ſhall curſe, wher as you bleſſe.

The Archbiſshop made than as though he had continued forthe hys Tale, and not heard him, ſaying, Sir, at that tyme I gentilly proferd to haue aſſoyled you if ye wold haue asked it; and yet I do the ſame, if ye will humblye deſyre it in due Forme and Maner, as holy Church hath ordeined.

Than ſayd the Lord *Cobham*, Naye, forſoth, wyll I not, for I neuer yet treſpaſed againſt you, and therfore I wil not do it; and with that he kneled downe on the Pauement, holding vp hys handes towardes Heauen, and ſayd, I ſhryue me here vnto the my eternall lyuynge God, that in my frayle Youth I offended the (Lorde) moſt grenouſly in Pryde, Wrath, and Glottony, in Couetouſnes and in Lechery. Many Men haue I hurt in mine Anger, and done manye other horryble Synnes, good Lord I aske the Mercy: and therwith wepingly he ſtode vp againe, and ſayd with a mighty Voice, Lo, good People, lo, for the breaking of God's Lawe, and his great Commaundements, they neuer yet curſed me; but for theyr owne Lawes and Tradicions moſt cruelly do they handle both me and other Men: and therfore both they and theyr Lawes, by the Promes of God, ſhall vtterly be deſtroied.

At this the Archbyſhop and hys Companye were not a lytle blemyſhed; notwithſtanding he toke Stomake vnto hym agayn, after certein wordes had in excuſe of theyr Tyrannye, and examined the Lorde *Cobham* of his Chriſten Beleue.

Wherunto the Lorde *Cobham* made thys godly Anſwere, I beleue (ſayth he) fullye and faythfullye the vnyuerſall Lawes of God; I beleue that all is true which is conteyned in the holy ſacred Scriptures of the Byble; finally, I beleue all that my Lord God wolde I ſhulde beleue.

Than demaunded the Archbiſhop an Anſwere of the Byll which he and the Clergy had ſent him into the *Tower* the day afore, in maner of a Determynacyon of the Church concerning the iiij. Articles wherof he was accuſed, ſpecially for the Sacrament of the Alter, how he beleued therin?

Wherunto the Lord *Cobham* ſaid, That with that Byll he had nothing to do; but this was his Beleue (he ſaid) concerning the Sacrament, That his Lord and Sauer Jeſus Chriſt, ſytting at hys laſt Supper with his moſt dere Deſciples, the Night before he ſhuld ſuffer, toke Bread in his hand, and geuing Thankes to his eternall Father, bleſſed it, brake it, and ſo gaue it vnto them, ſaying, *Take it vnto ye, and eate therof all; this is my Body which ſhall be betraid for you, do this here after in my remembraunce.* This do I thoroughly beleue (ſaith he) for this Faith am I taught of the Goſpell in *Mathew*, in *Marke*, and in *Luke*, and alſo in the firſt Epiſtle of Saint *Paul* to the *Corinthians*.

Than asked the Archbyſhoppe, If he beleued that it were Breade after the Conſecracion or ſacramentall Woordes ſpoken ouer it.

The Lord *Cobham* ſayd, I beleue that in the Sacrament of the Aulter is Chryſts very Body in fourme of Breade, the ſame that was born of the Virgin *Mary*, done on the Croſſe, dead, and buried, and that the thyrd day aroſe from Death to Lyfe, whych nowe is glorified in Heauen.

Than ſayd one of the Doctors of Lawe, After the ſacramentall Wordes be vttered, there remaineth no Breade, but the onely Body of Chriſt.

The Lorde *Cobham* ſayd than to one Maſter *Johan Wighthead*, You ſaid ones vnto me in the Caſtell of *Coulynge*, that the ſacred Hoſt was not Chryſtes Body; but I helde than againſt you, and proued that therin was his Body, though the Seculars and Friers could not therin agree, but helde yche one againſt other in that Opinyon: theſe were my Woordes than if ye remembre it.

Than ſhouted a ſort of them together, and cryed with great noyſe, We ſay all that it is Gods Body.

And dyuerſe of them asked hym in great Anger, Whether it were materiall Breade after the Conſecratyon or not?

Than loked the Lord *Cobham* ærneſtly vppon the Archbiſhop, and ſayde, I beleue ſurely that it is Chryſtes Body in fourme of Breade; Sir, beleue not you thus?

And the Archbiſhoppe ſayd, Yes mary do I.

Than asked him the Doctours, Whether it were onely Chriſtes Body after the Conſecration of a Prieſt, and no Bread or not?

And he ſayd vnto them, It is both Chriſts Body and Bread. I ſhall proue it as thus: For lyke as Chryſt dwelling here vppon the Earth, had in him both Godhede and Manhead, and had the inuiſible Godhead couered vnder that Manhead, which was only viſible and ſeane in him: ſo in the Sacrament of the Aulter is Chriſtes very Body and very Bread alſo, as I beleue the Breade is the thyng that we ſee with our Eyes, the Bodye of Chriſt (whiche is his Fleſh and his Blood) is there vnder hydde, and not ſeane, but in Fayth.

Than ſmyled they yche one vppon other, that the People ſhulde judge hym taken in a greate Hereſye; and wyth a great bragge diuerſe of them ſayde, It is a foule Hereſy.

Than asked the Archbiſhop, What Breade it was? And the Doctours alſo inquired of him, whether it were materyall or not?

The Lord *Cobham* ſayd unto them, The Scriptures maketh no mencion of this woorde materyall; and therefore my Faith hath nothing to do therwith: But thys I ſay and beleue it, that it is Chriſtes Bodye and Bread; for Chryſt ſayde in the Syxt of *Johans* Goſpell, *Ego ſum panis viuus, qui de Cœlo deſcendi*; I which came downe from Heauen am the lyuing, and not the dead Bread: therfore I ſay now again, like as I ſaid afore, as our Lord Jeſus Chryſt is very God and very Man, ſo in the moſt bleſſed Sacrament of the Aulter, is Chryſtes very Body and Breade.

Than ſeyd they all with one Voyce, It is an Hereſye.

One of the Byſhoppes ſtode vp by and by, and ſayd, What, it is an Hereſye manyfeſt, to ſaye that it is Breade after the ſacramentall Woordes be ones ſpoken, but Chryſtes Body onely.

The Lord *Cobham* ſaid, Sainct *Paule* the Apoſtle was (I am ſure) as wyſe as you be nowe, and more godlye learned. And he called yt Breade, wryttyng to the *Corinthians*, *The Bread that we breake*, ſayth he, *is it not the partaking of the Body of Chriſt?* Lo, he calleth it Bread and not Chriſts Body, but a meane wherby we receyve Chriſtes Body.

Than ſayd they agayne, *Paule* muſt be otherwiſe vnderſtanded. For it is ſurely an Hereſye to ſaye that it is Breade after the Conſecration, but onely Chryſtes Body.

The Lord *Cobham* asked, howe they coulde make good that Sentence of theirs?

They anſwered him thus, For it is againſt the Determination of Holy Churche.

Than ſayde the Archbiſhop vnto him, Sir *Johan* we ſent you a Wrytting concerning the Faith of thys Bleſſed Sacrament clerely determined by the Church of *Rome*, our Mother, and by the Holy Doctours.

Than ſayd he again unto him, I knowe none holyer than is Chriſt and his Apoſtles. And as for that Determinacion, I wote it is none of theyrs, for it ſtandeth not with the Scriptures, but manifeſtly againſt them. If it be the Churches, as ye ſaye it is, it hath bene hers onely ſins ſhe receiued the greate Poyſon of worldly Poſſeſſions, and not afore.

Than asked they hym, to ſtoppe hys Mouth therwith, if he beleued not in the Determinacion of the Church.

And he ſaid vnto them, No forſooth, for it is no God. In all oure Crede is in but thryſe mencioned concerning Beleue; in God the Father, in God the Sonne, in God the Holy Gooſt. The Byrthe, the Death, the Buriall, the Reſurrection and Aſcenſyon of Chriſt hath none in, for beleue but in hym. Neyther yet hath the Churche, the Sacramentes, the Forgyuenes of Synne, the latter Reſurrection, nor yet the Lyfe Everlaſting, any other in, than in the Holy Gooſt.

Than ſayd one of the Lawiers, Tuſh, that was but a Worde of Office. But what is your Beleue concerning Holy Church?

The Lord *Cobham* anſwered, My Beleue is (as I ſayde afore) that all the Scriptures of the Sacred Bible are true. All that is grounded vppon them, I beleue throughly. For, I know, it is Gods pleaſure that I ſhuld ſo do. But in youre lordly Lawes and ydell Determinations haue I no beleue. For ye be no part of Chriſtis Holy Churche, as your open Dedes doth ſhew; but ye are very Antichriſts, obſtinately ſet againſt his Holy Law and Will. The Lawes that ye haue made are nothing to his Glorye; but onely for your vayne Glory and abhominable Couuetouſnes.

This they ſaid, was an exceading Heriſy (and that in a great fume) not to beleue the Determination of Holy Church.

Than the Archbiſhop asked him, what he thought Holy Church?

He ſaid vnto him: My Beleue is, that Holy Church is the nomber of them which ſhall be ſaued, of whom Chriſt is the head. Of this Church one part is in Heauen with Chriſt, an other in Purgatory (you ſay) and the third is here in Ærth. This later part ſtandeth in thre degrees, in Knighthode, Prieſthode, and the Comunalte, as I ſaide afore plainly, in the Confeſſyon of my Beleue.

Than ſaide the Archbiſhop vnto him, Can ye tell me who is of this Church?

The Lord *Cobham* anſwered, Yea truly can I.

Than ſaid Doctor *Walden* the Prior of the Carmelites, It is doubte vnto you who is thereof. For Chriſt ſayth in *Matth. Nolite judicare*, Preſume to judge no Man. If ye here be forbidden the Judgement of your Neighbour or Brother, moche more the Judgement of your Superior.

The Lord *Cobham* made him thys Anſwer, Chryſt ſayth alſo in the ſame ſelfe Chapter of *Matth.* *That lyke as the yll Tree is knowne by his yll fruit, ſo is a falſe Prophet by his Works, appear they neuer ſo glorious.* But that ye left behind ye. And in *Johan* he hath this Text, *Operibus credite*, Beleue you the outwarde doings. And in another place of *Johan*, *Juſtum judicium judicate*, Whan we knowe the thing to be true, we may ſo judge it, and not offende. For *Dauid* ſayth alſo, *Recte judicate filii hominum*, Judge rightly always ye Children of Men. And as for your ſuperiorite, were ye of Chriſt, ye ſhould be meke Miniſters, and no proud Superiours.

Then ſaid Doctor *Walden* unto him, Ye make here no difference of Jvdgments: Ye put no diuerſite betwene the yll Judgements, which Chryſt hath forbidden, and the good Judgments, which he hath commaunded us to haue. Raſh Judgement and right Judgement, al is one with you. So is Judgement preſumed, and Judgement of Office. So ſwift Judges always are the learned Scolers of *Wickleue*. Unto whome the Lord *Cobham* thus anſwered, It is well ſophiſtried of you forſoth; prepoſterouſe are your Judgements euer more. For as the Prophet *Eſay* ſaith, *Ye judge yll good, and good yll.* And therefore the ſame Prophet concludeth, *That your wayes are not Gods wayes, nor Gods wayes your wayes.* And as for that vertuouſe Man *Wickleue*, whoſe Judgments ye ſo highly diſdayne; I ſhall ſaye here for my part both before God and Man, That before I knew that diſpiſed Doctrine of his, I neuer abſteyned from Synne. But ſyns I learned therein to feare my Lord God, it hath otherwiſe, I truſt, been with me: ſo much Grace could I neuer finde in all your gloriouſe Inſtructions.

Than ſayde Doctour *Walden* again yet unto hym, It were not well wyth me, ſo meny vertuous Men lyuyng, and ſo many learned Men teaching, the Scriptures being alſo ſo open, and the Examples of Fathers ſo plentuouſe, if I than had no grace to amende my Life till I hearde the Deuell preache. Saint *Hierom* ſaith, that he whych ſeketh ſuche ſuſpected Maſters, ſhall not fynde the mydday Lyght, but the midday Deuell.

The Lord *Cobham* ſaid, Your Fathers the olde Phariſees aſcrybed Chryſtes Miracles to *Belzebub*, and hys Doctrine to the Deuell. And you as their naturall Childern haue ſtill the ſame ſelf Judgement, concerning his faithful Followers. They that rebuke your viciouſly lyuyng, muſt nedes be Heretykes; and that muſt your Doctours proue, whan ye haue no Scriptures to do it. Than ſaid he to them all, To judge you as ye be, we nede no farther go than your owne propre Actes. Where do ye fynd in all Gods Lawe, that ye ſhuld thus ſyt in Judgment of any Chriſten Men, or yet ſentens anye other Man vnto Death, as ye do here daily? No ground haue ye in all the Scriptures ſo lordely to take it vppon ye; but in *Annas* and in *Cayphas*, whiche ſate thus vppon Chryſt, and vppon his Apoſtles after his Aſcencyon, of them onely haue ye taken it to judge Chriſtes Membres as ye do, and neyther of *Peter* nor *Johan*.

Than

Than ſayde ſome of the Lawyers, Yes forſoth, Sir, for Chriſt judged *Judas*.

The Lord *Cobham* ſayd, No, Chriſt judged him not, but he judged him ſelfe; and therupon went forth, and ſo did hang himſelfe. But indede Chriſt ſayd, wo vnto him for that couetous act of his, as he doth yet ſtyll vnto many of you. For ſens the Venime was ſhed into the Church, ye never folowed Chriſt; neither yet have ye ſtand in the Perfection of Gods Lawe.

Than asked him the Archbyſhoppe, What he meant by that Venim?

The Lord *Cobham* ſayd, your Poſſeſſyons and Lordſhippes. For than cryed an Aungell in the Ayre (as your owne Chronycles mencioneth) Wo, wo, wo, this Day is Venime ſhedde into the Church of God. Before that tyme all the Byſhopes of *Rome* were Martirs in a maner. And ſens that time we rede of very few: but in dede ſens that ſame time one hath put down an other, one hath poyſoned an other, one hath curſed an other, one hath ſlayne an other, and done much more Miſchefe beſides, as all the Chronicles telleth. And let all Men conſydre well thys, That Chriſt was meke and mercifull; the Pope is Proud and a Tiraunt. Chriſt was pore and forgaue; the Pope is riche, and a moſt cruell manſlayer, as his dayly Actes doth prove him. *Rome* is the very Neſt of Antichryſt, and out of the Neſt cometh all his Diſciples; of whome Prelates, Prieſtes and Monkes are the Body, and theſe pylde Friers are the Tayle, whyche couereth his mooſt fylthy part.

Than ſayd the Pryor of the Fryre *Auguſtines*, Alac, Syr, why do ye ſay ſo? That is uncharitably ſpoken.

And the Lord *Cobham* ſaid, Not only is it my Saying; but alſo the Prophet *Eſayes* long afore my tyme. The Prophet, ſayth he, which preacheth Lyes, is the Tayle behinde. As you Fryers and Monkes be lyke Phariſees diuided in your outward Apparell and Vſages, ſo make ye diuyſyon among the Peple. And thus, you with ſuch other are the very naturall Membres of Antychryſt.

Than ſaid he vnto them all, Chriſt ſaith in his Goſpell, *Wo to you Scribes and Phariſees, Ypocrites, for ye cloſe up the Kingdom of Heauen before Men. Neyther entre ye in your ſelues, nor yet ſuffre any other that would entre into it. But ye ſtop up the wayes thereunto with your owne Tradicions, and therefore are ye the Houſhold of Antichriſt; ye will not permit Gods veryte to haue Paſſage, nor yet to be taught of his true Miniſters, fearing to haue your Wickedneſs reproued. But by ſuch vayne Flatterers as vpholde you in your Miſcheues, ye ſuffre the common People moſt miſerably to be ſeduced.*

Than ſaide the Archbiſhop, By oure Lady, Sir, there ſhall no ſuche preache within my Dioceſe, (and God will) nor yet in my Juriſdiction, (yf I may knowe yt) as either maketh Diuiſion, or yet Diſſenſion amonge the poore Commons.

The Lord *Cobham* ſayd, Both Chryſt and his Apoſtles were accuſed of Sedicion making, yet were they moſt peaceable Men. Both *Daniel* and Chriſt prophecyed, that ſuch a troublous tyme ſhulde come, as hath not been yet ſens the Worldes beginning. And this Prophecye is partly fulfylled in your Daies and Doinges. For many haue ye ſlaine already, and more wyl ye ſlee hereafter, if God fulfil not his Promes. Chryſt ſaith alſo, if theſe Days of yours were not ſhortened, ſcarſly ſhuld any Fleſh be ſaued. Therfore loke for it juſtly, for God wyll ſhorten your Dayes. Moreouer, though Prieſtes and Deacons for preaching of Gods Word, and for miniſtring the Sacramentes, with Prouiſion for the Pore, be grounded in Gods Lawe, yet haue theſe other Sectes no maner of ground thereof, ſo far as I haue red.

Than a Doctour of Lawe, called Maſter *Johan Kempe*, plucked out of his Boſome a Copye of that Byll whiche they had afore ſent him into the *Tower*, by the Archbiſhops Councell, thinking thereby to make ſhorter worke with him. For they were ſo amaſed with his Anſweres (not al vnlike to them which diſputed with *Steven*) that they knew not well howe to occupye the tyme, there Wyttes and Sophiſtry (as God wolde) ſo fayled them that Day.

My Lord *Cobham* (ſayth this Doctor) we muſt brefely know your Mynde concerning theſe iiii. Poyntes here following. The fyrſt of them is thys. And than he redde vpon the Byll. The Fayth and the Determinacion of Holy Church, touching the Bleſſed Sacrament of the Alter is this, That after the Sacramentall Wordes be ones ſpoken by a Pryeſt in hys Maſſe, the materyall Bread that was before Bread, is turned into Chriſtes very Bodye. And the materiall Wyne that was before Wyne, is turned into Chriſtes very Bloude. And ſo there remaineth in the Sacrament of the Aulter from thens forth no materyall Bread nor materyall Wyne, which were there before the Sacramentall Wordes were ſpoken: Sir, beleue ye not this?

The Lord *Cobham* ſayd, This is not my Beleue; but my Faith is (as I ſayd to you afore) that in the worſhypfull Sacrament of the Aulter, is very Chryſtes Body in fourme of Breade.

Than ſaid the Archbiſhop, Sir *Johan*, ye muſt ſay otherwiſe.

The Lord *Cobham* ſaide, Nay, that I ſhall not, if God be vppon my ſyde (as I truſt he is) but that there is Chriſtes Body in fourme of Breade, as the comen Beleue is.

Than redde the Doctor againe.

The ſecond Point is this, Holy Churche hath determined that euery Chriſten Man lyuing here bodely vppon Earth, ought to be ſhryuen to a Prieſt ordeined by the Church, if he may come to him: Sir, what ſay ye to this?

The Lord *Cobham* anſwered and ſaid, A diſeaſed or ſore wounded Man had nede to haue a ſure wyſe Chyrurgian, and a true; knowing both the ground and the danger of the ſame. Mooſt neceſſary were it therfore, to be fyrſt ſhryuen vnto God, which only knoweth our Diſeaſes, and can helpe us. I deny not in this the going to a Prieſt, if he be a Man of good Lyfe and Learning: For the Lawes of God are to be required of the Prieſt, which is godly learned. But if he be an Ydiote, or a Man of vicioufe lyuyng, that is my Curate, I ought rather to flee from him, than to ſeke unto him. For ſooner might I catch yll of him that is nought, than any Goodneſſe towardes my Soule Helth.

Than redde the Doctour againe.

The third Pointe is this, Chriſte ordeined Sainct *Peter* the Apoſtle, to be his Vicar here in Ærth, whoſe See is the Church of *Rome*. And he graunted, that the ſame Powr which he gaue vnto *Peter*, ſhulde ſucceede to all *Peter's* Succeſſors, which we call now Popes of *Rome*. By whoſe ſpeciall Power in Churches partycular he ordeined Prelates, as Archbiſhops, Parſons, Curates, and other

other Degrees more; vnto whom Christen Men ought to obeye after the Lawes of the Church of *Rome*. This is the Determination of holy Church: Sir, beleue ye not this?

To this he answered and said, He that foloweth *Peter* mooſt nigheſt in pure Lyuing, is next vnto him in Succeſſion; but your lordely Ordre eſtemeth not greatly the lowly Behauer of pore *Peter*, what ſoeuer ye prate of him; neither care ye greatlye for the humble Maners of them that ſucceded him tyll the time of *Silueſtre*, which for the more part were Martirs, as I tolde ye afore. Ye can lett all their good Condicions go by you, and not hurt your ſelues with them at all; all the Worlde knoweth thys well inough by you, and yet ye can make boaſt of *Peter*.

With that one of the other Doctors axed him, Than what do ye ſay of the Pope?

The Lord *Cobham* anſwered, As I ſaid before, he and you together maketh whole the great Antichriſt, of whom he is the great Heade, yow Byſhops, Prieſtes, Prelates and Monkes, are the Body, and the begging Friers are the Taile, for they couuer the Filthineſſe of you both with their ſubtyle Sophiſtrye: Neuer will I in Conſcience obey any of you all, tyll I ſee you with *Peter* follow Chryſt in Conuerſation.

Than redde the Doctour againe: The fourth Point is this, Holy Church hath determined, that it is meritoriouſe to a Chryſten Manne to go on Pilgrimage to holy Places, and there ſpecially to worſhip holy Relikes and Ymages of Saintes, Apoſtles, Martirs, Confeſſours, and all other Saintes beſydes, approued by the Church of *Rome:* Sir, what ſay ye to this?

Wherunto he anſwered, I owe them no Seruice by any Commaundment of God, and therfore I minde not to ſeke them for your Couetouſnes: It were beſt ye ſwept them fayre from Copwebs and Duſte, and ſo layed them vp for catching of Scathe; or els to bury them faire in the Ground, as ye do other aged Peple which are Gods Ymages. It is a wonderfull thing, that Saintes now being dead, ſhuld become ſo couetous and nedye, and thervppon ſo bytterly begge, which al their Lyfe time hated all Couetouſneſſe and Begginge. But this I ſaye vnto you, and I wold all the World ſhuld marke it, That with your Shrines and Idolles, your fayned Abſolutions and Pardons, ye drawe vnto you the Subſtaunce, Welthe, and chefe Pleaſurs of all Chriſten Realmes.

Why, Sir (ſaid one of the Clerkes) will ye not worſhip good Ymages?

What Worſhip ſhuld I geue vnto them? ſayd the Lord *Cobham*.

Than ſayde Fryer *Palmyr* vnto him, Sir, ye wyll worſhyp the Croſſe of Chriſt that he dyed vppon.

Where is it? ſaid the Lord *Cobham*.

The Fryer ſayd, I put ye the Caſe, Sir, that it were here euen now before you?

The Lord *Cobham* anſwered, This is a great wyſe Manne, to put me an æarneſt Queſtion of a thing, and yet he his ſelfe knoweth not where the thing it ſelfe is: yet ones again aske I you, what Worſhyp I ſhuld do vnto it?

A Clerke ſaid unto him, Such Worſhip as *Paul* ſpeaketh of, and that is this, *God forbidde that I ſhuld ioye but onely in the Croſſe of Jeſu Chriſt.*

Than ſayd the Lord *Cobham*, and ſpreade his Armes abroade, This is a very Croſſe, yea and ſo moche better than your Croſſe of Woode, in that it was created of God; yet will not I leke to haue it worſhipped.

Than ſaid the Biſhop of *London*, Sir, ye wote wel that he died on a material Croſſe.

The Lorde *Cobham* ſayd, Yea, and I wote alſo that our Saluacion came not in by that materyall Croſſe, but alone by him which dyed thervppon. And well I wote that holy Saint *Paull* rejoyſed in none other Croſſe, but in Chriſtes Paſſion and Death onely, and in his own Sufferings of like Perſecution with him, for the ſame ſelfe Verite that he had ſuffred for afore.

An other Clerke yet asked him, Wyll ye than do none Honour to the holy Croſſe?

He anſwered him, Yes, if he were myne, I wolde lay him vp honeſtlye, and ſee vnto him that he ſhuld take no more Scathes abroade, nor be robbed of his Goodes as he is now a dayes.

Than ſayd the Archbiſhop vnto him, Sir *Johan*, ye haue ſpoken here many wonderfull Wordes, to the ſlaundrous Rebuk of the whole Spiritualte, geuing a great yll Example vnto the common ſort here, to haue vs in the more diſdayne. Moche time haue we ſpent here abought you, and al in vaine ſo farre as I can ſee. Well, we muſt be now at this ſhort Point with you, for the day paſſeth away; ye muſte eyther ſubmit your ſelfe to the Ordinaunce of holy Church, or elſe throwe your ſelfe (no remedy) into mooſt depe Daunger; ſe to it in time, for anon it will be els to late.

The Lord *Cobham* ſaid, I knowe not to what purpoſe I ſhuld otherwiſe ſubmitte me; moch more haue you offended me, than euer I offended you, in thus troubling me before thys Multitude.

Than ſayd the Archbiſhop againe vnto him, We ones again require you to remembre your ſelfe wel, and to haue none other Opinion in theſe maters, than the vniuerſall Fayth and Beleue of the holy Church of *Rome* is; and ſo lyke an obedient Child to return again to the Vnite of your Mother. Se to it, I ſay in time, for yet ye may have Remedy, where as anon it will be to late.

The Lord *Cobham* ſayd expreſſely before them all, I will none otherwiſe beleue in theſe Pointes than I haue tolde ye here afore, do with me what ye will.

Finally, than the Archbiſhop ſayd, Wel, than I ſee none other but we muſt nedes do the Lawe, we muſt procede forth to the Sentence diffinitiue, and both judge ye and condempne ye for an Heretike.

And wyth that the Archbyſhoppe ſtode vp, and redde there a Byll of his Condemnacion, all the Clergye and Layte avayłyng their Bonnettes; and thys was therof the Tenour.

The diffinitiue Sentence of his Condempnacion.

IN Dei Nomine, Amen. Nos Thomas, permiſſione diuina, Cantuarienſis Eccleſiæ Archiepiſcopus, Metropolitanus totius Anglie primas, & Apoſtolicæ ſedis Legatus, and ſo forth in barberous *Latin*, which we haue here tranſlated into *Inglyſh*, for a more playne Vnderſtanding to the Reader.

In the Name of God, ſo be it. We *Thomas*, by the Sufferaunce of God, Archbiſhop of *Caunterbury*, Metropolitane and Primate of all *Ingland*, and Legate from the Apoſtolyke Seate of *Rome*, willeth this to be knowen vnto all Men. In a certein Cauſe of Hereſy, and vppon diuerſe Articles, where vppon Sir *John Oldecaſtel* Knight, and Lord *Cobham*, after a diligent Inquiſition made for the ſame, was detected, accuſed, and preſented before vs in our laſt Conuocation of all our Province of *Caunterbury*, holden in the Cathedrall

Churche

Churche of *Paules* at *London*; at the laufull Denouncement and Requeſt of our vniuerſall Clergy in the ſeyd Conuocation, we proceded againſt him accordinge to the Lawe (God to witnes) with al the Fauer poſſible. And folowing Chriſtes Example in all that we might, which willeth not the Death of a Synner, but rather that he be conuerted and lyue, we toke vpon vs to correct him, and ſought all other ways poſſible to bring him againe to the Churches Vnite, declaringe vnto hym what the holye and vniuerſall Church of *Rome* hath ſayd, holden, determined, and taught in that behalfe. And though we found him in the Catholike Faith farre wyde and ſo ſtifnecked, that he wold not confeſſe his Erroure, nor pourge him ſelfe, nor yet repent him therof; we yet pyteing hym of fatherly Compaſſion, and intierlye deſyrynge the Helthe of his Sowle, appoynted him a competent tyme of Delyberacion, to ſe if he wold repent and ſeke to be reformed; and ſens we haue found him worſe and worſe. Conſidering therfore that he is incorrygible, we are driuen to the very Extremite of the Lawe, and with great Heuynes of Hart, we now procede to the Publicacyon of the Sentence diffinityue agaynſt him

Than brought he forth an other Byll, conteyning the ſayd Sentence, and that he redde alſo in his bauger *Latyne*; *Chriſti nomine inuocato, ipſumque ſolum pre oculis habentes, quia per acta mactitata*, and ſo forth; which I haue alſo tranſlated into *Engliſh*, that Men may vnderſtand it.

Chriſt we take vnto witnes, that nothing els we ſeke in this our whole Enterpryſe, but his only Glory. For as much as we haue found by dyuerſe Actes done, brought forth and exhibited by ſondry Euidences, Sygnes, and Tokens; and alſo by many moſt manifeſt Proues, the ſaid Sir *Johan Oldecaſtell* Knight, and Lord *Cobham*, not only an evident Heretyke in hys own Parſone, but alſo a mighty Mainteyner of other Heretikes, againſt the Faith and Relygion of the holy and vniuerſal Church of *Rome*, namely, about the two Sacramentes of the Alter, and of Penaunce, beſides the Popes Power and Pilgrimages: And that he, as the Chyld of Iniquite and Darkenes, hath ſo hardened his Hart, that he will in no caſe attend vnto the Voice of hys Paſtour: neyther wyll he be alured by ſtrayght Admoniſhmentes, nor yet be brought in by fauourable Wordes. The Worthenes of the Cauſe firſt wayde on the on ſide, and his Vnworthynes again conſidered on the other ſyde, his Fautes alſo aggrauated, or made double through his damnable Obſtinacy. We being loth that he which is nought ſhuld be worſe, and ſo with his Contagiouſnes infect the Multitude; by the ſage Councell and Aſſent of the very diſcret Fathers, our honorable Brethren and Lordes Biſhopes here preſent, *Richard* of *London*, *Henry* of *Wyncheſter*, and *Benit* of *Bangor*, and of other great, learned, and wyſe Men here, both Doctours of Diuinite and of the Lawes, Canon and Ciuyle, Seculars and Religious, with dyuerſe other expert Men aſſiſting vs, we ſentencyally and dyffinitiuely, by thys preſent Writeing, judge, declare, and condemne the ſeid Sir *Johan Oldecaſtell* Knyght, and Lord *Cobham*, for a moſt pernicious and deteſtable Heretyke, conuycted vpon the ſame, and refuſing vtterly to obey the Churche agayne, commyttyng hym here from hens forth as a condempned Heretik to the ſecular Juriſdiction, Power, and Judgement, to do him ther vpon to death. Furthermore, we excommunicate and denounce a curſed not only this Heretike here preſent, but ſo manye els beſydes as ſhall here after, in fauer of his Errour, eyther receive him or defend him, counſell him or helpe him, or any other way maintein him, as very Fauters, Receiuers, Defenders, Councelers, Ayders, and Mayntеyners of condemned Heretikes.

And that theſe Premyſſes maye be the better knowen to all faythfull Chryſten Men, we commit yt here vnto your Charges, and geue you ſtrayghte Commaundement thervpon by thys Wrytyng alſo, that ye cauſe this Condemnacion and diffinityue Sentence of Excommunycacyon, concerning both thys Heretyke and hys Fawters, to be publyſhed through oute all Dyoceſes in Cytyes, Townes, and Vyllages, by your Curates and Paryſh Prieſtes, ſuch time as they ſhall haue moſt recourſe of People, and ſe that it be done after this ſort. As the People are thus gathered deuoutlye together, lett the Curate euery where go into the Pulpet, and there open, declare, and expounde thys Proceſſe in the Mother Tonge, in an audyble and intelligible Voyce, that it maye well be perſeiued of all Men; and that vppon the feare of this Declaracion alſo, the People maye fall from their yll Opinions conceiued now of late by ſedicioufe Preachers. More ouer, we will that after we haue deliuered vnto yche one of you Biſhoppes (which are here preſent) a Coppye hereof, that ye cauſe the ſame to be written out again into dyuers Coppies, and ſo to be ſent vnto the other Biſhops and Prelates of our whole Prouince, that they may alſo ſee the Contents thereof ſolempnely publiſhed within their Dioceſes and Cures. Finally we wyll that both you and they ſignifye again vnto vs ſeriouſly and diſtinctly by your Wrytings, as the matter is without fayned Colour in euery Point perfourmed, the Daye wheruppon ye receyued thys Proceſſe, the tyme whan it was of you executed; and after what ſort it was done in euerye Condicion, according to the Tenour hereof, that we may knowe it to be juſtly the ſame.

A Coppye of thys Wrytinge ſent *Thomas Arundel* the Archbiſhop of *Caunterburye*, afterwarde from *Maydeſton* the x. Daye of *October*, within the ſame Yeare of oure Lorde M.CCCC. and xiii. unto *Richard Clifford* the Biſhop of *London*, which thus beginneth, *Thomas Permiſſione Diuina*, &c.

The ſayde *Richard Clyfforde* ſent an other Coppye thereof, encloſed within hys owne Letters, unto *Robert Maſcall*, a Carmelite Fryer, which was than Biſhop of *Herford* in *Walis*, written from *Hadham* the xxiii. Day of *Octobre*, in the ſame Yere; and the beginning thereof is this, *Reuerende in Chriſto Pater*, &c.

The ſaid *Robert Maſcall* directed an other Copy thereof from *London* the xxvii. Day of *Nouember* in the ſame Yere, encloſed in his owne Commiſſion alſo, vnto his Archdeacons and Deanes in *Herfforde* and *Shrewisbury*. And this is thereof the beginning, *Venerabilibus & diſcretis viris*, &c.

In like maner did the other Biſhopes within their Dioceſes.

After that the Archebiſhop had thus red the Byll of his Condempnation, with moſt Extremite, before the whole Multitude; the Lord *Cobham* ſayd with a mooſt cherefull Countenaunce, Though ye judge my Body, which is but a wretched thing; yet am I certein and ſure, that ye can do no harme to my Soule, no more than could Sathan uppon the Soule of *Job*. He that created that, will of his infinite Mercy

Mercy and Promeſs ſave it, I haue therein no manner of doubt. And as concerning theſe Articles before reherſed, I will ſtande to them, euen to the very Death, by the Grace of my eternall God.

And therwith he turned him vnto the People, caſting hys Handes abroade, and ſaying with a very loude Voice, Good Chriſten People, for Gods loue be well ware of theſe Men: for they will els begyle you, and leade you blindelyng into Hell with themſelues. For Chriſt ſaith plainly vnto you, *If one blind Man leadeth another, they are like both to fall into the Dytche.*

After thys he fell downe there vppon his Knees, and thus before them all prayed for his Ennemies, holding vp both his Handes and his Eyes towards Heauen and ſaying, Lord God eternal, I beſeche the for thy great Mercies ſake to forgeue my purſuers, if it be thy bleſſed will. And than he was delyuered to Syr *Robert Morleye*, and ſo ledde forth againe to the *Tower* of *London*. And thus was there an ende of that Dayes worke.

Whyle the Lord *Cobham* was thus in the *Tower*, he ſent out priuily vnto his Friends; and they at his deſire wrote this lytle Bill here folowing, cauſing it to be ſet up in diuerſe Quarters of *London*, that the Peple ſhulde not beleue the Slaundres and Lyes that his Ennemies the Biſhops Seruaunts and Prieſtes had made on him abroade. And this was the Letter.

For as moch as Sir John Oldecaſtell *Knight and Lord* Cobham, *is vnruly conuicted and impriſoned, falſely reported, and ſlaundred among the comen People by his Aduerſaries, that he ſhuld otherwiſe both fele, and ſpeake of the Sacraments of the Church, and ſpecially of the Bleſſed Sacrament of the Aulter, than was written in the Confeſſion of his Beleue, which was indemed and taken to the Clergy, and ſo ſet up in diuerſe open places in the Cite of* London: *Knowen be it here to all the World, that he neuer ſens varyed in any Poynt therfro; but this is plainly his Beleue, that all the Sacramentes of the Church be proffytable and expedient alſo to all them that ſhal be ſaued, taking them after the inent that Chriſt and his true Church hath ordayned. Further more he beleued that in the Bleſſed Sacrament of the Aulter is verely and truly Chriſtes Body, in fourme of Bread.*

After thys the Byſhops and Pryeſtes were in moche Obloquie, both of the Nobilite and Comens, partly for that they had ſo cruelly handled the good Lord *Cobham*; and partlye againe, bycauſe hys Opinion (as they thought at that tyme) was perſyght concerning the Sacrament. As they feared thys to grow to further inconuenience towardes them both wayes, they drew their Heads together, and at the laſt conſented to uſe an other Practiſe, ſomewhat contrary to that they had done afore.

They cauſed it by and by to be blowne abroade by their feed Seruaunts, Fryendes and babeling Sir *Johnes*, that the ſayde Lord *Cobham* was becomen a good Man, and had lawlye ſubmitted him ſelfe in all things vnto Holy Church, vtterly chaunging his Opinion concerning the Sacrament. And thervppon they contrefayted an Abjuration in his Name, that the Peple ſhuld take no hold of that Opinion by any thing they had hearde of him before, and to ſtande ſo in the more Awe of them, conſidering hym ſo great a Man, and by them ſubdued.

This is the Abjuration (ſay they) of Syr *Johan Oldecaſtell* Knight, ſometime the Lord *Cobham*.

An Abjuration counterfayted of the Biſhoppes.

IN *Dei nomine, Amen.* I *Johan Oldecaſtell* denounced, detected and conuycted of and vppon diuerſe Articles ſauering both Hereſy and Errour, before the Reuerend Father in Chriſt, and my good Lord *Thomas*, by the Permiſſion of God, Lord Archebiſhop of *Caunterburye*, and my lauful and rightful Judge in that behalfe, expreſſely graunt and confeſſe, That as concerning the Yſtate and Power of the mooſt Holy Father the Pope of *Rome*, of his Archbiſhops, his Biſhops, and his other Prelates, the Degrees of the Church, and the Holy Sacramentes of the ſame, ſpecyally of the Sacramentes of the Aulter, and of Penaunce, and other Obſeruaunces beſides of our Mother Holy Church, as Pilgrimages and Pardons; I affyrme (I ſay) before the ſaid Reuerend Father Archbiſhop, and els where, that I being yl ſeduced by diuerſe ſedicioufe Preachers, haue greuouſly erred and heritically perſiſted, blaſphemouſly anſwered and obſtinately rebelled. And therefore I am by the ſayd Reuerend Father, before the Reuerend Fathers in Chriſt alſo the Biſhops of *London*, *Wincheſtre* and *Bangor*, lawfullye condempned for an Heretyke.

Neuertheleſs yet, I now remembering my ſelfe, and coueting by this meane to auoide that temporall Payne, which I am worthy to ſuffer as an Heretike, at the Aſſignacion of my moſt excellent Chriſten Prince and Liege Lord King *Henry* the Fift, nowe by the Grace of God moſt worthy Kyng of both *Englande* and of *Fraunce*; minding alſo to preferre the wholſom Determinacyon, Sentence and Doctryne of the Holy and Uniuerſal Church of *Rome*, before the vnholſom Opinions of my ſelf, my Teachers, and my Followers: I frely, willyngly, deliberately, and throughly confeſſe, graunt, and affyrme the moſte Holye Fathers in Chriſt, Sainct *Peter* the Apoſtle, and his Succeſſours Biſhoppes of *Rome*, ſpecially now at thys tyme my mooſt bleſſed Lorde Pope *Johan*, by the Permyſſyon of God the xxiii. Pope of that Name, which now holdeth *Peter's* Seate (and each of them in their Succeſſion) in full Strength and Power, to be Chryſtes Vycar in Ærth, and the Head of the Church Milytaunt. And that by the Strength of hys Office (what thogh he be a great Sinner, and afore knowen of God to be damned) he hath full Auctorite and Power to rule and gouerne, bind and loſe, ſaue and deſtroy, accurſe and aſſoyle, al other Chriſten Men.

And agreably ſtyl unto this, I confeſs, graunt, and affyrme all other Archbiſhoppes, Biſhoppes, and Prelates, in their Prouinces, Dyoceſſes, and Pariſhes (appointed by the ſeid Pope of *Rome*, to aſſyſt him in his Doinges or Buſineſs) by his Decrees, Canons, or Vertue of his Office, to haue had in tymes paſt, to haue now at this tyme, and that they ought to haue in tyme to come, Auctorite and Power to rule and to gouerne, binde and loſe, acurſe and aſſoyle the Subjectes or Peoples of their aforeſeid Prouinces, Dyoceſes, and Pariſhes; and that theyr ſaid Subjectes or Peoples oughtt of right in all things to obey them. Furthermore I confeſſe, graunt and affyrme, that the ſayde Spyrytuall Fathers, as our mooſt Holy Father the Pope, Archbiſhops, Byſhops and Prelates, haue had, haue now and ought to haue hereafter, Auctorite and Power for the Eſtate,

Eſtate, Order and Gouernaunce of theyr Subjectes or Peoples, to make Lawes, Decrees, Statutes and Conſtitucions; yea, and to publyſh, commaunde and compell theyr ſaid Subjectes and Peples to the Obſeruation of them.

Moreouer, I confeſſe, graunt and affyrme that all theſe forſayd Lawes, Decrees, Statutes and Conſtitucions, made, publyſhed and commaunded accordynge to the fourme of Spirituall Lawe, all Chriſten Peple and euery Man in him ſelfe is ſtraightly bound to obſerue, and mekelye to obeye, accordyng to the diuerſite of the forſayde Powers. As the Lawes, Statutes, Canons and Conſtitucions of our moſt Holy Father the Pope, incorporated in his Decrees, Decretals, Clementynes, Codes, Chartes, Reſcriptes, Sextiles and Extrauagauntes the World ouer all; and as the Prouincial Statutes of Archebiſhops in their Prouinces, the Sinodall Actes of Byſhoppes in theyr Dioceſes, and the commendable Rules and Cuſtomes of Prelates in their Colleges, and Curates in their Pariſhes, all Chriſten People are both bound to obſerve, and alſo mooſt mekely to obeye. Ouer and beſides all this, I *Johan Oldecaſtell*, vtterly forſakinge and renouncynge all the aforeſayd Errours and Hereſyes, and all other Errours and Hereſyes lyke vnto them, lay my Hande here vppon this Boke, or Holy Euangelye of God, and ſwear, that I ſhall neuermore from hens forth hold theſe forſaid Hereſyes, nor yet any other lyke vnto them wetingly. Neyther ſhall I geue counſell, ayde, helpe nor fauer at any tyme to them that ſhall holde, teache, affyrme or mainteine the ſame, as God ſhall helpe me and theſe Holy Euangelyes.

And that I ſhall from hens forth faithfully obeye, and inuiolably obſerue all the Holy Lawes, Statutes, Canons, and Conſtitucions of all the Popes of *Rome*, Archbiſhopes, Biſhops and Prelates, as are contayned and determined in theyr Holye Decrees, Decretals, Clementines, Codes, Chartes, Reſcryptes, Sextyles, Summes Papall, Extrauagantes, Statutes Prouincyall, Actes Synodal, and other ordinary Rules and Cuſtomes conſtituted by them, or that ſhall chaunce hereafter dyrectly to be determined or made. To theſe and all ſuch other, wyll I my ſelfe with all Powr poſſible apply. Beſydes all this, the Penaunce which it ſhal pleaſe my ſaid Reuerend Father, the Lorde Archbiſhop of *Caunterbury*, hereafter to enjoyne me for my Sinnes, I will mekely obeye and faithfully fulfyll. Finally, all my Seducers and falſe Teachers, and all other beſydes, whom I ſhall hereafter knowe ſuſpected of Hereſye or Errours, I ſhall effectuallye preſent, or cauſe to be preſented, vnto my ſayd Reuerend Father Lord Archbiſhop, or to them which hath his Auctorite, ſo ſone as I can conueniently do it, and ſee that they be corrected to my vttermooſt power. *Amen.*

The cruell Complaint of the Clergy, and Tyrannouſe Acte thervppon made.

NEuer came this Abjuracyon to the Handes of the Lord *Cobham*, neyther was it compyled of them for that purpoſe; but onely therwyth to bleare the Eyes of the unlearned Multitude. And whan they perceyued that Polycye wolde not helpe, but made more and more againſt them, than ſought they out an other falſe Practyſe. They went vnto the King with a moſt greuouſe Complaint, lyke as they did afore in his Fathers tyme, that in euery Quarter of the Realme, by reaſon of *Wicleues* Opinions, and the ſaid Lord *Cobham*, were wonderful Contentions, Rumours, Tumultes, Vprours, Confederations, Diſſencions, Diuiſions, Differences, Diſcordes, Harmes, Slaunders, Sciſmes, Sectes, Sedicions, Perturbacions, Parels, vnlawfull Aſſemblyes, Variaunces, Strifes, Fyghtinges, rebellioufe Ruffelinges and dayly Inſurrections. The Church (they ſaid) was hated; the Dioceſanes were not obeyed; the Ordinaries were not regarded; the Spirituall Offycers, as Suffraganes, Archdeacons, Chauncelers, Doctours, Commiſſaries, Offycials, Deanes, Lawers, Scribes and Sommeners were euery where deſpyſed; the Lawes and Liberties of Holy Church were troden vndre fote; the Chryſten Fayth was ruynouſlye decayed; Gods Seruice was laught to Scorne; the Spirituall Jurisdictyon, Auctorite, Honour, Power, Polycy, Lawes, Rytes, Ceremonies, Curſes, Keyes, Cenſures and Canonical Sanctions of the Church were had in an vttre Contempt.

So that all in a maner was come to nought.

And the cauſe of this was, that the Heretikes and Lollards of *Wicleues* Opinion, were ſuffered to preach abrode, ſo boldly to gether Conuenticles vnto them, to kepe Scoles in Mens Houſes, to make Bokes, compyle Treatiſes, and wryte Ballets, to teach priuately in Angles and Corners, as in Wodes, Feldes, Medowes, Paſtours, Groues, and in Caues of the Ground. This wolde be (they ſayd) a Deſtruction to the Commenwelth, a Subuercion to the Land, and an utter Decay of the Kinges Eſtate Ryall, if remedy were not ſought in tyme. And this was their Policy, to couple the Kinges Auctorite wyth that they had done in theyr former Councell of Craft, and ſo to make it thereby the ſtronger. For they perceiued themſelves very farre to weake els to follow againſt their Ennemies, that they had ſo largely enterpriſed. Upon this Complaint, the Kinge immediatly called a Parlament at *Leicheſtre*; it might not in thoſe Daies be holden at *Weſtminſtre*, for the great fauer that the Lord *Cobham* had both in *London*, and abought the Cyte. Yet were they deceiued; that they doubted moſt, lyghted there ſoneſt upon them.

A Byll was put in there again by the Commons, againſt their continuall waſting of the Temporalties, lyke as it had bene twiſe afore by procurement of the ſeid Lord *Cobham*, both in the Daies of *Richarde* the Second, *Anno* 1365. and alſo of King *Henry* the iiii. *Anno Domini* 1410. wher vpon was growne all this Malice afore ſpecified; but this was than workemanly defeated by an other proper practiſe of theyrs.

They put the King in remembraunce to claime his Right in *Fraunce*, and graunted him thervnto a Dime, with other great Subſidy of Mony. Thus were Chriſtes People betrayed euery way, and their Liues bought and ſold by theſe moſt cruell Theues. For in the ſaid Parlament, the King made this moſt blaſphemouſe and cruell Acte, to be as a Law for euer, That whatſoeuer they were that ſhould rede the Scriptures in the Mother Tong (which was than called *Wicleue's* Lerning) they ſhuld forfet Land, Catel, Body, Lif and Godes from theyr Heyres for euer, and ſo be condempned for Heretykes to God, Ennemies to the Crowne, and moſt errant Trayters to the Lande.

Beſides this, it was inacted that neuer a Sanctuary, nor priuileged Grounde within the Realme,

ſhulde holde them, though they were ſtill permitted both to Theues and Murtherers. And if in caſe they wold not gyue ouer, or were after their Pardon relapſed, they ſhulde ſuffer Death in two manner of kindes; That is, they ſhulde firſt be hanged for Treaſon againſt the King, and then be burned for Hereſy againſt God, and yet neither of both committed.

The beginning of that Act is this, *Pro eo quod magni rumores, &c.* Anon after was it proclaymed throughout the Reame, and than had the Biſhops, Prieſts, Monkes and Fryers, a Worlde ſomewhat to theyr Mindes. For than were many taken in diuerſe Quarters, and ſuffred moſt cruel Death. And many fled out of the Lande into *Germany*, *Bohem*, *Fraunce*, *Spain*, *Portingale*, and into the Weld of *Scotland*, *Wales* and *Ireland*, working ther many Maruels againſt their falſe Kingdom, to long to wryte. In the *Chriſtmas* followinge was Syr *Roger Acton* Knyght, Maſter *Johan Browne* Eſquire, Sir *Johan Beuerlaye*, a learned Preacher, and dyuerſe other more attached for quarrelling with certeine Prieſtes, and ſo impriſoned. For all Men at that time coud not paciently ſuffre theyr blaſphemouſe Bragges.

The Complaint was made vnto the King of them, that they had made a greate Aſemble in Saint *Gyles* Felde at *London*, purpoſing the Deſtruction of the Land, and the Subuercyon of the Comonwelth. As the King was thus infourmed, he erected a Banner (ſaith *Walden*) with a Croſſe thereupon, as the Pope doth comonly by his Legate, whan he pretendeth to warre againſt the *Turke*, and with a great nombre of Men entred the ſame Felde, where as he found no ſuch Company; yet was the Complaint judged true, becauſe the Byſhoppes had ſpoken it at the Informacion of their Prieſtes. All this hath *Thomas Walden* in diuerſe of his Workes, which was at the ſame tyme a Whight or Carmelite Frire, and the King's Confeſſour; and partly it is touched both by *Robert Fabian*, and by *Polidorus Virgilius* in their *Engliſh* Chronicles; but not in all pointes rightly. In the meane ſeaſon Sir *John Oldecaſtell* the Lord *Cobham*, eſcaped out of the Towr of *London* in the Night, and ſo fledde into *Wales*, whereas he continued more than iiii. Yeares after.

Some Wryters haue thought this eſcape to come by the ſaid Syr *Roger Acton*, and other Gentlemen, in diſpleaſure of the Prieſtes, and that to be the chefe occaſion of their Deathes, which might well be; but *Walden* doth not ſo vtter it, which reigned the ſelfe ſame time. In *January* next following was the aforenamed Syr *Roger Acton*, Maſter *Johan Browne*, Syr *Johan Beuerlaye* and xxxvi. more (of whom the more part were Gentylmen of Byrthe) conuicted of Hereſy by the Byſhops, and condempned of Treaſon by the Temporalte, and accordyng to the Acte, were fyrſte hanged and than brent in the ſayd Saint *Gyles* Feld. In the ſame Yeare alſo was one *Johan Claydon* a Skinner, and one *Rychard Turmin* a Baker, both hanged and brent in *Smytfilde* by that vertuous Act; beſides that was done in al other Quarters of *Ingland*, which was no ſmall nomber, if it were now throughly knowen.

The latter Enpriſoning and Death of the Lord Cobham.

IN the Yeare of oure Lorde a M. CCCC. and xv. dyed *Thomas Arundell*, which had bene Archbiſhop of *Caunterbury* more than xxxii. Yeares, to the great Deſtruction of Chryſten Beleue. Yet died not his prodigiouſe Tyrannye with hym; but ſucceeded with his Office in *Henry Chichely*, and in a great ſort more of the ſpyghtful Spiritualtie. For their Malice was not yet ſatled againſt the good Lord *Cobham*. But they confedered with the Lord *Powys* (which was at that time a great Gouuernour in *Wales*) feeding him with lordly Giftes and Promiſes, to accomplyſh their Deſyre. He at the laſt, thus monied wyth *Judas*, and outwardly pretending him great Amity and Fauer, mooſt cowardlye and wretchedly toke hym, and in concluſion ſo ſent him up to *London*, whereas he remayned a Moneth or two impryſoned again in the *Tower*. And after long Proceſſe they condempned him againe of Hereſy and Treaſon by force of the afore named Act: He rendering Thanks unto God that he had ſo appointed him to ſuffre for his Names ſake.

And vppon the Day appointed he was brought out of the *Tower*, with his Armes bound behynd him, hauing a very chereful Countenaunce. Than was he layd vpon an Hardle, as though he had bene a mooſt haynouſe Traitoure to the Crowne, and ſo drawn forth into Saint *Gyles Felde*, where as they had ſet vp a newe paire of Galowes. As he was comen to the Place of Execution, and was taken from the Hardle, he fell down deuoughtly upon his Knees, deſyringe Almightye God to forgeue his Ennemies. Than ſtode he up and beheld the Multitude, exhorting them in moſt godly maner to folow the Laws of God, written in the Scriptures; and in any wyſe to beware of ſuch Teachers as they ſe contrary to Chriſt in their Conuerſacion and Liuing, with many other ſpeciall Councels. Than was he hanged vp ther by the middle in Chaynes of Yron, and ſo conſumed alyue in the Fyre, praiſing the Name of God, ſo long as his Lyfe laſted. In the ende, he commended his Sowle into the Handes of God, and ſo departed hens mooſt Chriſtenly, his Body reſolued into Aſhes.

And this was done in the Yeare of our Lord a M. CCCC. and xviii. which was the ſixt Yere of the Reygne of King *Henry* the Fift, the People their preſent ſhewyng great Dolour. How the Prieſtes that time fared, blaſphemed, and curſed, requiring the People not to pray for hym, but to judge him dampned in Hell, for that he departed not in the Obedience of their Pope; it were to long to wryte.

Archi-

Archiepiſcopus Cantuarienſis contra Dominum Oldcaſtle, 1 Hen. 5. A.D. 1413.

[*Extracted from the Records at* Lambeth, *and may be found in* Rymer's Fœdera.]

'THomas, Permiſſione Divina, *Cantuarienſis* 'Archiepiſcopus totius Angliæ Primas, & 'Apoſtolicæ Sedis Legatus, venerabili 'Fratri noſtro, Domino *Richardo*, Dei Gratia, 'Londinenſi Epiſcopo, ſalutem & fraternam in Domino Charitatem,

'Nuper coram Nobis, in Convocatione Prælatorum & Cleri noſtræ Cantuarienſis Provinciæ in 'Eccleſia noſtra Sancti Pauli ultimo celebrata cum 'iiſdem Prælatis & Clero, ſuper Unione & Reformatione Eccleſiæ Anglicanæ tractantibus, inter cetera, per nos & eoſdem Prælatos & Clerum concluſum extitit, quaſi pro impoſſibili, 'ſciſſuram Tunicæ Domini inconſutilis reformare, 'niſi prius certi Magnates Regni, Autores, Fautores, Protectores, Defenſores, & Receptores 'horum Hæreticorum qui dicuntur Lollardi, eſſent 'rigide reprehenſi, ac, ſi opus fuerit, per Cenſuras Eccleſiæ, una cum invocatione Brachii Secularis, a ſuis Deviis revocati:

'Et, facta ſubſequenter, in eadem Convocatione, inter Procuratores Cleri & alios, qui, de 'ſingulis Dioceſibus ejuſdem noſtræ Provinciæ, 'ibidem in magno numero interfuerunt, inquiſitione diligenti, repertum fuit inter eoſdem, ac 'nobis detectum & delatum, quod Dominus *Johannes Oldcaſtellus* Miles, fuerat & eſt principalis 'Receptator, Fautor, Protector & Defenſor eorumdem.

'Ac quod præſentium in Dioceſibus *Londinenſi*, *Roffenſi*, & *Herfordenſi*, ipſos Lollardos, ab 'Ordinariis ſive Dioceſanis locorum minime licentiatos, contra Conſtitutionem Provincialem 'inde factam, ad prædicandum tranſmiſit, ac eorum prædicationibus nephariis interfuit, & Contradictores, ſi quos repererat, Minis & Terroribus, ac Gladii Secularis potentia, compeſcuit:

'Aſſerens & affirmans, inter cætera, quod nos, & Confratres noſtri, Suffraganei noſtræ Provinciæ, non habuimus nec habemus Poteſtatem aliquam hujuſmodi Conſtitutionem faciendi.

'Aliterque ſenſit & ſentit, ac dogmatizat & docet de Sacramentis Altaris & Pœnitentiæ, Peregrinationibus, & Adorationibus Imaginum, & 'Clavibus, quam Romana & Univerſalis Eccleſia docet & affirmat.

'Quare, ex parte eorumdem Prælatorum & 'Cleri, tunc fuimus requiſiti, ut de & ſupra Præmiſſis, contra eundem Dominum *Oldcaſtellum* procedere dignaremur.

'Nos tamen, ob reverentiam Domini noſtri 'Regis (cujus & tunc idem Dominus *Johannes* 'Familiaris extiterat) ac ob honorem nihilo minus Ordinis Militaris, una cum omnibus Confratribus & Suffraganeis noſtris dictæ noſtræ Provinciæ, tunc præſentibus, & magna parte Cleri 'ejuſdem noſtræ Provinciæ, ad præſentiam dicti 'Domini noſtri Regis, tunc in Manerio ſuo de *Kenyngton* exiſtentis, perſonaliter accidentes, contraque eundem Dominum *Johannem* querelam deponentes, defectus ejuſdem Domini *Johannis* partim recitavimus.

The Archbiſhop of Canterbury *againſt the Lord* Oldcaſtle, 1 Hen. 5. *in the Year* 1413.

THomas, by Divine Permiſſion, Archbiſhop of *Canterbury*, Primate of all *England*, and Legate of the Apoſtolick See, to our venerable Brother *Richard*, by the Grace of God, Biſhop of *London*, Health and brotherly Love in the Lord.

Whereas in our late Conſultation, concerning the Unity and Reformation of the Church of *England*, in Convocation of the Prelates and Clergy of our Province of *Canterbury*, laſt held in our Church of St. *Paul's*, with the ſaid Prelates and Clergy; among other things it was concluded by us, and the ſaid Prelates and Clergy, next to impoſſible, to repair the rending of our Lord's ſeamleſs Coat, unleſs firſt of all certain great Men of the Kingdom, the Authors, Abettors, Protectors, Defenders and Entertainers of thoſe Hereticks, who are called Lollards, were ſeverely reprehended, and reclaim'd from their Errors, if other means fail'd, by the Cenſure of the Church, aſſiſted by the Secular Arm:

And accordingly, upon the moſt diligent Enquiry in the ſaid Convocation, by the Proxies of the Clergy, and others there aſſembled in great Numbers from each Dioceſs of our ſaid Province, it was found by them, and made known and preſented to us, that Sir *John Oldcaſtle* Knight, was and is the principal Receiver, Abettor, Patron and Defender of the ſame.

And that he ſent the Lollards to preach about in the Dioceſſes of *London*, *Rocheſter* and *Hereford*, without any Licences from the Ordinaries or Dioceſans of the Places, contrary to the Synodical Conſtitution made for that purpoſe; and that he was preſent at the wicked preachings of the ſame, and ſilenced all Oppoſers he met with, with Threatnings and Terrors, and the power of the Secular Sword:

Aſſerting and affirming, amongſt other things, that we and our Brethren the Suffragans of our Province, never had, nor have Authority to make any Conſtitution of this kind.

And concerning the Sacraments of the Altar and Penance, Pilgrimages, Adorations of Images, and the Power of the Keys, he has believed, and does believe, and dogmatizes and teaches otherwiſe than the *Roman* and Univerſal Church holds and affirms.

Wherefore the ſaid Prelates and Clergy then beſought us, that we wou'd be pleaſed to proceed againſt the ſaid Sir *John Oldcaſtle*, for and upon the Premiſes.

But in reverence to our Lord the King, (with whom the ſaid Sir *John* was a great Favourite) and as much out of reſpect to the Order of Knighthood, with all our Brethren and Suffragans of our ſaid Province, and a great part of the Clergy of our ſaid Province, we waited on our ſaid Lord the King, at his Palace at *Kenyngton*; and making complaint againſt the ſaid Sir *John*, we in ſome meaſure repreſented the Errors of the ſaid Sir *John*.

' Sed ad Rogatum ipſius Domini noſtri Regis, ' ipſum Dominum *Johannem* ſine dedecore ad unitatem Eccleſiæ reducere cupientes, omnem Exe- ' cutionem præmiſſorum ad tempus magnum di- ' ſtulimus.

' Sed demum quia præfatus Dominus noſter ' Rex circa Reductionem ejuſdem, poſt magnos ' labores, non profecit, prout idem Dominus no- ' ſter Rex nobis, tam verbo, quam in ſcriptis, ' referre dignabantur; nos ſubſequenter eundem ' Dominum *Johannem*, de & ſuper Præmiſſis per- ' ſonaliter reſponſurum coram nobis, ad certum ' terminum effluxum, decrevimus evocandum, ac ' Nuncium noſtrum cum his noſtris Citatoriis ad ' dictum Dominum *Johannem* tranſmiſimus, tunc ' in Caſtro ſuo de *Coulyng* degentem.

' Cui nuncio noſtro dedimus in mandatis, ut ' Caſtrum dicti Domini *Johannis* nullo modo in- ' grederetur niſi licentiatus, ſed per medium ' cujuſdam *Johannis Botteleri*, Oſtiarii Cameræ dicti ' Domini noſtri Regis, ipſum Dominum *Johan-* ' *nem* requireret quatenus aut daret dicto Nuncio ' noſtro Licentiam ingrediendi ut citaret eundem, ' ſeu ſaltem extra Caſtrum ſuum prædictum face- ' ret ſui Copiam, ut ſic Citatione poſſet appre- ' hendi.

' Qui tamen Dominus *Johannes* dicto *Johanni* ' *Bottelero*, ex parte Domini noſtri Regis ſibi ' Præmiſſa exponenti, publice reſpondit, quod ' nullo modo citare voluit, nec Citationem ipſius ' aliqualiter tolerare.

' Noſque præterea, de præmiſſis nobis facta ' fide, ulterius legitime procedentes, facta nobis ' p rimitus fideli Relatione quod idem Dominus ' *Johannes* perſonali Citatione apprehendi non ' potuit, decrevimus eundem citandum per Edic- ' tum, in valvis Eccleſiæ Cathedralis *Roffenſis*, ' ſibi vicinæ, & niſi modicum ultra tria Milia- ' ria *Anglicana* a dicto Caſtro de *Coulyng* diſtantis, ' publice affingendum: prout eum ſic citari feci- ' mus, & hujuſmodi Edictum noſtrum in valvis ' dictæ Eccleſiæ publice & patenter affigi, ad com- ' parendum coram nobis ſecundo Die *Septembris*, ' jam præteriti de & ſuper præmiſſis, atque nichilo- ' minus certis aliis Hæreticam pravitatem con- ' cernentibus, perſonaliter reſponſurum,

' Quo Die adveniente, nobis, in Capella ma- ' jori, infra Caſtrum de Ledys, noſtræ Dioceſis, ' quod tunc inhabitabamus, & ubi tunc reſidebа- ' mus cum Curia noſtra, pro Tribunali ſedenti- ' bus, facta fide quæ requiritur, in præmiſſis, ac ' audita per nos & recepta relatione, juxta aſſer- ' tionem, & prout communiter prædicatur in par- ' tibus ubi dictus Dominus *Johannes* ſe incaſtellat ' & fortificat in Caſtro ſuo prædicto, ac Opi- ' niones ſuas defendit, Claves Eccleſiæ ac Po- ' teſtatem Archiepiſcopalem multipliciter contem- ' nendo:

' Nos eundem Dominum *Johannem*, ſicut præ- ' mittitur, citatum publice & alta Voce præ- ' conizari fecimus, ac ſic præconizatum, diutius ' expectatum, & nullo modo comparentem, repu- ' tavimus, prout erat, merito contumacem, & in ' pœnam contumaciæ ſuæ hujuſmodi ipſum in ' Scriptis excommunicavimus, tunc ibidem.

' Et quia ex ſerie Præmiſſorum, & aliis per- ' ſpicuis Indiciis, & factorum Evidentiis, conce- ' pimus quod idem Dominus *Johannes* in defen- ' ſionem hujuſmodi Erroris ſui, contra Claves ' Eccleſiæ ſe fortificat & incaſtellat, ut præmitti- ' tur (quorum prætextu vehemens ſuſpitio Hære- ' ſis atque Schiſmatis inſurgit) contra eundem ' decrevimus ipſum Dominum *Johannem* iterato ' per-

But at the Inſtance of our Lord the King, and our own Deſire to reduce the ſaid Sir *John* to the Unity of the Church, without bringing him to open Shame, we deferr'd for a long time all execution of the Premiſes.

But foraſmuch as we had it from the King's own Mouth, and under his Hand, that all his pains to reclaim this Man had proved vain and ineffectual; we thereupon decreed to ſummon the ſaid Sir *John* to appear before us at a certain time now paſt, to anſwer for and concerning the Premiſes; and we ſent our Officer with theſe our Citations to the ſaid Sir *John*, then dwelling at his Caſtle of *Cowling*.

To which our Officer we gave in Command, that he ſhould not in any wiſe enter the Caſtle of the ſaid Sir *John* without leave; but by the Mediation of one *John Buttler*, Door-Keeper to the Privy-Chamber of our Lord the King, he ſhou'd apply to Sir *John* himſelf, for his leave to enter his Caſtle, in order to give him a Citation; or at leaſt that he wou'd appear without the Caſtle, and ſuffer the Citation to be ſerv'd upon him.

But Sir *John* publickly anſwered the ſaid *John Buttler*, tho in the Premiſes he had made uſe of the King's Name, that he wou'd by no means be cited, nor ſuffer any manner of way ſuch Citation to be ſerved upon him.

Upon this faithful Account given us, that it was impoſſible to ſerve the ſaid Sir *John* perſonally with a Citation; and we being fully perſuaded thereof, decreed that he ſhou'd be cited by an Edict, which ſhou'd be publickly fix'd on the great Doors of the Cathedral Church in *Rocheſter*, which is but three *Engliſh* Miles from his ſaid Caſtle of *Cowlyng*. Accordingly we caus'd him to be ſo cited, and our Edict to be fix'd in publick and open View on the great Doors of the ſaid Church, charging him to appear before us on the ſecond Day of *September* now paſt, perſonally to anſwer to and for the Premiſes, and other Allegations of Heretical Pravity againſt him.

On the Day appointed we held a Court in the greater Chappel in our Caſtle of *Leedes*, in our Dioceſs, in which we then lived and reſided with our Court; and after the neceſſary proof of the Premiſes, and we had heard and receiv'd the Relation, as it is commonly reported in the Parts where the ſaid Sir *John* immures and fortifies himſelf in his ſaid Caſtle, and defends his Opinions, by contemning the Keys of the Church, and impugning the Archiepiſcopal Authority:

We cauſed Proclamation aloud and in open Court, to be made for the ſaid Sir *John* to appear; and after Proclamation made, and we had long waited, and he not appearing, we juſtly pronounced him, as he was, Contumacious; and then and there return'd him excommunicated, in Puniſhment for ſo high a Contumacy.

And becauſe from the Series of the Premiſes, and other plain Demonſtrations and Evidences of Fact, we apprehend that the ſaid Sir *John* ſtrengthens and fortifies himſelf in defence of his Errours againſt the Authority of the Church, as is premiſed (which gives great handle to ſuſpect him of Hereſy and Schiſm) we decreed againſt the ſaid Sir *John*, that he ſhou'd be a ſecond

time

ſ perſonaliter, ſi apprehendi poterit, alioquin per
ſ Edictum, ut prius, citandum, ut compareat co-
ſ ram nobis Die Sabbati, proximo poſt Feſtum
ſ Sancti Matthæi Apoſtoli & Evangeliſtæ, proxi-
ſ me futuro, cauſam rationabilem, ſi quam ha-
ſ beat, quare contra eundem ad graviora procedi
ſ non debeat tanquam publicum Hæreticum, Schiſ-
ſ maticum, ac Hoſtem univerſalis Eccleſiæ, quare
ſ etiam pro tali pronunciari non debeat, ac auxi-
ſ lium Brachii Secularis contra eundem ſolemni-
ſ ter invocari; perſonaliter propoſiturum, ulte-
ſ riuſque reſponſurum, facturum, & recepturum,
ſ circa omnia & ſingula Præmiſſa, quod Juſtitia
ſ ſuadebit.

ſ Quo termino (videlicet, Die Sabbati proximo
ſ poſt Feſtum Sancti Matthæi, prædicto 23. die ejuſ-
ſ dem Septembris adveniente) coram nobis, in Do-
ſ mo Capitulari Eccleſiæ Sancti Pauli Londinenſis,
ſ pro Tribunali ſedentibus, aſſidentibuſque nobis
ſ univerſalibus Confratribus noſtris, Dominis *Ri-*
ſ *chardo Londinenſi*, & *Henrico Wintonienſi*, Dei gratia
ſ Epiſcopis, comparuit perſonaliter Dominus *Rober-*
ſ *tus de Morley* Miles, Cuſtos Turris Londinenſis, ſe-
ſ cumque præfatum Dominum *Johannem Oldcaſtel-*
ſ *lum* Militem adduxit, & coram nobis collocavit:

ſ Nam parum ante per Regios Miniſtros com-
ſ prehenſus eſt, & in Turrim clauſus.

ſ Cui quidem Domino *Johanni Oldcaſtello* ſic
ſ perſonaliter præſenti, nos totam ſeriem facti,
ſ prout in Actis diei præcedentis continetur, bo-
ſ nis & modeſtis terminis, ac modo multum ſuavi
ſ recitavimus; videlicet,

ſ Quomodo idem Dominus *Johannes*, de & ſu-
ſ per Articulis, ſuperius recitatis, in Convoca-
ſ tione Prælatorum & Cleri dictæ noſtræ Provinciæ,
ſ ut præmittitur, detectus & delatus extiterat.

ſ Quomodoque citatus, & propter ſuam con-
ſ tumaciam excommunicatus.

ſ Et, poſtquam ad hoc deventum fuerat, nos
ſ obtulimus paratos ad abſolvendum eundem.

ſ Ipſe tamen Dominus *Johannes*, ad hujuſmodi
ſ oblationem non advertens, dixit quod libenter
ſ recitaret nobis & dictis Confratribus meis, Fi-
ſ dem ſuam quam tenet & affirmat.

ſ Sicque, Licentia petita & obtenta, extraxit
ſ de Sinu ſuo quandam Schedulam indentatam, &
ſ contenta in eadem publice ibidem perlegit, ean-
ſ demque Schedulam nobis realiter tradidit &
ſ Articulorum, ſuper quibus extitit examinatus;
ſ quæ eſt talis.

ſ *Ego* Johannes Oldcaſtellus *Miles*, *Dominus de*
ſ Cobham, *cupio omnibus innoteſcere Chriſtianis, teſ-*
ſ *temque adhiberi Deum, nunquam me aliter indux-*
ſ *iſſe Animum, nec inducturum, ducente Domino, quam*
ſ *ut firma indubitataque fide omnia illius Sacramenta*
ſ *amplectar, quæcumque ab ipſo ad uſum ſuæ Eccleſiæ*
ſ *ſint tradita:*

ſ *Præterea, ut in quatuor his Generibus Fidei meæ*
ſ *apertius exponam Sententiam,*

ſ *Principio, Credo reverendum hoc Altaris Sacra-*
ſ *mentum Chriſti exiſtere Corpus ſub Panis ſpecie, id*
ſ *ipſum inquam quod a Maria natum Matre, pro no-*
ſ *bis crucifixum, mortuum ac ſepultum, ſit demum poſt*
ſ *triduanam mortem redivivum, ac ſubductum ad dex-*
ſ *tram immortalis Patris, nunc cum ipſo triumphat*
ſ *ſempiternæ Gloriæ particeps.*

ſ *Tum de Pœnitentiæ Sacramento ita habet Fides*
ſ *mea, ut credam apprime neceſſariam quibuſcunque,*
ſ *ad*

time cited perſonally, if he could be found; if not, by Edict, as before, to appear before us on the Saturday next after the Feaſt of the Apoſtle and Evangeliſt St. *Matthew* next enſuing, to ſhew, if he has reaſonable Cauſe, why he ought not to be proceeded againſt as a publick Heretick, Schiſmatick, and an Enemy of the Catholick Church, and why he ought not to be adjudg'd as ſuch, and the Aſſiſtance of the Secular Arm be ſolemnly call'd for againſt him; perſonally to propound, and further to anſwer, do, and receive concerning all and ſingular the Premiſes, what in Juſtice is meet.

At which time (namely, the Saturday next after the Feaſt of St. *Matthew*, being the 23d day of *Septembre*) as we held our Court in the Chapter-houſe of St. *Pauls* in *London*, with our Brethren, *Richard* Lord Biſhop of *London*, and *Henry* of *Winchester* in Seſſions with us, Sir *Robert Morley* Knight and Lieutenant of the *Tower* of *London*, appear'd in Court with the ſaid Sir *John Oldcaſtle* Knight, and deliver'd him to us;

For he had been arreſted a little before by the King's Order, and confin'd to the *Tower*.

To the ſaid Sir *John Oldcaſtle* thus perſonally appearing, we repeated, in ſoft and moderate Terms, and in a manner very courteous and obliging, all our Proceedings againſt him, as they ſtand upon the Journal of the former Day; namely,

How he the ſaid Sir *John* ſtood preſented and charg'd by and upon the Articles above-mention'd, in Convocation of the Prelates and Clergy of our ſaid Province.

And how he had been cited and excommunicated for his Contumacy.

And, tho by his Default it was come to this, we notwithſtanding ſhew'd our ſelves ready and willing to abſolve him.

But he the ſaid Sir *John* taking no notice of this our Overture, anſwer'd, He would gladly make Profeſſion, before us and my ſaid Brethren, of the Faith which he believ'd and maintain'd.

For which we giving leave, as he deſir'd, he drew out of his Boſom an indented Writing, and there openly read the Contents of it, and afterwards with his own hand preſented to us the ſaid Writing, touching the Articles whereof he was accus'd; of which this is the Copy.

I *John Oldcaſtle* Knight, and Lord *Cobham*, deſire it may be known to all Chriſtians, and I call God to witneſs, that I never have entertain'd, and, by the help of God, never will entertain any Perſuaſion, which is not conſiſtent with a firm and undoubting Belief of all the Sacraments, which were ordain'd and appointed by Chriſt himſelf for the uſe of his Church.

Moreover, that my Faith, as to the four Points alledg'd againſt me, might be more clearly underſtood, I declare,

Firſt of all, That I believe that in the adorable Sacrament of the Altar, the very Body of Chriſt does exiſt, under the Species of Bread: the ſame Body, I mean, that was born of his Mother *Mary*, that was crucify'd for us, that dy'd and was bury'd, and roſe again the third day from the Dead, and was exalted to the right hand of his eternal Father, where he now ſits Partaker with him in his Glory.

Then for the Sacrament of Penance, I believe it is chiefly neceſſary for all that deſire to be ſav'd,

to

ad ſalutem anhelantibus, peccatricis Vitæ correctionem, talemque ſubeundam primis Vitæ Pœnitudinem, ex vera Confeſſione, indiſſimulata Contritione, legitimaque Satisfactione, qualem divinæ nobis præſcribunt Literæ alioqui nullam futuram ſalutis ſpem.

to amend their wicked Lives, and undergo ſuch a Penance for the ſinful Part of them, as by a true Confeſſion, an undiſſembled Contrition, and lawful Satisfaction, manifeſts it ſelf to be agreeable to the Holy Scriptures, without which none can hope for Salvation.

Tertio de Imaginibus hunc in modum ſentio, ut non meræ Fidei eſſe illas exiſtimem, ſed, poſt Chriſti in Orbem invectam fidem, permittente Eccleſia, in uſum irrepſiſſe, ut Laicis ac Ignaris ſubſerviant pro Calendario, quarum admonitu tum Chriſti tum Sanctorum aliorum Martyria ac pia exempla facilius in memoriæ Oculos traducantur: Cæterum, ſiquis hac Repreſentatione ſecus abutatur, ut his ipſis Sanctorum Simulacris cultum eum præſtet qui debetur iis quos repræſentant, imo huic potius cui Divi ipſi univerſum honorem debeant, hanc in eis collocantes fiduciam quæ in Deum unice ſit transferenda, ſive ita erga mutas has Imagines affecti, ut his aliqua parte ſint affixi, aut huic quam illi addictiores, mea Sententia nihil abſcedunt ab Idololatria, criminaliter peccantes in Deum omnis honoris autorem.

Thirdly, With reſpect to Images, I hold that they are no Ingredient in the Chriſtian Belief, but, long after the Publication of the Faith of Chriſt, were introduc'd into the World, by the permiſſion of the Church, to be as a Calendar to the Laity and the Ignorant, that by viſible Repreſentations of the Sufferings of Chriſt, and of the pious Lives and Martyrdoms of the Saints, the remembrance of thoſe things might the more eaſily be impreſs'd on their Minds: but if one ſo abuſes this Repreſentation, as to give that Worſhip to theſe Images of the Saints, which is due to the Saints themſelves, or rather to him to whom the Saints themſelves owe all Honour and Adoration, and putteth his Confidence in them, which is only to be plac'd in God, or is ſo affected towards theſe ſenſleſs Images, as to be more devoted to them than God, in my Opinion he is guilty of Idolatry, and wickedly ſins againſt God, the only Object of Worſhip.

Poſtremo, ſic mihi perſuadeo, nullum in terris inquilinum eſſe, quin ſive ad vitam ſive ad ſupplicium peregrinetur: Quiſquis ita vitam inſtituerit ut in Præcepta Dei, quæ aut neſcit aut doceri non vult, impingat, huic fruſtra ſalutem expectari, etiamſi Orbis omnes angulos expatietur; contraque, qui illius obſervat Præcepta juſta, haud poſſe interire, quamvis nuſquam ille in toto vita perambulet Peregrinationis ergo, neque Romam, neque Cantuariam, neque Compoſtellam, ſive quocunque perambulare ſolet vulgus hominum.

Laſtly, I am fully perſuaded, that there is no abiding place upon Earth, but that we are all Pilgrims either on the way to Happineſs, or tending to Miſery: He that either knows not, or will not be inſtructed in, nor live in the Practice of the Commandments of God, it is in vain for him to expect Salvation, tho he went on Pilgrimage into all Quarters of the World: And on the other ſide, he that lives in Obedience to the Holy Commandments of God, will undoubtedly be ſav'd, tho he never went a ſtep on Pilgrimage in his Life, either to *Rome*, or *Canterbury*, or *Compoſtell*, or to any other Places.

Qua Schedula, cum iſtis Articulis contentis in eadem, ut præfertur, per dictum Dominum *Johannem* perlecta, nos cum Confratribus noſtris prædictis, aliiſque pluribus Doctoribus & Peritis, ſuper his communicavimus, ac demum, de conſilio & aſſenſu eorundem, præfato Domino *Johanni Oldcaſtello* duximus tunc ibidem.

Sir *John* having thus read his Writing, we with our Brethren the Biſhops abovemention'd, and divers other Doctors and learned Men, held a Conſultation about the Contents of it: and by the Advice and Agreement of the ſame, we thus apply'd to the ſaid Sir *John Oldcaſtle*, at the ſame Time and Place.

Ecce Domine *Johannes!* in hac Schedula plura bona continentur & ſatis Catholica; ſed vos habetis terminum iſtum ad reſpondendum ſuper aliis, Errores & Hæreſes ſapientibus, quibus per contenta in hac Schedula non eſt plene reſponſum, & propterea vos oportet ad eadem & fidem veſtram, atque aſſertiones, in eadem Schedula expreſſas, circa eadem plenius declarare, (videlicet)

Look you, Sir *John!* in this Writing of yours, it muſt be confeſs'd there are contain'd many good things and right Catholick; but this day was appointed you to anſwer to other Points, which ſavour of Error and Hereſy, which your Declaration has not fully anſwer'd; and therefore you ought to explain your ſelf more clearly as to thoſe Points, and more particularly declare your Faith and Aſſertions expreſs'd in the ſaid Writing, *viz.*

An teneatis, credatis, & affirmetis quod in Sacramento Altaris, poſt Conſecrationem rite factam, remaneat Panis materialis vel non?

Whether you hold, believe, and affirm, that in the Sacrament of the Altar, after Conſecration by the Prieſt, there remaineth material Bread or not?

Item, an teneatis, credatis, & affirmetis, quod in Sacramento Pœnitentiæ, neceſſarium fuerit, quod habens copiam Sacerdotis, confiteatur de peccatis ſuis Presbytero, per Eccleſiam ordinato?

Alſo, whether you hold, believe and affirm, that in the Sacrament of Penance, it is neceſſary, where a Prieſt can be had, to confeſs your Sins to the Prieſt, ordain'd by the Church?

Quibus ſic datis, inter multa & varia, per dictum *Johannem Oldcaſtellum* dicta, reſpondit expreſſe,

To which State of the Queſtions, amongſt many other things ſaid by the ſaid Sir *John*, he anſwer'd expreſly,

Se nolle prædicta aliter declarare, nec aliter quam in dicta Schedula continetur, aliqualiter ad eadem reſpondere.

That he would not declare himſelf otherways, nor return any other Anſwer, than in his ſaid Writing.

Unde nos ipſi Domino *Johanni* compatientes benigno & affabili modo diximus tunc ibidem; Caveatis, Domine *Johannes!* quia ſi ad hæc, vobis

Upon this we reply'd to the ſaid Sir *John*, with much Patience, and in a courteous and affectionate manner; Sir *John*, it behoves you to conſider well

‘ bis objecta, clare non reſpondeatis in termino ‘ legitimo, vobis jam dato per Judicem, poterimus vos pronunciare & declarare Hæreticum.

‘ Ipſe tamen Dominus *Johannes* ſe tenuit ut ‘ prius, & noluit aliter reſpondere.

‘ Conſequenter tamen nos cum dictis Confratribus noſtris & aliis de Conſilio noſtro conſuluimus, & de communicato Conſilio eorumdem declaravimus eidem Domino *Johanni Oldcaſtello*, ‘ quid ſancta Romana Eccleſia, in hac materia ‘ ſequens dicta beatorum *Auguſtini*, *Hieronomi*, & ‘ *Ambroſii*, ac aliorum Sanctorum, determinavit; ‘ quas determinationes oportet quoſcunque Catholicos obſervare.

‘ Ad quæ idem Dominus *Johannes* reſpondit,

‘ *Quod bene voluit credere & obſervare quicquid ‘ ſancta Eccleſia determinavit, ac quicquid Deus voluit ſe credere & obſervare; ſed quod Dominus noſter ‘ Papa, Cardinales, Archiepiſcopi, & Epiſcopi, cæteri‘que Prælati Eccleſiæ haberent poteſtatem talia determi‘nandi, noluit ad tunc aliqualiter affirmare.*

‘ Unde nos, adhuc ſibi compatientes, ſub ſpe ‘ melioris deliberationis, promiſimus eidem Domino *Johanni* quod certas Determinationes, in ‘ materia antedicta, ac ſuper quibus idem Dominus *Johannes* debuit clarius reſpondere, ſibi ede‘remus in Scriptis, terminis Latinis, pro leviori ‘ intellectu ejuſdem, in Anglicum tranſlatis.

‘ Super quibus jubebamus eundem ac cordialiter ‘ rogavimus, ut in Die Lunæ, proximo tunc ſe‘quente, plene & clare ſuum daret Reſponſum.

‘ Quas quidem Determinationes eodem die ‘ transferri fecimus, ac eidem Die Dominica ‘ proxima ſequenti, realiter liberari; quarum Determinationum tenor ſequitur & eſt talis:

‘ *Fides ac Determinatio Sanctæ Eccleſiæ Catholicæ de ‘ ſacroſancto Sacramento Altaris eſt hæc, quod, poſt Con‘ſecrationem in Miſſa a Sacerdote factam, materialis ‘ Panis commutetur in materiale Corpus Chriſti, Vi‘numque materiale in materialem Sanguinem Chriſti; ‘ itaque jam nec Panis nec Vini poſt Conſecrationem ulla ‘ manet ſubſtantia quæ prius aderat.*

‘ Quid huic reſpondes Articulo?

‘ *Item, Sancta Eccleſia determinavit quod quemlibet ‘ oportet Chriſtianum, in Terris degentem, peccata Sa‘cerdoti, per Eccleſiam ordinato, confiteri, ſi liceat ac‘cedere.*

‘ Ut hunc ſentis Articulum?

‘ *Chriſtus ordinavit Sanctum* Petrum *ſuum Vica‘rium in Terris, cujus Sedes eſt Eccleſia Romana, ‘ concedens ac permittens eandem Autoritatem, quam ‘ tribuit* Petro, *& omnibus* Petri *Succeſſoribus, qui ‘ nunc dicuntur Papæ Romani; quorum Poteſtate in ‘ Eccleſiis particularibus ordinantur ac conſtituuntur ‘ Prælati, utpote Archiepiſcopi, Epiſcopi, Curati, cæ‘terique Gradus Eccleſiaſtici; quibus Chriſtianus Po‘pulus debet Obedientiam, juxta Traditiones Romanæ ‘ Eccleſiæ.*

‘ Hæc eſt Determinatio ſanctæ Eccleſiæ.

‘ Ut ſentis hunc Articulum?

‘ *Ad hæc, ſacroſancta Eccleſia determinavit quod ‘ ſit neceſſarium cuivis Chriſtiano peregrinari ad ſancta ‘ loca, ibique maxime adorare ſanctas reliquias Apo‘ſtolorum, Martyrum, ac Confeſſorum, omniumque ‘ San‐*

well of this matter, becauſe if you don't return a clear Anſwer to the Articles exhibited againſt you, within the time aſſign'd by the Judge, we may proceed to pronounce and declare you an Heretick.

But Sir *John* would abide by his former Anſwer, and afford us no other.

We therefore advis'd with our Brethren the Biſhops above-mention'd, and others of our Counſel, and by their Advice we declar'd to the ſaid Sir *John Oldcaſtle*, what the holy *Roman* Church, following the Doctrines of St. *Auſtin*, St. *Jerom*, and St. *Ambroſe*, and other Fathers, in theſe Points, had determin'd; which Determinations all Catholicks were oblig'd to ſubmit to.

To which the ſaid Sir *John* gave for Anſwer,

That he would readily aſſent to and obſerve the Determinations and Deciſions of holy Church, and all that God requir'd him to believe and obſerve; but that our Lord the Pope, the Cardinals, the Archbiſhops, and Biſhops, and other Prelates of the Church, had power to determine ſuch things, he would by no means affirm.

We, ſtill patiently bearing with him, in hopes he might be better inform'd by mature Deliberation, promis'd the ſaid Sir *John*, That certain Determinations, relating to the Points abovemention'd, and to which he ought to give a clearer Anſwer, ſhould be tranſlated from the *Latin* into *Engliſh*, that he might the more eaſily underſtand them, and they be publiſh'd for his Uſe.

And we commended and affectionately entreated him to prepare and deliver in a full and clear Anſwer to the ſame, on Monday next following.

And we caus'd theſe Determinations to be tranſlated the ſame day, and to be deliver'd into his own hands the next Sunday, the Tenor of which Determinations is as follows:

The Faith and Determination of the holy Catholick Church, concerning the Sacrament of the Altar, is this, That after Conſecration by a Prieſt at Maſs, the Subſtance of the Bread is chang'd into the material Body of Chriſt, and the Subſtance of the Wine into the material Blood of Chriſt; therefore after Conſecration, there remaineth not any of the Subſtance of Bread and Wine, which were in both before it.

What Anſwer do you give to this Article?

Alſo Holy Church hath determin'd, that it is the Duty of every Chriſtian living in the World, to confeſs his Sins to a Prieſt, ordain'd by the Church, if he has the Opportunity of ſuch an one.

What are your Sentiments of this Article?

Chriſt ordain'd St. *Peter* to be his Vicar on Earth, whoſe See is the Church of *Rome*; and that all the Succeſſors of *Peter*, who are now call'd the Popes of *Rome*, ſhould ſucceed in the ſame Power and Authority with which Chriſt inveſted him; by whoſe ſpecial Power are conſtituted and ordain'd Prelates in particular Churches, as Archbiſhops, Biſhops, Curates, and the reſt of the Eccleſiaſtical Order; to which all Chriſtians owe Obedience, according to the Traditions of the *Roman* Church.

This is the Determination of Holy Church, and what is your Opinion of this Article?

Beſides theſe, the Holy Church hath ordain'd, that it is the indiſpenſible Duty of every Chriſtian Man to go on Pilgrimage to holy Places, and there to adore the ſacred Relicks of Apoſtles, Martyrs,

' *Sanctorum quoſcunque approbavit Romana Eccleſia.*

' Ut hunc ſentis Articulum?

' Quo Die Lunæ (videlicet) 25. Die dicti Menſis Septembris, coram nobis ac Confratribus ' noſtris prædictis adjunctoque, venerabili Fratre ' noſtro, *Benedicto*, Dei gratia, *Bangorenſi* Epiſcopo, juſſu & mandato noſtro.

' Conſiliarii & Miniſtri noſtri (videlicet) Magiſter *Henricus Ware*, Curiæ noſtræ Cantuarienſis Officialis; *Philippus Morgan*, utriuſque Juris ' Doctor; *Howellus Kyffen*, Decretorum; *Johannes Kemp* & *Willielmus Karleton*, Legum Doctores; ' ac *Johannes Witnam*, *Thomas Palmer*, *Robertus Womberwel*, *Johannes Withead*, *Robertus Chamberlayne*, *Richardus Dodyngtone* & *Thomas Walden*, ſacræ Paginæ Profeſſores; necnon *Jacobus Cole* & *Johannes Stevyns*, Notarii noſtri, in hac parte aſſumpti;

' Jurati erant omnes & ſinguli ad ſancta Dei Evangelia, tacto Libro, quod de & ſuper materia prædicta, ac in tota Cauſa hujuſmodi ſum fidele Conſilium & Miniſterium præberent, atque toto mundo.

' Conſequenterque comparuit dictus Dominus *Robertus de Morlay* Miles, Cuſtos Turris Londoniæ, ad Dominum *Johannem Oldcaſtellum* ſecum adduxit, & coram nobis ſtatuit.

' Cui nos affabiliter & ſuaviter recitavimus Acta prioris Diei, ac, ut prius, recitavimus quomodo excommunicatus fuerat & eſt idem Dominus *Johannes*, ac rogavimus & requiſivimus eundem quatenus peteret & admitteret in forma debita Eccleſiæ Abſolutionem.

' Cui idem Dominus *Johannes* expreſſe reſpondit tunc ibidem:

' *Quod nullam Abſolutionem in hac parte peterit a nobis, ſed a ſolo Deo.*

' Conſequenter nos ſuavi & modeſto modo rogavimus & requiſivimus eundem Dominum *Johannem* quatenus, de & ſuper Articulis ſibi oppoſitis, ſuum clarum daret reſponſum:

' Et primo circa Sacramentum Euchariſtiæ; ad quem Articulum, inter cætera, dixit & reſpondit,

' *Quod ſicut Chriſtus, hic in Terra degens, habuit in ſe Divinitatem & Humanitatem, Divinitatem tamen velatam & inviſibilem ſub Humanitate, quæ in eo aperta & viſibilis fuerat; ſic in Sacramento Altaris, & verum Corpus & verus Panis, Panis (videlicet) quem videmus & Corpus Chriſti, ſub eodem velatum, quod non videmus.*

' *Ac Fidem circa Sacramentum hujuſmodi, in Schedula prædicta, ſibi per nos tranſmiſſa, per ſanctam Romanam Eccleſiam & Doctores ſanctos determinatam, expreſſe negavit, Determinationem Eccleſiæ fore aut eſſe; ſed ſi eſt Determinatio Eccleſia, dixit quod eſt facta contra ſacram Scripturam, & poſtquam Eccleſia fuit dotata, & venenum effuſum in Eccleſia, & non ante.*

' Quo etiam ad ſacrum Pœnitentiæ & Confeſſionis dixit & aſſeruit expreſſe tunc ibidem;

' *Quod, ſi quis, in aliquo gravi Peccato conſtitutus, a quo ipſe ſurgere neſciret, expediret & bonum eſſet ſibi adire aliquem ſanctum & diſcretum Sacerdotem pro Conſilio ab eo habendo; ſed quod confiteretur Peccatum ſuum proprio ſeu alteri Presbytero, etiamſi haberet Copiam ejuſdem, non eſt neceſſarium ad ſalutem,*

Martyrs, and Confeſſors, and of all the Saints in the Calendar of the *Roman* Church.

How do you hold this Article?

On Monday the 25th of the ſaid Month of *September*, we aſſembled with our Brethren the Biſhops above-mention'd, with the Addition by our Order and Command, of our venerable Brother *Benedict*, by the Grace of God Biſhop of *Bangor*.

And our Counſellors and Officers, namely; Mr. *Henry Ware*, Official of *Canterbury*; *Philip Morgan*, Doctor of both Laws; *Howel Kyffen*, *John Kemp* and *William Carleton*, Doctors of the Canon Law; and *John Witnam*, *Thomas Palmer*, *Robert Wombervel*, *John Withead*, *Robert Chamberlain*, *Richard Doddington* and *Thomas Walden*, Doctors in Divinity; alſo *James Cole* and *John Stevens*, our Notaries, both call'd to aſſiſt, and take the Examinations, in the Tryal;

Were all and every of them ſworn upon the holy Evangeliſts, as they would anſwer it to God and the World, faithfully to diſcharge their Duty that day, in the Matter and Cauſe above-mention'd.

After this Sir *Robert Morley* Knight, and Lieutenant of the *Tower* of *London*, brought Sir *John Oldcaſtle* into Court, and ſet him before us:

To whom we affably and courteouſly repeated the Proceedings of the former Day, and, as before, told him, How he had been, and ſtill ſtood, excommunicated; and we intreated and beſought him to deſire and accept of Abſolution, in the uſual Form of the Church.

To which Sir *John* then anſwer'd in theſe words:

That he deſir'd no Abſolution from them, but only from God.

Upon this we pray'd the ſaid Sir *John*, with an Air of Kindneſs and Concern, to give his full Anſwer to the Articles exhibited againſt him.

And firſt we demanded what he had to ſay about the Sacrament of the Euchariſt? To which Article, among other things, he anſwer'd and ſaid,

That as Chriſt, when he liv'd upon Earth, had the Divine and Human Nature united together in him, and the Divine was veil'd and cover'd under the Human, and only the Human viſible and outward; ſo in the Sacrament of the Altar, there is the very Body of Chriſt, and real Bread too; the Bread is the thing we ſee with our Eyes, and the Body of Chriſt, which is hidden under it, we do not ſee.

And the Faith about this Sacrament of the Altar, expreſs'd in the Writing which we ſent to him, as determin'd by the holy *Roman* Church and the Fathers, he expreſly deny'd to be the Determination of the Church; or if it was the Determination of the Church, he aſſerted ſuch Determination to be made contrary to the Holy Scriptures, and after the Church was aggrandiz'd and corrupted, and not before.

To the Articles about Penance and Confeſſion, he anſwer'd in theſe words:

That if any one is ſo intangled in the Snares of Sin, that he knows not how to extricate himſelf, it is adviſable and expedient for him to apply to ſome pious and diſcreet Miniſter for Ghoſtly Counſel: but that he ſhould confeſs his Sin to his own or any other Prieſt, tho he had never ſo good

an

‘ *lutem, quia ſola Contritione Peccatum hujuſmodi de-*
‘ *leri poſſet, & ipſe Peccator purgari.*

‘ Circa Adorationem ſanctæ Crucis dixit & aſ-
‘ ſeruit tunc ibidem,——*Quod ſolum Corpus Chriſti,*
‘ *quod pendebat in Cruce, debuit adorari, quia illud*
‘ *Corpus ſolum fuit & eſt Crux adoranda.*

‘ Et interrogatus, quem honorem faceret ima-
‘ gini ipſius Crucis? reſpondit verbis expreſſis,

‘ *Quod illum ſolum honorem faceret ſibi, quod bene*
‘ *mundaret eam, & poneret in bona cuſtodia.*

‘ Quoad poteſtatem Clavium, Dominum noſ-
‘ trum Papam, Archiepiſcopos, Epiſcopos, & a-
‘ lios Prælatos dixit,

‘ *Quod Papa eſt verus Antichriſtus, hoc eſt Caput*
‘ *ejuſdem, Archiepiſcopi, Epiſcopi, necnon alii Prælati*
‘ *Membra, & Fratres Cauda illius; quibus Papæ, Ar-*
‘ *chiepiſcopis, & Prælatis non eſt obediendum, niſi qua-*
‘ *tenus fuerint imitatores Chriſti & Petri, in vita,*
‘ *moribus, & converſatione: & quod ipſe eſt Succeſſor*
‘ *Petri, qui eſt in vita melior, & moribus purior, &*
‘ *nullus alius.*

‘ Ulterius dixit idem Dominus *Johannes* alta
‘ voce, manibus expanſis, alloquendo circumſtan-
‘ tes;

‘ *Iſti qui judicant & volunt damnare me, ſeduc-*
‘ *cent vos omnes & ſeipſos, & vos ducent ad Infer-*
‘ *num, ideo caveatis ab eis.*

‘ Quibus ſic per eum dictis, nos iterum ac ſæ-
‘ pius, flebili vultu, dictum Dominum *Johannem*
‘ alloquebamur eundem, verbis, quibus potuimus,
‘ exhortando ut ad Unitatem Eccleſiæ rediret,
‘ crederet & teneret quod Eccleſia Romana cre-
‘ dit & tenet, qui reſpondebat expreſſe;

‘ *Se aliter non credere nec tenere quam ſuperius ex-*
‘ *preſſit.*

‘ Videntes ergo quod in eo, prout apparuit,
‘ proficere non potuimus, tandem, cum cordis a-
‘ maritudine, proceſſimus ad Sententiæ diffiniti-
‘ væ prolationem in hunc modum.

‘ In Dei nomine, Amen. Nos *Thomas*, per-
‘ miſſione Divina, ſanctæ *Cantuarienſis* Eccleſiæ Ar-
‘ chiepiſcopus, & Miniſter humilis, totius Angliæ
‘ Primas, & Apoſtolicæ ſedis Legatus.

‘ In quadam Cauſa ſive Negotio Hæreticæ Pra-
‘ vitatis, de & ſuper diverſis Articulis, ſuper qui-
‘ bus Dominus *Joannes Oldcaſtellus* Miles, Domi-
‘ nus de *Cobham*, coram nobis, in ultima Convo-
‘ catione Cleri noſtræ Cantuarienſis Provinciæ, in
‘ Eccleſia Sancti Pauli Londini celebrata, poſt
‘ Inquiſitionem diligentem ibidem inde factam,
‘ detectus & delatus extiterat, & per noſtram
‘ Cantuarienſem Provinciam notorie & publice
‘ diffamatus, ad Denunciationem & Requiſitio-
‘ nem totius Cleri prædicti in eadem Convocatione,
‘ inde nobis factam, favore poſſibili, Deo teſte,
‘ quo potuimus, legitime procedentes contra eun-
‘ dem, ac Chriſti veſtigiis inhærendo, *qui non vult*
‘ *mortem Peccatoris, ſed magis ut convertatur & vi-*
‘ *vat*; nitebamur eundem corrigere, ac viis &
‘ modis, quibus potuimus atque ſcivimus, reduce-
‘ re ad Eccleſiæ Unitatem, declarantes eidem
‘ quod in hac parte ſancta Romana, & univerſa-
‘ lis

an Opportunity, is not at all neceſſary to Salvation, becauſe ſuch a Sin can be forgiven only upon Contrition, and on that alone can the Sinner be clear'd.

Concerning the Adoration of the holy Croſs, he then declar'd and aſſerted,——That the Body of Chriſt, which hung upon the Croſs, ought only to be worſhipp'd, becauſe that Body was and is the only adorable Croſs.

And being ask'd what Honour he allow'd to the Image of the Croſs? he anſwer'd in theſe expreſs words;

That to keep it clean and in his Cloſet, was the only Honour he vouchſafed it.

As to the Power of the Keys, our Lord the Pope, Archbiſhops, Biſhops, and other Prelates, he ſaid,

The Pope and we together made up the true Antichriſt: the Pope was the Head, the Archbiſhops, Biſhops, and other Prelates the Body and Limbs, and the Friars the Tail of Antichriſt: To which Pope, Archbiſhops, and Prelates there was no Obedience due, any further than they imitated Chriſt, and *Peter*, in their Lives, Manners, and Converſation; and that he is the Succeſſor of *Peter*, who follows him in the Purity of his Life and Converſation, and no other.

The ſaid Sir *John* added, addreſſing himſelf with a loud Voice, and extended Hands, to the People that were preſent;

Thoſe who ſit in Judgment upon me, and are deſirous to condemn me, will ſeduce you all, and themſelves, and lead ye to Hell; take therefore good heed of them.

Upon his ſaying this, we apply'd to the ſaid Sir *John*, and beſought him, with Tears in our Eyes, and exhorted him in the moſt compaſſionate manner we could, to return to the Unity of the Church, to believe and embrace the Faith and Doctrine of holy Church. To which he return'd this peremptory Anſwer;

That he would not believe nor maintain otherwiſe than he had before declar'd.

Seeing therefore he was ſo harden'd in his Errors, that we had no hopes of working on him to renounce them, we proceeded, with regret and bitterneſs of Heart, to pronounce the following definitive Sentence.

In the Name of God, *Amen.* We *Thomas*, by Divine Permiſſion, Archbiſhop and humble Miniſter of the holy Church of *Canterbury*, Primate of all *England*, and Legate of the Apoſtolick See.

Whereas in our laſt Convocation of the Clergy of our Province of *Canterbury*, holden in the Cathedral Church of St. *Paul*, *London*, after Conſultation upon ſeveral heretical Tenets, and ſtrict Inquiry made who were the Authors and Abettors of the ſame, Sir *John Oldcaſtle* Knight, and Lord *Cobham*, was detected and preſented of and for the ſaid Hereſies, as having given great Scandal throughout our Province of *Canterbury*, by openly and avowedly profeſſing the ſame; upon the Addreſs and Repreſentation of all the Clergy in the ſaid Convocation for a Proceſs, we proceeded according to Law againſt the ſaid Sir *John*, and (as God knows) with all the Equity and Favour that could poſſibly be ſhew'd: and following the ſteps of Chriſt, *who would not the Death of a Sinner, but rather that he ſhould be converted and live*, we endeavour'd to reclaim the ſaid Sir *John*, and try'd all ways and means that we could deviſe to re-

' lis Eccleſia docet, tenet, determinavit, & præ-
' dicat.

' Et quamvis eundem, in Fido Catholica de-
' vium invenerimus adeo duræ cervicis, quod Er-
' rorem ſuum noluit confiteri, aut ſe purgare de
' eodem, nec etiam deteſtari; eidem paterno ni-
' chilominus compatientes affectu, ac ipſius ſa-
' lutem cordialiter affectantes, præfiximus eidem
' certum terminum competentem ad deliberan-
' dum, &, ſi voluiſſet, pœnitendum & reforman-
' dum ſeipſum.

' Ac demum, eo quod eundem conſideravimus
' incorrigibilem, ſervatis primitus quæ in hac
' parte de Jure requiruntur, cum dolore & ama-
' ritudine Cordis, ad diffinitivæ Sententiæ prola-
' tionem procedimus in hunc modum.

' *Chriſti Nomine invocato, ipſumque ſolum habentes*
' *præ oculis, quia, per Acta inactitata, producta, ex-*
' *hibita, Signa, Evidentias, & Indicia, diverſa inſu-*
' *per probationum genera, reperimus eundem Dominum*
' Joannem *Militem fore & eſſe Hæreticum, Hæreti-*
' *ciſque credentem, in fide & obſervantia ſacroſanctæ*
' *Romanæ & univerſalis Eccleſiæ, & præſertim circa*
' *Sacramenta Euchariſtiæ & Pœnitentiæ, quod, tan-*
' *quam Iniquitatis & Tenebrarum Filius, in tantum*
' *obduravit Cor ſuum, ut non intelligat vocem ſui Paſ-*
' *toris, nec velit Monitionibus allici, nec reduci Blan-*
' *ditiis, inveſtigatis primitus, rimatis, & diligenter*
' *penſatis meritis Cauſæ antedictæ, ipſiuſque Domini*
' Joannis *demeritis Culpis per ipſius damnabilem per-*
' *tinaciam aggravatis:*

' *Nolentes quod is, qui nequam eſt, fiat nequior, &*
' *alios inficiat, ſua Labe, de Conſilio & Aſſenſu, mag-*
' *næ Diſcretionis & Sapientiæ Virorum, venerabilium*
' *Fratrum noſtrorum, Dominorum,* Ricardi Londo-
' nienſis, Henrici Wintonienſis, & Benedicti Ban-
' gorenſis, *Epiſcoporum, & aliorum nonnullorum, in*
' *ſacra Theologia, Decretis, & Jure Civili Doctorum,*
' *aliarumque religioſarum & peritarum Perſonarum,*
' *nobis aſſiſtentium, præfatum Dominum* Joannem
' Oldcaſtellum *Militem, Dominum de* Cobham, *de*
' *& ſuper hujuſmodi deteſtabili reatu convictum, &*
' *ad Eccleſiæ Unitatem pœnitentialiter redire nolentem,*
' *Hæreticum, ac in his quæ tenet, docet, determinavit,*
' *& prædicat ſacroſancta Romana & univerſalis Ec-*
' *cleſia, & præſertim in Articulis ſupraſcriptis, er-*
' *rantem judicavimus, declaravimus, & condemnavi-*
' *mus ſententialiter & diffinitive in his Scriptis, relin-*
' *quentes eundem exnunc, tanquam Hæreticum, Judi-*
' *cio ſeculari.*

' *Ipſumque nihilominus Hæreticum, omneſque alios*
' *& ſingulos, qui eundem de cætero, in ſui favorem*
' *Erroris, receptaverit vel receptaverint, defenſaverit*
' *ſeu defenſaverint, ſibi Conſilium, Auxilium, ſeu Fa-*
' *vorem in hac parte præbuit vel præbuerint, tan-*
' *quam Fautores, Receptatores, & Defenſatores Hære-*
' *ticorum, excommunicavimus, & excommunicatos de-*
' *nunciamus etiam in his Scriptis.*

' Et ut iſta Præmiſſa omnibus, in Chriſto cre-
' dentibus, innoteſcant, veſtræ Fraternitati com-
' mittimus & commendamus, quatenus præfatum
' Dominum *Johannem Oldcaſtellum*, ſicut præmitti-
' tur, per nos fuiſſe & eſſe damnatum, Hæreticum,
' Schiſmaticum, & in Articulis ſupraſcriptis er-
' rantem, omneſque alios & ſingulos, qui eundem
' Dominum *Johannem*, de cætero, in ſui favorem
' Erroris, receptaverit vel receptaverint, defenſa-
' verit

duce him to the Unity of the Church, declaring unto him the Doctrines, Tenets, and Determinations of the Holy *Roman* and Univerſal Church, relating to thoſe Points.

And tho we found he had apoſtatiz'd from the Catholick Faith, and was ſo confirm'd in his Error, that he would not confeſs it, nor clear himſelf of it, nor diſavow it; yet forbearing him in paternal Love, and out of a ſincere Deſire of his Salvation, we allow'd him a competent time for Deliberation, and wherein he might repent and reform himſelf.

But foraſmuch as we have experienc'd the ſaid Sir *John* to be incorrigible and irreclaimable, we at laſt with Grief and Heavineſs of Heart, in obedience to what the Law requires, proceed to give Sentence definitive againſt him.

In the Name of Chriſt, and having his Honour only in view; foraſmuch as we have found by divers Acts done, produc'd, and exhibited by Indications, Preſumptions and Proofs, and many other kinds of Evidence, that Sir *John Oldcaſtle* Knight is really and truly an Heretick, and a Follower of Hereticks, againſt the Faith and Religion of the holy *Roman* and Catholick Church, and particularly with reſpect to the Sacraments of the Euchariſt and Penance; that, as a Child of Darkneſs and Iniquity, he had harden'd his Heart to that degree, that he refuſes to hear the Voice of his Paſtor, and will not be prevail'd upon by gentle Monitions, nor reduc'd by ſoft Perſuaſions, tho the Merits of our Cauſe, and the Demerits of his own, he had diligently canvaſs'd and weigh'd, and ſo aggravated the Wickedneſs of his Error by his damnable Obſtinacy:

We unwilling that he ſhould contract further Degrees of Guilt, by infecting others with the Contagion of Hereſy, by the Advice and Conſent of Men famous for Diſcretion and Wiſdom, our venerable Brothers, the Lords, *Richard* Biſhop of *London*, *Henry* Biſhop of *Winchester*, and *Benedict* Biſhop of *Bangor*, and ſome other Doctors of Divinity, and of Canon and Civil Law, and other religious and learned Perſons, call'd to our Aſſiſtance, we do peremptorily and definitively, by this preſent Writing, judge, declare, and condemn the ſaid Sir *John Oldcaſtle* for an Heretick, convicted of the deteſtable Crime of Hereſy, and utterly refuſing to be reconcil'd to the Church by Repentance, and an Apoſtate from thoſe Doctrines, in the above-mention'd Articles eſpecially, which the holy *Roman* and Catholick Church holds, teaches, and hath determin'd; and we leave him from henceforth as an Heretick, to the ſecular Judgment.

And furthermore, we have excommunicated, and by theſe Preſents do denounce excommunicated, the ſaid Heretick, and all others, who ſhall hereafter, in favour of his Error, countenance, defend, or afford him any Counſel, Aid, or Comfort; deeming ſuch Perſon or Perſons as Abettors, Encouragers, and Defenders of Hereticks.

And that theſe Premiſes might be promulg'd and known to all Chriſtians, we charge and enjoin you, foraſmuch as the ſaid Sir *John Oldcaſtle* was and is condemn'd by us for an Heretick, a Schiſmatick, and as erroneous in the above-mention'd Articles, and alſo all other Perſons, who out of Favour or Affection to his Error, ſhall hereafter countenance, defend, or afford him any Counſel, Aid, or Comfort, are excommunicated, as deem'd

Abetters,

'verit vel defenſaverint, aut ſibi Auxilium, Conſilium, vel Favorem in hac parte præbuerit vel 'præbuerint, tanquam Receptatores, Fautores, '& Defenſatores Hæreticorum, per dictam noſ'tram Sententiam diffinitivam, excommunicatos 'in Eccleſia veſtra, per veſtras Civitates & Dioe'ceſes, per ſingulos Subditos veſtros & Curatos 'earundem, in Eccleſiis ſuis, cum major in eiſ'dem affuerit Populi Multitudo, alta & intelligi'bili Voce & in Lingua materna, prout ſupra ſe'rioſius continetur in hoc proceſſu, declarent, 'publicent, & exponent, ut ſic Opiniones erro'neæ Populi, qui aliter concepit forte in hac ma'teria quemadmodum ſe habet rei veritas, hac 'Declaratione publica reſcindantur.

'Quod idem per vos ſingulis Confratribus noſ'tris, noſtræ Cantuarienſis Provinciæ Suffraga'neis, de verbo ad verbum, reſcribi & innoteſci 'volumus & mandamus, ut ipſi omnes & ſinguli, 'per ſuas Civitates & Dioeceſes, modum & for'mam hujus noſtri proceſſus, dictam etiam per 'nos latam Sententiam, & cætera omnia & ſingula 'contenta in iiſdem, publicent, intiment, & de'clarent, & conſimiliter per Subditos ſuos & Cu'ratos faciant publicari.

'De Die vero Receptionis præſentium, & quid 'feceritis in Præmiſſis, & quomodo hoc noſtrum 'Mandatum fueritis & fuerint executi, debite & 'diſtincte certificetis & certificent, dicto Negotio 'expedito, Litteris veſtris & ſuis Patentibus, ha'bentibus hunc tenorem.

'Datum in Manerio de *Maydeſton*, x. die Men'ſis Octobris, Anno 1413, & noſtræ Tranſlatio'nis Anno 18.'

Abetters, Encouragers, and Patrons of Hereticks, according to our ſaid definitive Sentence, to give Orders and Directions to your Prieſts and Curates of your reſpective Cities and Dioceſes, in their reſpective Churches, when there is the greateſt Congregation of People, to declare, publiſh, and expoſe, with loud and audible Voice, and in our Mother-Tongue, the ſaid Heretick, and Hereticks, according to our ſaid definitive Sentence, and the Order obſerv'd in this Proceſs; to the end that any wrong Notions, which poſſibly the People may have given into, concerning theſe Matters, and our Proceedings upon them, might be rectify'd by this publick Declaration.

Moreover, we will and command you the Biſhops here preſent, to take Copies hereof word for word, and ſend one to each Biſhop of our Province of *Canterbury*, that ſo all and every of them may publiſh, intimate, and declare, and cauſe by their reſpective Prieſts and Curates to be publiſh'd, in their ſeveral Cities and Dioceſes, the Manner and Form of this our Proceeding, and alſo the ſaid Sentence pronounc'd by us, and all and ſingular the Contents of the ſame.

And, Laſtly, we require of you and them, that this Buſineſs be diſpatch'd with all convenient Expedition; and that you and they do duly and punctually adviſe and certify us of the time of receiving theſe Preſents, and how this our Command has been executed, by your and their Letters Patents, according to the Tenor hereof.

Given at our Palace at *Maydſtone*, on the 10th day of *October*, in the year of our Lord 1413, and of our Tranſlation the 18th.

The Tryal of Sir THOMAS MORE *Knight, Lord Chancellor of* England, *for denying the King's Supremacy, the 26th of* Henry *VIII.* A. D. 1535.

A Bill being preferred in Parliament, *November* 1534. to attaint *Elizabeth Barton*, and ſeveral others of High Treaſon, Biſhop *Fiſher* and Sir *Thomas More* were alſo brought into it for Miſpriſion of Treaſon, for the refuſing of the Oath of Succeſſion——Says my Lord *Herbert*. The ſame Author avows the Bill did ſo paſs; but Sir *Thomas*'s Great-Grandſon, in his Life, ſhews the contrary, and that notwithſtanding the Archbiſhop of *Canterbury*, the Lord Chancellor, Duke of *Norfolk*, and Secretary *Cromwell*, by the King's Command, went to him and preſſed him to a Compliance; yet the Chancellor influenc'd the King ſo far, that the matter of Miſpriſion was dropt.

Sir *Thomas* was alſo examin'd at other times by the Lord Chancellor, Dukes of *Norfolk* and *Suffolk*, Mr. Secretary, and others of the Privy Council, who preſs'd him, with all the Arguments they could think of, to own the King's Supremacy in direct and open Terms, or plainly to deny it; but he being loth to aggravate the King's Diſpleaſure, would ſay no more than that the Statute was like a two-edged Sword, for if he ſpoke againſt it, he ſhould be the Cauſe of the Death of his Body; and if he aſſented to it, he ſhould purchaſe the Death of his Soul. Thoſe Examinations being over, *Richard Rich*, newly made Sollicitor General, and afterwards Lord *Rich*, with Sir *Richard Southwell*, and Mr. *Palmer*, Secretary *Cromwell*'s Man, were ſent by the King to take away his Books. *Rich* pretending Friendſhip to him, and proteſting he had no Commiſſion to talk with him about the former Affair of the Supremacy, he put a Caſe to him thus: If it were enacted by Parliament that *Richard Rich* ſhould be King, and that it ſhould be Treaſon in any body to deny it, what Offence it were to contravene that Act? Sir *Thomas More* anſwer'd, That he ſhould offend if he ſaid ſo, becauſe he was bound by the Act; but that this was *caſus levis*. Whereupon Sir *Thomas* ſaid, he would propoſe a higher Caſe: Suppoſe it were enacted by Parliament, *Quod Deus non ſit Deus*, and that it were Treaſon to contravene, whether it were not an Offence to ſay it according to the ſaid Act? *Rich* reply'd, yea; but ſaid withal, I will propoſe a middle Caſe, becauſe this is too high: The King, you know, is conſtituted ſupreme Head of the Church upon Earth;

Earth; why ſhould not you, Maſter *More*, accept him for ſuch? as you would me, if I were made King by the aforeſaid Suppoſition. *More* anſwered, the Caſe was not the ſame, becauſe, ſaid he, a Parliament can make a King, and depoſe him; and that every Parliament Man may give his Conſent thereunto, but that a Subject cannot be bound ſo in the Caſe of Supremacy. *Quia conſenſum ab eo ad Parliamentum præbere non poteſt* (ſo ſays my Lord *Herbert*) it is in my Copy if it be not miſtaken, *& quanquam Rex ſic acceptus ſit in* Anglia, *plurimæ tamen Partes exteræ idem non affirmant.*

Sir *Thomas* having continued a Priſoner in the *Tower* ſomewhat more than a Twelvemonth, for he was committed about the middle of *April* 1534, and was brought to his Tryal on the 7th of *May* 1535. He went into the Court leaning on his Staff, becauſe he was much weakened by his Impriſonment, but appeared with a cheerful and compoſed Countenance. The Perſons conſtituted to try him, were,

Sir *Thomas Audley*, Lord Chancellor,	Sir *Richard Leiceſter*,
Sir *John Fitz-James*, Lord Chief Juſtice,	Sir *John Port*,
Sir *John Baldwin*,	Sir *John Spelman*,
	Sir *Walter Luke*,
	Sir *Anthony Fitz-Herbert.*

The Indictment was very long, but where to procure a Copy of it, I could never learn; it's ſaid in general, it contain'd all the Crimes that could be laid to the charge of any notorious Malefactor; and Sir *Thomas* profeſſed it was ſo long, that he could ſcarce remember the third part of what was objected therein againſt him. It was read aloud by the Attorney-General; and Sir *Thomas*'s mortal Sin ſeem'd plainly to be his refuſing the Oath of Succeſſion, already mention'd.

To prove this, his double Examination in the *Tower* was alledged againſt him, the firſt before Secretary *Cromwell*, *Thomas Beade*, *John Tregonnel*, *&c.* to whom he profeſſed he had given over all Thoughts of Titles either to Popes or Princes, tho the whole World ſhould be given him, he being fully determined only to ſerve God. The ſecond time before the Lord Chancellor, the Duke of *Suffolk*, Earl of *Wiltſhire*, and others, before whom he compared that Oath to a two-edged Sword, as before obſerved.

Preſently after the Indictment was read, the Lord Chancellor, and the Duke of *Norfolk*, who it ſeems was one of the Commiſſioners, tho his Name is not in the Liſt above, ſpoke to him to this effect: *You ſee now how grievouſly you have offended his Majeſty; yet he is ſo very merciful, that if you will lay aſide your Obſtinacy, and change your Opinion, we hope you may obtain Pardon and Favour in his ſight.* But Sir *Thomas* ſtoutly reply'd, Moſt Noble Lords, I have great reaſon to return thanks to your Honours for this your great Civility, but I beſeech Almighty God, that I may continue in the Mind I am, in thro his Grace, unto Death.

Then having Intimation given that he might ſay what he thought fit in his own Defence, he began thus; When I conſider the length of my Accuſation, and what heinous Matters are laid to my charge, I am ſtruck with Fear, leſt my Memory and Underſtanding, which are both impaired, together with my bodily Health, thro a long Indiſpoſition contracted by my Impriſonment, ſhou'd now fail me ſo far, as to make me incapable of making ſuch ready Anſwers in my Defence, as otherwiſe I might have done.

The Court being ſenſible of his Weakneſs, ordered a Chair to be brought in, wherein he might ſeat himſelf, which he did accordingly, and then went on thus. This my Indictment, if I miſtake not, conſiſts of four principal Heads, each of which I purpoſe, God willing, to anſwer in order. As to the firſt Crime objected againſt me, that I have been an Enemy out of ſtubborneſs of Mind to the King's ſecond Marriage; I confeſs, I always told his Majeſty my Opinion of it, according to the Dictates of my Conſcience, which I neither ever would, nor ought to have concealed: for which I am ſo far from thinking my ſelf guilty of High Treaſon, that on the contrary, being required to give my Opinion by ſo great a Prince in an Affair of ſo much importance, upon which the Peace of the Kingdom depended; I ſhould have baſely flatter'd him, and my own Conſcience, had not I ſpoke the Truth as I thought: Then indeed I might juſtly have been eſteemed a moſt wicked Subject, and a perfidious Traytor to God. If I have offended the King herein; if it can be an Offence to tell one's Mind freely, when his Sovereign puts the Queſtion to him; I ſuppoſe I have been ſufficiently puniſh'd already for the Fault, by the great Afflictions I have endured, by the loſs of my Eſtate, and my tedious Impriſonment, which has continued already near fifteen Months.

The ſecond Charge againſt me is, That I have violated the Act made in the laſt Parliament: that is, being a Priſoner, and twice examined, I would not, out of a malignant, perfidious, obſtinate and traitorous Mind, tell them my Opinion, whether the King was Supreme Head of the Church or not: but confeſſed then, that I had nothing to do with that Act, as to the Juſtice or Injuſtice of it, becauſe I had no Benefice in the Church: yet then I proteſted, that I had never ſaid nor done any thing againſt it; neither can any one Word or Action of mine be alledged, or produced, to make me culpable. Nay, this I own was then my Anſwer to their Honours, that I would think of nothing elſe hereafter, but of the bitter Paſſions of our Bleſſed Saviour, and of my Exit out of this miſerable World. I wiſh no body any harm, and if this does not keep me alive, I deſire not to live; by all which I know, I would not tranſgreſs any Law, or become guilty of any treaſonable Crime: for this Statute, nor no other Law in the World can puniſh any Man for his Silence, ſeeing they can do no more than puniſh Words or Deeds; 'tis God only that is the Judge of the Secrets of our Hearts.

Attorney. Sir *Thomas*, Tho we have not one Word or Deed of yours to object againſt you, yet we have your Silence, which is an evident ſign of the Malice of your Heart; becauſe no dutiful Subject, being lawfully asked this Queſtion, will refuſe to anſwer it.

Sir *Thomas More.* Sir, my Silence is no ſign of any Malice in my Heart, which the King himſelf muſt own by my Conduct upon divers Occaſions; neither doth it convince any Man of the Breach of the Law: for it is a Maxim amongſt the Civilians and Canoniſts, *Qui tacet conſentire videtur*, he that holds his peace, ſeems to give his Conſent. And as to what you ſay, that no good Subject will refuſe to give a direct Anſwer; I do really think it to be the Duty of every good Subject, except he be ſuch a Subject as will be a bad

bad Chriſtian, rather to obey God than Man; to be more cautious to offend his Conſcience, than of any thing elſe in the whole World; eſpecially if his Conſcience be not the Occaſion of ſome Sedition and great Injury to his Prince and Country: for I do here ſincerely proteſt, that I never revealed it to any Man alive.

I come now to the third principal Article in my Indictment, by which I am accuſed of malicious Attempts, traiterous Endeavours, and perfidious Practices againſt that Statute, as the Words therein do alledge, becauſe I wrote, while in the *Tower*, divers Packets of Letters to Biſhop *Fiſher*; whereby I exhorted him to violate the ſame Law, and encouraged him in the like Obſtinacy. I do inſiſt that theſe Letters be produced and read in Court, by which I may be either acquitted or convinced of a Lye; but becauſe you ſay the Biſhop burnt them all, I will here tell you the whole truth of the matter: Some of my Letters related only to our private Affairs, as about our old Friendſhip and Acquaintance: One of them was in anſwer to his, wherein he deſired me to let him know what Anſwers I made upon my Examinations concerning the Oath of Supremacy, and what I wrote to him upon it was this, That I had already ſettled my Conſcience, and let him ſatisfy his according to his own Mind. God is my Witneſs, and as I hope he will ſave my Soul, I gave him no other Anſwer; and this I preſume is no Breach of the Laws.

As to the principal Crime objected againſt me, that I ſhould ſay upon my Examination in the *Tower*, That this Law was like a two-edged Sword; for in conſenting to it, I ſhould endanger my Soul, and in rejecting it ſhould loſe my Life: it's evidently concluded, as you ſay, from this Anſwer, becauſe *Fiſher* made the like, that he was in the ſame Conſpiracy. To this I reply, That my Anſwer there was conditional, if there were both danger either in allowing or diſallowing that Act; and therefore like a two-edged Sword, it ſeem'd a hard thing it ſhould be put upon me, who had never hitherto contradicted it either in Word or Deed. Theſe were my Words, what the Biſhop anſwered, I know not: if his Anſwer was like mine, it did not proceed from any Conſpiracy of ours, but from the Similitude of our Learning and Underſtanding. To conclude, I do ſincerely avouch, that I never ſpoke a Word againſt this Law to any Man living, tho perhaps the King's Majeſty has been told the contrary.

There was little or no reply made to this full Anſwer, by Mr. Attorney, or any body elſe; the word Malice was what was principally inſiſted on, and in the mouths of the whole Court, tho for proof of it no body could produce either Words or Actions: nevertheleſs, to ſet the beſt gloſs that could be upon the matter, Mr. *Rich* was called to give Evidence in open Court, upon Oath, which he immediately did, affirming what we have already related concerning a Conference between him and Sir *Thomas* in the *Tower*; to which Sir *Thomas* made anſwer, If I were a Man, my Lords, that had no regard to my Oath, I had had no occaſion to be here at this time, as is well known to every body, as a Criminal; and if this Oath, Mr. *Rich*, which you have taken be true, then I pray I may never ſee God's Face, which, were it otherwiſe, is an Imprecation I would not be guilty of to gain the whole World.

More having recited in the Face of the Court all the Diſcourſe they had together in the *Tower*, as it truly and ſincerely was, he added; In good Faith, Mr. *Rich*, I am more concerned for your Perjury, than my own Danger; and I muſt tell you, that neither my ſelf, nor any body elſe to my knowledge, ever took you to be a Man of ſuch Reputation, that I or any other would have any thing to do with you in a Matter of Importance. You know that I have been acquainted with your manner of Life and Converſation a long time, even from your Youth to the preſent Juncture, for we lived in the ſame Pariſh; and you very well know, I am ſorry I am forced to ſpeak it, you always lay under the Odium of a very lying Tongue, of a great Gameſter, and of no good Name and Character either there or in the *Temple*, where you was educated. Can it therefore ſeem likely to your Lordſhips, that I ſhould in ſo weighty an Affair as this, act ſo unadviſedly, as to truſt Mr. *Rich*, a Man I had always ſo mean an Opinion of, in reference to his Truth and Honeſty, ſo very much before my Sovereign Lord the King, to whom I am ſo deeply indebted for his manifold Favours, or any of his noble and grave Counſellors, that I ſhould only impart to Mr. *Rich* the Secrets of my Conſcience in reſpect to the King's Supremacy, the particular Subject, and only Point about which I have been ſo long preſſed to explain my ſelf? which I never did, nor never would reveal, when the Act was once made, either to the King himſelf, or any of his Privy Counſellors, as is well known to your Honours, who have been ſent upon no other account at ſeveral times by his Majeſty to me in the *Tower*. I refer it to your Judgments, my Lords, whether this can ſeem credible to any of your Lordſhips?

But ſuppoſing what Mr. *Rich* has ſwore ſhould be true, ſeeing the Words were ſpoke in familiar and private Converſation, and that there was nothing at all aſſerted, but only Caſes put without any offenſive Circumſtances; it cannot in juſtice be ſaid, that they were ſpoke maliciouſly, and where there is no Malice, there is no Offence. Beſides, my Lords, I cannot think ſo many reverend Biſhops, ſo many honourable Perſonages, and ſo many virtuous and learned Men, of whom the Parliament conſiſted in the enacting of that Law, ever meant to have any Man puniſh'd with Death, in whom no Malice could be found, taking the Word *Malitia* for *Malevolentia*; for if *Malitia* be taken in a general Signification for any Crime, there is no Man can be free: Wherefore this Word *Maliciouſly* is ſo far ſignificant in this Statute, as the Word *Forcible* is in that of *Forcible Entry*; for in that Caſe if any enter peaceably, and puts his Adverſary out forcibly, it is no Offence, but if he enters forcibly, he ſhall be puniſhed by that Statute.

Beſides, all the unſpeakable Goodneſs of his Majeſty towards me, who has been ſo many ways my ſingular good Lord, and graciouſly he, I ſay, who has ſo dearly loved and truſted me, even from my firſt Entrance into his Royal Service, vouchſafing to honour me with the Dignity of being one of his Privy Council, and has moſt generouſly promoted me to Offices of great Reputation and Honour, and laſtly to that of Lord High-Chancellor, which Honour he never did to any Layman before, the ſame being the higheſt Dignity in this famous Kingdom, and next to the King's Royal Perſon, ſo far beyond my Merits and Qualifications; honouring and exalting me by his incomparable Benignity, for theſe twenty

Years

Years and upwards, heaping continual Favours upon me, and now at laſt, at my own humble Requeſt, giving me liberty to dedicate the Remainder of my Life to the Service of God for the better ſaving of my Soul, has been pleaſed to diſcharge and free me from that weighty Dignity; before which he had ſtill heaped more and more Honours upon me: I ſay, all this his Majeſty's Bounty, ſo long and ſo plentifully conferred upon me, is enough, in my opinion, to invalidate the ſcandalous Accuſation ſo injuriouſly ſurmized and urged by this Man againſt me.

This touched the Reputation of Mr. *Rich* to the very quick, and was a Slur that could not be effaced, without the utmoſt difficulty; and the only way to do it, was, if poſſible, to produce ſubſtantial and creditable Witneſs to atteſt the contrary: and therefore he cauſed Sir *Richard Southwell*, and Mr. *Palmer*, who were in the ſame Room with Sir *Thomas* and Mr. *Rich*, when they conferred together, to be ſworn as to the Words that paſſed between them. Whereupon Mr. *Palmer* depoſed, *That he was ſo buſy in thruſting Sir* Thomas's *Books into a Sack, that he took no notice of their Talk.* And Sir *R. Southwell* likewiſe ſwore, *That becauſe his Buſineſs was only to take care of conveying his Books away, he gave no ear to their Diſcourſe.*

Sir *Thomas* having urged other Reaſons in his own Defence, to the diſcrediting of Mr. *Rich*'s Evidence; the Judge proceeded to give the Charge to the Jury. Whether Sir *Thomas* had challenged any of the Pannel, when they were returned to ſerve, does not appear; but the twelve Perſons on whoſe Verdict his Life now depended, were theſe:

Sir *Thomas Palmer*, Knt.	*Jaſper Leake*, Gent.
Sir *Thomas Peirt*, Knt.	*William Browne*, Gent.
George Lovell, Eſq;	*Thomas Billington*, Gent.
Thomas Burbage, Eſq;	*John Parnel*, Gent.
Geoffry Chamber, Gent.	*Richard Bellame*, Gent.
Edward Stockmore, Gent.	*George Stoakes*, Gent.

Now the Jury having withdrawn, ſcarce were out a quarter of an Hour before they return'd with their Verdict, by which they found the Priſoner guilty; upon which the Lord Chancellor, as chief in the Commiſſion for this Tryal, immediately began to proceed to Judgement: which Sir *Thomas* obſerving, he ſaid to him, My Lord, when I was concern'd in the Law, the Practice in ſuch Caſes was to ask the Priſoner before Sentence, whether he had any thing to offer why Judgment ſhould not be pronounced againſt him. The Lord Chancellor hereupon ſtopping his Sentence, wherein he had already proceeded in part, asked Sir *Thomas*, *What he was able to ſay to the contrary?* who preſently made anſwer in theſe words: For as much as, my Lords, this Indictment is grounded upon an Act of Parliament, directly repugnant to the Laws of God, and his Holy Church, the Supreme Government of which, or of any part thereof, no Temporal Perſon may by any Law preſume to take upon him, that which of right belongs to the See of *Rome*, which by ſpecial Prerogative was granted by the Mouth of our Saviour Chriſt himſelf to St. *Peter*, and the Biſhops of *Rome* his Succeſſors only, whilſt he lived, and was perſonally preſent here on Earth: it is therefore, amongſt Catholick Chriſtians, inſufficient in Law, to charge any Chriſtian to obey it. And in order to the Proof of his Aſſertion, he declared among other things, That whereas this Kingdom alone being but one Member, and a ſmall part of the Church, was not to make a particular Law, diſagreeing with the general Law of Chriſt's univerſal Catholick Church; no more than the City of *London*, being but one Member, in reſpect to the whole Kingdom, might enact a Law againſt an Act of Parliament, to be binding to the whole Realm: ſo he ſhewed farther, That Law was even contrary to the Laws and Statutes of the Kingdom yet unrepealed, as might evidently be ſeen by *Magna Charta*, wherein are theſe Words; *Eccleſia Anglicana libera ſit, & habet omnia jura integra, & libertates ſuas illeſas:* And it is contrary alſo to that ſacred Oath which the King's Majeſty himſelf, and every other Chriſtian Prince, always take with great Solemnity, at their Coronations. So great was Sir *Thomas*'s Zeal, that he further alledg'd, That it was worſe in the Kingdom of *England* to refuſe Obedience to the See of *Rome*, than for any Child to do to his natural Parent: for, as St. *Paul* ſaid to the *Corinthians*, *I have regenerated you, my Children, in Chriſt*; ſo might that worthy Pope of *Rome*, St. *Gregory the Great*, ſay of us *Engliſhmen*, *Ye are my Children, becauſe I have given you everlaſting Salvation*: for by St. *Auguſtine*, and his Followers, his immediate Meſſengers, *England* firſt received the Chriſtian Faith, which is a far higher and better Inheritance than any carnal Father can leave to his Children; for a Son is only by a Generation, we are by Regeneration made the ſpiritual Children of Chriſt and the Pope.

Here the Lord Chancellor took him up, and ſaid; That ſeeing all the Biſhops, Univerſities, and the moſt learned Men in the Kingdom had agreed to that Act, it was much wondred that he alone ſhould ſo ſtiffly ſtickle, and ſo vehemently argue there againſt it.

His Anſwer was, That if the Number of Biſhops and Univerſities were ſo material as his Lordſhip ſeem'd to make it; then, my Lord, I ſee no reaſon why that thing ſhould make any Change in my Conſcience: for I doubt not, but of the learned and virtuous Men now alive, I do not ſpeak only of this Realm, but of all Chriſtendom, there are ten to one of my mind in this matter; but if I ſhould take notice of thoſe learned Doctors and virtuous Fathers that are already dead, many of whom are Saints in Heaven, I am ſure there are far more, who all the while they lived thought in this Caſe as I do now. And therefore, my Lord, I do not think my ſelf bound to conform my Conſcience to the Counſel of one Kingdom, againſt the general Conſent of all Chriſtendom.

Here it ſeems the Lord Chancellor, not willing to take the whole Load of this Condemnation upon himſelf, asked in open Court the Advice of Sir *John Fitz-James*, the Lord Chief Juſtice of *England*, Whether the Indictment was valid, or no? who wiſely anſwered thus: *My Lords all, By St.* Gilliam (for that was always his Oath) *I muſt needs confeſs, That if the Act of Parliament be not unlawful, then the Indictment is not in my Conſcience invalid.* Some have wrote, That the Lord Chancellor ſhould hereupon ſay, *Quid adhuc deſideramus teſtimonium, reus eſt mortis*, and then preſently proceeded to give Sentence to this effect;

That he ſhould be carried back to the Tower of London, *by the Help of* William Kingſton, *Sheriff, and from thence drawn on a Hurdle through the City of* London *to* Tyburn, *there to be hanged till he ſhould be half dead; that then he ſhould be cut down alive, his Privy Parts cut off, his Belly ripped, his Bowels burnt, his*

his four Quarters ſet up over four Gates of the City, and his Head upon London-Bridg.

This was the Judgment pronounc'd upon this great Man, who had deſerv'd ſo well both of the King and Kingdom, and for which *Paulus Jovius* calls King *Henry* VIII. another *Phalaris*.

This ſevere Sentence was afterwards, by the King's Pardon, chang'd to beheading, becauſe he had borne the greateſt Office in the Kingdom; of which mercy of the King's, word being brought to Sir *Thomas*, he merrily ſaid, God forbid the King ſhould uſe any more ſuch mercy to any of my Friends, and God bleſs all my Poſterity from ſuch Pardons.

When he had receiv'd Sentence of Death, he ſpake thus with a reſolute and ſedate Aſpect: Well, ſeeing I am condemn'd, God knows how juſtly, I will freely ſpeak for the disburdening my Conſcience, what I think of this Law. When I perceiv'd it was the King's Pleaſure to ſift out from whence the Pope's Authority was deriv'd; I confeſs I ſtudy'd ſeven years together to find out the truth of it, and I could not meet with the Works of any one Doctor, approv'd by the Church, that avouch a Layman was, or ever could be the Head of the Church.

Chancellor. Would you be eſteem'd wiſer, or to have a ſincerer Conſcience than all the Biſhops, learned Doctors, Nobility and Commons of this Realm?

More. I am able to produce againſt one Biſhop which you can produce on your ſide, a hundred holy and Catholick Biſhops for my Opinion; and againſt one Realm, the Conſent of *Chriſtendom* for a thouſand years.

Norfolk. Sir *Thomas*, you ſhew your obſtinate and malicious Mind.

More. Noble Sir, it's no Malice or Obſtinacy that makes me ſay this, but the juſt neceſſity of the Cauſe obliges me to it for the Diſcharge of my Conſcience; and I call God to witneſs, that nothing but this has excited me to it.

After this the Judges kindly offering him their favourable Audience, if he had any thing elſe to ſay; he anſwer'd moſt mildly and charitably, I have no more to ſay, but that as the bleſſed Apoſtle St. *Paul*, as we read in the *Acts* of the Apoſtles, was preſent, and conſenting to the Protomartyr *Stephen*, keeping their Clothes that ſtoned him to death, and yet they are both now holy Saints in Heaven, and there ſhall continue Friends to Eternity; ſo I verily truſt, and ſhall therefore heartily pray, that albeit your Lordſhips have been on Earth my Judges to Condemnation, yet that we may hereafter meet joyfully together in Heaven to our everlaſting Salvation: and God preſerve you, eſpecially my Sovereign Lord the King, and grant him faithful Counſellors.

Sir *Thomas*, after his Condemnation, was conducted from the Bar to the *Tower*, an Axe being carry'd before him, with the Edge towards him.

The Tryal of Sir Nicholas Throckemorton *Knight, in the* Guildhall *of* London, *the Seventeenth Day of* April, A. D. 1554. 1^mo^ Mariæ; *as publiſh'd by Mr.* Hollingſhead.

SIR *Thomas White* Knight, Lord Mayor of *London*;
The Earle of *Shrewsbury*,
The Earle of *Darby*,
Sir *Thomas Bromley* Knyght, Lorde Chiefe Juſtice of *Englande*;
Sir *Nicholas Hare* Knyght, Mayſter of the *Rolles*;
Sir *Frauncis Englefielde* Knight, Maiſter of the Courte of Wardes and Liberties;
Sir *Richard Southwell* Knight, one of the Privy Counſel;
Sir *Edward Walgrave* Knight, one of the Privy Counſel;
Sir *Roger Cholmeley* Knight;
Sir *Wyllyam Porteman* Knyght, one of the Juſtices of the King's Benche;
Sir *Edwarde Saunders* Knight, one of the Juſtices of the Common Place;
Maiſter *Stanford*, Maiſter *Dyer*, } Sergeants;
Maiſter *Edward Griffin*, Attourney-Generall;
Maiſter *Sendall*, *Peter Tichbourne*, } Clerkes of the Crowne.

Firſte, after Proclamation made, and the Commiſſion red, the Lieutenant of the *Tower*, Maſter *Tho. Bridges*, brought the Priſoner to the Barre; then Silence was commaunded, and *Sendall* ſaid to the Priſoner as foloweth:

Sendall. Nicholas Throckmorton Knighte, hold vp thy hande, Thou art before this time indited of High Treaſon, *&c.* that thou then and there didſt falſly and traiterouſly, *&c.* conſpire and imagine the Death of the Queenes Majeſtie, *&c.* and falſly and traiterouſly didſt leuie Warre againſte the Queen within hir Realm, *&c.* and alſo thou waſt adherente to the Queenes Enimies within hir Realm, giuing to them Ayde and Comfort, *&c.* and alſo falſly and trayterouſly didſt conſpire and intend to depoſe and deprive the Queen of hir Royal Eſtate, and ſo finally deſtroy hir, *&c.* and alſo thou didſt falſly and traiterouſly deuiſe and conclude to take violently the *Tower* of *London*, &c. Of al which Treaſons and euery of them in Maner and Forme, *&c.* art thou giltie or not giltie?

Throckmorton. May it pleaſe you my Lords and Maiſters, which be authoriſed by the Queenes Commiſſion to be Judges this day, to giue me leaue to ſpeake a fewe words, which doth both concerne you and me, before I aunſwere to the Enditement, and not altogithers impertinente to the Matter, and then pleade to the Enditemente.

Bromley. No, the Order is not ſo, you muſt firſt pleade whether you be giltie or no.

Throckmorton. If that be your Order and Law, judge accordingly to it.

Hare. You muſt firſte aunſwer to the Matter wherwith you are charged, and then you may talke at your pleaſure.

Throck-

Throckmorton. But things ſpoken out of place wer as good not ſpoken.

Bromley. Theſe bee but delayes to ſpende time, therfore anſwer as the Law willeth you.

Throckmorton. My Lords, I pray you make not too muche haſt with me, neither thinke not long for your Diner, for my Caſe requireth leyſure, and you haue well dined when you haue done Juſtice truely. Chriſt ſaid, *Bleſſed are they that hunger and thirſt for Righteouſneſſe.*

Bromley. I can forbeare my Dinner as well as you, and care as little as you peradventure.

Shrewsbury. Come you hither to checke us *Throckmorton*; we will not bee ſo uſed, no, no, I for my parte haue forborne my Breakfaſt, Dinner and Supper, to ſerve the Queene.

Throckmorton. Yea, my good Lord, I know it right well; I meant not to touche your Lordſhip, for youre Service and Paines is euidently knowen to all Men.

Southwell. M. *Throckmorton*, this Talke neede not, we know what we haue to do, and you would teach us our Duties; you hurt your Mater, go to! go to!

Throckmorton. M. *Southwell*, you miſtake me, I ment not to teach you, nor none of you, but to remember you of that I truſt you all be well inſtructed in, and ſo I ſatisfie my ſelfe, ſince I ſhall not ſpeake, thinking you all know what you haue to doe, or ought to know, ſo I will aunſwer to the Inditement, and do pleade not giltie to the whole, and to euery part thereof.

Sendall. How wilt thou be tried?

Throckmorton. Shall I be tried as I would, or as I ſhuld?

Bromley. You ſhal be tried as the Law will, and therefore you muſt ſay by God and by the Countrey.

Throckmorton. Is that your Law for me? it is not as I wold; but ſince you wil haue it ſo, I am pleaſed with it, and do deſire to be tried by faithful juſt Men, which more fear God than the World.

The Names of the Jurours.

Lucas.	*Lowe.*
Yong.	*Whetſton.*
Martyn.	*Painter.*
Beſwike.	*Bankes.*
Baſcafeeld.	*Calthrop.*
Kightley.	*Cater.*

What time the Atturney went forthwith to M. *Cholmley*, and ſhewed him the Sheriffes Returne, who being acquainted with the Citizens knowing the Corruptions and Dexterities of them in ſuch Caſes, noted certaine to be chalenged for the Q. (a rare caſe) and the ſame Men being knowen to be ſufficient and indifferent, that no Exceptions were to be taken to them, but only for their upright Honeſties, notwithſtanding the Attorney prompting Sergeant *Dier*, the ſaid Sergeant chalenged one *Bacon*, and another Citizen peremptorily for the Queen. Then the Priſoner demanded the cauſe of the Chalenge: the Sergeante aunſwered, we neede not ſhew you the cauſe of the Chalenge for the Queen. Then the Inqueſt was furniſhed with other honeſt Men, that is to ſay, *Whetſtone* and *Lucas*, ſo the Priſoner vſed theſe Words.

Throckmorton. I truſt you have not provided for me this Day, as in times paſt I knew another Gentleman occupying this woful place was prouided for. It chanced one of the Juſtices upon Jelouſie of the Priſoner's acquitall, for the goodneſſe of his Cauſe, ſaid to another of his Companions a Juſtice, when the Jury did appeare, I like not this Jury for our purpoſe, they ſeeme to be too pitiful and too charitable to condemne the Priſoner. No, no, ſaid the other Judge (*viz. Cholmley*) I warrant you, they be picked Fellowes for the nonce, he ſhall drink of the ſame Cup his Fellowes haue done. I was then a loker on of the Pageant as others be now here, but now wo is me, I am a Player in that woful Tragedie. Well, for theſe and ſuch other like the black Oxe hath of late troden on ſome of their Feet, but my truſt is, I ſhall not be ſo uſed. Whyleſt this Talke was, *Cholmeley* conſulted with the Atturney aboute the Jury, which the Priſoner eſpied, and then ſayde as heere enſueth, Ah, ah Maiſter *Cholmeley*, will this foule packing neuer be left?

Cholmeley. Why what do I, I pray you, M. *Throckmorton?* I did nothing, I am ſure you do picke Quarrels to me.

Throckmorton. Well Maiſter *Cholmeley*, if you do well, it is better for you, God help you.

The Jury then was ſworne, and Proclamation made, that whoſoeuer woulde giue Euidence againſte Sir *Nicholas Throckmorton* Knight, ſhoulde come in and be heard, for the Priſoner ſtood upon his Deliuerance: whereupon Sergeant *Stanford* preſented hymſelfe to ſpeake.

Throckmorton. And it may pleaſe you Maiſter Sergeante, and the others my Maſters of the Quenes lerned Counſell, like as I was minded to haue ſaid a fewe Words to the Commiſſioners, if I mighte haue had leaue, for their better remembrance of their Dueties in this place of Juſtice, and concerning direct indifferency to bee uſed towards me this Day; ſo by your Patience I do thinke good to ſay ſomewhat to you, and to the reſt of the Quenes learned Counſell, appointed to giue Euidence againſte mee. And albeit you and the reſt by Order be appointed to gyue euidence againſte mee, and enterteyned to ſette forth the Depoſitions and Matter againſt me, yet I pray you remember I am not alienate from you, but that I am youre Chriſtian Brother; neither you ſo charged, but you ought to conſider Equitie, nor yet ſo priuiledged, but that you haue a Duetie of God appoynted you how you ſhal do youre Office, whiche if you exceede, wil be greuouſly required at youre hands. It is lawfull for you to vſe your Gifts, which I know God hathe largely giuen you, as youre Learning, Arte and Eloquence, ſo as thereby you do not ſeduce the Minds of the ſimple and unlearned Jury, to credite Matters otherwiſe than they be. For Maiſter Sergeant, I knowe howe by Perſwaſions, Enforcements, Preſumptions, applying, implying, inferring, conjecturing, deducing of Arguments, wreſting and exceeding the Law, the Circumſtances, the Depoſitions and Confeſſions, that unlearned Men maye bee inchanted to thinke and judge thoſe that bee things indifferente, or at the worſt but ouerſights, to be great Treaſons; ſuch power Orators haue, and ſuch Ignorance the Unlearned haue. Almighty God by the Mouth of his Prophete, doth conclude ſuch Advocates bee curſed, ſpeaking theſe Words, Curſed bee hee that doth his office craftily, corruptly, and maliciouſly. And conſider alſo, that my Bloud ſhal be required at your hands, and puniſhed in you and yours, to the third and fourth Generation. Notwithſtanding you and the Juſtices excuſe always ſuch erronious doings, when they

they be after called in queſtion by the Verdict of the twelve Men; but I aſſure you, the Purgation ſerueth you as it did *Pilate*, and you waſhe your Handes of the Bloudſhed, as *Pilate* did of Chriſts. And now to your matter.

Stanford. And it pleaſe you, my Lords, I doubt not to proue euidently and manifeſtly, that *Throckmorton* is worthely and rightly indicted and araigned of theſe Treaſons, and that he was a principall deuiſer, procurer and contriver of the late Rebellion, and that *Wyat* was but his Miniſter. How ſay you, *Throckmorton*, dyd not you ſend *Winter* to *Wyat* into *Kent*, and did deuiſe that the Tower of *London* ſhoulde be taken, with other Inſtructions concernyng *Wyat*'s Sturre and Rebellion?

Throckmorton. May it pleaſe you that I ſhall aunſwer particularly to the Matters objected againſt me, in as muche as my Memorie is not good, and the ſame much decayed ſince my greeuous Empriſonment, with want of Sleep, and other Diſquietneſſe: I confeſſe I did ſay to *Winter*, that *Wyat* was deſirous to ſpeake with him, as I underſtoode.

Stanford. Yea Sir, and you deuiſed togither of the taking of the Tower of *London*, and of the other great Treaſons.

Throckmorton. Noe, I did not ſo; proue it.

Stanford. Yes Sir, you met with *Winter* ſundry times, as ſhall appeare, and in ſundry places.

Throckmorton. That granted, proveth no ſuch matter as is ſuppoſed in the Enditement.

Stanford red *Winter*'s Confeſſion, whyche was of this effect; That *Throckmorton* mette with *Winter* one Day in *Tower-ſtreet*, and told him, that Sir *Thomas Wyat* was deſirous to ſpeak with him, and *Winter* demanded where *Wyat* was: *Throckmorton* aunſwered, at his Houſe in *Kente*, not farre from *Gillingham*, as I heard ſay, where the Shyps lye. Then they parted at that time, and ſhortly after *Throckmorton* met with *Winter*, vnto whome *Winter* ſayd, Maiſter *Wyat* dothe much miſlike the comming of the *Spanyardes* into this Realme, and feareth their ſhort arriuall here, in as much as dayly he heareth therof; dothe ſee dayly diuers of them arriue heere, ſcattered like Soldyers; and therefore he thinketh good the Tower of *London* ſhould be taken by a ſleighte, before the Prince came, leaſt that peece be deliuered to the *Spanyardes*. How ſay you *Throckmorton* to it? *Throckmorton* aunſwered, I miſlike it for diuers reſpects; euen ſo do I, ſayde *Winter*. At another tyme *Throckmorton* mette me the ſayd *Winter* in *Poules*, when hee had ſent one to my Houſe to ſeeke me before; and he ſaid to me, you are Admiral of the Fleet that now goeth into *Spaine*. I aunſwered yea. *Throckmorton* ſaide, when will your Shippes be ready? I ſaide, within tenne Dayes. *Throckmorton* ſayde, I vnderſtand you are appointed to conduct and carrie the Lorde Priuie Seale into *Spayne*; and conſidering the Daunger of the *Frenchmen*, which you ſay arme them to the Sea apace, me thinke it well done, you put my ſayde Lorde and his Traine on Lande in the Weſt Country to avoyde all Daungers. *Throckmorton* ſaide alſo, that *Wyat* changed his purpoſe, for taking the Tower of *London*; I ſaid I was glad of it: and as for the *Frenchmen*, I care not much for them, I will ſo handle the matter, that the Queenes Shippes ſhall bee I warrante you in ſafegard. Another time I met with M. *Throckmorton* when I came from the Emperours Ambaſſadors, vnto whome I declared, that the Emperour had ſent me a fayre Cheyne, and ſhewed it unto *Throckmorton*, who ſaid, for this Cheyne you haue ſold your Country. I ſaide, it is neyther *French* King nor Emperoure that can make me ſell my Country, but I will be a true *Engliſhman*: then they parted. This is the ſumme of the Talke betwixt *Throckmorton* and *Winter*.

Stanford. Now my Maſters of the Jury, you haue heard my Sayings confirmed with *Winter*'s Confeſſion: how ſay you *Throckmorton*, can you denie it? if you will, you ſhall haue *Winter* juſtifie it to your Face.

Throckmorton. My Lords, ſhall it pleaſe you that I ſhal anſwer?

Bromley. Yea, ſay your mind.

Throckmorton. I may truly denye ſome part of this Confeſſion; but bycauſe there is nothing material greatly, I ſuppoſe the whole to be true, and what is herein depoſed, ſufficiente to bring me within the compas of the Enditement.

Stanford. It appeareth that you were of Counſel with *Wyat*, in as much as you ſente *Winter* downe to him, who uttered unto him diuers traitorous Deuiſes.

Throckmorton. This is but conjectural; yet ſithence you will conſtrue ſo maliciouſly, I will recompte how I ſent *Winter* to *Wyat*: and then I pray you of the Jury, judge better than Maiſter Sergeante doth. I met by chance a Seruant of Maiſter *Wyat*'s, who demanded of me for *Winter*, and ſhewed mee, that his Maiſter woulde gladly ſpeake with him; and ſo without any further Declaration, deſired me, if I met *Winter*, to tel him Maiſter *Wyat*'s mind, and where he was. Thus much for the ſending downe of *Winter*.

Attourney. Yea, Sir, but how ſay you to the taking of the Tower of *London*, which is Treaſon?

Throckmorton. I aunſwere, though *Wyat* thought meete to attempt ſo daungerous an Enterpriſe, and that *Winter* enformed me of it, you cannot extende *Wyat*'s Deuiſes to be mine, and to bring me within the compaſs of Treaſon; for what maner of reaſoning or proofe is this, *Wyat* woulde haue taken the Tower, *ergo Throckmorton* is a Traitor? *Winter* doth make my Purgation in his owne Confeſſion, euen now redde as it was by Maiſter Sergeante, though I ſay nothing; for *Winter* doth auowe there, that I did much miſlike it. And becauſe you ſhall the better underſtand that I did alwayes not alow theſe Maſter *Wyat*'s Deuiſes, I had theſe Words to *Winter*, when he enformed me of it; I think M. *Wyat* would no *Engliſhman* hurt, and this Enterpriſe cannot be done without the hurt and ſlaughter of both Parties; for I know him that hath the Charge of the Peece, and his Brother, both Men of good Seruice; the one had in charge a piece of great Importance, *Bolloyne* I meane, which was ſtoutly aſſayled, and notwithſtanding he made a goode accompt of it for his time, that like I am ſure he will do by this his Charge. Moreouer, to accompte the taking of the *Tower* is uery dangerous by the Law. Theſe were my Wordes to *Winter*. And beſides, it is very unlike, that I of all Men woulde confederate in ſuch a matter againſt the Lieutenant of the *Tower*, whoſe Daughter my Brother hath married, and his Houſe and mine alyed together by Mariage ſundry times within theſe few Yeres.

Hare. But how ſay you to this, that *Wyat* and you had Conference togither ſundry times at *Warner*'s Houſe, and in other places?

Throckmorton. This is a very general Charge, to haue Conference; but why was it not as lawful for me to confer with *Wyat*, as with you, or any other Man? I then knew no more by *Wyat*, than by any other; and to proue to talke with *Wyat* was lawful and indifferent, the laſt Day I did talke with *Wyat*, I ſawe my Lord of *Arundel*, with other Noble Men and Gentlemen, talke with him familiarly in the Chamber of Preſence.

Hare. But they did not conſpire nor talke of any ſtur againſt the *Spanyards* as you did pretend, and meant it againſt the Queen; for you, *Croftes*, *Rogers* and *Warner*, did oftentimes deuiſe in *Warner's* Houſe aboute youre traiterous purpoſes, or elſe what did you ſo often there?

Throckmorton. I confeſs I did miſlike the Queenes Mariage with *Spain*, and alſo the comming of the *Spanyards* hither; and then me thought I had reaſon to doe ſo, for I did learne the Reaſons of my miſliking of you M. *Hare*, M. *Southwell*, and others in the Parliament Houſe; there I did ſee the whole Conſent of the Realm againſt it; and I a Hearer, but no Speaker, did learne my miſliking of thoſe Matters, confirmed by many ſundry Reaſons amongſt you: but as concerning any ſturre or vprore againſt the *Spanyards*, I neuer made any, neyther procured any to be made; and for my much reſort to M. *Warner's* Houſe, it was not to conferre with M. *Wyat*, but to ſhew my Friendſhip to my very good L. the Marques of *Northampton*, who was lodged there when he was enlarged.

Stanford. Did not you, *Throckmorton*, tell *Winter* that *Wyat* had changed his Mind for the taking of the *Tower*; whereby it appeared euidently that you knew of his doings?

Throckmorton. Truly I did not tell him ſo, but I care not greately to giue you that Weapon to play you withal: now let us ſee what you can make of it?

Stanford. Yea, Sir, that proueth that you were priuie to *Wyat's* Mind in all his Deuiſes and Treaſons, and that there was ſending betwixt you and *Wyat* from time to time.

Throckmorton. What, M. Sergeant, doth this proue againſte me, that I knew *Wyat* did repent him of an euil deuiſed Enterpriſe? Is it to know *Wyat's* Repentance, Sinne? No, it is but a Venial Sinne; if it be any, it is not deadly. But where is the Meſſenger or Meſſage that *Wyat* ſent to me touching his Alteration? and yet it was lawful ynough for me to heare from *Wyat* at that time, as from any other Man, for any acte that I knew he had done.

Dyer. And it may pleaſe you, my Lordes, and you my Maiſters of the Jurie, to prove that *Throckmorton* is a principal doer in this Rebellion, there is yet many other things to be declared: amongſt other, there is *Croftes* Confeſſion, who ſayeth, that he and you and your Accomplices, did manye times deuiſe aboute the whole Matters, and hee made you priuie to all his Determinations, and you ſhewed him that you woulde goe into the Weſt Countrey with the Earle of *Deuon*, to Sir *Peter Caroe*, accompanyed with others.

Throckmorton. M. *Croftes* is yet liuing, and is here this day; how hapneth it he is not brought Face to Face to juſtifie this matter, neither hathe bin of all this time? Will you knowe the Trueth? either he ſayd not ſo, or he wil not abide by it, but honeſtly hath reformed himſelf. And as for knowing his Deuiſes, I was ſo well acquainted with them, that I can name none of them, nor you neyther, as matter knowen to mee.

Attourney. But why did you aduiſe *Winter* to land my Lord Priuie Seale in the Weſt Countrey?

Throckmorton. He that told you that my mind was to land him there, doth partly tel you a reaſon why I ſaid ſo, if you would remember as well the one as the other; but becauſe you are ſo forgetful, I will recite wherefore: In communication betwixt *Winter* and me, as he declared to me that the *Spanyards* provided to bring their Prince hither, ſo the *Frenchmen* prepared to interrupt his Arrival, for they began to arme to the Sea, and had already certain Shippes on the Weſt Coſt, (as he heard) unto whom I ſaide, that peraduenture not onely the Queenes Shippes under his Charge might be in jeopardy, but alſo my Lorde Priuie Seale, and all his Trayne, the *Frenchmen* beeing wel prepared to meete with them; and therefore for all Euents it were good you ſhould put my ſaid Lord in the Weſt Countrey, in caſe you eſpie any jeoperdie. But what doth this proue to the Treaſons, if I were not able to giue conuenient Reaſons to my talke?

Stanford. Mary Sir, now commeth the Prooſes of youre Treaſons: you ſhal heare what *Cutbert Vaughan* ſayth againſt you.

Then Sergeant *Stanford* did reade *Vaughan's* Confeſſion, tending to this effect, That *Vaughan* comming out of *Kent*, met with *Throckmorton* at M. *Warner's* Houſe, who after he had don Commendations from *Wyat* to him, deſired to know where *Croſts* was; *Throckmorton* anſwered, either at *Arundel* Houſe where he lodgeth, or in *Poules*. Then *Vaughan* deſired to know howe thyngs went at *London*, ſaying, M. *Wyat* and wee of *Kent* do much miſlike the Mariage with *Spaine*, and the comming of the *Spanyardes*, for diuers reſpectes; howbeit, if other Countries miſlike them as *Kent* doth, they ſhall be but hardly welcome: and ſo they parted. Shortly after, *Throckmorton* met with *Vaughan* in *Poules*, unto whome *Throckmorton* declared with ſundry Circumſtances, that the Weſtern Men were in readineſſe to come forwards; and that Sir *Peter Caroe* had ſent unto him euen now, and that he had in order a good Band of Horſemen, and an other of Footemen. Then *Vaughan* demanded what the Erle of *Devon* would do: *Throckmorton* anſwered he will marre all, for he will not go hence; and yet Sir *Peter Carve* wold mete him with a Band both of Horſemen and Footemen, by the way of *Andeuer*, for his Safeguard; and alſo he ſhould haue bin well accompanyed from hence with other Gentlemen, yet all this wyl not moue him to departe hence. Moreouer, the ſaid Erle hath, as is ſaid, diſcouered al the whole matter to the Chancellor, or elſe it is comen out by his Taylor, aboute the trimming of a Shirte of Mayle, and the making of a Cloke. At another time, *Vaughan* ſaith, *Throckmorton* ſhewed him that he had ſent a Poſte to Sir *Peter Caroe* to come forwarde with as muche ſpeede as might be, and to bring his force with him. And alſo *Throckmorton* adviſed *Vaughan* to will M. *Wyat* come forward with his Power, for nowe was the time, in as much as the *Londoners* would take his part, if the matter were preſented unto them. *Vaughan* ſaid alſo, that *Throckmorton* and *Warner* ſhould have ridden with the ſaid Erle Weſtward. Moreouer, the ſaid *Vaughan* depoſed, that *Throckmorton* ſhewed him in talke of the Erle of *Pembroke*, that the ſaid Earle woulde not fight againſt them,

them, though hee woulde not take their partes. Alſo *Vaughan* ſaid, That *Throckmorton* ſhewed hym that he would ride downe into *Barkeſhire* to Sir *Francis Engleſield*'s Houſe, there to meete his eldeſt Brother, to moue him to take his part. And this was the ſumme of *Cutbert Vaughan*'s Confeſſion.

Stanford. How ſay you, doth not heere appeare euident matter to proue you a Principall, who not onely gaue order to Sir *Peter Caroe* and his Adherents, for their rebellious actes in the Weſt Countrey; but alſo procured *Wyat* to make his Rebellion, appointing him and the others alſo when they ſhould attempt their Enterpriſe, and how they ſhould order their doings from time to time? Beſides all this euident matter, you were ſpecially appointed to go away with the Earle of *Deuon*, as one that would direct all thinges, and giue order to all Men; and therefore *Throckmorton*, ſince this matter is ſo manifeſt, and the euidence ſo apparent, I would aduiſe you to confeſſe your fault, and ſubmit your ſelfe to the Queenes Mercy.

Bromley. Howe ſay you, will you confeſſe the matter? and it will be beſt for you.

Throckmorton. No, I will neuer accuſe my ſelfe unjuſtly; but in as muche as I am come hither to bee tryed, I pray you let me haue the Law favourably.

Attourney. It is apparent that you lay at *London* as a Factor, to giue Intelligence as well to them in the Weſt, as to *Wyat* in *Kent*.

Throckmorton. How proue you that, or who doth accuſe me but this condemned Man?

Attourney. Why will you denie this matter, you ſhall haue *Vaughan* juſtifie his whole Confeſſion here before your Face.

Throckmorton. It ſhal not neede, I know his unſhamefaſtnes, he hath aduowed ſome of this vntrue talk before this time to my Face, and it is not otherwiſe like, conſidering the price, but he wil do the ſame again.

Attourney. My Lords and Maiſters, you ſhall haue *Vaughan* to juſtifie this heere before you all, and confirm it with a Booke Oth.

Throckmorton. He that hath ſaid and lyed, will not, being in this caſe, ſticke to ſwear and lye.

Then was Cutbert Vaughan *brought into the open Court.*

Sendall. How ſay you, *Cutbert Vaughan*, is this your own Confeſſion, and wil you abide by all that is here written?

Vaughan. Let me ſee it, and I will tell you.

Then his Confeſſion was ſhewed him.

Attourney. Bycauſe you of the Jury the better may credite him, I pray you my Lords let *Vaughan* be ſworn.

Then was Vaughan *ſworne on a Booke to ſay nothing but the Truth.*

Vaughan. It may pleaſe you my Lords and Maiſters, I could haue bin well content to haue choſe ſeauen Yeres Impriſonment, though I had bin a free Man in the Law, rather than I would this Day haue gyuen Euidence againſt Sir *Nicholas Throckmorton*, vnto whome I beare no diſpleaſure; but ſithence I muſt needes confeſſe my Knowledge, I muſt confeſſe all that is there written is true. How ſay you M. *Throckmorton*, was there any diſpleaſure betwene you and me, to moue me to ſay aught againſt you?

Throckmorton. No, that I know: how ſay you, *Vaughan*, what Acquaintance was there between you and me, and what Letters of Credit, or Token did you bring me from *Wyat*, or any other, to moue me to truſt you?

Vaughan. As for Acquaintance, I knew you as I did other Gentlemen; and as for Letters, I brought you none other but Commendations from M. *Wyat*, as I did to diuers other of his Acquaintance at *London*.

Throckmorton. You might as well forge the Commendations as the reſt; but if you haue done with *Vaughan*, my Lords, I pray you give me leaue to aunſweare.

Bromley. Speak, and be ſhort.

Throckmorton. I ſpeak generally to all that be heere preſent, but ſpecially to you of my Jury, touching the Credit of *Vaughan*'s Depoſitions againſt me, a condemned Man; and after to the Matter: and note I pray you the Circumſtances, as ſomewhat material to induce the better. Firſt I pray you remember the ſmall Familiaritie betwixt *Vaughan* and me, as he hathe auowed before you. And moreouer, to procure Credite at my hand, he brought neither Letter nor Token from *Wyat*, nor from any other to me, which he alſo hath confeſſed here: and I will ſuppoſe *Vaughan* to be in as good Condition as any other Man here, that is to ſay, an uncondemn'd Man; yet I referre it to your good Judgment, whether it were lyke that I knowing onely *Vaughan*'s Perſon from another Man, and having none other Acquaintance with him, would ſo frankly diſcouer my mind to him in ſo dangerous a matter. How like, I ſay, is this, when diuers of theſe Gentlemen now in Captiuitie, being my very Familiars, coulde not depoſe any ſuch matter againſt me, and neuertheleſs vpon their Examinations, haue ſaid what they could? And thogh I be no wiſe Man, I am not ſo raſh to vtter to an unknowen Man (for ſo may I call him in compariſon) a matter ſo dangerous for me to ſpeake, and him to heare; but bycauſe my Trueth and his Falſehood ſhall the better appear unto you, I will declare his Inconſtancy in vttering this his Euidence; and for my better Credite, it may pleaſe you, M. *Southwell*, I take you to witnes, when *Vaughan* firſt juſtified this his unjuſt Accuſation againſt me before the L. *Paget*, the L. Chamberlaine, you M. *Southwell*, and others, he referred the Confirmation of this ſurmiſed matter to a Letter ſent from him to Sir *Thomas Wyat*; which Letter doth neither appeare, nor any Teſtimony of the ſaid M. *Wyat* againſt mee touching the matter: for I doubte not Sir *Thomas Wyat* hath bin examin'd of me, and hathe ſayde what he could directly or indirectly. Alſo *Vaughan* ſaith, that yong *Edward Wyat* coulde confirme this matter, as one that knew this pretended Diſcourſe betwixt *Vaughan* and me; and thereupon I made ſute that *Edward Wyat* might either be brought face to face to me, or otherwiſe be examined.

Southwell. M. *Throckmorton*, you miſtake your matter, for *Vaughan* ſaid, that *Edward Wyat* did know ſome part of the matter, and alſo was priuie of the Letter that *Vaughan* ſent to Sir *Thomas Wyat*.

Throckmorton. Yea, Sir, that was *Vaughan*'s laſt ſhift, when I charged him before the Maſter of the Horſe, and you with his former Allegations touching his witnes; whom when hee eſpyed, woulde not do ſo lewdly as hee thought, then he vſed this Alteration: but where is *Edward Wyat*'s

Wyat's Depoſitions of any thing againſt me, now it appeareth neither his firſte nor his laſt Tale to be true? For you knowe, M. *Bridges*, and ſo doth my Lord your Brother, that I deſired twice or thrice *Edward Wyat* ſhuld be examined; and I am ſure, and moſt aſſured, he hathe bin willed to ſay what he could, and here is nothing depoſed by him againſt me, eyther touching any Letter or other Conference; or where is *Vaughan*'s Letter ſent by Sir *Thomas Wyat* concerning my Talke?

But now I will ſpeake of *Vaughan*'s preſent Eſtate, in that he is a condemned Man, whoſe Teſtimonie is nothing worthe by any Lawe; and bycauſe falſe Witnes be mentioned in the Goſpel, treating of Accuſation, hearke I pray you what S. *Jerome* ſayeth, expounding the place: it is demanded why Chriſtes accuſers be called falſe Witneſſes, which did report Chriſt's Words not as he ſpake them; they be falſe witneſs, ſaith S. *Jerome*, which do ad, alter, wreſt, double, or do ſpeake for hope to auoid Death, or for malice to procure another Man's Death: for all Men may eaſily gather he cannot ſpeake truely of me, or in the caſe of another Man's Life, where he hath hope of his owne by Accuſation. Thus much ſpeaketh S. *Jerome* of falſe witnes. By the ciuil Law there be many Exceptions to be taken agaynſt ſuch Teſtimonies; but bycauſe we be not gouerned by that Law, neither I haue my Trial by it, it ſhal be ſuperfluous to trouble you therewith, and therefore you ſhall heare what your owne Lawe doth ſay. There was a Statute made in my late Soueraigne Lord and Maiſter his time, touching Accuſation, and theſe be the Words:

Be it enacted, That no Perſon nor Perſons, *&c.* ſhall be indited, araigned, condemned, or conuicted for any Offence of Treaſon, Petit Treaſon, Miſpriſion of Treaſon, for which the ſame Offendor ſhal ſuffer any Paynes of Death, Impriſonment, Loſſe or Forfeyture of his Goodes, Lands, *&c.* vnleſſe the ſame Offendor be accuſed by two ſufficient and lawful Witneſſes, or ſhall willingly without Violence confeſſe the ſame. And alſo in the ſixth Yere of his Raigne, it is thus ratified as enſueth:

That no Perſon nor Perſons ſhall bee indited, araigned, condemned, conuicted or attainted of the Treaſons or Offences aforeſaide, or for anye other Treaſons that now bee, or hereafter ſhall be, unleſſe the ſame Offendor or Offendors be thereof accuſed by two lawfull and ſufficient Accuſers; whiche at the time of Araignement of the Parties ſo accuſed (if they be then liuing) ſhall be brought in Perſon before the ſaid Partie accuſed, and auowe and mainteine that they haue to ſay againſte the ſaide Partie, to proue him giltie of the Treaſons or Offence conteined in the Byll of Inditement layd agaynſt the Partie araigned, vnleſſe the ſayd Partie araigned ſhall be willing without Violence to confeſſe the ſame.

Heere note I pray you, that our Lawe dothe require two lawfull and ſufficient Accuſers to be brought face to face, and *Vaughan* is but one, and the ſame moſt vnlawfull and inſufficient; for who can be more unlawfull and inſufficient than a condemned Man, and ſuche one as knoweth to accuſe mee is the meane to ſaue his owne Lyfe? Remember, I pray you, howe long and how many times *Vaughan*'s Execution hathe bin reſpited, and how often hee hathe bin conjured to accuſe, (whych by Goddes Grace hee withſtoode vntill the laſt Houre) what time perceyuing there was no way to liue, but to ſpeake againſte mee or ſome other (his former Grace beeyng taken away) did redeeme his Lyfe moſt unjuſtly and ſhamefully, as you ſee.

Hare. Why ſhoulde he accuſe you more than any other, ſeeyng there was no diſpleaſure betwixte you, if the matter had not bin true?

Throckmorton. Bycauſe he muſt eyther ſpeake of ſome Man, or ſuffer Deathe; and then he did rather chooſe to hurte him he did leaſt know, and ſo loued leaſt, than any other well knowen to him, whome hee loued moſt. But to you of my Jury I ſpeake ſpecially, and therfore I pray you note what I ſay: In a matter of leſſe weight than Triall of Life and Lande, a Man may by the Law take Exceptions to ſuche as be impaneld, to trie the Controuerſies betwixt the Parties: as for example, a Man may chalenge that the Sheriffe is hys Enemie, and therefore hathe made a parciall Returne, or bycauſe one of the Jury is the Sheriffe my Aduerſaries Seruaunte; and alſo in caſe my Aduerſaries Villaine or Bondman be empanelled, I may lawfully chalenge him, bycauſe the Aduerſarie parte hathe power ouer hys Villayne's Landes and Goodes, and hathe the vſe of hys Bodye for ſeruile Office: muche more I may of right take Exception to *Vaughan*'s Teſtimonie, my Lyfe and all that I haue depending therevppon; and the ſame *Vaughan* beeyng more bounde to the Queenes Highneſſe, my Aduerſarie (that wo is me therefore, but ſo the Lawe dothe here ſo tearme hyr Majeſtie) than anye Villayne is to hys Lord; for hir Hyghneſſe hath not onely Power ouer hys Bodye, Lands, and Goodes, but ouer his Lyfe alſo.

Stanford. Yea, the Exceptions are to be taken agaynſte the Jury in that caſe; but not agaynſt the Witnes or Accuſor, and therefore youre Argument ſerueth little for you.

Throckmorton. That is not ſo, for the vſe of the Jurie, and the Witnes, and the Effect of their doings doth ſerue me to my purpoſe, as the Law ſhall diſcuſſe. And thus I make my Compariſon: By the Ciuill Law the Judge doth giue Sentence upon the Depoſitions of the Witnes, and by your Law the Judge doth giue Judgement upon the Verdict of the Jury, ſo as the effect is both one, to finiſh the matter, Trial in Law, as well by the Depoſitions of the Witnes, as by the Juries Verdict, though they varie in Forme and Circumſtance; and ſo *Vaughan*'s Teſtimonie being credited, may be the material Cauſe of my Condemnation, as the Jury may be induced by his Depoſitions to ſpeak their Verdict, and ſo finally therevpon the Judge to giue Sentence. Therefore I may uſe the ſame Exceptions againſt the Jury, or any of them, as the principal mean that ſhall occaſion my Condemnation.

Bromley. Why do you denie, that euery part of *Vaughan*'s Tale is untrue?

Attourney. You may ſee he will denie all, and ſay there was no ſuch Communication betwixt them.

Throckmorton. I confeſſe ſome part of *Vaughan*'s Confeſſion to be true, as the Name, the Places, the Time, and ſome part of the Matter.

Attourney. So you of the Jury may perceiue the Priſoner doth confeſſe ſome thing to be true.

Throckmorton. As touching my ſending to Sir *Peter Caroe*, or his ſending to me, or concerning my Aduice to M. *Wyat* to ſturre, or to repaire hither, or touchyng the Earle of *Deuon* parting hence,

hence, and my going with him; and alſo concerning the matter of the Earle of *Pembroke*, I do aduow and ſay that *Vaughan* hath ſaid untruely.

Southwell. As for my Lord of *Pembroke*, you neede not excuſe the matter, for he hath ſhewed himſelfe cleere in theſe matters like a Nobleman, and that we all know.

Hare. Why what was the talke betwixt *Vaughan* and you ſo long in *Poules*, if theſe were not ſo, and what meant your oft Meetings?

Throckmorton. As for our often Meetings, they were of no ſet purpoſe, but by chance, and yet no oftner than twice; but ſithence you would know what Communication paſſed betwixt us in *Poules* Church, I will declare. We talked of the Incommodities of the Marriage of the Queene with the Prince of *Spayne*, and how grieuous the *Spanyards* would be to vs here. *Vaughan* ſaid, that it ſhould be very dangerous for any Man that truly profeſſed the Goſpel to liue here, ſuch was the *Spanyards* Crueltie, and eſpecially againſt Chriſtian Men. Whereunto I anſwered, it was the Plague of God come juſtly vppon vs; and now Almighty God dealt with vs as he did with the *Iſraelites*, taking from them for their vnthankefulnes their Godly Kings, and did ſend Tirants to raign over them; even ſo he handled us *Engliſhmen*, whiche hadde a moſt godly and vertuous Prince to raigne ouer vs, my late Soueraigne Lord and Maiſter King *Edwarde*, vnder whome we might both ſafely and lawfully profeſſe Gods Word; which with our lewd doyngs, demeanour, and liuing, we handled ſo irreuerently, that to whip vs for our Faultes, he woulde ſend vs Straungers, yea ſuch very Tyrants to exerciſe great Tyrannie ouer vs, and did take away the vertuous and faithfull King from amongſt us; for euery Man of euery Eſtate did colour his naughty Affections with a pretence of Religion, and made the Goſpell a ſtaulking Horſe to bring their euil deſires to effect. This was the Summe of our talke in *Poules*, ſomewhat more dilated.

Stanford. That it may appeare yet more euidently howe *Throckmorton* was a principal Doer and Counſellor in this matter, you ſhall heare his owne Confeſſion of his own hand writing. The Clerke did begin to reade; *Throckmorton* deſired M. *Stanford* to reade it, and the Jury well to marke it. Then M. *Stanford* did read the Priſoner's own Confeſſion to this effect, that *Throckmorton* had Conference with *Wyat*, *Caroe*, *Croftes*, *Rogers* and *Warner*, as well of the Queenes Mariage with the Prince of *Spayne*, as alſo of Religion, and did particularly confer with euery the forenamed of the matters aforeſaid. Moreouer, with Sir *Thomas Wyat*, the Priſoner talked of the bruite, that the Weſtern Men ſhould much miſlike the comming of the *Spanyards* into this Realme, beeing reported alſo that they intended to interrupt theyr arriual here. And alſo that it was ſaid, that they wer in conſultation about the ſame at *Exeter*. *Wyat* alſo did ſay, that Sir *Peter Caroe* could not bring the ſame matter to good effect, nor was there any Man ſo mete to bring it to good effect, as the Erle of *Devon*; and ſpecially in the Weſt Country, in as much as they did not draw al by one line. Then *Throckmorton* ask'd how the *Kentiſhmen* were affected to the *Spanyards*? *Wyat* ſaid, the People like them euill ynough, and that appeared now at the comming of the Count *Egmont*, for they were ready to ſturre againſt him and his Traine, ſuppoſing it had bin the Prince; but ſaid *Wyat*, Sir *Robert Southwel*, M. *Baker*, and M. *Moyle*, and their Affinitie, which bee in good Credite in ſome places of the Shire, wil for other malicious Reſpects hinder the Libertie of their Country. Then *Throckmorton* ſhuld ſay, though I know ther hath bin an vnkindneſſe betwixt M. *Southwell* and you for a Money matter, wherein I trauelled to make you Friends; I doubt not, but in ſo honeſt a matter as this is, he will for the ſafegard of his Country joyne with you, and ſo you may be ſure of the Lord *Burgainey* and his Force. Then *Wyat* ſaid, it is for another matter than for Money that we diſagree, wherein he hath handled me and others very doubly and vnneighbourly; howbeit he can do no other, neither to me, nor to anye other Man, and therfore I forgiue him. *Item*, with Sir *Peter Caroe*, *Throckmorton* had Conference touching the Impeachment of the landing of the ſaid Prince, and touchyng Prouiſion of Armour and Munition, as enſueth; that is to ſay, that Sir *Peter Caroe* told *Throckmorton*, that he truſted his Countrymen would be true *Engliſhmen*, and would not agree to let the *Spanyards* to gouerne them. *Item*, the ſaid Sir *Peter Caroe* ſayd, the matter importing the *French* King as it did, he thought the *French* King would work to hinder the *Spanyards* coming hither, with whome the ſaid Sir *Peter* dyd thinke good to practiſe for Armour, Munitions and Money. Then *Throckmorton* did adviſe him to beware that he brought any *Frenchmen* into the Realme forceably, in as much as he could as euill abyde the *Frenchmen* after that ſort as the *Spanyards*. And alſo *Throckmorton* thought the *French* King vnable to giue aide to vs, by meanes of the great Conſumption in their own Warres. M. *Caroe* ſaid, as touching the bringing in of *Frenchmen*, he meant it not, for he loued neither Partie, but to ſerue his own Countrey, and to help his Countrey from Bondage; declaring further to *Throckmorton*, that he had a ſmall Barke of his owne to worke his practiſe by; and ſo he ſaid, that ſhortly he intended to depart to his owne Countrey, to vnderſtand the Deuotion of his Countrymen. *Item*, *Throckmorton* did ſay, he would for his part hinder the comming in of the *Spanyards* as much as he could by Perſwaſion. *Item*, to Sir *Edward Warner*, he had and did bemone his owne Eſtate, and the Tyrannie of the tyme extended upon dyuers honeſt Perſons for Religion, and wiſhed it were lawfull for all of each Religion to liue ſafely according to their Conſcience; for the Law (*Ex officio*) will be intollerable, and the Cleargies diſcipline now may rather be reſembled to the *Turks* Tyrannie, than to the teaching of Chriſtian Religion. This was the Summe of the matter, whiche was red in the foreſaid Confeſſion, as matters moſt greuous againſt the Priſoner. Then *Throckmorton* ſaid, ſithence M. Sergeante you haue red and gathered the place as you think, that maketh moſt againſt me, I pray you take the Paynes, and reade further, that hereafter whatſoeuer become of me, my Words be not peruerted and abuſed to the hurt of ſom others, and eſpecially againſt the great Perſonages, of whome I haue bin ſundry times (as appeareth by my Anſwers) examined; for I perceiue the Net was not caſt only for little Fiſhes, but for the great ones, *juxta adagium.*

Stan-

Stanford. It shall be but losse of time, and we haue other things to charge you withall, and this that you desire doth make nothing for you.

Dyer. And for the better Confirmation of al the Treasons objected against the Prisoner, and therein to proue him giltie, you of the Jury shall heare the Duke of *Suffolkes* Depositions against him, who was a Principal, and hath suffered accordingly. Then the said Sergeant red the Dukes Confession touching the Prisoner, amounting to this effect; That the Lord *Thomas Grey* did informe the said Duke, that Sir *Nicholas Throckmorton* was privie to the whole Deuises against the *Spanyardes*, and was one that shoulde goe into the *West-Countrey* with the Earle of *Deuonshire*.

Throckmorton. But what doth the principall Author of thys matter say against me, I mean the Lord *Thomas Gray*, who is yet liuing? Why is not his Deposition brought against me, for so it ought to bee, if he can say any thing? Will you know the Trueth? Neyther the Lord *Thomas Grey* hath sayd, can say, or wil say any thing against me, notwithstanding the Duke his Brothers Confession and Accusation, who hathe affirmed manye other things besides the Trueth. I speake not without certaine knowlege; for the Lord *Thomas Grey*, being my Prison-Fellow for a small time, informed me, that the Duke his Brother had misreported him in many things, amongst others in matters touching me, which he had declared to you Mr. *Southwell*, and other the Examinors not long ago. I am sure if the Lord *Thomas* could or would haue said any thing, it should haue bin here now: And as to the Dukes Confession, it is not material, for he doth referre the matter to the Lord *Thomas's* Report, who hath made my Purgation.

Attorney. And it please you my Lordes, and you my Maisters of the Jury, besides these matters touching *Wyats* Rebellion, Sir *Peter Carues* Treasons, and confederating with the Duke of *Suffolke*; and besides the Prisoners Conspiracie with the Earle of *Deuon*, with *Crofts*, *Rogers*, *Warner*, and sundry others in sundrye Places, it shall manifestly appeare vnto you, that *Throckmorton* did conspire the Queens Majesties Death with *William Thomas*, Sir *Nicholas Arnold*, and other Traitors intending the same; which is the greatest matter of all others, and most to be abhorred; and for the Proofe hereof you shall heare what *Arnold* sayth. Then was Sir *Nicholas Arnold's* Confession redde, affirming, that *Throckmorton* shewed vnto him, riding betwixt *Hinam* and *Crosse Laund* in *Glocestershire*, that *John Fitz-williams* was yerye much displeased with *William Thomas*.

Attorney. William Thomas deuised, that *John Fitzwilliams* should kyll the Quene; and *Throckmorton* knew of it, as appeareth by *Arnold's* Confession.

Throckmorton. First I denie that I saide anye suche thing to Mr. *Arnold*; and though he be an honest Man, he may either forget himself, or deuise meanes how to vnburthen himselfe of so weightie a matter as this is; for he is charged with the mater as principall, which I did perceiue when he charged mee with his Tale, and therefore I do blame him the lesse, that he seeketh how to discharge himself, vsing me as a witnes if he could so transferre the Deuise to *William Thomas*. But truely, I neuer spake anye suche wordes vnto him; and for my better Declaration, I did see *John Fitzwilliams* here euen now, who can testifie, that he neuer shewed me of any Displeasure betwixt them: and as I know nothing of the Displeasure betwixt them, so I know nothing of the Cause. I pray you, my Lordes, let him bee called to depose in thys matter what hee can. Then *John Fitzwilliams* drew to the Barre, and presented himselfe to depose his knowledg in the mater in open Court.

Attorney. I pray you, my Lordes, suffer him not to be sworne, neither to speake; we haue nothing to do with him.

Throckmorton. Why shoulde hee not bee suffered to tell Truthe? And why bee yee not so well contented to heare Troth for mee, as Untroth against me?

Hare. Who called you hither *Fitzwilliams*, or commaunded you to speake? you are a verye busie Officer.

Throckmorton. I called him, and doe humbly desire that he may speake and be heard as well as *Vaughan*, or else I am not indifferently vsed; specially seeing Maister Atturny doth so presse this matter against me.

Southwell. Goe youre wayes *Fitzwilliams*, the Courte hath nothing to doe with you; peraduenture you woulde not bee so readie in a good Cause.

Then *John Fitzwilliams* departed the Court, and was not suffered to speake.

Throckmorton. Since this Gentlemans Declaration maye not bee admitted, I trust you of the Jurie can perceyue, it was not for anye thing hee had to say against me; but contrariwise, that it was feared he woulde speake for mee. And nowe to Maister *Arnoldes* Depositions against me, I say I did not tell him anye such wordes; so as if it were material, there is but his yea and my nay. But because the wordes be not sore strayned against me, I praye you, Maister Atturney, why might not I haue tolde Maister *Arnolde*, that *John Fitzwilliams* was angrie with *William Thomas*, and yet knowe no cause of the Anger? it might be vnderstande, to disagree oftentimes. Who doth confesse that I knowe any thing of *William Thomas* Deuise touching the Quenes Death? I will aunswere, no Man: For Maister *Arnolde* doth mention no worde of that matter, but of the Displeasures betwixte them; and to speake that, dothe neyther proove Treason, nor knowledge of Treason. Is here all the Euidence againste me that you haue to bring mee within the compasse of the Inditement?

Stanford. Methinke the Matters confessed by others against you, together with your owne Confession, will weye shrewdlye. But howe saye you to the Rising in *Kent*, and to *Wiats* Attempte againste the Queenes Royal Person at hir Palace?

Bromley. Why doe you not reade *Wiat's* Accusation to him, whiche dothe make him Partener to his Treasons?

Southwell. Wiat hath grieuously accused you, and in manye thinges that others haue confirmed.

Throckmorton. Whatsoeuer *Wiat* hath saide of me in hope of his Life, he vnsayde it at his Death. For since I came into this Hall, I hearde one saye (but I knowe him not) that *Wiat*, upon the Scaffolde, didde not onelye purge my Ladie *Elizabeth* hir Grace, and the Earle of *Deuonshire*, but also all the Gentlemen in the *Tower*, saying, they were all ignoraunt of the Sturre and Commotion; in whiche number I take my selfe.

Hare. Notwithstanding he saide, all that he had written and confessed to the Counsayle, was true.

Throckmorton. Nay, Sir, by your patience, Maister *Wiat* sayde not so, that was Maister Doctors Addicion.

Southwell.

Southwell. It appeareth you haue hadde good Intelligence.

Throckmorton. Almightie God prouided that Reuelation for mee this Daye ſince I came hither: for I haue bene in cloſe Priſon theſe lviii. Dayes, where I hearde nothing but what the Birdes tolde mee, which did flie ouer my heade. And nowe to you of my Jurie I ſpeake ſpeciallye, whome I deſire to marke attentively what ſhall be ſayde: I haue been indited, as it appeareth, and now am arreigned of compaſſing the Queenes Majeſties Death, of leuying Warre againſte the Queene, of taking the Tower of *London*, of depoſing and depriuing the Queene of hir Royall Eſtate, and finally to deſtroy hir, and of adherence to the Queenes Enimies. Of all whiche Treaſons, to proue mee guiltie, the Queenes learned Counſayle hath giuen in Euidence theſe Pointes materiall: that is to ſaye, for the compaſſing or imagining the Queenes Death, and the Deſtruction of hir Royal Perſon, Sir *Nicholas Arnoldes* Depoſitions; whiche is, that I ſhoulde ſaye to the ſaid Sir *Nicholas* in *Gloceſterſhire*, that Maiſter *John Fitzwilliams* was angrie with *William Thomas*. Whereunto I haue aunſwered, as you haue hearde, bothe denying the matter; and for the proofe on my ſide, doe take Exceptions, bicauſe there is no Witneſſe but one. And neuertheleſſe, though it were graunted, the Depoſitions proue nothing concerning the Queenes Death. For leuying of Warre againſt the Queene, there is alledged my Conference with Sir *Thomas Wiat*, Sir *James Croftes*, Sir *Edwarde Rogers*, Sir *Edwarde Warner*, againſte the Marriage with *Spaine*, and the comming of the *Spanyardes* hither: which talke I doe not denie in forte as I ſpake it, and ment it; and notwithſtanding the malicious gathering this Day of my Conference, proueth yet no levying of Warre. There is alſo alledged for proofe of the ſame Article, Sir *James Crofts*'s Confeſſion, which as you remember, implieth no ſuch thing, but generall talk againſt the Mariage with *Spaine*, and of my departing Weſtwarde with the Earl of *Devon*, which the ſayde *James* doth not auowe, and therefore I praye you conſider it as not ſpoken. There is alſo for proofe of the ſayde Article, the Duke of *Suffolkes* Confeſſion, with whom I neuer had Conference; and therefore he advouched the tale of his Brother's Mouth, who hath made my Purgation in thoſe Matters, and yet if the matter were proued, they be not greatly materiall in Lawe. There is alſo alledged for the further proofe of the ſame Article, and for depoſing and depriuing the Queene of hir Royall Eſtate, and for my adhering to the Queenes Enimes, *Cutbert Vaughan*'s Confeſſion, whoſe Teſtimonie I have ſufficiently diſproued by ſundrie Authorities and Circumſtances, and principally by your owne Lawe, which dothe require two lawfull and ſufficient Witneſſes to be brought face to face. Alſo for the taking of the Tower of *London*, there is alledged *Winter*'s Depoſitions, which vttereth my miſliking, when he vttered vnto mee Sir *Thomas Wiat*'s Reſolution and Deuiſe for attempting of the ſayde peece. And laſt of all, to enforce theſe matters, mine owne Confeſſion is engrieued greatly againſt me, wherein there doth appeare neyther Treaſon, neyther concelement of Treaſon, neyther whiſpering of Treaſon, nor procurement of Treaſon. And for as much as I am come hither to be tried by the Lawe, though my Innocencie of all theſe Pointes materiall objected, be apparant to acquite mee, whervnto I doe principallye cleaue; yet I will for your better Credit and Satisfactions ſhewe you euidentlye, that if you woulde beleeue all the Depoſitions layde againſt me, which I truſt you will not doe, I ought not to be attainted of the Treaſon compriſed within my Inditement, conſidering the Statute of Repeale the laſt Parliament, of all Treaſons, other than ſuche as be declared in the xxv. Yeare of King *Edwarde* the Third; both which Statutes I pray you my Lords may be redde here to the Enqueſt.

Bromley. No, for there ſhall be no Bookes brought at your deſire; we know the Law ſufficiently without Booke.

Throckmorton. Do you bring me hither to trie mee by the Lawe, and will not ſhewe me the Lawe? What is your Knowledge of the Lawe to theſe Mens Satisfactions, which haue my Triall in hande? I pray you, my Lordes, and my Lordes all, let the Statutes bee redde, as well for the Queene, as for mee.

Stanford. My Lord Chiefe Juſtice can ſhew the Lawe, and will, if the Jurie doe doubt of any Poynt.

Throckmorton. You knowe it were indifferent that I ſhould knowe and heare the Law whereby I am adjudged; and foraſmuch as the Statute is in *Engliſhe*, Men of meaner Learning than the Juſtices, can vnderſtande it, or elſe how ſhoulde we know when we offend?

Hare. You knowe not what belongeth to youre caſe, and therefore we muſt teach you: it appertaineth not to vs to prouide Bookes for you, neyther ſit wee here to be taught of you; you ſhould haue taken better hede to the Law before you had come hither.

Throckmorton. Bicauſe I am ignoraunt, I woulde learne, and therefore I haue more neede to ſee the Law, and partlye as well for the Inſtructions of the Jurie, as for my owne Satisfaction, which mee thinke, were for the Honor of this Preſence. And now if it pleaſe you my Lorde Chiefe Juſtice, I do direct my Speach ſpecially to you. What time it pleaſed the Queenes Majeſtie, to call you to this Honourable Office, I did learne of a great Perſonage of hir Highneſſe Priuie Counſayle, that amongſt other good Inſtructions, hir Majeſtie charged and enjoyned you to miniſter the Law and Juſtice indifferently without reſpect of Perſons. And notwithſtanding the old Error amongſt you, whiche did not admit any Witneſſe to ſpeake, or any other matter to be hearde in the favor of the Aduerſarie, hir Majeſtie being partie, hir Highnes pleaſure was, that whatſoeuer could be brought in the fauor of the Subject, ſhoulde be admitted to be heard. And moreouer, that you ſpecially, and likewiſe all other Juſtices, ſhoulde not perſuade themſelues to ſit in Judgement otherwiſe for hir Highneſſe, than for hir Subject. Therefore this maner of indifferent proceeding being principally enjoined by Gods Commandement, which I had thought partly to haue remembred you and others here in Commiſſion in the beginning, if I might haue had leaue; and the ſame alſo being commanded you by the Queenes owne Mouth, me think you ought of right to ſuffer me to haue the Statutes red openly, and alſo to reject nothing that coulde be ſpoken in my Defence: and in thus doing you ſhal ſhew your ſelves worthy Miniſters, and fit for ſo worthie a Miſtreſſe.

Bromley. You miſtake the matter, the Queene ſpake thoſe Wordes to Maiſter *Morgan* Chiefe Juſtice

Juſtice of the Common Place; but you haue no cauſe to complaine, for you haue been ſuffered to talke at your pleaſure.

Hare. What woulde you doe with the Statute-Booke? the Jury doth not require it, they haue hearde the Euidence, and they muſt vppon their Conſcience trie whether you bee guiltie or no, ſo as the Booke needeth not: if they will not credite the Euidence ſo apparent, then they know what they haue to doe.

Cholmley. You ought not to haue any Bookes red here at your Appointment, for where doth aryſe any doubte in the Law, the Judges ſitte here to informe the Court; and now you doe but ſpende time.

Attourney. I pray you my Lorde Chiefe Juſtice repeate the Euidence for the Queene, and giue the Jurie their Charge, for the Priſoner will keepe you here all day.

Bromley. How ſaye you, haue you any more to ſaye for your ſelfe?

Throckmorton. You ſeeme to giue and offer mee the Lawe, but in very dede I have only the Forme and Image of the Lawe; neuertheleſſe, ſince I cannot be ſuffred to haue the Statutes red openly in the Booke, I will by your Pacience geſſe at them as I may, and I pray you to help me if I miſtake, for it is long ſince I did ſee them. The Statute of Repeale made the laſt Parliament hath theſe Wordes, Be it enacted by the Queene, that from henceforth none Acte, Deede, or Offence, being by Acte of Parliament or Statute made Treaſon, Petit Treaſon, or Miſpriſion of Treaſon, by Words, Writing, Printing, Ciphering, Deedes, or otherwiſe whatſoeuer, ſhall be taken, had, deemed, or adjudged Treaſon, Petit Treaſon, but only ſuch as be declared, or expreſſed to be Treaſon, in or by an Acte of Parliament made in the xxv. Yeare of *Edward* III. touching and concerning Treaſons, and the Declaration of Treaſons, and none other. Here may you ſee this Statute doth referre all the Offences aforeſayde, to the Statute of the xxv. of *Edward* III. which Statute hath theſe Wordes touching and concerning the Treaſons that I am indited and arraigned of; that is to ſaye, Whoſoeuer doth compaſſe or imagine the Death of the King, or leuie War againſt the King in his Realm, or being adherent to the Kings Enimies within this Realme, or elſewhere, and bee thereof probably attainted by open Deede by People of their Condicion, ſhall be adjudged a Traytor. Now I praye you of my Jurie which haue my Lyfe in Triall, note well what things at this daye bee Treaſons, and howe theſe Treaſons muſt be tried and decerned, that is to ſaye, by open Deede, which the Lawes doth at ſome time terme *ouert acte*. And now I aske, notwithſtanding my Inditement, which is but matter alledged, where doth appeare the open Deede of any compaſſing or imagining the Queenes Death; or where doth appeare any open Deede of being adherent to the Queenes Enimies, giuing to them ayde and comfort; or where doth appeare any open Deede of taking the Tower of *London?*

Bromley. Why doe not you of the Queenes learned Counſell aunſwere him? Me thinke, *Throckmorton*, you neede not to haue the Statutes, for you haue them meetely perfectly.

Stanford. You are deceyued, to conclude all Treaſons in the Statute of the xxv. Yeare of *Edwarde* the Thirde; for that Statute is but a Declaration of certaine Treaſons, whiche were Treaſons before at the Common Lawe. Euen ſo there doth remayne diuers other Treaſons at this day at the Common Lawe, which be expreſſed by that Statute, as the Judges can declare. Neuertheleſſe, there is matter ſufficient alledged and proued againſt you, to bring you within the compaſſe of the ſame Statute.

Throckmorton. I praye you expreſſe thoſe Matters that bring me within the compaſſe of the Statute of *Edwarde* the Third; for the Wordes be theſe, And be thereof attainted by open Deede by People of like Condicion.

Bromley. Throckmorton, you deceyue your ſelfe, and miſtake theſe Wordes, by People of their Condicion; for thereby the Lawe doth vnderſtande the diſcouering of your Treaſons. As for example, *Wiat* and the other Rebelles, attainted for their great Treaſons, already declare you to be his and their adherent, in as much as diuerſe and ſundrie times you had Conference with him and them aboute the Treaſon; ſo as *Wiat* is now one of your Condicion, who as all the Worlde knoweth, hath committed an open trayterous Fact.

Throckmorton. By your leaue, my Lorde, this is a very ſtraunge and ſingular Underſtanding. For I ſuppoſe the meaning of the Lawe-makers did vnderſtande theſe Wordes, By People of their Condicion, of the State and Condition of thoſe Perſons whiche ſhoulde bee on the Inqueſt to trie the Partie arreygned, guiltie or not guiltie, and nothing to the bewraying of the Offence by another Man's act, as you ſay: for what haue I to doe with *Wiat*'s actes, that was not nigh him by one hundred Myles?

Attorney. Will you take vppon you to skill better of the Lawe than the Judges? I doubt not but you of the Jurie will credit as it becommeth you.

Cholmley. Concerning the true vnderſtanding of theſe Words, By People of their Condicion, my Lord Chiefe Juſtice here hath declared the Truth; for *Wiat* was one of your Condicion, that is to ſay, of your Conſpiracie.

Hare. You doe not denie, *Throckmorton*, but that there hath bene Conference, and ſending betweene *Wiat* and you, and he and *Winter* doth confeſſe the ſame, with others; ſo as it is playne, *Wiat* may well be called one of your Condicion.

Throckmorton. Well, ſeeing you my Judges rule the vnderſtanding of theſe Wordes in the Statute, By People of your Condicion, thus ſtraungelye againſt mee, I will not ſtande longer vppon them. But where dothe appeare in mee an open Deede, wherevnto the Treaſon is ſpeciallye referred?

Bromley. If thre or foure do talke, deuiſe, and conſpire togither of a trayterous Acte to be done, and afterwards one of them doth commit Treaſon, as *Wiat* did; then the Lawe doth repute them, and euerye of them as their Actes; ſo as *Wiat*'s Actes do implie and argue your open Deede, and ſo the Lawe doth terme it and take it.

Throckmorton. Theſe be marueylous Expoſitions, and wonderfull Implications, that another Man's acte, whereof I was not privy, ſhould be accounted myne; for *Wiat* did purge me that I knew nothing of his ſtirre.

Hare. Yea, Sir, but you were a principal Procuror and Contriuer of *Wiat*'s Rebellion, though you were not with him when he made the ſtirre. And as my Lord here hath ſayd, the Law always doth adjudge him a Traytor, which was priuie

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and doth procure Treaſon, or any other Man to committe Treaſon, or a trayterous acte, as you did *Wiat*, and others; for ſo the Ouert Acte of thoſe whiche did it by your Procurement, ſhall in this caſe be accounted your open Deede. We haue a common caſe in the Lawe, if one by Procurement ſhoulde diſſeyſe you of your Lande, the Lawe holdeth vs both wrong doers, and giueth remedie as well againſt the one as the other.

Throckmorton. For God's ſake applie not ſuch Conſtructions againſt me; and though my preſent Eſtate doth not moue you, yet it were well you ſhoulde conſider your Office, and think what meaſure you giue to others, you your ſelues I ſay ſhall aſſuredly receyue the ſame agayne. The ſtate of mortall Life is ſuch, that Men know full little what hangeth ouer them. I put on within this xii. Moneths ſuch a Mind, that I moſte wofull Wight, was as unlike to ſtande here, as ſome of you that ſit there. As to your caſe laſt recited, whereby you woulde conclude, I haue remembred and learned of you Maſter *Hare*, and you Maſter *Stanforde* in the Parliament Houſe, where you did ſit to make Lawes, to expounde and explaine the Ambiguities and Doubtes of Lawe ſincerely, and that without Affections. There I ſay I learned of you, and others my Maiſters of the Lawe, this difference betwixt ſuch Caſes as you remembred one euen nowe, and the Statute whereby I am to be tried. There is a Maxime or Principle in the Lawe, which ought not to bee violated, that no penall Statute may, ought, or ſhoulde be conſtrued, expounded, extended, or wreſted, otherwiſe than the ſimple Wordes and nude Letter of the ſame Statute doth warrant and ſignifie. And amongſt diuers good and notable Reaſons by you there in the Parliament Houſe debated, Maiſter Sergeant *Stanford*, I noted this one, why the ſaid Maxime ought to be inuiolable: you ſaid, conſidering the priuate Affections many tymes both of Princes and Miniſters within this Realme, for that they were Men, and woulde and coulde erre, it ſhoulde be no Securitie, but very daungerous to the Subject, to referre the Conſtruction, and extending of Penall Statutes to anye Judges Equitie, as you termed it, which might eyther by feare of the higher Powers be ſeduced, or by Ignoraunce and Follye abuſed. And that is an aunſwere by procurement.

Bromley. Notwithſtanding the principle, as you alledge it, and the preciſeneſſe of your ſticking to the bare wordes of the Statute, it doth appeare and remaine of recorde in our Learning, that diuerſe Caſes haue bene adjudged Treaſon, without the expreſs wordes of the Statute, as the Quenes learned Counſell there can declare.

Attourney. It doth appeare, the Priſoner did not only intiſe or procure *Wiat*, *Caroe*, *Rogers*, and others, to commite their trayterous Actes, and there doth his open factes appear, whiche *Vaughan's* Confeſſion doth witneſſe; but alſo he did mynde ſhortlye after to aſſociate himſelfe with thoſe Traytours; for hee minded to haue departed with the Earle of *Deuonſhire* Weſtwardes.

Throckmorton. My Innocencie concerning theſe matters, I truſt, ſufficientlye appeareth by my foremer Aunſwers, notwithſtanding the condempned Man's unjuſt Accuſation. But becauſe the true underſtanding of the Statute is in queſtion; I ſaye, procurement, and ſpecially by words onely, is without the compaſſe of it: and that I doe learne and proue by the principle which I learned of Maiſter *Stanforde*.

Stanforde. Maiſter *Throckmorton*, you and I maye not agree this Day in the underſtanding of the Lawe, for I am for the Queene, and you ſpeake for your ſelfe: the Judges muſt determine the matter.

Bromley. He that doth procure another Man to commit a Felonie or a Murther, I am ſure you know well ynough, the Law doth adjudge the Procurer there, a Felon or a Murtherer; and in caſe of Treaſon, it hath bene alwayes ſo taken and reputed.

Throckmorton. I doe and muſt cleaue to my Innocencie, for I procured no Man to committe Treaſon; but yet for my learning I deſire to heare ſome caſe ſo ruled, when the Lawe was as it is nowe. I do confeſſe it, that at ſuche time there were Statutes prouided for the procurer, counſaylour, ayder, abetter, and ſuche lyke, as there were in King *Henrie* the VIIIth's tyme, you might lawfullye make this cruell Conſtruction, and bring the procurer within the compaſſe of the Lawe. But theſe Statutes being repealed, you ought not nowe ſo to doe; and as to the principal procurer in Fellonie and Murther, it is not lyke as in Treaſon, for the Principal and Acceſſaries in Felonie and Murther be triable and puniſhable by the Common Law; and ſo in thoſe caſes the Judges may uſe their Equitie, extending the determinacion of the fault as they thinke good: but in Treaſon it is otherwiſe, the ſame being limited by Statute Law, which I ſay and aduow is reſtreyned from any Judges Conſtruction by the Maxime that I recited.

Stanforde. Your Lordſhips do know a caſe in *R.* 3. time, where the procurer to counterfeyt falſe Mony, was judged a Traytor, and the Law was as it is now.

Hare. Maiſter Sergeaunt doth remember you *Throckmorton*, of an Experience before our time, that the Lawe hath bene ſo taken, and yet the procurer was not expreſſed in the Statute, but the Lawe hath ben always ſo taken.

Throckmorton. I neuer ſtudied the Law, whereof I do much repent mee; yet I remember, whyleſt Penall Statutes were talked of in the Parliament-Houſe, you the learned Men of the Houſe remembred ſome Caſes contrarie to this laſt ſpoken of. And if I miſreport them, I pray you helpe me. In the like caſe you ſpeake of concerning the procurer to counterfeyte falſe Money, at one time the procurer was judged a Fellon, and at another time neither Fellon nor Traytor; ſo as ſome of your Predeceſſours adjudged the procurer no Traytour in the ſame caſe, but leaned to their principle, though ſome other extende their Conſtructions too large. And here is two caſes with me, for one againſt me.

Bromley. Bicauſe you replie ſo ſore upon the principle, I will remember, where one taking the Great Seale of *Englande* from one Writing, and putting it to another, was adjudged a Traytour in *Henry* the IVth's tyme, and yet his act was not within the expreſſe words of the Statute of *Edwarde* the Third. There be diuerſe other ſuch like caſes that maye be alledged and need were.

Throckmorton. I pray you my Lord Chiefe Juſtice, call to your good Remembraunce, that in the ſelfe ſame caſe of the Seale, Juſtice *Spilman*, a graue and well learned Man, ſince that time, woulde not condemn the Offender, but did reproue that former Judgment by you laſt remembred, as erronious.

Stanford. If I had thought you had bene so well furnished with Booke Cases, I woulde haue bene better prouided for you.

Throckmorton. I haue nothing but I lerned of you specially M. Sergeant, and of others my Masters of the Law in the Parliament House; and therefore I may say with the Prophet, *Salutem ex inimicis nostris.*

Southwell. You have a very good Memorie.

Attorney. If the Prisoner may auoyde his Treasons after this maner, the Queenes Suretie shall bee in great jeoperdy. For *Jack Cade*, the Blacksmith, and diuerse other Traytors, sometime alledging the Law for them, somtime they ment no harm to the King, but against his Counsell; as *Wiat*, the Duke of *Suffolke*, and these did against the *Spanyardes*, when there was no *Spanyardes* within the Realme. The Duke and his Brethren did mistake the Lawe, as you doe, yet at length did confesse their Ignorance, and submitted themselves. And so were you best to doe.

Throckmorton. As to *Cade* and the Blacksmith, I am not so well acquainted with their Treasons as you bee; but I haue red in the Chronicle, they were in the Fielde with a force against the Prince, whereby a manifest acte did appeare. As to the Duke of *Suffolke*'s doings, they appertaine not to mee. And tho you woulde compare my speache and talke against the *Spanyardes*, to the Duke's actes, who assembled a force in Armes, it is euident they differ much: I am sorie to engreue any other Mans doings; but it serueth me for a piece of my Defence, and therefore I wish that no Man should gather euill of it, God forbid that words and acts be thus confounded.

Attorney. Sir *William Stanley* used this shifte that the Prisoner useth now, he sayde he did not leuie War against King *Henry* the VII. but sayde to the Duke of *Buckingham*, that in a good Quarrell he wold aid him with 500 Men; and nevertheless *Stanley* was for those Words attainted, who, as all the Worlde knoweth, had before that time serued the King very faithfully and truly.

Throckmorton. I pray you Maister Attorney do not conclude me by blinde contraries. Whether you alledge *Stanleyes* case trulye or no, I knowe not. But admitte it be as you saye, what dothe this proue against me? I promised no ayde to Maister *Wiat*, nor to anye other. The Duke of *Buckingham* leuied Warre against the King, with whom *Stanley* was confederate so to doe, as you saye.

Attorney. I pray you, my Lords, that be the Queenes Commissioners, suffer not the Prisoner to vse the Queenes learned Counsell thus; I was neuer interrupted thus in my Life, nor I neuer knewe any thus suffered to talke, as this Prisoner is suffered: some of us will come no more at the Barre, and we be thus handled.

Bromley. *Throckmorton*, you must suffer the Quenes learned Counsell to speaké, or else we must take order with you; you haue had leaue to talke at your pleasure.

Hare. It is proued that you did talke with *Wiat* against the comming of the *Spanyardes*, and deuised to interrupt their arrivall, and you promised to doe what you coulde against them; whereupon *Wiat* being encouraged by you, did leuie a force, and attempted Warre against the Queenes Royal Person.

Throckmorton. It was no Treason, nor no procurement of Treason, to talke agaynste the comming hither of the *Spanyardes*, neyther it was Treason for mee to saye, I woulde hynder their commyng hither as muche as I coulde, vnderstanding me rightly as I meant it; yea though you would extend it to the worste, it was but Words, it was not Treason at this day as the Law standeth: and as for *Wiat*'s doings, they touche me nothing, for at his Death, when it was no tyme to report untruly, he purged me.

Bromley. By sundry Cases remembred here by the Queenes learned Counsell, as you have hearde, that procurement which did appear no otherwyse but by Words, and those you would make nothing, hath bin of long tyme, and by sundry well learned Men in the Lawes, adjudged Treason. And therefore your procurement being so euident as it is, we may lawfully say it was Treason, bycause *Wiat* perfourmed a trayterous acte.

Throckmorton. As to the said alledged fore Precedents against me, I haue recited as many for me, and I would you my Lord Chief Justice shuld incline your Judgements rather after the example of your honourable Predecessors, Justice *Markham*, and others, which did eschewe corrupte Judgements, judging directly and sincerely, after the Law, and the Principles in the same, than after such Men as swaruing from the Truth, the Maxime, and the Law, did judge corruptely, maliciously, and affectionately.

Bromley. Justice *Markham* had reason to warrant his doings; for it did appeare, a Merchant of *London* was arraigned and slaunderously accused of Treason, for compassing and imagining the King's Death, he did say he would make his Sonne Heire of the Crown, and the Merchant meant it of a House in *Cheapside* at the Signe of the *Crowne*; but your Case is not so.

Throckmorton. My Case doth differ, I graunt, but specially bicause I haue not suche a Judge: yet there is another cause to restraine these your strange and extraordinarie Constructions; that is to say, a Prouiso in the latter ende of the Statute of *Edwarde* the Thirde, hauyng these Wordes: Provided alwayes, if any other Case of supposed Treason shall chaunce hereafter to come in Question or Triall before any Justice, other than is in the said Statute expressed, that then the Justice shall forbear to adjudge the sayd case, untill it be shewed to the Parliament to trie whether it should be Treason or Felonie. Here you are restrained by expresse Wordes to adjudge any case that is not manifestly mentioned before, and untill it be shewed to the Parliament.

Pyrtman. That Prouiso is understand of cases that may come in trial which hath bin in vre, but the Law hath always taken the procurer to be a principal Offender.

Sanders. The Law alwayes in cases of Treason dothe accompte all Principalles, and no Accessaries, as in other Offences; and therefore a Man offending in Treason, either by couert acte or procurement, whereupon an open Deede hath ensued, as in this case, is adjudged by the Lawe a principal Traytoure.

Throckmorton. You adjudge (mee thinke) Procurement very hardly, besydes the Principall, and besides the good Example of your best and most godly learned Predecessors, the Judges of the Realme, as I haue partly declared; and notwithstanding thys grieuous racking and extending of this worde Procurement, I am not in the daunger of it, for it doth appear by no Deposition that I procured neyther one or other to attempt any acte.

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Stanforde. The Jurie haue to trye whether it bee ſo or no, let it weygh as it will.

Hare. I knowe no Meane ſo apparent to try Procurement as by Words, and that Meane is probable ynoughe againſt you, as well by youre owne Confeſſion, as by other Mennes Depoſitions.

Throckmorton. To talke of the Queenes Maryage with the Prince of *Spayne*, and alſo the commyng hyther of the *Spanyardes*, is not to procure Treaſon to be done; for then the whole Parliament-houſe, I meane the common Houſe, didde procure Treaſon: but ſince you wyll make no Difference betwixte Wordes and Actes, I praye you remember an Eſtatute made in my late Soueraigne Lorde and Maiſters tyme, Kyng *Edward* the Sixth, whiche apparantly expreſſeth the Difference; theſe bee the woordes: Who ſo euer dothe compaſſe, or imagine to depoſe the Kyng of his Royall Eſtate by open Preaching, expreſſe Wordes or Sayings, ſhall for the fyrſt Offence loſe and forfayte to the King all his and their Goodes and Cattailes, and alſo ſhal ſuffer Impriſonmente of their Bodyes at the King's Will and Pleaſure. Whoſoeuer, *&c.* for the ſecond Offence ſhall loſe and forfayte to the Kyng the whole Iſſues and Profytes of all his or their Landes, Tenementes, and other Hereditaments, Benefices, Prebendes, and other ſpiritual Promotions. Whoſoeuer, *&c.* for the thirde Offence, ſhall for Term of Lyfe or Lyues of ſuche Offendour or Offendors, *&c.* and ſhall alſo forfeite to the Kynges Majeſtie all his or their Goodes and Cattailes, and ſuffer during his or their Liues perpetuall Impriſonement of his or their Bodies. But whoſoeuer, *&c.* by Writing, Ciphering, or Acte, ſhall for the firſte Offence be adjudged a Traitour, and ſuffer the Paines of Deathe. Here you may perceiue howe the whole Realme and all your Judgementes hathe beefore this vnderſtande Wordes and Actes, diuerſlye and apparantlye; and therefore the Judgementes of the Parliamente did aſſigne Diuerſitie of Puniſhmentes, becauſe they woulde not confounde the true Vnderſtanding of Wordes and Deedes, appointing for compaſſing and imagining by Worde, Impriſonment; and for compaſſing and imagining by open Deede, Paines of Death.

Bromley. It is agreed by the whole Bench, that the Procurer and the Adherent be deemed alwayes Traytors, when as a trayterous Acte was committed by anye one of the ſame Conſpiracie; and there is apparent Proofe of youre adhering to *Wiat*, both by your owne Confeſſion and other wayes.

Throckmorton. Adhering and procuring bee not all one; for the Statute of *Edwarde* the Thirde doth ſpeake of adhering, but not of procuring, and yet adhering ought not be further extended, than to the Quenes Enimies within hir Realme, for ſo the Statute doth limit the Vnderſtanding. And *Wiat* was not the Queenes Enimie, for hee was not ſo reputed when I talked with him laſt, and our Speach implyed no Enmitie, neyther tended to anye Treaſon, or procuring of Treaſon; and therefore I pray you of the Jurie note, thoughe I argue the Lawe, I alledge my Innocencie, as the beſt part of my Defence.

Hare. Your adhering to the Queenes Enimies within the Realme, is euidentlye proued: for *Wiat* was the Queenes Enimie wythin the Realme, as the whole Realme knoweth it, and he hath confeſſed it, both at his Arrainement and at his Death.

Throckmorton. By your leaue, neither *Wiat* at his Arreignment, nor at his Death, did confeſſe that he was the Queenes Enimie when I talked laſt with him, neyther he was reputed nor taken in xiiij. dayes after, vntill he aſſembled a Force in Armes, what time I was at your Houſe Maſter *Inglefielde*, where I learned the firſt Intelligence of *Wiats* Stirre. And I aske you, who doth depoſe that there paſſed anye maner of Aduertiſement betwixt *Wiat* and mee, after he had diſcouered his Doings, and ſhewed himſelfe an Enimie? If I had bene ſo diſpoſed, who did let mee that I did not repaire to *Wiat*, or to ſende to him, or to the Duke of *Suffolke* eyther, who was in myne owne Countrey? and thither I might have gone and conueyed my ſelfe with him, vnſuſpected for my departing homewards.

Inglefielde. It is true that you were there at my Houſe, accompanied with others your Brethren, and, to my knowledg, ignorant of theſe Matters.

Bromley. Throckmorton, you confeſſed you talked with *Wiat* and others againſt the comming of the *Spanyards*, and of the taking of the *Tower* of *London*; wherevpon *Wiat* levied a Force of Men againſt the *Spanyardes* he ſayde, and ſo you ſaye all, but in Deede it was againſt the Queene, which he confeſſed at length: therefore *Wiats* Actes doe proue you Counſayler and Procurer, howſoeuer you woulde auoyde the matter.

Throckmorton. Me think you would conclude me with a miſhapen Argument in Logicke, and you will giue mee leaue, I will make another.

Stanforde. The Judges ſit not here to make Diſputations, but to declare the Law, which hath bene ſufficiently done, if you woulde conſider it.

Hare. You haue hearde Reaſon and the Lawe, if you will conceyue it.

Throckmorton. Oh mercifull God! Oh eternall Father, which ſeeſt all things, what maner of Proceedings are theſe? To what purpoſe ſerueth the Statute of Repeale the laſt Parliament, where I hearde ſome of you here preſent, and diuerſe other of the Queenes learned Counſayle, grieuouſlye inuey againſt the cruell and bloudie Lawes of King *Henrie* the Eyght, and againſt ſome Lawes made in my late Soveraigne Lorde and Maiſters time, King *Edwarde* the Sixth, ſome termed them *Draco's Lawes*, whiche were written in Bloude: Some ſayde they were more intollerable than any Lawes that *Dionyſius* or any other Tyraunt made. In concluſion, as many Men, ſo manye bitter Termes and Names thoſe Lawes had. And moreouer, the Preface of the ſame Eſtatute doth recite, that for Wordes onely, many great Perſonages, and others of good Behauiour, hath bene moſt cruelly caſt awaye by theſe foremer ſanguincolent thirſtie Lawes, with many other Suggeſtions for the Repeale of the ſame. And now let vs put on indifferent Eyes, and throughly conſider with our ſelues, as you the Judges handle the Conſtructions of the Statute of *Edwarde* the Thirde, with your Equitie and Extentions, whether we be not in much wors Caſe now than we were when thoſe cruel Lawes yoked vs. Theſe Lawes albeit they were grieuous and captious, yet they had the verie Propertie of a Lawe after S. *Paules* Deſcription; For thoſe Lawes did admoniſh vs, and diſcover our Sinnes plainly vnto vs; and when a Man is warned, hee is halfe armed. Theſe Lawes, as they bee handled, be very Baytes to catche vs, and onely prepared for the ſame, and no Lawes; for at the

firſt ſight they aſcertaine vs we be deliuered from our olde Bondage, and by the late Repeale the laſt Parliament, we liue in more Securitie. But when it pleaſeth the higher Powers to call any Mannes Lyfe and Sayings in queſtion, then there be Conſtructions, Interpretations, and Extentions reſerued to the Juſtices and Judges Equitie, that the Partie triable, as I am nowe, ſhall finde himſelfe in much worſe caſe than before when thoſe cruell Lawes ſtoode in force. Thus our Amendement is from God's Bleſſing into the warme Sunne; but I require you honeſt Men whiche are to trie my Life, conſider theſe Opinions of my Life: Judges be rather agreeable to the Time than to the Truth; for their Judgments be repugnant to their owne Principle, repugnant to their godly and beſt learned Predeceſſors Opinions, repugnant, I ſay, to the Prouiſo in the Statute of Repeale made in the laſt Parliament.

Attorney. Maiſter *Throckmorton*, quiet your ſelfe, and it ſhall be the better for you.

Throckmorton. Maiſter *Attorney*, I am not ſo vnquiet as you be, and yet our Caſes are not alike; but bicauſe I am ſo tedious to you, and haue long troubled this Preſence, it maye pleaſe my Lorde Chiefe Juſtice to repeate the Euidence wherewith I am charged, and my Aunſwers to all the Objections, if there be no other matter to laye againſt me.

Then the Chief Juſtice *Bromley* remembred particularly all the Depoſitions and Euidences giuen againſt the Priſoner, and eyther for wante of good Memorie, or good Will, the Priſoners Aunſweres were in part not recited: wherevppon the Priſoner craued Indifferencie, and did helpe the Judges olde Memorie with his owne Recitall.

Sendall. My Maiſters of the Jurie, you haue to inquire whether Sir *Nicholas Throckmorton* Knight, here Priſoner at the Barre, be guiltie of theſe Treaſons, or any of them, wherof he hath bene indited and this daye arraigned, yea or no: And if you finde him giltie, you ſhall enquire what Landes, Tenementes, Goodes, and Cattalles he had at the Day of his Treaſons committed, or at anye time ſince; and whether he fledde for the Treaſons or no, if you finde him not guiltie.

Throckmorton. Haue you ſayde what is to be ſayd?

Sendall. Yea, for this time.

Throckmorton. Then I pray you giue me leaue to ſpeake a fewe words to the Jurie: The Weyght and Grauitie of my Cauſe hath greatly occaſioned me to trouble you here long, and therfore I minde not to intertain you here long with any prolixe Oration: You perceyue notwithſtanding this daye great Contention betwixt the Judges and the Queenes learned Counſayle on the one partie, and mee the poore and wofull Priſoner on the other partie. The Triall of our whole Controuerſie, the Triall of my Innocencie, the Triall of my Lyfe, Landes, and Goodes, and the Deſtruction of my Poſteritie for euer, doth reſt in your good Judgements. And albeit many this daye haue greatly inveyghed againſt me, the finall Determination thereof is transferred onely to you: howe grieuous and horrible the ſhedding of Innocents Bloude is in the ſight of Almightie God, I truſt you doe remember. Therefore take heede, I ſaye, for Chriſtes ſake, do not defile your Conſciences with ſuch heynous and notable Crimes; they bee grieuouſlye and terriblye puniſhed, as in this Worlde and Vale of Miſerie vppon the Childrens Children, to the thirde and fourth Generation, and in the Worlde to come with euerlaſting Fire and Damnation. Lift vp your Minds to God, and care not too muche for the Worlde; looke not backe to the Fleſhpots of *Egypte*, whiche will allure you from heauenly Reſpectes to worldlye Securitie, and can thereof neyther make you anye Suretie. Beleeue, I pray you, the Queene and hir Magiſtrates be more delighted with fauourable Equitie, than with raſhe Crueltie; and in that you be al Citizens, I wil take my leaue of you with S. *Paules* farewell to the *Epheſians*, Citizens alſo you be, whome he tooke to recorde that he was pure from ſhedding any Bloude; a ſpecial Token, a Doctrine left for your Inſtruction, that euerye of you may waſhe his Handes of Innocents Bloudeſhedde, when you ſhall take your leaue of this wretched Worlde; the Holy Ghoſt be amongſt you.

Sendall. Come hither, Sergeaunt, take the Jurye with you, and ſuffer no Man to come at them, but to be order'd as the Lawe appointeth, vntill they be agreed vpon their Verdit.

Throckmorton. It may pleaſe you my Lordes and Maiſters which be Commiſſioners, to give order that no Perſon haue Acceſs or Conference with the Jurie, neither that any of the Queenes learned Counſayle be ſuffered to repayre to them, or to talke with any of them, vntill they preſent themſelues here in open Court, to publiſh their Verdit.

Upon the Priſoners Suite on this behalfe, the Benche gaue Order that two Sergeauntes were ſworne to ſuffer no Man to repaire to the Jurie, vntill they were agreed.

Then the Priſoner was by Commandement of the Benche withdrawne from the Barre, and the Court adjourned vntill three of the Cloeke at Afternoone; at whiche houre the Commiſſioners returned to the *Guildehall*, and there did tarie vntill the Jurie were agreed vpon the Verdit. And aboute five of the Clocke, their Agreement being aduertiſed to the Commiſſioners, the ſayde Priſoner, Sir *Nicholas Throckmorton*, was again brought to the Barre, where alſo the Jurie did repaire; and being demaunded whether they were agreed vpon their Verdit, aunſwered vniuerſally with one Voyce, Yea. Then it was asked, who ſhoulde ſpeake for them; they aunſwered, *Whetſton* the Foreman.

Sendall. Nicholas Throckmorton Knight, holde vp thy Hande.

Then the Priſoner did ſo vppon the Summons.

Sendall. You that bee of the Jurie, looke vppon the Priſoner.

The Jurie did as they were enjoyned.

Sendall. Howe ſaye you, is Maiſter *Throckmorton* Knight, there Priſoner at the Barre, guiltie of the Treaſons whereof he hathe bin indicted and arraigned in manner and forme, yea or no?

Whetſton. No.

Sendall. How ſay you, did he flie vpon them?

Whetſton. No, we finde no ſuche thing.

Throckmorton. I hadde forgotten to aunſwere that Queſtion before; but you haue founde according to Truth: And for the better Warrantie of your Dooings, vnderſtande that I came to *London*, and ſo to the Queenes Counſell vnbroughte, when I vnderſtoode they demaunded for me; and yet I was almoſte an hundred miles hence, where if I had not preſumed vppon my Truthe, I coulde haue withdrawen my ſelfe from catching.

Bromley. How ſaye you the reſte of ye, is *Whetſton's* Verdict all your Verdicts?

The whole Inqueſt anſwered yea.

Bromley.

Bromley. Remember youre ſelues better, haue you conſidered ſubſtantially the whole Euidence in ſorte as it was declared and recited? the Matter dothe touche the Queenes Highneſſe, and your ſelues alſo, take good heede what you doe.

Whetſton. My Lorde, wee haue throughly conſidered the Euidence laide againſte the Priſoner, and his Aunſwerrs to all theſe Matters, and accordingly wee haue founde him not guiltie, agreable to all our Conſciences.

Bromley. If you haue done well, it is the better for you.

Throckmorton. It is better to be tried, than to liue ſuſpected: *Bleſſed be the Lorde God of* Iſraell, *for he hath viſited and redeemed his People, and hathe raiſed vp a mightie Saluation for vs in the Houſe of his Seruaunte* David. And it maye pleaſe you my Lorde Chiefe Juſtice, forſmuche as I haue ben indited and arrained of ſundry Treaſons, and haue according to the Lawe put my Triall to God and my Countrey, that is to ſay, to theſe heneſt Men whiche haue founde me not giltie; I humbly beſeeche you to giue me ſuch Benefite, Acquitall, and Judgement, as the Lawe in this Caſe doth appointe.

When the Priſoner had ſaide theſe wordes, the Commiſſioners conſulted togither.

Throckmorton. Maye it pleaſe you my Lorde Chiefe Juſtice, to pronounce Sentence for my Diſcharge.

Bromley. Where as you doe aske the Benefite that the Lawe in ſuche Caſe dothe appointe, I will giue it you, *viz.* That where you haue bene indited of ſundrye highe Treaſons, and haue bene here this Daye before the Queenes Commiſſioners and Juſtices arreigned of the ſaide Treaſons, whereunto you haue pleaded not guiltye, and haue for Triall therein putte youre ſelfe on God and youre Countrey, and they haue founde you not guiltie, the Courte doth award that you be clerly diſcharged, paying your Fees. Notwithſtandyng, Mayſter Liuetenant, take hym with you agayne, for there are other Matters to charge hym with.

Throckmorton. It may pleaſe you my Lords and Maſters of the Quenes Highnes Priuie Counſel, to be on my behalfe humble Sutors to hir Majeſtie, that like as the Lawe this daye (God be praiſed) hathe purged mee of the Treaſons wherewith I was moſt dangerouſly charged, ſo it might pleaſe hir excellent Majeſtie to purge me in hir priuate Judgemente, and both forgyue and forgette my ouer raſhe Boldeneſſe, that I vſed in Talke of hir Highneſſe Marriage with the Prince of *Spaine*, Matters too farre aboue my Capacitie, and I very vnable to conſider the Gravitie therof; a Matter impertinent for me a private Perſon to talke of, which did appertain to hir Highneſſe Privy Counſel to haue in Deliberation: and if it ſhall pleaſe hir Highneſſe of hir bountifull Liberalitie, to remitte my former Ouerſightes, I ſhall thinke my ſelfe happye for Triall of the Daunger that I haue this daye eſcaped, and may thereby admoniſhe mee to eſchewe thinges aboue my reache, and alſo to inſtructe mee to deale with Matters agreable to my Vocation; and God ſaue the Queenes Majeſtie, and graunte the ſame long to raigne ouer us, and the ſame Lorde bee praiſed for you the Magiſtrates, beefore whome I haue hadde my Triall this daye indifferentlye by the Lawe, and you haue proceeded with mee accordinglye, and the Grace of God bee amongſt you now and euer.

There was no Aunſwere made by any of the Benche to the Priſoners Sute, but the *Attorney* did ſpeake theſe wordes:

Attorney. And it pleaſe you, my Lordes, foraſmuche as it ſeemeth theſe Men of the Jurie which haue ſtraungely acquitte the Priſoner of his Treaſons whereof hee was indited, will forthwith departe the Courte; I praye you for the Queene, that they, and euerye of them, maye bee bounde in a Recognizance of fiue hundrethe Pounde apeece, to aunſwere to ſuch Matters as they ſhall be charged with, in the Queenes behalfe, whenſoeuer they ſhall be chardged or called.

Whetſton. I praye you, my Lordes, bee good vnto vs, and lette vs not bee moleſted for diſchardgyng our Conſciences truelye; we bee poore Marchant-men, and haue great Chardge vpon our hands, and our Lyuynges doe depende vppon our Trauailes; therefore it maye pleaſe you to appoynte vs a certaine Daye for our Appearaunce, bycauſe perhappes elſe ſome of vs maye bee in forreine Partes aboute our Buſineſſe.

The Tryal of James *Earl of* Bothwell, *for the Murder of* Henry *Lord* Darnley, *Husband to* Mary *Queen of* Scots, *at the Senate-Houſe of* Edinburgh, April 12. 1567.

AT the Juſtice Court of our Sovereign Lady the Queen, held and begun in the Senate-Houſe of *Edinburgh*, the 12th Day of *April*, 1567. by the noble and potent Lord *Archibald* Earl of *Argyle*, Lord *Campbel*, and Lord Juſtice General for our Sovereign Lady, in all the Parts of her Realm, where there's a Convention and lawful Aſſembly of Judges.

In this Court appear'd perſonally in Judgment Mr. *John Spence* of *Conde*, and *Robert Crichton* of *Choc*, Advocates for our Sovereign Lady, and in her Name; and there the ſaid Mr. *John Spence* produc'd Letters from our ſaid Sovereign Lady, executed and indors'd with the Summons: the Tenor of which Letters, Endorſements, and Summons hereafter follows.

The

The Commiſſion of Mary *Queen of* Scots, *to try* James *Earl of* Bothwell, *for the Murder of her Husband* Henry *Lord* Darnley.

MARY, by the Grace of God, Queen of *Scotland*. To our beloved Maſters *William Purves*, *William Lawſon*, *Gawin Ramſey* Meſſengers, our Sheriffs in that part conjunctly and ſeverally conſtitute, Greeting. Whereas it has been moſt humbly remonſtrated to us by our beloved and faithful Counſellors, Mr. *John Spence* of *Conde*, and *Robert Crichton* of *Choc*, our Advocates, that they are inform'd that our well-beloved Couſin and Counſellor *Matthew* Earl of *Lennox*, Father of our moſt dear Spouſe, has aſſerted, That *James* Earl of *Bothwell*, Lord *Hallis* and *Creygchton*, &c. and ſome others, were the Contrivers of the traitorous, cruel, deteſtable, and abominable Murder of his Highneſs, committed the 9th day of *February* laſt paſt, in the dead of the Night, in his Palace, for the time being, in our City of *Edinburgh*, near the Church in the Fields, wilfully and with premeditated Felony; and have declar'd their Suſpicion of the ſaid Earl and others, as having committed the ſaid cruel and horrid Murder. And having therefore reſolv'd that the Truth of it ſhould be try'd, in a Courſe of Juſtice, with all poſſible Diligence and Brevity, we have, by Advice of the Lords of our Privy Council, and alſo at the humble Requeſt and Petition of the ſaid Earl of *Bothwell* made to us, and in our Preſence, offering to ſubmit himſelf to a fair Tryal of what he is charg'd with, according to the Laws of the Land, order'd a Court of Juſtice to meet in the Senate-Houſe of *Edinburgh* on the 12th of *April* next enſuing, in order to do Juſtice upon the ſaid Earl and others for committing the ſaid cruel and abominable Crime and Offence, as is more at large ſet forth in an Act inſerted in the Regiſters of our ſaid Privy Council. Therefore it is our Pleaſure, and we enjoin and command you moſt expreſly, that, incontinent theſe our Letters ſeen, you proceed, and, in our Name and Authority, ſummon the ſaid *Matthew* Earl of *Lennox*, at his own Houſe, to appear, together with all others of our Subjects, having and pretending to have Intereſt in this Cauſe, by publick Proclamation made at the Mercat Croſſes of our Towns of *Edinburgh*, *Dumbarton*, *Glaſgow*, *Lanerk*, and other Places neceſſary, to the end that they may appear before our Judges, or their Deputies, in our Senate-Houſe at *Edinburgh*, on the ſaid 12th day of *April* next enſuing, and join with us in the Proſecution of this Cauſe, by giving them a Summons. And in caſe that they don't appear, we order that our Judges, or their Deputies, ſhall proceed and give Sentence the ſame day, according to the Laws and Cuſtoms of our Realm, without any farther Delay or Prolongation; and that you ſummon every one of them to appear the ſame day, under the Penalty of a Fine of 40 *l.* Sterling, for which they ſhall anſwer before us as for their own Act and Deed. And for this end, we give to every one of you conjunctly and ſeverally our full Power, by theſe our Letters, to the intent that you may deliver and execute them duly, and indorſe them to him who ſhall be the Bearer thereof. Given under our Seal at *Edinburgh* the 27th day of *March*, and of our Reign the 25th, in the year 1567. Sign'd accordingly by Advice of the Queen's Council. *MARY.*

What was indors'd on the back of the ſaid Commiſſion.

The 19th day of *March*, 1567. I *William Purves*, Meſſenger and Sheriff conſtitute for that part, according to the Command of the Letters of our Sovereign Lady, and in her Name and Authority, have ſummon'd *Matthew* Earl of *Lennox*, and all others of her Majeſty's Subjects, having and pretending to have Intereſt in what is within ſpecify'd, by publick Proclamation, made at the Mercat Croſs of the City of *Edinburgh*, in order to appear before the Judges, or their Deputies, in the Senate-Houſe at *Edinburgh*, the 12th day of *April* next enſuing, and to proſecute and join with our ſaid Sovereign Lady, in the Cauſe herein ſet forth, with the Summons as it is mention'd in the ſaid Commiſſion; a Copy of which I have affix'd to the Croſs of the ſaid Mercat, in preſence of *John Anderſoun* and *David Land*, and many others. And in further Teſtimony of this my Execution and Indorſement, I have hereunto ſet my Seal. Sign'd *William Purves.*

Another Summons.

The laſt day of *March* but one, the firſt and ſecond days of *April*, in the year above-mention'd, I *Gawin Ramſey* Meſſenger, and one of the Sheriffs conſtitute for that part, went according to the Command contain'd in the Letters of our Sovereign Lady, and in her Name and Authority ſummon'd the ſaid *Matthew* Earl of *Lennox*, particularly at his Houſes in *Glaſgow* and *Dumbarton*. And whereas I ſought him, but could not find him in Perſon, nor her Majeſty's other Subjects, pretending to have Intereſt in the Proſecution of the Cauſe herein ſet forth, I made a Proclamation at the Mercat Croſſes of the Towns of *Glaſgow*, *Dumbarton*, and *Lanerk*, in order to make them appear before the Judge or his Deputy, at the ſaid Senate-Houſe of *Edinburgh*, on the ſaid 12th day of *April* next enſuing, and to join in the Proſecution with the Queen our ſaid Sovereign Lady, in the Action within-mention'd, with the Summons, as it is there declar'd, and according to the Form and Tenour of her Letters, of which I have ſet up a Copy on each of the ſaid Croſſes in thoſe Markets. I have done and executed the above before the Witneſſes that follow, *viz. George Herbeſoun*, *Nicholas Andrew*, *Robert Letteric* Meſſenger; *William Smollet*, *John Hamilton*, *Jam. Bannatine*, *Robert Hamilton*, and many others: And in further Teſtimony hereof, I have ſign'd theſe Preſents with my Sign Manual. *Gawin Ramſey*, Meſſenger.

Another Summons.

The firſt day of *April*, 1567. I *William Lawſon*, Meſſenger, and Sheriff conſtitute for that part, went according to the Command ſignify'd in the Commiſſion of our Sovereign Lady, to the Mercat Croſs of *Perth*, and there, by publick Proclamation made according to Law, I ſummon'd *Matthew* Earl of *Lennox*, and all other Subjects of our ſaid Sovereign Lady, having and pretending to have Intereſts, in order to proſecute *James* Earl of *Bothwell*, Lord of *Hallis* and *Creygchton*, &c. and others, for the cruel Murder committed on the King; and have affix'd a Copy on the ſaid Croſs, according to the Form and Tenour of theſe Preſents. And this in Preſence of the Witneſſes hereafter nam'd, *viz. James Mareſchal*, *Alexander Borthwick*, and *John Anderſon* Meſſengers, and many

many others. And in further Teſtimony of this my Execution and Indorſement, I have ſign'd theſe Preſents with my Sign Manual. Signed accordingly, *William Lawſon*, Meſſenger, with my own hand.

The Indictment.

You *James* Earl of *Bothwell*, Lord of *Haillis*, *Creygchton*, &c. are indicted on account of the cruel and horrid Murder of the moſt Excellent, moſt High and moſt Mighty Prince the King, the late moſt dear Spouſe of the Queen's Majeſty, our Sovereign Lady, committed in the Dead of the Night, at his Houſe near the Church of the Fields in this City, as he was taking his Reſt, by treaſonably ſetting fire to a great quantity of Gunpowder in the ſaid Houſe, by the violence whereof the whole Houſe was blown up into the Air, and the King himſelf by you kill'd traitorouſly and cruelly, wilfully, and by premeditated Felony. And this you did the 9th day of *February* laſt paſt, in the Dead of the Night as aforeſaid, as is notorious, and you cannot deny.

Upon the producing of which Letters, ſo executed, indors'd, and publiſh'd, the ſaid Advocate demanded an Act and Inſtrument in the Court, and requir'd that the Judge ſhould proceed according to the Form of them.

Theſe Letters being read in Judgment with the Indorſements, the Judge, by virtue thereof, order'd the ſaid *James* Earl of *Bothwell* to be call'd as Defendant of the one part, and *Matthew* Earl of *Lennox*, and all other Subjects of our ſaid Sovereign Lady, pretending to proſecute this Matter, as Plaintiffs on the other part; that they might appear in Court, and exhibit their Complaints and Defences, according to the Laws of the Realm.

And immediately appear'd in Judgment the ſaid *James* Earl of *Bothwell*, and enter'd the Court in Perſon; after which he choſe Maſter *David Borthwick* of *Luchthill*, and Mr. *Edmund Hay* for his Advocates, who appearing alſo in Judgment, were admitted by the Judge for that effect.

Appear'd alſo Mr. *Henry Kinloch*, calling himſelf Proctor for his Maſter *Andrew* Lord *Errol*, Conſtable of *Scotland*, and alledg'd, that the Conſtable of the Realm had at all times been own'd to be the only Judge Competent of Men of that Quality, when accus'd of having committed Murder and Bloodſhed near the Prince's Chamber, and four miles round; and therefore his ſaid Maſter being at preſent Conſtable of this Realm, ought to be Judge to *James* Earl of *Bothwell*, and others his Accomplices, ſummon'd to appear this day, and to be charg'd with the above-mention'd Act of the cruel Murder of *Henry* King of *Scotland*. And in caſe that *Archibald* Earl of *Argyle*, as Juſtice-General of this Realm, proceed and take cognizance of this Fact, the ſaid Mr. *Henry*, Proctor above-mention'd, proteſted ſolemnly that this Tryal ſhould not be prejudicial to the ſaid Conſtable, his Office, Right, Title, Profit, Juriſdiction, and Poſſeſſion, in any manner whatever: But that he might exerciſe his ſaid Juriſdiction in all ſuch Cauſes for time to come, according to the Seiſin of his Office, and take cognizance of them, as his Predeceſſors had been us'd to do in the like caſe. This he would make appear, by the poſſeſſion which his Predeceſſors had of it at all times and otherwiſe; and he requir'd that this Proteſtation ſhould be regiſter'd in the Acts, and affirm'd that the Juriſdiction of the preſent Judge ought not to be allow'd in this Caſe.

The Judge having no regard to this Proteſtation, did, by Advice of his Aſſeſſor, decree, that he would take cognizance of the Fact notwithſtanding, ſince nothing had been produc'd by the ſaid Mr. *Henry*, to verify the Contents of what he had alledg'd and proteſted: Of all which the Earl of *Bothwell* demanded an Act and Inſtrument.

The ſaid *Matthew* Earl of *Lennox*, and other Subjects of our Sovereign Lady, having and pretending to have Intereſt in this Proſecution, being call'd ſeveral times to appear, and to join with the ſaid Advocates in proſecuting the ſaid Action, there appear'd *Robert Cunningham*, who call'd himſelf Servant to the ſaid *Matthew* Earl of *Lennox*, and exhibited a Writing, ſign'd with his own hand in full Court, as being authoriz'd thereunto, and made a Proteſtation and Requiſition of the whole, agreeable to the ſaid Writing; of which the Tenor follows.

The Proteſtation of the Earl of Lennox.

My Lords, I am come hither, being ſent by my Maſter my Lord of *Lennox*, to declare the Cauſe why he is this day abſent, having full Power from him for that effect, as the Truth is. The Cauſe then of his Abſence is the ſhortneſs of the Time allow'd him, and that he is hinder'd to have his Friends and Servants, who ought to accompany him for his Honour, and the Safety of his Perſon, conſidering the Strength of the oppoſite Party, and that he has no Aſſiſtance from any of his Friends, but muſt ſtand by himſelf: Therefore his Lordſhip has commanded me to require another competent Day, according to the Importance of this Cauſe, that he may be here preſent; but if you will proceed now, I proteſt, that I may, without Offence to any Perſon, make uſe of the Authority committed to me by my ſaid Lord and Maſter, of which I demand an Act.

Item, I proteſt, that if thoſe who aſſiſt in this Judgment and Inqueſt upon the Perſons accus'd, do undertake to acquit them of the King's Murder, that it ſhall be held as a voluntary Error, and not of Ignorance; ſince 'tis notoriouſly known who they are that have murder'd the King, as my ſaid Lord and Maſter affirms; of which Proteſtation I require an Act thus ſign'd, *Robert Cunningham*: of the Production of which Writing and Proteſtation the ſaid *Robert* demanded an Act and Inſtrument.

The Judge conſidering the Writing and Proteſtation produc'd by the ſaid *Robert Cunningham*, and having regard to the Letters ſent to our Sovereign Lady, by *Matthew* Earl of *Lennox*, alſo produc'd and read in Judgment, the Tenor of which is hereafter inſerted; by which Letters and Writing the ſaid Earl of *Lennox* requires, that a brief and ſummary Tryal may be made of this Cauſe: And having alſo regard to the Act, and the Order thereupon taken by the Lords of the Privy Council, and other ſuch things; and to what the Advocates inſiſt upon as to the ſame Fact, requiring that Juſtice may be done to the ſaid Earl of *Bothwell*; and taking notice likewiſe of the Requeſt and Demand which he has made, that the whole may be thorowly examin'd; the Judge, by the Advice of the Lords and Barons his Aſſiſtants, found that they ought to proceed to the Deciſion of the ſaid Cauſe the ſame Day, according to the Laws of the Realm, notwithſtanding the Writing and Proteſtation produc'd by the

the ſaid *Robert Cunningham*, and that in the mean time he ſhall be admitted to join with and aſſiſt the ſaid Advocates, for the final Trial of the ſaid Cauſe, if he thinks good.

Copies of the Letters ſent to the Queen by the Earl of Lennox.

Madam, I return moſt humble Thanks to your Majeſty for the gracious and conſolatory Letters which I receiv'd the 24th of this preſent Month; by which I perceive that 'tis your Majeſty's Pleaſure to put off the Trial of this late execrable Fact, till the Parliament meets. May it pleaſe your Majeſty to conſider, that tho I be aſſur'd that your Highneſs muſt needs think the time long till the Truth of this Fact be found out, and the Authors of it puniſh'd according to their Demerits; yet I moſt humbly beg pardon of your Majeſty for troubling and importuning you ſo often, as I am forc'd to do, the Affair being ſuch as touches me ſo near; and therefore moſt humbly requeſt, that your Majeſty would take in good part my Advice as follows: It is, that 'tis too long to wait for the meeting of the Parliament; beſides this is not an Affair of that ſort, which uſes to be treated of in Parliament, but being ſuch, and of ſo great Importance, as is evident to every one, it ought rather to be inquir'd into with all Diligence, that the Authors may ſuffer an exemplary Puniſhment. I know that your Majeſty is much more able to judge of it than I; but being inform'd that certain Placarts or Writings have been affix'd to the Gate of the Senate-Houſe of *Edinburgh*, which anſwer'd to your Majeſty's firſt and ſecond Proclamation, and nam'd ſome Perſons as Authors of the ſaid cruel Murder, I moſt humbly requeſt of your Majeſty, for the Honour of God, and for that of your Majeſty and your Realm, and for the Welfare and Peace of it, that you would be pleaſed not only to cauſe thoſe who are nam'd in the ſaid Placarts to be apprehended and put in ſafe Cuſtody, but likewiſe to aſſemble your Nobility with all poſſible Diligence, and then to ſummon by Proclamation the Authors of the ſaid Placarts, to appear for the Ends therein mention'd; and if they appear not, your Majeſty may, by the Advice of your Nobility and Council, ſet at liberty thoſe who are therein nam'd. Your Majeſty will do an honourable Act in bringing this matter to this Iſſue, that according as the matter ſhall appear to your Majeſty, you may puniſh and chaſtiſe the Authors of this cruel Fact; or if the ſaid Placarts ſhall be found falſe and of no validity, thoſe who are charg'd may be acquitted and ſet at liberty, according to your Majeſty's good Pleaſure. Madam, I pray God Almighty to take your Majeſty into his Protection and Safeguard, and to preſerve you in Health and happy Proſperity. From *Howſtoun* the 26th of *February*.

A ſecond Letter from the Earl of Lennox.

Madam. I beſeech your Majeſty to attend to what follows: Your Highneſs in your laſt Letters acquainted me, that if there were any Names in the Placarts, which were ſet up at the Door of the Senate-houſe of *Edinburgh*, of ſuch Perſons as I thought worthy of Condemnation, for the Murder of the King your Majeſty's Huſband, you would, according to my Advice, make it your Buſineſs to bring them to Tryal, according to the Laws of this Realm, and as the Nature of the Crime requir'd. May it therefore pleaſe your Majeſty to know, that from the time I receiv'd your ſaid Letters, I always expected that ſome of thoſe bloody Murderers would be made openly known to you; but ſince I perceive they are not, I cannot find in my heart to conceal them from you any longer. Your Majeſty therefore has here the Names of thoſe whom I greatly ſuſpect, *viz.* the Earl of *Bothwell*, Sir *James Balfour*, and *Gilbert Balfour* his Brother; Maiſter *David Chamers*; Black Maiſter *John Spence*; the Sieur *Franciſcus Baſtian*, *John de Bourdeaux*, and *Joſeph*, the Brother of *Davy Rizio*: Whom I moſt humbly beſeech your Majeſty, according to my former Petition, not only to cauſe to be apprehended and committed to ſafe Cuſtody, but alſo with all Diligence to aſſemble your Nobility and Council, and then to take ſuch Advice about the Fact of the Perſons above-mention'd, as they may be duly examin'd. And as I hope, ſo I make no doubt, but that by proceeding in this manner, the Spirit of God will aſſiſt toward bringing it to a good Concluſion. Herein your Majeſty will do an Act holy and honourable for your ſelf, who are a Party, and highly ſatisfy thoſe who ſtand in any Relation to the Deceas'd, whom you lov'd ſo dearly. And not doubting that your Majeſty will give proper Orders for the whole, according to the importance of the Matter (as I moſt humbly beſeech you to do) I ſhall pray to Almighty God to take you into his Protection, and to give you long Life and Health with Grace, that your Reign may be both long and proſperous. *Howſtoun*, *March* 17.

The Names of the Judges or Jury deputed for the Abſolution of the Earl of Bothwell.

Andrew Earl of *Rothes*, *George* Earl of *Caithneſs*, *Gilbert* Earl of *Caſſils*, Lord *John Hamilton*, Commendator of *Arbroth*, Son to the Duke, *James* Lord *Roſſe*, *Robert* Lord *Semple*, *John Maxwell* Lord *Herris*, *Lawrence* Lord *Oliphant*, *John* Maſter of *Forbes*, *John Gourdon* of *Lochinvar*, *Robert* Lord *Boyde*, *James Cockburn* of *Lanton*, *John Sommerville* of *Cumbuſnethan*, *Moubray* of *Barnbougal*, and *Ogilbye* of *Boyne*.

The above-nam'd being choſen, admitted, and ſworn to give Sentence according to Cuſtom, and the Earl of *Bothwell* being accus'd by Indictment of the Crime above declar'd, and ſubmitting and referring himſelf to the Sentence of the ſaid Judges, they went out of the Senate-houſe to another Place; and after having long diſputed together upon all the Articles of the ſaid Accuſation, they did each of them, one after another, declare the ſaid *James* Earl of *Bothwell* quit and abſolv'd of the whole, and every part of the Murder of the King, and in general of whatever depended on the ſaid Accuſation.

Afterwards the ſaid *George* Earl of *Caithneſs*, Chancellor or Preſident at the ſaid Tryal (*i. e.* Foreman of the Jury) as well in his own Name as that of the other Judges, demanded an Act, to the end that as well the Advocates, as the ſaid *Robert Cunningham*, having a Proxy from the Earl of *Lennox*, and all others whomſoever, might be debarr'd hereafter from producing any other Writings or Proofs whatſoever, in order to ſupport the ſaid Indictment, and that the Judges might not be induc'd to give any other Opinion than they had done before; the rather becauſe no body had prov'd the Truth of the Accuſation, not ſo much as any part of it, and that no Accuſer appear'd but the above-mention'd, who were preſented in order to carry on the Tryal: and therefore

fore the Judges having regard to the ſame, declar'd him free as far as they could have any knowledge of the Fact, with a Proteſtation, that this might not be afterwards imputed to them as a Fault: which Act and Proteſtation, when the ſaid Earl of *Caithneſs* Preſident, and ſome of the Judges above-mention'd, return'd to the Court in the Senate-houſe, and before the pronouncing of the aforeſaid Sentence, was, at the requeſt of the ſaid Earl of *Caithneſs*, read publickly, and in full Court, and he demanded an Act and Inſtrument of it, proteſting as above.

Extracted from the Regiſters of the Acts of our Sovereign Lady's Court of Juſtice, by me *John Bellenden* of *Auchnoule* Knight, and Clerk General of the ſaid Court, under my Sign Manual.

Thus ſign'd, *John Bellenden*, Clerk of the Court.

The Proclamations and Placarts, in anſwer to them mention'd in the Trial, and others that happen'd after, were as follows.

Incontinent after the Murder of the King, the 10th of *February*, 1566. a Proclamation was iſſu'd, ſetting forth, that whoever would diſcover the Murderers ſhould have 2000 *l.* Sterling. This Proclamation was anſwer'd by a Placart, fix'd on the door of the Senate-houſe of *Edinburgh*, on the 16th day of *February*, in form as follows:

Whereas publick Notice has been given, that whoſoever will diſcover the Murderers of the King, ſhould have 2000 *l.* Sterling; I who have made Enquiry by thoſe who committed the Act it ſelf, affirm, that the Authors of the ſaid Murder are the Earl of *Bothwell*, Sir *James Balfour*, the Curate *Flisk*, Maſter *David Chambers*, and black Maſter *John Spens*, who above all was the principal Author of this Murder; and the Queen, who conſented to it at the Perſuaſion of the ſaid Earl of *Bothwell*, by the Witchcraft of the Lady *Buccleugh*.

Upon this, another Proclamation was iſſu'd the ſame day, requiring the Perſon who had ſet up the Placart to appear, own, and ſubſcribe it in Perſon, that he might have the Sum promis'd by the former Proclamation, and more if he deſerv'd it, as the Queen and her Council ſhould think fit.

To this the following Anſwer was given and ſet up at the ſame Place the day following.

Foraſmuch as a Proclamation has been iſſu'd ſince I ſet up my former, requiring that I ſhould come to ſubſcribe and own it; for Anſwer I do likewiſe require, that the Mony may be conſign'd into the hands of ſome Man of Subſtance, and I will appear next Sunday, and four others with me, and then I will ſubſcribe and maintain what I have ſaid. Moreover, I require that the Sieur *Francis Buſtian*, and *Joſeph* the Queen's Goldſmith, may be apprehended; and I will declare what each of them and their Accomplices did in particular.

To this no Anſwer was return'd.

Tho the Earl of *Bothwell* was acquitted as above-mention'd, yet knowing that the World did ſtill eſteem him guilty, he did, in order to clear himſelf further, ſet up a Paper in the Market-place, bearing, that albeit he had been acquitted by Law, yet to make his Innocence the more manifeſt, he was ready to try the ſame by ſingle Combat, with any Man of honourable Birth and Reputation, who would accuſe him of the King's Murder.

To which Anſwer was made by another Placart, ſet up immediately after in the ſame Place, That foraſmuch as the ſaid Earl of *Bothwell* had caus'd a Placart to be ſet up, ſign'd with his own Hand, whereby he challeng'd any Man of Quality, and of a fair Reputation, who would and dar'd to ſay that he was guilty of the Death of the King; adding, that he who ſaid it, or went about to ſupport that Charge, ſhould be forc'd to eat his Words: A Gentleman of Honour and good Renown accepted his Offer, and ſaid, he would prove by the Law of Arms that he was the principal Author of that horrid Murder, of which the Judges had raſhly acquitted him for fear of Death, after ſo much Inquiry had been made into it. And whereas the King of *France* and the Queen of *England* requir'd, by their Ambaſſadors, that the ſaid Murder might be puniſh'd, he alſo intreats their Majeſties to inſiſt with the Queen, his Sovereign Lady, that by her Conſent a Time and Place may be appointed in their Countries to combat the Earl according to the Law of Arms, in their Preſence, or in that of their Deputies; at which Time and Place he promiſes and ſwears, on the word of a Gentleman, to be preſent and do his Duty, provided their Majeſties will, by Proclamation, grant Safe-conduct to him and his Company, to paſs and repaſs thro their Dominions without any moleſtation. He refers it to the Judgment of the Readers and Hearers what juſt Cauſe he has to deſire this of the King of *France* and the Queen of *England*, and by this he advertiſes the reſt of the Murderers to prepare themſelves; for he will give each of them the like Challenge, and publiſh their Names in Writing, that they may be known to every body.

To this *Bothwell* made no Reply.

The Tryal of THOMAS *Duke of* Norfolk, January 16. 14 Eliz. A. D. 1571.

FIRST of all, there was prepar'd in *Weſtminſter-Hall* a large Scaffold, about a Foot diſtant from the *Chancery-Court*; and to the ſame Scaffold a long Paſſage, about ſix foot broad, and high built all the way as far as to the *Common-Pleas* Bar. In the middle, on the South-ſide of the Scaffold, was erected a Chair, ſomewhat higher than the reſt, with a Cloth of State for the Lord High Steward of *England*, who for that day was *George* Earl of *Shrewsbury*. On both ſides of the Lord High Steward, ſat the Lords in this Order:

On the right Hand of the Ld High Steward.	On the left Hand.
Reynold Earl of *Kent*,	Earl of *Worceſter*,
Thomas Earl of *Suſſex*,	Earl of *Huntingdon*,
Ambroſe E. of *Warwick*,	*Francis* Earl of *Bedford*,
---Earl of *Pembroke*,	*Edward* Earl of *Hertford*,
Robert Earl of *Leiceſter*,	Viſcount *Hereford*,
Lord *Clinton*, Lord High Admiral of *England*,	*William* Lord *Howard* of *Effingham*,
William Lord *Burleigh*,	Lord *Grey* of *Wilton*,
James Lord *Mountjoy*,	Lord *Sandes*,
Lord *Wentworth*,	Lord *Burgh*,
Lewis Lord *Mordant*,	Lord *St. John*,
Lord *Chandois*,	Lord *Rich*,
Oliver Lord *St. John* of *Bletſhoe*.	Lord *North*,
	Thomas Lord *Buckhurſt*,
	Lord *De La Ware*.

On both ſides of the Lord High Steward, on a lower Form, at the Lord's Feet, ſat the Judges, *viz.* on the right Hand;

Sir *Robert Catlin*, Lord Chief Juſtice of *England*;
Sir *James Dyer*, Lord Chief Juſtice of the *Common Pleas*;
Sir *Edward Saunders*, Lord Chief Baron of the *Exchequer*.

On the left Hand, the reſt of the Judges ſat according to their Order.

At the feet of the Lord High Steward, directly before him, in a hollow Place cut in the Scaffold for that purpoſe, ſat Mr. *Miles Sands* Clerk of the Crown, with his Secondary. Next, beneath the Juſtices in the ſame Row, ſat at the right Hand, *viz.* on the Eaſt-ſide, Sir *Francis Knowles*, with three of the Queen's Houſhold, and Sir *Walter Mildmay* Chancellor of the *Exchequer*, with ſeveral others of the Queen's Privy Council. On the left ſide, on the Weſt part of the ſaid Scaffold in the ſame Degree, ſat next the Judges, Dr. *Wilſon* Maſter of the Requeſts, and ſeveral other Perſons of Note.

On the North part of the Scaffold, directly before the Bar where the Priſoner came, ſat Mr. *Nicholas Barrham* the Queen's Serjeant, Mr. *Gilbert Gerard* the Queen's Attorney-General, Mr. *Thomas Bromley* Sollicitor-General, and Mr. *Thomas Wilbraham* the Queen's Attorney of the Court of Wards. On the right Hand, by Permiſſion, ſat Mr. *William Fleetwood* Recorder of *London*; and on their left Hands were Mr. *Thomas Norton*, who wrote down this Trial upon the Scaffold, as alſo *Garter* King at Arms, two Gentlemen Uſhers, and two Serjeants at Arms.

The Lord High Steward being ſet in his Chair, and all the Lords and others ſet in their Places, with a great Number of People in the Hall, the Hall being kept by the Knight Marſhal, and the Warden of the Fleet and their Servants with Tipſtaves; about half an hour paſt eight in the morning the Lord High Steward ſtood up at his Chair bare-headed, and Mr. *Norris* the Gentleman-Uſher holding the white Rod before him, *Littleton* the Serjeant at Arms made Proclamation as follows:

My Lord's Grace, the Queen's Majeſty's Commiſſioner, High Steward of England, *commandeth every Man to keep ſilence on pain of Impriſonment, and to hear the Queen's Majeſty's Commiſſion read.* Which then was read by the Clerk of the Crown.

Then the ſaid Lord High Steward ſat down again in his Chair, and the Gentleman-Uſher deliver'd him the white Rod, which he held in his hand a great while; and after the Indictment read, redeliver'd it to the Gentleman-Uſher, who held it up before him all the time of the Arraignment. Then *Littleton* the Serjeant again made Oyer, and proclaim'd thus: *Thomas Edwards, Serjeant at Arms, return thy Precept*; which being put in immediately, he deliver'd to the Clerk of the Crown the Names of the Peers ſummon'd for the Trial.

Then *Littleton* the Serjeant again made Oyer, and proclaim'd thus: *All Earls, Viſcounts, and Barons, ſummon'd to appear here this day, every one anſwer to your Names on pain of future Peril.* Then were all the Lords call'd in order by their Names of Baptiſm, and Sirnames of Dignity, beginning at the antienteſt; and every one ſeverally, as he was called, ſtood and ſignify'd their Appearance.

Their Order of Ancientry, as they were call'd, was thus:

Raynold Earl of *Kent*,
William E. of *Worceſter*,
Thomas Earl of *Suſſex*,
Henry E. of *Huntingdon*,
Ambroſe E. of *Warwick*,
Francis E. of *Bedford*,
——E. of *Pembroke*,
Edward E. of *Hertford*,
Robert E. of *Leiceſter*,
Walter Viſc. *Hereford*,
—— Lord *Clinton*,
William Lord *Howard* of *Effingham*,
William Lord *Burleigh*,
Lord *Grey* of *Wilton*,
James Lord *Mountjoy*,
Lord *Sandes*,
Lord *Wentworth*,
Lord *Burgh*,
Lewis Lord *Mordant*,
Lord *St. John*,
Robert Lord *Rich*,

Lord

Lord *North*, *Thomas* Lord *Buckhurſt*,
Lord *Chandois*, Lord *De La Ware*.
Ol. Ld *St. John* of *Bletſhoe*,

Then the Serjeant again made Oyer, and proclaim'd thus: Robert Catlin *Knight, Chief Juſtice of* England, *return thy* Certiori *and thy Precept*; which was immediately deliver'd to the Clerk of the Crown, and read. The Serjeant again made Oyer, and proclaim'd thus: *Lieutenant of the* Tower *of* London, *return thy* Habeas Corpus, *and bring forth thy Priſoner* Thomas *Duke of* Norfolk.

Then was the Duke brought upon the long half Pace to the Bar, Sir *Owen Hopton* Lieutenant of the *Tower* leading him by the right hand, and Sir *Peter Garowe* by the left, and ſo he was plac'd at the Bar, they ſtill holding him by the Arms; the Chamberlain of the *Tower*, with the Axe of the *Tower* ſtanding with the Edge towards Sir *Peter*; while behind the Duke ſtood Mr. *Henry Skipwith*, who, after the Duke's Impriſonment, was appointed to attend on him in the *Tower*.

Then the Duke with a haughty Look, and oft biting his Lip, ſurvey'd the Lords on each ſide him. In the mean time the Lieutenant of the *Tower* deliver'd in his Return; then the Serjeant made Oyer and Proclamation of Silence, while the Clerk of the Crown ſaid to the Duke thus: Thomas *Duke of* Norfolk, *late of* Remming-hall *in the County of* Norfolk, *hold up thy hand*: Which the Duke did very luſtily. Then the Clerk of the Crown read the Indictment, the Tenour whereof is thus:

Middleſex.

THE Jury preſent and ſay, in behalf of our Lady the Queen, That *Thomas* Duke of *Norfolk*, late of *Remming-hall* in the County of *Norfolk*, as a falſe Traitor againſt the moſt Illuſtrious and Chriſtian Princeſs *Elizabeth*, Queen of *England*, *France*, and *Ireland*, Defender of the Faith, &c. and his Sovereign Lady, not having the Fear of God in his Heart, nor weighing his due Allegiance, but ſeduc'd by the Inſtigation of the Devil, contrary to that cordial Affection and bounden Duty that true and faithful Subjects of our ſaid Lady the Queen do bear, and of right ought to bear towards our ſaid Lady the Queen; and intending to cut off and deſtroy the ſaid Queen *Elizabeth*, the 22d day of *September*, in the 11th year of the Reign of our ſaid Sovereign Lady Queen *Elizabeth*, and divers other Days and Times before and after, at *Charter-houſe* in the County of *Middleſex*, hath falſly, maliciouſly, and traiterouſly conſpir'd, imagin'd, and gone about, not only to deprive, depoſe, and caſt out the ſaid Queen, his Sovereign Lady, from her Royal Dignity, Title, Power, and Government of her Kingdom of *England*; but alſo to bring about and compaſs the Death and final Deſtruction of our ſaid Sovereign Lady the Queen, and to make and raiſe Sedition in the ſaid Kingdom of *England*, and to ſpread a miſerable Civil War amongſt the Subjects of our ſaid Lady the Queen, and to procure and make an Inſurrection and Rebellion againſt our ſaid Lady the Queen, his ſupreme and natural Lady; and ſo to make publick War within the Realm of *England*, contrary to our ſaid Lady the Queen, and the Government of her ſaid Kingdom, and to endeavour a Change and Alteration of the ſincere Worſhip of God, well and religiouſly eſtabliſh'd in the ſaid Kingdom; and alſo totally to ſubvert and deſtroy the whole Conſtitution of the ſaid State, ſo happily inſtituted and ordain'd in all its Parts; with divers Aliens and Foreigners, not the Subjects of our ſaid Lady the Queen, hoſtilely to invade the ſaid Kingdom of *England*, and to make cruel War againſt our ſaid Lady the Queen and her Dominions.

And for the compaſſing and bringing to paſs all the ſaid wicked and notorious Treaſons, Imaginations, and Intentions propos'd as aforeſaid, he the ſaid *Thomas* Duke of *Norfolk*, well and truly knew and underſtood, That *Mary* late Queen of *Scots* had laid Claim, and pretended a Title and Intereſt to the preſent Poſſeſſion and Dignity of the Imperial Crown of this Kingdom of *England*; well and truly knowing and underſtanding, that the aforeſaid *Mary*, late Queen of *Scots*, had falſly, wickedly, and unjuſtly ſaid and affirm'd, That our aforeſaid Lady, Queen *Elizabeth*, had no Right and Title to the Crown of this Realm of *England*: And alſo well and truly knowing and underſtanding, that the aforeſaid *Mary*, late Queen of *Scots*, had falſly, wickedly, and unjuſtly uſurp'd the Stile, Title, and Regal Name of this Kingdom of *England*; and that ſhe, the aforeſaid *Mary*, late Queen of *Scots*, had impal'd and join'd the Arms of the Kingdom of *England* with the Arms of the Kingdom of *Scotland*, as well in her Seals and Plate, as other things, without any Difference and Diſtinction. And furthermore, well and truly knowing and underſtanding, that the ſaid *Mary*, late Queen of *Scots*, had not revok'd or renounc'd her wicked and unjuſt Claims and Uſurpations aforeſaid, the 23d day of *September*, in the 11th Year of our ſaid Lady, now Queen of *England*, and divers other Days and Places before and after the ſaid time, at the *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, ſubtlely and traitorouſly ſought and endeavour'd, without the Aſſent, Conſent, or Agreement of the aforeſaid our Lady Queen *Elizabeth*, his Supreme and Sovereign Lady, to be join'd in Marriage with the aforeſaid *Mary*, late Queen of *Scots*. And for this Reaſon and Cauſe, he the ſaid Duke aforeſaid, the 23d day of *September*, in the 11th Year aforeſaid, and divers other Days and Places before and after, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, ſubtlely and traitorouſly writ divers Letters to the aforeſaid *Mary*, late Queen of *Scots*; and as well as Letters, ſent ſeveral Pledges or Tokens to the aforeſaid *Mary*, late Queen of *Scots*, the 23d day of *September* aforeſaid, in the year aforeſaid, and divers other Days and Times before and after. And alſo on the ſaid 23d day of *September*, in the 11th Year of the Reign of the ſaid Queen *Elizabeth*, and divers other Days and Places before and after, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, ſubtlely, and traitorouſly gave to, and accommodated the ſaid *Mary*, late Queen of *Scots*, with divers Sums of Mony; which the ſaid *Mary*, late Queen of *Scots*, falſly and traitorouſly had and receiv'd of him the ſaid *Thomas* Duke of *Norfolk*, the 23d day of *September* aforeſaid, in the year aforeſaid, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid; notwithſtanding the aforeſaid Duke had been diſtinctly and eſpecially forbid and prohibited by the aforeſaid Lady Queen *Elizabeth*, upon his Allegiance, that he ſhould upon no account whatſoever hold Correſpondence, or treat with the aforeſaid *Mary* late Queen of *Scots*, concerning Marriage with her the ſaid *Mary* late Queen of *Scots*; and notwithſtanding the aforeſaid Duke, by divers Letters and Inſtruments writ

with his own hand to the ſaid Lady Queen *Elizabeth*, his ſupreme Sovereign Lady, publickly deny'd and renounc'd the aforeſaid Marriage, proteſting that he the ſaid Duke was never engag'd, or had proceeded in the ſaid Marriage.

And alſo the ſaid Jurors, upon their corporal Oaths, further preſent and ſay, That *Thomas* Earl of *Northumberland*, late of *Topcliffe* in the County of *York*, and *Anne* his Wife; *Charles* Earl of *Weſtmoreland*, late of *Branſpeth* in the County of *Durham*; *Richard Norton*, late of *Norton Comars* in the County of *York*; *Thomas Markenfield*, late of *Markenfield*, in the ſaid County, Eſqs; together with ſeveral other falſe Traitors, Rebels, and publick Enemies of our ſaid Lady Queen *Elizabeth*, not having the Fear of God before their eyes, nor conſidering their due Allegiance, but ſeduced by the Inſtigation of the Devil, imagined, deviſed, and conſpired to deprive and depoſe the ſaid Lady Queen *Elizabeth* from her Royal Dignity, Title, and Power of her Kingdom of *England*: and alſo to bring about and compaſs the Death and final Deſtruction of the ſaid Lady Queen *Elizabeth*, with the Intention and Deſign to compleat and fulfil all their traitorous Conſpiracies and Devices, on the 16th Day of *November*, in the 11th Year of the Reign of the ſaid Queen, at *Rippon* in the ſaid County of *York*; by their own Conſent and Appointment, they did falſly and traitorouſly meet and aſſemble themſelves together, with a great Multitude of People, to the Number of four thouſand Men and more, ready arm'd and prepar'd for open War againſt their ſaid Queen *Elizabeth*, their Supreme and Sovereign Lady, at *Rippon* aforeſaid, the 16th Day of *November* aforeſaid, in the Year aforeſaid, falſly and traitorouſly they were ready prepar'd and arm'd to execute all and ſingular the Treaſons and Conſpiracies aforeſaid, of the ſaid *Thomas* E. of *Northumberland* and *Anne* his Wife, *Charles* E. of *Weſtmoreland*, *Richard Norton*, and *Thomas Markenfield*, with many others of the ſaid falſe Traitors and Rebels aforeſaid, by due Form of Law legally indicted, and afterwards upon that legally outlaw'd and attainted, as they now ſtand upon Record in her ſaid Majeſty's Court of *Queen's-Bench*.

And after the Perpetration and Commiſſion of the aforeſaid wicked Treaſons, in manner aforeſaid by them committed, the aforeſaid *Thomas* Earl of *Northumberland*, and *Anne* his Wife; *Charles* Earl of *Wſtmoreland*; *Richard Norton*, and *Thomas Markenfield*; with many other falſe Traitors and Rebels aforeſaid, the 20th Day of *December*, in the 12th Year of the Reign of our ſaid Sovereign Lady the Queen, for thoſe Treaſons fled out of this Kingdom into the Kingdom of *Scotland*; and there reſided, and were receiv'd, aided and aſſiſted by ſeveral Noblemen, and other great Men of the ſaid Kingdom of *Scotland*, viz. by *James* Duke of *Chaſtelleroy*, the Earl of *Huntley*, Mr. *Harris*, Mr. *Hume*, and Mr. *Firmherſt*, and other *Scots*, then Subjects of the ſaid Kingdom of *Scotland*, detain'd from our ſaid Lady Queen *Elizabeth*: in and towards which Noblemen, and other great Men of the aforeſaid Kingdom of *Scotland*, the ſaid Lady Queen *Elizabeth* afterwards proclaim'd, and caus'd War to be made upon the ſaid Rebels, as publick Enemies to her Kingdom of *England*, by *Thomas* Earl of *Suſſex*, her Majeſty's Lord Lieutenant, and Lieutenant-General of the *North*, with a powerful and ſtrong Army to oppoſe the Enemy. Upon which account, *Charles* Earl of *Weſtmoreland*, *Anne* Wife of *Thomas* Earl of *Northumberland*, *Richard Norton*, and *Thomas Markenfield*, fled from the aforeſaid Kingdom of *Scotland*, and tranſported themſelves to *Antwerp* in *Brabant*, where they reſided. And there the ſame *Charles* Earl of *Weſtmoreland*, *Anne* Wife of the ſaid *Thomas* Earl of *Northumberland*, *Richard Norton*, and *Thomas Markenfield*, contrary to their due Allegiance, ſtaid in manifeſt contempt of the ſaid Queen and her Laws. Yet the aforeſaid *Thomas* Duke of *Norfolk*, not ignorant of the Premiſes, but well and truly knowing all and ſingular the Tranſactions in manner and form aforeſaid, the 6th Day of *Auguſt*, in the 12th Year of the Reign of the ſaid Queen *Elizabeth*, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, and divers other Days and Places afore and after, falſly and traitorouſly took care, and cauſed to be ſent, deliver'd and diſtributed, ſeveral Sums of Mony, to aid, aſſiſt, and ſupport the aforeſaid *Charles* Earl of *Weſtmoreland*, and *Anne* Wife of *Thomas* Earl of *Northumberland*.

And further, That the ſaid *Thomas* Duke of *Norfolk*, the 16th Day of *July*, in the 13th Year of the Reign of the ſaid Lady *Elizabeth*, Queen of *England*, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, and divers other Days and Places afore and after, falſly and traitorouſly adhered to, aided and aſſiſted *James* Duke of *Chaſtelleroy*, Earl of *Huntley*, Mr. *Harris*, Mr. *Hume*, Mr. *Burleigh*, and Mr. *Firmherſt*, publick Enemies to our ſaid Lady *Elizabeth*, then Queen of *England*.

And further, the Jurors aforeſaid, upon their Oaths, preſent and ſay, That when *Pius Quintus*, ſometime Biſhop of *Rome*, was and is known to be a deadly and publick Enemy to our ſaid Lady Queen *Elizabeth*, and her Kingdom of *England*; that the ſaid *Thomas* Duke of *Norfolk* well and truly knowing and underſtanding this, the 10th Day of *March*, in the 13th Year of the Reign of the ſaid Lady Queen *Elizabeth*, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, and divers other Days and Places afore and after, with intention to produce the ſaid traitorous Effects, falſely, ſubtilly, and traitorouſly conſented, conſulted, adviſed, and procured one *Robert Ridolph*, a foreign Merchant beyond the Seas, and out of the Kingdom of *England*, to ſend to the aforeſaid Biſhop of *Rome*, to *Philip* King of *Spain*, and to the Duke of *Alva*, to obtain of the aforeſaid Biſhop of *Rome* certain Sums of Mony, towards the raiſing and maintaining of an Army to invade this Kingdom of *England*, and to make war in the ſaid Kingdom, againſt the aforeſaid Lady *Elizabeth*, Queen of *England*, &c. And that the ſaid King of *Spain*, by the Mediation of the ſaid Duke of *Alva*, did ſend into this Kingdom of *England* a certain Army of *Germans*, to invade and make open and cruel War againſt the ſaid Lady Queen *Elizabeth*.

And alſo that the ſame *Thomas* Duke of *Norfolk*, the ſame 10th Day of *March*, in the ſaid 13th Year of the Reign of the ſaid Lady Queen *Elizabeth* aforeſaid, and divers other Days and Places afore and after, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, wickedly, and traitorouſly conſpired, conſented, and agreed with the aforeſaid *Robert Ridolph*, to advance, ſtir up, and raiſe within this Kingdom of *England*, all the Forces and Power that he the aforeſaid *Thomas* Duke of *Norfolk* and his Confederates were by any means capable of raiſing, or engaging others to raiſe within this Kingdom of *England*, to join with the aforeſaid Army, and with other Subjects of this Kingdom of *England*, whom the

ſame

ſame Duke of *Norfolk* could gather together and join with the ſaid Army by the ſaid King of *Spain*, in order to make open War againſt our ſaid Lady Queen *Elizabeth*, within this her Kingdom of *England*; and to take away and free *Mary*, late Queen of *Scots*, out of the cuſtody and poſſeſſion of our ſaid Lady *Elizabeth*, Queen of *England*; and at the ſame time to deprive, depoſe, and eject the moſt Illuſtrious and Chriſtian Princeſs Queen *Elizabeth*, from her Royal Dignity, Title, Power, Preheminence, and Government of this Kingdom of *England*: and at the ſame time, him the ſaid *Thomas* Duke of *Norfolk*, to join himſelf in Marriage with the aforeſaid *Mary*, late Queen of *Scots*.

And further, the Jurors upon their Oaths preſent and ſay, That the aforeſaid *Robert Ridolph* had writ and compos'd three diſtinct and ſeparate Letters of Credit, in the name of the aforeſaid *Thomas* Duke of *Norfolk*, for him the ſaid *Robert Ridolph*, in his falſe, wicked, and treaſonous Meſſages aforeſaid; *viz.* One of thoſe Letters to the aforeſaid Duke of *Alva*, another to the aforeſaid Biſhop of *Rome*, and a third to the aforeſaid *Philip* King of *Spain*. That afterwards the ſame *Thomas* Duke of *Norfolk* falſly and traitorouſly intending, willing, and deſiring Succeſs and Effect from the aforeſaid falſe and traitorous Meſſages, by the aforeſaid *Robert Ridolph*, as appeareth by his ſending one *William Baker*, Gent. one of the Servants of the ſaid *Thomas* Duke of *Norfolk*, the 20th Day of *March*, in the 13th Year of the Reign of the Queen, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly and traitorouſly ſent to *Guerrawe Deſpeis*, Embaſſador of the ſaid *Philip* King of *Spain*, to declare, ſhew, and affirm to the aforeſaid Embaſſador of the aforeſaid *Philip* King of *Spain*, that he the ſaid *Thomas* Duke of *Norfolk* had affirm'd and would affirm the aforeſaid Credential Letters to the aforeſaid Duke of *Alva*, the Biſhop of *Rome*, and *Philip* King of *Spain*, compoſed and writ in his Name, was as valid to all intents and purpoſes, as if he the ſaid *Thomas* Duke of *Norfolk* had writ them with his own Hand.

And further, the ſaid Jurors upon their Oaths preſent and ſay, That the aforeſaid *Robert Ridolph*, the 24th Day of *March*, in the 13th Year of the Reign of the ſaid Lady *Elizabeth* Queen of *England* aforeſaid, at *Dover* in the County of *Kent*, took his Journey to ſeveral Parts beyond the Seas, in order to execute, perfect, and compleat the ſaid treaſonable Meſſages, with the Conſent and Agreement of the aforeſaid *Thomas* Duke of *Norfolk*. And afterwards the aforeſaid *Robert Ridolph* convey'd, declar'd, and communicated the ſaid wicked and traitorous Meſſages in foreign Countries and Parts beyond the Sea, as well to the aforeſaid Duke of *Alva*, as to the aforeſaid Biſhop of *Rome*. And that the aforeſaid *Robert Ridolph*, amongſt his many other falſe and traitorous Meſſages, convey'd one Letter in unuſual Characters call'd Cyphers, which the aforeſaid Duke of *Alva* caus'd to be writ and ſent to *Thomas* Duke of *Norfolk*; which very Letter, as declared to be writ and ſent, he the ſaid Duke of *Norfolk*, the eighteenth Day of *April*, in the thirteenth Year of the Reign of the ſaid Queen *Elizabeth* aforeſaid, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly and traitorouſly receiv'd and had; and then and there gave and deliver'd to the aforeſaid *William Baker* his Servant ſeveral written Pages in known Letters, commonly to be decypher'd: And the ſaid Papers in common and known Cyphers or Characters, he the ſaid Duke afterwards, on the 25th Day of *April*, in the 13th Year of the Reign of the ſaid Queen *Elizabeth*, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly and traitorouſly receiv'd, inſpected, and read over the ſaid Papers, and then and there falſly and traitorouſly retain'd and kept them. By which Letters of the ſaid *Robert Ridolph* to him the ſaid *Thomas* Duke of *Norfolk*, amongſt other things, are ſignify'd, and he makes known what a kind Audience and Reception he the ſaid *Robert* met with from the aforeſaid Duke of *Alva*, in his wicked and traitorous Meſſages aforeſaid. And that the ſaid Duke of *Alva* required and willed the Friends and Abettors of the ſaid Confederacy to be ready, whenſoever a foreign Power ſhould be ſent into this Kingdom of *England*.

And furthermore, the ſame Jurors upon their Oaths preſent and ſay, That the ſaid *Thomas* Duke of *Norfolk*, the 16th Day of *June*, in the 13th Year of the Reign of the ſaid Lady Queen *Elizabeth*, at *Charter-houſe* aforeſaid, in the County of *Middleſex* aforeſaid, falſly and traitorouſly receiv'd a Letter directed to him the ſaid Duke, from *Pius Quintus* Biſhop of *Rome*; by which the ſaid Biſhop of *Rome* promis'd to the ſaid Duke of *Norfolk*, Aid, Help, and Aſſiſtance towards executing the ſaid wicked and traitorous Deſigns of the aforeſaid *Mary*, late Queen of *Scots*, contrary to their due Allegiance, and the Peace of our Sovereign Lady *Elizabeth*, now Queen of *England*, her Crown and Dignity, and in manifeſt Contempt of the Laws of this Kingdom, as well as the worſt and moſt pernicious Example of all other Delinquents in the like caſe, and contrary to the Form of ſeveral Statutes in this caſe made and provided.

After the reading of the Indictment, the Clerk of the Crown ſaid to the Duke; How ſay'ſt thou, *Thomas* Duke of *Norfolk*, art thou guilty of theſe Treaſons whereof thou art indicted, in manner and form as thou art thereof indicted, Yea or No?

Thereupon the Duke began, and ſaid to this effect:

May it pleaſe your Grace, and you the reſt of my Lords here, The hearing of this Indictment giveth me occaſion to enter into the making of a Suit, which I meant not to have done before my coming hither: I beſeech you, if the Law will permit it, that I may have Counſel allow'd me for the anſwering of this Indictment.

The Lord Chief Juſtice anſwer'd, That in caſe of High Treaſon he cannot have Counſel allow'd: And that he was to anſwer to his own Fact only, which himſelf beſt knew, and might without Counſel ſufficiently anſwer.

Duke. That you may underſtand that I ſpeak it not without ſome ground, theſe be the Cauſes that move me to make this Suit: I was told before I came here, that I was indicted upon the Statute of the 25th of *Edward* III. I have had very ſhort warning to provide to anſwer ſo great a matter; I have not had fourteen Hours in all, both day and night, and now I neither hear the ſame Statute alledg'd, and yet I am put at once to the whole Herd of Laws, not knowing which Particularity to anſwer unto. The Indictment containeth ſundry Points and Matters to touch me by Circumſtance, and ſo to draw me into matter of Treaſon, which are not Treaſons themſelves: Therefore with Reverence and humble Submiſſion, I am led to think I may have Counſel. And this I ſhew, that you may think I move not this Suit without any ground. I am hardly handled, I have had

had ſhort warning, and no Books; neither Book of Statutes, nor ſo much as the Breviate of Statutes. I am brought to fight without a Weapon: yet I remember one Caſe in Law, I think it is in the Firſt Year of King *Henry* VII. It is the Caſe of one *Humphrey Stafford*, which was indicted of High Treaſon, and had Counſel allowed him: If the Precedent of his Caſe be ſuch, as it may extend to me, I require it at your hands, that I may have it allow'd: I ſhew you my ground why I crave it. I refer me to your Opinions therein.

Then Sir *James Dyer*, Lord Chief Juſtice of the Common-Pleas, ſaid; My Lord, That Caſe of *Humphrey Stafford* in *primo* of *Henry* VII. was about pleading of Sanctuary, for that he was taken out of Sanctuary at *Culneham*, which belong'd to the Abbot of *Abingdon*; So the Queſtion was, whether he ſhould be allow'd Sanctuary in that Caſe, and with that Form of Pleading, which was Matter of Law: In which Caſe he had Counſel, and not upon the Point or Fact of High Treaſon; but only for the Allowance of Sanctuary, and whether it might be allow'd, being claim'd by Preſcription, and without ſhewing any former Allowances in *Eier*, and ſuch like Matters; but all our Books do forbid allowing of Counſel in the Point of Treaſon; but only it is to be anſwer'd Guilty, or Not Guilty.

Duke. Humphrey Stafford's Caſe was High Treaſon, and he had Counſel. I muſt ſubmit my ſelf to your Opinions; I beſeech you, weigh what Caſe I ſtand in. I ſtand here before you for my Life, Lands and Goods, my Children and my Poſterity, and that which I eſteem moſt of all, for my Honeſty; I forbear to ſpeak of my Honour. I am unlearn'd; if I ask any thing, and not in ſuch Words as I ought, I beſeech you bear with me, and let me have that Favour that the Law allows me. If the Law do not allow me Counſel, I muſt ſubmit me to your Opinions. I beſeech you, conſider of me; my Blood will ask Vengeance, if I be unjuſtly condemn'd; I honour your Learnings and your Gravities: I beſeech you, have Conſideration of me, and grant me what the Law will permit me. I am now to make another Suit to you, my Lords, the Judges: I beſeech you, tell me, if my Indictment be perfect and ſufficient in Law; and whether in Whole, or in the Parts, and in which Parts, that I may know to what I ſhould anſwer.

Lord Chief Juſtice *Catlin*. The Lord Ch. Juſtice ſaid, For the Sufficiency of your Indictment, it hath been well debated and conſider'd by us all; and we have all, with one Aſſent, reſolv'd, and ſo do certifie you, that if the Cauſes in the Indictment expreſs'd, be true in Fact, the Indictment is wholly and in every Part ſufficient.

Duke. Be all the Points Treaſons?

L. Ch. Juſt. *Catlin*. All be Treaſons, if the Truth of the Caſe be ſo in Fact.

Duke. I will tell you what moveth me to ask you this: I have heard of the Caſe of the Lord *Scroope*; it was in the time of *Henry* the IVth (*the Judges ſaid* Henry *the* Vth) he confeſs'd the Indictment, and yet travers'd that the Points thereof were no Treaſons.

L. Ch. Juſt. *Catlin*. My Lord, he had his Judgment for Treaſon upon that Indictment, and was executed.

Then the Clerk of the Crown ſaid again, How ſayeſt thou, *Thomas* Duke of *Norfolk*, art thou guilty of the Treaſons whereof thou art here indicted, in Manner and Form as thou art indicted, Yea, or No?

The Duke anſwer'd, Not Guilty.

The Clerk ſaid, By whom wilt thou be try'd?

The Duke ſaid, By God and my Peers.

Then the Duke ſpake to the Lords, and ſaid thus: Now I am not to uſe a ſhort Speech, which I meant before to have uſed, but that the reading of the Indictment hath driven me to other Occaſions. Altho theſe heinous Treaſons and outrageous Faults objected againſt me, do much abaſh me; yet I conceive no ſmall Comfort, to think under how Gracious a Queen and Sovereign Lady I live, which well appeareth by her moſt gracious Proceeding with me according to the courſe of Law. Her Majeſty ſeeketh not my Blood, but giveth me the Tryal which the Laws admit, and in the moſt favourable manner that I can require; for which I am moſt bounden to her Majeſty. Now I am to make two Suits: the one to your Grace, my Lord High Steward, That as your Place requireth to do Juſtice, ſo it may pleaſe you to extend to me your lawful Favour, that I may have Juſtice, and that I may not be overlaid in Speeches: My Memory was never good, it is now much worſe than it was; ſore Troubles, ſore Cares, Cloſeneſs in Priſon, evil Reſt, have much decay'd my Memory; ſo as I pray God that this day it fail me not, and another time I will forgive it: I beſeech this of you, my Lord High Steward. The ſecond Requeſt, I thought to make to you, my Lords, my Peers: I think my ſelf happy to have my Tryal in ſuch a Company. A much greater Matter, if I could have greater, I durſt put it into your hands, and (a very few excepted) even into every one of your hands ſingly; that Opinion I have of you. I know Religion beareth a ſtroke among you, which, I hope, ſo ruleth your Conſciences, that for no Reſpect you will ſwerve from Juſtice; you will not bring a Worm into your own Conſciences; you will not burden your Souls with condemning me wrongfully; you will not do what God's Law and Right alloweth not; This above all things comforteth me, next unto her Majeſty's moſt gracious Favour of my lawful Tryal. If I had not made a full account to have this for the way of my lawful Purgation, I needed not to have been here at this time, neither for Matters paſs'd two Years ago, nor for that whereof I am charg'd at this preſent. I have choſen, my Peers, I have choſen rather to come here to be try'd by you, than with needleſs and cowardly running away, to have left a Gap open for my Enemies ſlanderouſly to lay to my charge in my abſence what they could maliciouſly invent. I have this day (tho I am ſorry for any Cauſe to come in this Caſe before you) even the day that I could wiſh to be tried by ſuch Peers, I will not enter into Particularities, and diſcourſe my whole Cauſe at large, but anſwer from Point to Point, as I ſhall be charged; for my Memory was never good, and it is now worſe than ever it was. Yet one Requeſt more I beſeech of you, my Peers, which I with Favour may ask, and you with Juſtice may grant: Unhappy Man that I am, tho I have to this Indictment pleaded Not Guilty of the Treaſons therein objected againſt me, nor of no Treaſons; yet I confeſs, as I have with all Humility, and with Tears confeſs'd, and as ſome of you, my Lords, here preſent can witneſs, that I have neglected my Duty to the Queen's moſt Excellent Majeſty, in Caſes inferiour to Treaſon, and that be no Parts of Treaſon: I have laid them at her Majeſty's feet, and pour'd them forth before her in Confeſſion, ſo far as my Conſcience would ſuffer me to declare. Let,

I beſeech you, neither my Confeſſion already made of inferior Faults, that be not in compaſs of Treaſon; nor, if I ſhall now in mine Anſwers confeſs them again, if they be objected againſt me; lead you to judge the worſe of me in the greater Caſe. Let each Fault have his own Pine; I beſeech you, remember the Differences and Degrees of Offences, and not to mix my ſmaller Faults with this great Cauſe: let theſe mean Crimes reſt at her Majeſty's feet, where I with all humility have laid them. Thus I beſeech you all, have conſideration of me.

Then ſpake the Queen's Serjeant, Mr. *Barrham*, and ſaid to this effect: It hath appear'd to your Grace and your Lordſhips all, that the Duke of *Norfolk* is by this Indictment charged with three principal Points of High Treaſon; the firſt is, That forgetting his Allegiance and Duty to his Sovereign Lady the Queen, he hath traitorouſly imagin'd, devis'd and practis'd, to deprive and depoſe the Queen's Majeſty of and from the Crown of this Realm, and her Royal Stile, Name and Dignity, and to bring her to Death and Deſtruction; and ſo to alter the whole State of Government of this Realm. The ſecond Point is, That he hath traitorouſly reliev'd and comforted the *Engliſh* Rebels that levy'd War againſt her Majeſty within her Realm, and which ſince fled into *Scotland*, and from thence beyond the Sea. The third Point is, That he hath traitorouſly given Relief and Maintenance to the Duke of *Chaſtelleroy*, the Earl of *Huntley*, the Lord *Harris*, the Lord *Hume*, and other *Scots*, the Queen's Majeſty's publick Enemies, Succourers and Detainers of the ſaid Rebels. To prove theſe great Treaſons, there is in this Indictment ſet forth unto you good and ſufficient Matter; firſt, to prove that the Duke of *Norfolk* ſought, imagin'd, compaſs'd and practis'd to deprive and depoſe the Queen's Majeſty of her Royal Crown, Eſtate and Dignity; and conſequently to bring her to Death and Deſtruction, are alledg'd two matters: The firſt is, That the Duke knowing the *Scottiſh* Queen falſly and unjuſtly to claim and pretend Title, to have and enjoy the preſent Poſſeſſion of the Crown of *England*; and that ſhe untruly uſurp'd the Name and Stile of this Realm; and that ſhe gave and quarter'd the Arms of *England* without difference; and that ſhe continu'd in that Fact, and uſurp'd Claim without Renunciation thereof, and without acknowledging her Error and the Queen's Majeſty, though ſhe hath been thereto requir'd: He, I ſay, knowing all this, yet without the Queen's Majeſty's Aſſent, againſt her Majeſty's ſpecial and expreſs Commandment upon his Allegiance, and againſt his own Promiſe and Proteſtation upon his Faith, hath nevertheleſs ſecretly ſought and practis'd to join himſelf with the ſaid *Scottiſh* Queen in Marriage, and to advance and maintain her ſaid falſe and pretended Title to the preſent Poſſeſſion of the Crown of this Realm; which cannot be without purpoſe to depoſe and deprive the Queen's Majeſty, and conſequently to bring her to Death and Deſtruction. The ſecond is, That the Duke of *Norfolk* hath conſpired and practiſed to procure Strangers to enter into this Realm, and invade the ſame, and here to make open War againſt her Majeſty, within her own Realm; and ſo forcibly to work her Depoſing, Deprivation, Death and Deſtruction. Hereupon the ſaid Duke hath pleaded Not Guilty, and for his Tryal hath put himſelf upon his Peers; yours therefore is the Tryal. And now for Evidence to prove him guilty of the Treaſons contain'd in the ſaid Indictment, it may pleaſe your Lordſhips to hear ſuch a Matter as I ſhall for the Queen bring forth againſt him.

Duke. I am occaſion'd, by the Speech of Mr. *Serjeant*, to gather what I ſhall find in the reſt of them; a Meaning with Circumſtance to draw me into Treaſon, with Eloquence to overlay me, and to exaſperate matters extremely againſt me, and to enforce things that be not Treaſons indeed. I beſeech you, my Maſters, for God's ſake do your Duty, remember Equity, conſider Conſcience, and what I am: I am no Stranger, I am a Chriſtian Man, and an *Engliſh* Man. You may do your Duties to the Queen ſufficiently, and yet deal conſcionably with me, and heap not, unconſcionably, Circumſtances to cloy my Memory. Go directly to the Indictment: It is no Praiſe nor Glory for you to overlay me. I am unlearned, unable to ſpeak, and worſt of all to ſpeak for my ſelf; I have neither good Utterance, as the World well knoweth, nor Underſtanding: For God's ſake do not overlay me with ſuperfluous Matter. One thing I had forgotten: I know a Man ſuſpected is ſelf-condemn'd. Now as it happen'd in my laſt Trouble, ſo at this time there want not to put abroad to the World, and heap up things which I never thought; a great number of ſuch there be, as I ſee many here at this preſent. They have publiſh'd, that I took an Oath of things which afterward prov'd contrary; blame me not that I miſtruſt the worſe, becauſe I have found the worſt. But to take away ſcruple from you, true it is, that I took an Oath, but not generally, but to ſpecial Points. And now when I take an Oath to Points, to draw me to the Whole, and to take *Pars pro Toto*, is great Injury. To prove that I took that Oath to Parts, and not to the Whole, I refus'd to ſet my Hand without expreſſing of the Point; for my Hand, my Oath, and my Heart, ſhall go all together. And for further proof that my Oath was but to ſpecial Points, I can name good Witneſſes to whom I did preſently, within three hours after my Oath taken, ſpecially report the three Points that I made mine Oath unto. This I ſay, to take from you the Scruple of ſuch Matter as I have been charg'd with, and which perhaps you have heard of me to my diſcredit.

Then ſaid Mr. Serjeant *Barrham*, I have yet given no Evidence, and for that Oath you are not once yet charged withal. I have done nothing yet, but recited the Matters contain'd in the Indictment: now will I bring forth Matter for the Queen in Evidence, and will prove the things in the Indictment to be true. There are alledg'd three great Treaſons, as I have before ſaid; the firſt only I will deal with, that is, to prove that the Duke of *Norfolk* imagin'd, compaſs'd, and conſpir'd, to deprive and depoſe the Queen's Majeſty, our Sovereign Lady, of her Crown and Royal Eſtate and Dignity: and I will uſe the ſecond Matter but for Inducement of the firſt, by ſhewing how the *Scottiſh* Queen falſly and unjuſtly claim'd the preſent Poſſeſſion of the Crown of this Realm; and that he knowing that the *Scottiſh* Queen ſo unjuſtly claim'd the ſaid Crown, that ſhe quarter'd the Arms of *England*, that ſhe uſurp'd the Stile and Royal Name; that ſhe hath not acknowledg'd her Error, nor renounc'd her untrue and unjuſt Claim and Uſurpation, tho ſhe hath been requir'd thereunto; and whereto himſelf hath been privy, and hath dealt in Treaty, as a chief Commiſſioner for the Queen's Majeſty for that purpoſe: This Matter, I ſay, I will ſet out; how

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he knowing all this, yet without the Aſſent of the Queen's Majeſty, againſt her Highneſs's expreſs Commandment upon his Allegiance, againſt his own Faith and Promiſe to the contrary, practis'd to join himſelf in Marriage with the ſaid Queen of *Scots*: and I mean to join thereto an Intent of his, to advance and maintain that unjuſt Title of the *Scottiſh* Queen. If then this attempting to join himſelf in Marriage with the *Scottiſh* Queen ſhall be prov'd unto you, and that he knew of her unjuſt Claim and Pretence of Title, and that thereby he join'd himſelf to advance and maintain the ſaid Title, this muſt needs tend to a Purpoſe; and imagining to depoſe and deprive the Queen's Majeſty, and thereupon conſequently to bring her to Death and Deſtruction, which is High Treaſon within the Compaſs of the Statute of 21 of King *Edward* III. For whoſo ſhall imagine and go about to maintain a Title to the preſent Poſſeſſion of the Queen's Crown, and to join himſelf in Marriage with her that ſo claimeth, without doubt he meaneth to aſpire to the Crown himſelf; and ſo meaning, it plainly followeth, that he cannot ſuffer her Majeſty to reign, and his Jealouſy cannot ſuffer her to live where he deſireth to reign. Now will I ſhew you the manner of his procuring to match himſelf in Marriage with the *Scottiſh* Queen, and firſt the beginning thereof: Firſt of all, to prove how ſecretly he dealt to that end, by Suits and Means, before he was a Commiſſioner, to examine Cauſes between the *Scottiſh* Queen, and the young King her Son, and other the Lords of *Scotland*. Before that time there were ſecret Suits and Practices between them by Motions, by Meſſages, by Letters and Tokens, and pleaded ſo far forth, as that the *Scottiſh* Queen took it, that ſhe was aſſur'd of his Good-Will. For when Commiſſion was directed to him, and to the Earl of *Suſſex*, and to Sir *Ralph Sadler*, Counſellors of the Dutchy of *Lancaſter*, the *Scottiſh* Queen had and repos'd full Affiance in the Duke of *Norfolk*, to have at his hands favourable hearing; and ſo ſhe reported, and ſo indeed it follow'd. And where you ſpeak of an Oath, and ſeem ſo loth to be diſprov'd, and would ſo feign have it taken, that your Oath, Hand, and Heart go all together; there was an Oath ſpecially appointed for the Commiſſioners, that they ſhould deal in that matter between the *Scottiſh* Queen and her Son and Nobility, directly, ſincerely, and uprightly, and to weigh all things that ſhould be objected or anſwer'd on either part indifferently without all Partiality. Then after this Oath taken, the Duke being the firſt nam'd Commiſſioner, this Oath notwithſtanding, dealt indirectly, deceiv'd the Queen's Majeſty's Truſt, and demean'd him partially againſt his ſaid Oath, wherein he committed wilful Perjury: Beſides that, without regard of his Oath of a ſworn Counſellor to the Queen's Majeſty of her Privy Council, he diſclos'd her Majeſty's Secrets, and fell to practiſing for matching himſelf with the *Scottiſh* Queen in Marriage. Now ſhall I prove his Knowledge at the ſame time, that the *Scottiſh* Queen pretended Title to the preſent Poſſeſſion of the Crown of this Realm.

Duke. Then the Duke ask'd, if all the Treaſons contain'd in his Indictment were upon the Statute of King *Edward* III. and it was anſwer'd by Mr. *Serjeant* and Mr. *Attorney-General*, that they were grounded upon the ſame Statute only. Then the Duke began thus:

Here the Matters that Mr. *Serjeant* hath prov'd againſt me ſtand in two Points; by which he chargeth me with imagining the Deprivation and Death of the Queen's Majeſty, and with indirect and untrue Dealing in the *Scottiſh* Queen's Cauſe; and therein he burdeneth me with Perjury. The *Scottiſh* Cauſe hath divers Pleas, and therefore bear with me, I pray you, if I caſt back again to rehearſe my Doing therein, for my Memory is not good: As for my Dealing therein, God is my Witneſs, that I have done uprightly.

Serj. Then Mr. *Serjeant* urged him to confeſs if he had knowledge that the *Scottiſh* Queen pretended Title to the preſent Poſſeſſion of the Crown of *England*; offering, if the Duke would deny it, to make proof of it.

Duke. The Duke ſaid, I will make mine own Confeſſion; I pray you teach me not how to anſwer or confeſs, becauſe it is the firſt Ground that you build upon againſt me; and becauſe I know not whether my Peers do all know it or no, I will make a ſhort Declaration of my Doings in that Matter with the *Scottiſh* Queen.

Serj. Firſt we pray your Grace (ſpeaking to the Lord High Steward) that he may directly anſwer, whether he knew that the *Scottiſh* Queen ſo claim'd or no; if he ſay no, we will prove it.

Duke. Then being ruled over by the Lord High Steward, that he ſhould anſwer directly to that Queſtion; he anſwer'd, that indeed he knew that ſhe had ſo claim'd, but with Circumſtance.

Serj. Say plainly, Did you know it or no? for if you ſay nay, we can prove it.

Duke. You handle me hardly, you would ſo trap me by Circumſtance, and infer upon me that ſhe was the Queen's Enemy, and ſo make me a Traitor. I will anſwer directly to the whole Matter of my Dealing with her.

Serj. Anſwer to the Parts as they fall out. Did you know that ſhe claim'd the preſent Poſſeſſion of the Crown? That ſhe uſurp'd the Arms and Royal Stile of this Realm? And that ſhe made no Renunciation of that uſurp'd Pretence? If you ſay you knew it not, we will prove every part of it.

Duke. I did not know it in ſuch ſort as is alledg'd; I know that Renunciation of that Claim was offer'd, and upon certain Cauſes reſpited.

Serj. It is well known, and your ſelf then knew it, That the *Scottiſh* Queen claim'd the preſent Poſſeſſion of the Crown of *England*, quarter'd the Arms of *England* with the Arms of *Scotland*, and uſurp'd the Stile of this Realm; and that there was a *French* Power ſent to proſecute it, by invading this Land by the way of *Scotland*: your ſelf was made the Queen's Majeſty's Lieutenant, and levy'd an Army to expulſe them. Afterward the Queen's Majeſty ſent her Embaſſadors, which met with the *French* Lords and *Scottiſh* Queen's Commiſſioners at *Edinburgh*, and agreed upon a Treaty of Peace; in which one ſpecial Article was, that the *Scottiſh* Queen ſhould acknowledge her Error, and ſhould renounce her pretended Claim to the preſent Poſſeſſion of the Crown of this Realm. It was not done, nor yet is done. My Lord of *Norfolk* was at this Treaty; and when this laſt Commiſſion went out, when the Commiſſioners ſat at *York* about the Matter between the *Scottiſh* Queen, her Son, and the Nobility of *Scotland*, wherein were Commiſſioners the Duke of *Norfolk*, the Earl of *Suſſex*, and Mr. *Chancellor* of the Dutchy; one ſpecial Inſtruction was for the *Scottiſh* Queen's Recognition of her unjuſt Claim, and to require that ſhe ſhould ratify the ſaid former Treaty of Peace. The Duke knoweth well it was not done.

Duke.

Duke. What is this to me? I need not enter to defend her Doings, I like them not. It is not my Caſe, but that you make it my Caſe, elſe I would not meddle with it, anſwer it who would for me. Indeed I have heard, that being Covert-Baron then, marry'd to the *French* King in her Husband's Life, ſhe made Claim to the Crown of *England*, and quarter'd the Arms of *England* with the Arms of *Scotland*. I have heard alſo, That Sir *Nicholas Throgmorton* made Complaint thereof, and mov'd for Redreſs, and thereupon it was laid down. I have heard that ſhe hath been requeſted to make Renunciation of that Claim when the Peace was concluded, when *Memorancy* came over, and time was taken for it. After this there grew Amity between the Queen's Majeſty and the *Scottiſh* Queen; the Queen took her for her Friend, ſent Embaſſadors unto her, and chriſtned her Child; all this excluded Enmity. And when my Lord of *Bedford* was there, and mov'd her for ratifying of the Treaty, and for the Renunciation, ſhe refus'd not; but ſaid, ſhe would ſend to ſhew Cauſes why ſhe did it not preſently. And then it was refuſed not abſolutely, but upon certain Words, and the treating thereof committed to my Lord *Burleigh* and Mr. *Worton*. As for our Commiſſion at *York*, it took no end; the Matter was brought up hither, and here was ſat upon at *Weſtminſter* in the Parliament-Chamber. And this is my underſtanding, that ſhe claim'd the Crown, and I have not otherwiſe known it.

Serj. Thus have you confeſs'd far enough, That you knew that ſhe did pretend Title to the preſent Poſſeſſion of the Crown; That ſhe quarter'd the Arms, and uſurp'd the Royal Stile of this Realm.

Duke. It was in her Husband's time, when ſhe was Covert-Baron.

Serj. You knew alſo, how ſince her Husband's Time, ſhe hath not renounc'd that Claim; and you had, in ſpecial, Inſtruction to require it when you were Commiſſioner.

Duke. A full Renunciation was offer'd when the Lord *Burleigh* was with her, and our Commiſſion was ended, and the Matter brought up hither.

Serj. But what was the Cauſe why it took no end by your Commiſſion? Your ſelf was the Cauſe that the Commiſſion broke up, becauſe you dealt indirectly; you ſet out your own Affection and Partiality, and behav'd your ſelf partially, without regard to the Queen's Majeſty's ſpecial Commandment, without regard of your Oath, then ſpecially taken for that Commiſſion, or of your Oath as a Counſellor: you utter'd your Partiality, you diſcloſ'd to the other ſide aforehand the Queen's Secrets; you devis'd with the one ſide, and gave them Counſel how to deal for ſtay of the Matter: you did prevaricate the Queen's Intention, and when you were by your Commiſſion to examine the *Scottiſh* Queen's Adulteries, and her Murdering of her Husband, you practis'd with thoſe that were Dealers for the *Scottiſh* Queen, and you told them, by way of Advice, That if theſe Matters went forwards to Hearing, the Earl *Murray*, and his Side, would diſcloſe all the foul Matter that they could, both by her Letters and other Evidences, to her Diſhonour; and that the Queen's Majeſty had ſome ſuch Counſellors about her, as if theſe things were once produc'd, ſhe would cauſe them to be publiſh'd, that all foreign Princes ſhould underſtand them, to the *Scottiſh* Queen's great Infamy, and to move foreign Princes to proceed no further ſuing for her. And this was the Cauſe of the Breach and Diſſolution of your Commiſſion.

Duke. You ſaid you would prove that I knew of the *Scottiſh* Queen's claiming the preſent Poſſeſſion of the Crown.

Serj. Your ſelf have confeſſed it; for you knew there was yet no Renunciation made, and you were ſpecial Commiſſioner for that purpoſe; and tho your Commiſſion took no effect, yet by that, that the requiring of the Renunciation was matter of your Inſtructions, and the ſame not done, it is plain that you knew ſufficiently of her former unjuſt claiming of the preſent Poſſeſſion of the Crown: And now will we by good Evidence prove your partial and indirect dealing in that Commiſſion. Here I will produce Matter of your own Conference at *York* with *Ledington* and the Biſhop of *Roſſe*, and how your ſelf told them, that you underſtood at *Lyth*, that rigorous Matter would be ſet out by the Earl *Murray* and the reſt of that Side, againſt the *Scottiſh* Queen, touching her Whoredom and the Murder of her Husband. You gave Advice to ſtay the Earl of *Murray* from ſo doing; you told the *Scottiſh* Queen's Miniſters, how the Queen of *England* had ſome Counſellors that could cauſe her to publiſh all thoſe Matters to the *Scottiſh* Queen's Infamy; you practis'd with them to deviſe to qualify the Matter; you told the Way that you thought beſt to do it; you advis'd them to deal with the Earl *Murray*, that the Matter might be compounded, or elſe ſo to handle it, that it might take no end.

Duke. Here the Duke took advantage of that Mr. Serjeant had ſaid, That the Duke underſtood at *Lyth*; for the Duke then proteſted, that at that time he had never been at *Lyth*. Whereupon the Lord *Burleigh* diſſolv'd that Knot, and ſaid on the Duke's behalf to Mr. Serjeant:

Burleigh. You were beſt proceed with your Evidence; you may miſtake: my Lord *Norfolk* had not then been at *Lyth*, otherwiſe than he and I were there once ſecretly in a Morning. The Cauſe of this Error roſe thus: In one *Scottiſh* Paper produc'd for that Matter, was contain'd, how the Duke underſtood at *Lyth*, which in *Scotch* is as much as at *length*; which Mr. Serjeant, in peruſing the Matters for Evidence deliver'd unto him, took for *Lyth*, as the Clerk of the Crown alſo afterwards did in reading the ſame Paper.

Then was produc'd an Examination of the Biſhop of *Roſſe*, taken at the *Tower*, *Nov.* 5. 1571. as followeth:

The *Scottiſh* Queen told the Biſhop of *Roſſe*, that the Conference at *York* was to make the Earl of *Murray*, and other her diſobedient Subjects, to anſwer before the Queen's Majeſty of *England*'s Commiſſioners, for their unnatural and unjuſt Proceedings againſt her; and that after their Offences acknowledg'd for the Queen of *England*'s Pleaſure, they ſhould be remitted, and receiv'd into Favour again, and ſo all Matters compounded.

The Biſhop's Anſwer to this was, That he was ſorry ſhe had agreed to any Conference wherein they ſhould be accus'd; for he was aſſur'd in that Caſe, they would utter all that they could for their Defences, altho it were for her Diſhonour, and of the whole Realm: for they would be loth to confeſs openly that they were evil Subjects, and ſhe a good Princeſs; and therefore he wiſh'd that the Matter might be treated by way of Concord, before any entry to Accuſations. And to that end he counſelled her to travel with her Friends at

Court to *York*. To this ſhe reply'd, that there was no ſuch Danger in the Matter as I ſuppos'd; for ſhe truſted I would find the Judges favourable, principally the Duke of *Norfolk*, who was firſt in Commiſſion; and doubted not but the Earl of *Suſſex* would be rul'd by him as his tender Friend, and Sir *Ralph Sadler* would not gainſtand their Advice; and that *Liggons* had been at *Bolton*, by whoſe Meſſage, told by him to the Lord *Scroope*, he underſtood of the Duke's good Will towards her, and the Bruite was alſo ſpread abroad of a Marriage between the Duke and her; and beſides, that ſhe had many good Friends in the Country that did favour her, and ſeek to her, ſuch as the Earl of *Northumberland* and his Lady, by whom ſhe had many Intelligences and Meſſages; the *Nortons*, *Markenfield* and others, who would all be with the Duke at *York*, and would perſuade him to favour her Caſe. In the mean time, before our Paſſage to *York*, *Robert Melvin* came to *Bolton* with Letters, ſent by *Ledington* from *Fauly Caſtle* to the Queen my Miſtreſs, to advertiſe her, that the Earl of *Murray* was wholly bent to utter all that he could againſt her, and to that effect had carried with him all the Letters which he had to produce againſt her, for proof of the Murder, whereof he had recover'd the Copies, and had caus'd his Wife to write them, which he ſent to the Queen; and that he had not come into *England* in the Earl of *Murray*'s Company, unleſs it had been to do her Service, and to travel for Mitigation of thoſe Rigors intended, deſiring to be certified by *Robert Melvin*, that ſhe wiſh'd to ſtay thoſe rigorous Accuſations: and becauſe he was well acquainted with the Duke of *Norfolk*, deſired him to travel with the Duke in his favour, and that he would confer with the Biſhop of *Roſſe*, by whom he ſhould underſtand his whole Mind particularly from time to time. After this, *Robert Melvin* at *York* did bring me to *Ledington*'s Lodging, where we talk'd almoſt a whole Night; where he told, That he had confer'd with the Duke, who ſeem'd to bear great good Will to the Queen my Miſtreſs, and had willed him to counſel the Earl of *Murray*, and others, to abſtain from uttering any diſhoneſt Matter againſt the Queen, but to grant to ſome Compoſitions amongſt themſelves; ſo that *Ledington* ſaid, it appear'd to him, that the Duke had ſome Intention to marry with the Queen, as the Bruite was; and that he did verily believe, that if it were follow'd, the Marriage would take effect, which would be moſt of all other things for the Queen's Honour and Weal: and will'd me to ſpeak with the Duke ſecretly alone, without the Commiſſioners, and *Ledington* ſhould advertiſe the Duke to appoint the time convenient, as he did one day in the Morning by ſeven of the Clock, before the meeting of the Commiſſioners: I talk'd with the Duke alone in a Gallery, where he utter'd to me, That he bore good Will to the Queen my Miſtreſs, and that he had talk'd with the Earl *Murray* at * *length*, and had ſeen the Letters which they had to produce againſt the Queen my Miſtreſs, and other Defences, whereby there would ſuch Matter be proved againſt her, that would diſhonour her for ever; and if it were once publiſh'd, the Queen's Majeſty of *England* would get Counſel by ſuch as lov'd not the Queen my Miſtreſs, to publiſh the ſame to the World, and to ſend Embaſſadors to all other Princes, to make the ſame known to them; ſo that they ſhould make no further Suit for her Delivery; and perhaps greater Rigour might enſue to her Perſon: Therefore he adviſ'd me to confer with *Ledington*; and that betwixt him and me, we might find ſome Means to ſtay the Rigour intended; and promiſed all that he could do to that effect, by *Ledington*'s Advertiſement he would do. I reply'd that *Ledington* would have her to ratify the Dimiſſion made at *Lochlevin* for a time for he had aſſur'd her it could hurt her no more, being kept Priſoner in *England*, than that which was done in *Lochlevin*: for ſo ſhould ſhe ſtay the uttering of any matter againſt her, and within ſix Months ſhe ſhould be reſtor'd to her Country with Honour; and ſo might revoke all done by her.

* *This was written in* Scotiſh, Lyth; *which occaſioned the Error before.*

To this the Duke: What if that were done, to be quit of the preſent Infamy and Slander, and let him work out the reſt? I told him we were come to that Conference for to make an Agreement, and not to anſwer to Accuſations: and therefore wiſh'd him to further the Agreement amongſt us. He anſwer'd, That their Commiſſions was only to hear the Differences amongſt us; and if I would propound any thing, he would like well of it, and ſhould advertiſe the Queen's Majeſty, his Miſtreſs, thereof, and get her Anſwer. In this Conference, the Duke did oftentimes inſinuate the good Will that he did bear to the Queen my Miſtreſs, but ſpoke nothing to me particularly of the Marriage at that time; but referr'd all to *Ledington*. Upon this I did confer with *Ledington* divers times, by whoſe Advice I rode to *Bolton*, to ſpeak with my Miſtreſs, in the time of my Conference; and during my remaining there, the Conference was broken up, and the whole Commiſſioners for our part, came to *Bolton*. And ſo my Lord *Harris* and I were ſent to *London*. In the mean time, *Robert Melvin* came to *Bolton* to the Queen, with Meſſages of *Ledington*'s, of ſuch Conference as he had with the Duke at the Hunting in the Fields, where I believe *Ledington* did well encourage the Duke to attempt the Marriage, as he told me afterwards; declaring her Properties, and the Honour and Commodities that might enſue to them both thereby; and that the Duke did give good Ear thereto, wiſhing to the Queen to follow that Courſe. In the mean time, the Duke had *Liggons*, and others, going between them and the Lady *Scroope*, who did entertain the Matter betwixt them. After this, the Duke coming to *Hampton-Court*, *Ledington* made the mean with the Duke, to cauſe him to ſend *Liggons* to deal with me upon this behalf, and to give me ſome favourable Advertiſement of the Weal for our Cauſe. And likewiſe the Duke caus'd the Lord *Lumley* ſometimes to ſpeak with me, to adviſe me what was beſt to be done, and eſpecially when the *Spaniſh* Embaſſador had ſpoken to me of the Marriage of one of the Houſe of *Auſtria*; the Duke, by my Lord *Lumley*, counſelled me to open the Matter to the Queen's Majeſty, by my Lord of *Arundel*, which might be an occaſion to move her to like better of the Match with him, than with any Foreigner. And then he ſent me word by *Liggons*, that the Queen's Majeſty was inform'd of ſuch a like Bruite, of his Marriage with the Queen of *Scots*; but he had ſatisfy'd her well enough, and ſo ſtill did follow the Matter, and did treat thereupon with the Earl of *Murray* and *Ledington* at *Hampton-Court*; by whoſe Advice *Robert Melvin* was ſent to the Queen, my Miſtreſs, at *Rippon*, to move the Mat-

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ter upon the Earl of *Murray*'s behalf, with a full Determination, that the Earl of *Murray* lik'd of it: Which Meſſage I heard afterward that *Murray* alledg'd he did ſend it, for fear of ſome Enterprize againſt him at *Northallerton*, in his Return to *Scotland*. And ſo after this manner the Matter had been entertain'd betwixt the Queen and the Duke from time to time, as is at length declar'd in the former Examinations.

Serj. The Effect of all, is the Duke's partial and untrue Dealing; for that before the Biſhop of *Roſſe*'s going to *York*, the *Scottiſh* Queen declar'd to the Biſhop of *Roſſe*, That ſhe doubted not of the Favour of the Duke of *Norfolk*; for ſhe told him that my Lady *Scroope* had by Motions and Means aſſur'd her of his good Will, and ſhe doubted not of my Lord of *Suſſex*'s, for the great Friendſhip and tender Love he bear to the Duke; and ſhe made account that Mr. *Sadler* would be friendly, for that he alone would not ſtand to them both. It appeareth alſo, for further proof of his partial Dealing, that tho he were ſworn, both as a Counſellor to the Queen's Majeſty, and alſo ſpecially for the Matter of this Commiſſion; yet he indirectly, ſecretly, and underhand, dealt with *Ledington*, and told him, how that the Earl of *Murray* and his Side intended to utter ſharp Matter againſt the *Scottiſh* Queen. The Duke gave his Advice how to ſtay it, and ſo dealt partially, and againſt the Queen's Majeſty's ſpecial Truſt and Commandment, and againſt his own Oath and Promiſe. Next after that, in Conference had with the Duke of *Norfolk* on the *Scottiſh* Queen's part, the Duke declar'd his good Will that he bear to the *Scottiſh* Queen: He ſhewed how, that if the ſame matter of Evidence againſt her, were once utter'd by the Earl *Murray*, ſome of the Queen's Majeſty's Counſellors of *England* would procure her Majeſty to publiſh them. He adviſed that the matter ſhould be compounded with the Earl *Murray*; and that ſhe ſhould not ſtick, being here in *England*, and not at her own liberty, for the preſent time, to be content to ratify the Dimiſſion of the Crown of *Scotland*, which ſhe made at *Lochleven*; and ſo ſhe might be reſtor'd into her own Country, and then ſhe might undo all again at her pleaſure: and upon pretence of Conſtraint and Fear, as well revoke that which ſhe ſhould do in *England*, as ſhe before revoked that which ſhe had done at *Lochleven* in *Scotland*. Alſo the Duke at that time was privy to the Device, that *Ledington* accompany'd the Earl *Murray* only to underſtand his Secrets, and to betray him; and that *Ledington* ſtole away the Letters, and kept them one Night, and caus'd his Wife to write them out. Howbeit, the ſame were but Copies tranſlated out of *French* into *Scotch*; which, when *Ledington*'s Wife had written out, he caus'd them to be ſent to the *Scottiſh* Queen: She labour'd to tranſlate them again into *French*, as near as ſhe could to the Originals wherein ſhe wrote them; but that was not poſſible to do, but there was ſome Variance in the Phraſe; by which Variance, as God would, the Subtilty of that Practice came to light.

Duke. What if all this be true? What is this to the Matter? Any dealing of mine with the *Scottiſh* Queen by my Siſter *Scroope*'s Means, I utterly deny. As for *Ledington*, and the Biſhop of *Roſſe*, what their Speeches were to me, I care not; I am to anſwer but for mine own Speeches.

Serj. The Biſhop of *Roſſe* accuſeth you of your own Speeches, and this he doth, being examin'd freely, and without any Compulſion.

Duke. He is a *Scot*.

Serj. A *Scot* is a Chriſtian Man.

Duke. At my being at *York* in Commiſſion, *Ledington* broke with me himſelf to have the Matter compounded between the *Scottiſh* Queen and the Earl *Murray*. I told him that our Commiſſion was only to hear indifferently what ſhould be alledg'd on both parts, and thereof truly to make report. What hurt is this? The Biſhop of *Roſſe* afterwards ſent for me, that he might ſpeak with me: when we met, he moved me for the compounding of the Matter, as *Ledington* had done. I told him, that our Commiſſion was but to hear and report, as I had told *Ledington* before; and therefore if they would fall to compounding, I will'd them to deviſe the Means themſelves, and to make Offers; and thereupon we would advertiſe the Queen's Majeſty thereof, as we would of all the Matters alledg'd. If it be otherwiſe, and as you ſay, let my Letters be look'd on, and ſee if they contain any ſuch Matter. If the Biſhop of *Roſſe*, for Fear or for Malice, have ſaid untruly; if being a *Scot*, he care not how many *Engliſh* Men, by his falſe Teſtimony, he bring to deſtruction; I beſeech you let not that hurt me.

Serj. You made the firſt Motion of compounding the Matter to *Ledington* your ſelf; and another time to the Biſhop of *Roſſe*, you offer'd to further it all that you could.

Duke. I never ſaw the Biſhop of *Roſſe* before I came to *York*, and would I, think you, deal ſo dangerouſly with a *Scot* that I never ſaw before? Alſo, I did by my Letters ſignify to the Queen's Majeſty our Proceeding, and my miſliking of the *Scottiſh* Queen's part; Let that Letter be ſeen; which Letter was written after my Talk with *Ledington*. I wrote it when I went from *York*, and I never ſaw the Biſhop of *Roſſe* afterward, till I came to *London*.

Serj. The writing of your Letters to the Queen's Majeſty, wherein you advertis'd againſt the *Scottiſh* Queen, and tho the ſame were written after your Conference with *Ledington* and the Biſhop of *Roſſe*, is no proof but that you dealt partially for the *Scottiſh* Queen; for thoſe Letters were written by other, as well as your ſelf, namely, by my Lord of *Suſſex*, and Mr. Chancellor of the Dutchy: and you could not otherwiſe do, but ſo ſignify, notwithſtanding your partial ſecret Dealing; for elſe you ſhould have too openly bewray'd your Intention.

Duke. When *Ledington* mov'd me of the Marriage of the *Scottiſh* Queen, I utterly refus'd it.

Serj. That is not ſo: And for proof, as well of your partial Dealing in the Commiſſion for the Marriage, there ſhall be brought forth ſufficient Evidence.

Here was alledg'd how a Letter had been written to the Earl of *Murray*, requiring to be advertis'd by him of ſo much as he knew concerning the Doings of the Duke of *Norfolk*, both for the Matter of the Commiſſion, and the Practice of his Marriage with the *Scottiſh* Queen: and the Earl *Murray*'s Anſwer to the ſame Letter was produc'd, and read, as followeth.

Note, That the Beginning and Ending of this Letter was not read; but ſo much only as pertained to the matter, *viz.*

'IN *York*, at the meeting of all the Commiſſioners, I found very honourable and neutral Dealing with the Duke and others her Highneſs's Commiſſioners, in the beginning of the Cauſe, as in the making of the Oaths to proceed ſincerely, *&c.* During which time, I only entred into general Speech, ſticking at our juſt Defence in the Matters that were objected againſt us by the ſaid Queen's Commiſſioners; looking certainly for none other thing but a ſummary Cognition in the Cauſes of Controverſy, with a ſmall Declaratory to have follow'd. Upon a certain Day, the Lord *Ledington*'s Secretary rid with the Duke to *Cawood*; what purpoſe they held, I cannot ſay: but that night, *Ledington* returning, and entring in Conference with me upon the State of our Action, I was adviſed by him to paſs to the Duke, and to require familiar Conference; by the which I might have ſome feeling to what Iſſue our Matters would tend. According to which Advice, having gotten Time and Place convenient in the Gallery of the Houſe where the Duke was lodg'd; after renewing of our firſt Acquaintance made at *Berwick*, the time before the Siege of *Lyth*, and ſome Speeches paſſed betwixt us, he began to ſay to me how he in *England* had Favour and Credit, and I in *Scotland* Good-will and Friendſhip of many. It was thought there could be none more fit Inſtruments to travel for the Continuance of the Amity betwixt the two Realms, than we two. And from that Diſcourſe upon the State of both, and how I was entred in that Action tending ſo far to the Queen's diſhonour, I was will'd by him to conſider how Matters ſtood in this Iſle, what Honour I had receiv'd of the Queen, and what Inconveniences her Defamation in the matters laid to her charge, might breed to her Poſterity, whoſe Reſpect was not little to the Crown of *England*. There was but one Babe, the *Hamelton*'s, my Unfriend, had the next Reſpect; and that I ſhould, the Iſſue of her Body would be the more affectionate to me and mine, than any other that could attain to that Room: and ſo it ſhould be meeteſt that ſhe affirmed her Dimiſſion made in *Lochleven*, and we to abſtract the Letters of her Hand writ, that ſhe ſhould not be defamed in *England*. My Reply to that was, how the matter had paſs'd in Parliament, and the Letters ſeen to many; ſo that the abſtracting of the ſame could not then ſerve her to any purpoſe: and yet ſhould we in that Doing bring the Ignominy upon us, affirming it could not be ſure for us that way to proceed, ſeeing the Queen's Majeſty of *England* was not made privy to the matter, as ſhe behoved to be, in reſpect we were purpoſely come into *England* for that End, and for the juſtifying of the Grounds of our Cauſe. The Duke's Anſwer was, he would take in hand to handle matters well enough at the Court. After this, at the occaſion of certain Articles that were required to be reſolved in, before we entred directly in the Declaration of the very Ground of our Action, we came up to the Court; where ſome new Commiſſioners were adjoined to the former, and the hearing of the Matter ordain'd to be in the *Parliament-Houſe* at *Weſtminſter*. In preſence of which Commiſſioners for the ſaid Queen, and partly through the ſharp rebuking of the Queen's Majeſty of *England*'s Commiſſioners, we utter'd the Grounds of the Action, and produc'd ſuch Evidences, Letters, and Probations as we had, which might move the Queen's Majeſty to think well of our Cauſe. Whereupon expecting her Highneſs's Declaration, and ſeeing no likelihood of the ſame to be ſuddenly given, but daily Motions made to come to an accord with the ſaid Queen, our Matters at home in *Scotland* in the mean ſeaſon ſtanding in hazard and danger; we were put to the uttermoſt point of our Wit to imagine whereunto the matters would tend: for albeit we had left nothing undone for Juſtification of our Cauſe, it appeared yet no End, but continual Motions made, to come to ſome accord with the Queen, and reſtore her to whole or half Reign. I had no other Anſwer to give them, but that I could neither do againſt Conſcience nor Honour in that matter. Notwithſtanding, ſeeing this my plain Anſwer wrought no End nor Diſpatch to us, and that I was informed that the Duke began to miſlike of me, and to ſpeak of me as that I had reported of the ſaid Queen irreverently, calling her Whore and Murderer; I was adviſed to paſs to him, and to give him good Words, and to purge my ſelf of the things objected to me; that I ſhould not upon the ſudden enter in his evil Grace, nor have him to our Enemy, conſidering his Greatneſs: it being therewithal whiſper'd and ſhew'd to me, that if I departed, he ſtanding diſcontented and not ſatisfy'd, I might peradventure find ſuch trouble in my way, as my Throat might be cut before I came to *Berwick*. And therefore ſince it might well enough appear that he aſpired to her Marriage, I ſhould not put him in utter deſpair that my Good-will cannot be had therein. So, few days before my departing, I came to the Park at *Hampton-Court*, where the Duke and I met together; and there I declared, that it was come to my ears how ſome Miſreport ſhould be made of me to him, as that I ſhould ſpeak irreverently and raſhly of the ſaid Queen, my Sovereign's Mother, ſuch words as before expreſs'd, that he might perceive my Affection to be ſo alienated from her, as I could not love her, nor be content of her Preferment. Howbeit, he might perſuade himſelf of the contrary; for as ſhe once was the Creature in the Earth that I loved beſt, having that Honour to be ſo near unto her, and having received ſuch Advancement and Honour by her, I was not ſo unnatural ever to wiſh her Body harm, or to ſpeak of her as was untruly reported of me, howſoever the Truth were in it ſelf. And as the Preſervation of her Son, now my Sovereign, had moved me to enter in this Cauſe, and that her own preſſing was the occaſion of that which was uttered to her Infamy; ſo whenſoever God ſhall move her Heart to repent of her by-paſt Behaviour and Life, and after her known Repentance, that ſhe ſhould be ſeparate from that ungodly and unlawful Marriage that ſhe was entred in, and then after were join'd with ſuch a godly and honourable Perſonage, as were affectioned to the true Religion, and whom we might truſt; I could find in my heart to love her, and to ſhew her as great Pleaſure, Favour, and Good-will, as ever I did in

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'my Life. And in caſe he ſhould be that Perſonage, there was none whom I ſhould better 'like of, the Queen's Majeſty of *England* being 'made privy to the matter, and ſhe allowing 'thereof; which being done, I ſhould labour in 'all things that I could, to her Honour and Pleaſure, that were not prejudicial to the King my 'Sovereign's Eſtate: and pray'd him not to think 'otherwiſe of me, for my Affection was rather 'bury'd and hid within me, waiting until God 'ſhould direct her to know her ſelf, than utterly 'alienate and abſtracted from her. Which he 'ſeem'd to accept in very good part, ſaying, Earl 'of *Murray*, thou knoweſt of me that thing 'whereunto I will make none in *England* nor *Scotland* privy, and thou haſt *Norfolk*'s Life in thy 'hands. So departing, I came to my Lodging, 'Oc.

'Thus have I plainly declared how I have been 'dealt withal for this Marriage, and how juſt 'Neceſſity moved me not to repugn directly that 'which the Duke appear'd ſo bent unto. And 'for my Threatnings to aſſent to the ſame, I have 'expreſs'd the manner. The Perſons that laid 'the Terror before me, were of mine own Company, and the Duke ſince hath ſpoken, that it 'was his writing which ſaved my Life at that 'time. In concluſion, I pray you perſuade her 'Majeſty, that ſhe let no Speeches, nor any o'ther thing paſs'd and objected to my prejudice, 'move her Majeſty to alter her Favour towards 'me, or any ways to doubt of my aſſured Con'ſtancy towards her Highneſs: for in any thing 'that may tend to her Honour and Surety, I will, 'while I live, beſtow my ſelf, and all that will 'do for me, notwithſtanding any Hazard or Dan'ger; as proof ſhall declare, when her Majeſty 'finds time to employ me.'

Serj. Thus appeareth it, that the Duke of *Norfolk* firſt travel'd with *Ledington* for ſtay and compounding the matter, and afterward likewiſe with the Biſhop of *Roſſe*, and at both times firſt moved it of himſelf: ſo now the Earl of *Murray* alſo by his Letters doth teſtify, that in Conference with him, it came firſt of the Duke to move the ſtay of the Contention, and to what end the Duke did it, namely, for that he aſpired to the Marriage of the *Scottiſh* Queen, and therein made account of her Reſpect to the Crown of *England*; and that without the Queen's Majeſty's Aſſent or Knowledge. Now ſhall you alſo ſee, for further proof thereof, the Biſhop of *Roſſe*'s Letter to the *Scottiſh* Queen: For the Biſhop of *Roſſe* went from *York* to *Bolton*, as you have before heard in his Examination. On the way, before he came to *Bolton* to the *Scottiſh* Queen, from his Lodging he wrote a Letter to her, which Letter was loſt by his Servant; but as good hap was, he reſerv'd a Copy thereof, and negligently left it behind him in his Lodging at *Newcaſtle*, where the Earl of *Murray* half a year after being lodg'd in the ſame Chamber, found it, and ſent it to the Queen's Majeſty's Council; and here it is all written with the Biſhop's own Hand, as himſelf, being examin'd thereof, hath confeſs'd. Here he ſetteth out the Conference between the Duke of *Norfolk*, and *Ledington*, and himſelf. He ſheweth the Duke of *Norfolk*'s Advice to the *Scottiſh* Queen, for a Letter by her to be written to the Queen's Majeſty; and alſo he openeth the Duke's Advice, how to work for the *Scottiſh* Queen, with diſcloſing the Queen's Majeſty's Secrets.

Here was the ſaid Letter produced, and read as followeth.

Copy of the Letter ſent from York *by the Biſhop of* Roſſe *to the Queen-Mother, to the King our Sovereign Lord, then remaining at* Bolton.

'PLeaſe your Majeſty, I conferr'd at great length with *A.* one great part of the Night; who aſſured me 'he had reaſon'd with *B.* this Saturday, as yeſterday on the Fields *C.* who determined to him, that it 'was *D.* the Queen's determinate Purpoſe not to end your Cauſe at 'this time, but to hold the ſame in ſuſpenſe; and did what was in her power to cauſe us: *E.* purſued extremely, to the effect *F.* and his Adherents might utter all that they could to your diſhonour; to the effect, as was ſuppos'd, to cauſe you come in diſdain with the whole Subjects of this 'Realm, that you may be the more unable to attempt any thing to her diſadvantage; and to 'this effect is all her Intention. And when they 'have produced all they can againſt you, the 'Queen will not appoint the matter inſtantly, but tranſport you up in the Country, and reſerve 'you there till ſhe think time to ſhew you Favour; 'which is not able to be haſtily, becauſe of your 'Uncles in *France*, and the fear ſhe hath of your 'ſelf to be her Unfriend. And therefore their 'Counſel is, that you write a Writing to the 'Queen, meaning that you are informed concerning your Subjects, which have offended 'you, this in effect; That your Majeſty hearing 'the Eſtate of your Affairs, as they proceed in '*York*, was inform'd that her Majeſty was in'form'd of you, that you could not godly remit 'your Subjects in ſuch ſort, as they might credit 'you hereafter: which was one great cauſe of the 'ſtay of this Controverſy to be ended. And 'therefore perſuading her Grace effectuouſly not 'to truſt any who made ſuch Narration; but like 'as you had rendred you in her hands, as moſt 'tender to you of any living, ſo pray'd her Grace 'to take no Opinion of you: but you would uſe 'her Counſel in all your Affairs, and would prefer her Friendſhip to all others, as well Uncles 'as others, and aſſure her to keep that thing you 'would promiſe to your Subjects by her Advice. 'And if her Grace diſcredit you, you would be 'glad to ſatisfy her in that point, to be removed 'within her Realm in ſecret and quiet manner, 'where her Grace pleaſed, unto the time her 'Grace were fully ſatisfy'd, and all occaſion of 'Diſcredit removed from her; ſo that in the 'mean time your Realm were holden in quietneſs, 'and your true Subjects reſtored and maintained 'in your own Eſtate, and ſuch other things tending to this effect. And affirms, that they believe that this may be occaſion to cauſe her credit you better, that you offer ſafer, and may 'come that within two or three Months ſhe may 'become better minded toward your Grace; for 'now-while ſhe is not well minded, and will not 'ſhew you any pleaſure, for the cauſes aforeſaid.'

A. Ledington.
B. The Duke of Norfolk.
C. The Day he rode to Cawood.
D. The Queen's Majeſty.
E. The Scottiſh Queen's Commiſſioners.
F. The Lord Regent of Scotland.

Duke. Here be many things and many parts very hard for me to remember; and here be produced three Witneſſes againſt me, *Ledington*, the Biſhop of *Roſſe*, and the Earl of *Murray*. Hereunto

unto I will anſwer, as my Memory will ſerve me: *Ledington*, becauſe he and I were acquainted at *Lyth*, came to me and practiſed to ſearch at my hands, and to feel how the Queen's Majeſty was ſatisfy'd. I told him, that till I heard what the Queen's Majeſty would reſolve, I could tell him nothing: And ſo time ſpent away. And in the mean ſeaſon, upon a *Saturday*, I being at Dinner with the Lord of *Suſſex*, *Ledington* came in; and after Dinner talking with me, he brake more earneſtly for me with the *Scottiſh* Queen, and for a Marriage between her and me, which I utterly refus'd, as by my Letters from *York* to the Queen's Majeſty it may appear; wherein I ſignify'd my Opinion of the *Scottiſh* Queen, or elſe they muſt be maintain'd by the Queen of *England*. I ſaid to him again, that the Queen's Majeſty ſought the Quietneſs of that Realm; but for any Advice of reſtoring the *Scottiſh* Queen into her Country, I could not ſee how it might be conſider'd: and ſo I advis'd him to ſubmit the whole Matter to the Queen's Majeſty's Judgment. Otherwiſe he and I never talk'd. Of thoſe other doings, between *Ledington* and the *Scottiſh* Queen, I know nothing. The Biſhop of *Roſſe* ſhortly after ſaid to me, and intreated to have my help for compounding of the Matter, as you know well he can ſpeak fair. I told him I could do nothing without my Fellows, and only in ſuch manner as was preſcrib'd by our Commiſſion. I told him alſo, that we were but to hear and certify; and for the Matter of compounding, they were beſt to make Offers themſelves; for we were but to receive ſuch Devices as they ſhould chuſe, and to give Advertiſement of the ſame. To what end ſhould I need to utter the Matters of the Earl of *Murray*'s part to the other ſide, when *Ledington* himſelf was preſent, and privy to all? I ſpake not with the Biſhop of *Roſſe*, but at that time only. And as for that Advice, to avoid the diſcovering of thoſe vigorous Matters by the Earl, and the publiſhing thereof to the Queen's Majeſty, to the *Scottiſh* Queen's Infamy; I never diſclos'd any ſuch Secrets, nor gave any ſuch Advice: Only I did adviſe the Biſhop of *Roſſe*, that he and that ſide ſhould hold themſelves contented with the Queen's Majeſty's dealing, and with the Determination taken at *Hampton-Court*, which was ſuch as might content them, and ſuch as my Lord *Burleigh* then miſlik'd. As for the Earl *Murray*, he began with me, and not I with him: He came to me at *Cawood*, and pray'd me to tell him what end would come of the Matter. I ſaid, I knew not; for it muſt come from the Queen's Majeſty: We knew not of the differing of the Commiſſion at that time, nor till ſuch time as Mr. *Sadler* was ſent for. How could I tell him, and knew it not my ſelf? I never yielded to the Marriage between the *Scottiſh* Queen and me: I cannot gather ſuch Matter of Looks alone, and I never dealt more therein, but only that *Ledington* broke it. Have I not anſwer'd all theſe Matters? If I have not, put me in any thing I have omitted, and I will anſwer it.

Serj. Your Anſwer is but only Denial; *Ledington* and the reſt write otherwiſe, that you made the firſt Motion to them: and therefore *Ledington*, by Practice between you and him, ſent the Earl of *Murray* to you, under pretence of ſearching to learn the State of their own Cauſe, to be mov'd by you for the Marriage; upon your Anſwer, it is but yea and nay between you. If you meant directly, then needed you not to have dealt ſo ſecretly in Conference with *Ledington*, without the reſt of the Commiſſioners; and beſides *Ledington*'s Conference with you, both the Biſhop of *Roſſe* and the Earl *Murray* affirm your practiſing with them to the ſame intent: which is ſufficient Proof againſt your own bare Denial.

Duke. The Earl *Murray* ſought my Life, the other are not of Credit; yet all theſe prove not that I dealt in the matter of the Marriage with the *Scottiſh* Queen, in any reſpect of her Claim to the Crown of *England*. If the Biſhop of *Roſſe*, or any other, can ſay otherwiſe, let them be brought before me face to face. I have often ſo deſir'd it, but I could not obtain it.

Serj. The Biſhop of *Roſſe* confeſſeth it; this is his own hand; and here you ſhall have, by Witneſſes, prov'd the Duke's Aſſent to the Marriage with the *Scottiſh* Queen: and to practiſe the furtherance thereof, you ſhall ſee how that afterwards he was privy to a Device, that the Earl *Murray* ſhould have been murder'd at *Northallerton*, in his way homeward, by the *Nortons*, *Markenfield*, and other Rebels; and afterwards, being ſatisfy'd at the Earl *Murray*'s hands, a Letter was written to ſtay that Device: containing alſo a Device of compounding the Matter, and how the Earl *Murray* had aſſented to the Marriage.

Here was contain'd the Biſhop of *Roſſe*'s Confeſſion, in Article the ninth; wherein appeareth,

That the Earl *Murray* ſhould have been murder'd by the way, going home into *Scotland*; and that the Biſhop of *Roſſe* wrote to the *Scottiſh* Queen, that the Duke of *Norfolk* advis'd her to ſtay that Murder, becauſe the Earl *Murray* had yielded his good Will to the Marriage as followeth:

Out of the Biſhop of Roſſe's *Examination, taken the 6th of* November, 1571.

To the 9th he ſaith, That the Earl of *Murray* was in fear to have been murder'd by the way, in his Return to *Scotland*; whereupon this Examinate, by the Duke's Advice, did write to the Queen of *Scots*, that the Attempt might be ſtaid, for that *Murray* had yielded to the Duke to be favourable; and the Murder ſhould have been executed about *Northallerton*, by the *Nortons*, *Markenfield*, and others, as this Examinate was advertis'd by the *Scottiſh* Queen's Servants that came from *Bolton*.

Serj. Thus it appeareth, that the Duke ſo far aſſented to the Marriage, that rather than it ſhould not have taken effect, he was contented that the Earl of *Murray* ſhould have been murder'd.

Duke. The Unkindneſs between the Earl *Murray* and me, was not about this Matter of his Miſtreſs the *Scottiſh* Queen, but for another cauſe; it was becauſe the Earl *Murray* had reported that I ſought the Marriage of the *Scottiſh* Queen. I charg'd him therewith by Meſſage, he excus'd himſelf thereof, and laid it upon the Earl *Moreton* and the Biſhop of *Orkney*; and for the Device of murdering him, I was never privy to it. And where the Article ſaith, that I heard it by the *Scottiſh* Queen's Servants that came from *Bolton*, it is not true. I never heard of it till *Whitſuntide* after, when *John Wood* came, and then I heard it not but by the Biſhop of *Roſſe*; neither did I hear that it ſhould have been done by the *Nortons*, but by my Brother of *Weſtmoreland* being an hunting, when the Earl *Murray* eſpying a great Company on the Hill-ſide, imagin'd that he ſhould have been ſlain.

Serj.

Serj. You ſhall alſo underſtand, that the Duke himſelf wrote to the Earl of *Murray*, wherein is plainly declar'd his Practice and Aſſent to the Marriage: which very Letter we have not, but the Copy thereof, under the Regent's own hand, which the Regent ſent to the Queen's Majeſty, whereby the Matter moſt plainly appeareth.

My good Lord,

'I Have receiv'd your courteous Letter, whereby I do not only perceive you well affected for the Advancement of your common Weal, and the uniting of this Iſland, but alſo your good Mind towards me; which two Points I cannot but note to your ſpecial Commendation, and my great Comfort. As you ſhall prove me induſtrious to aſſiſt you with all my Power in the one, ſo ſhall you not find me ungrateful in the other, but really to requite you to my uttermoſt for your Friendſhip ſo frankly offer'd; the rather I ſhall have occaſion to imploy my ſelf for the juſt Reward of your Deſerts, the ſooner I ſhall think my ſelf in Nature, Friendſhip, and Conſcience diſcharg'd of my Obligation. In the mean time, good my Lord, aſſure your ſelf, that you have not only purchas'd a faithful Friend, but alſo natural Brother, who is not, nor will not be leſs careful for your Weal and Surety, than his own Honour and Credit; whereof I am fully perſuaded you doubt not: and therefore in that Point I need not to be over-tedious, but briefly to return to that you deſire to be ſatisfy'd of, which is, for my Marriage with all Sincerity with your Siſter; wherein I muſt deal plainly with your Lordſhip, as my only Friend, that I have ſo far proceeded herein, as I, with Conſcience, can neither revoke that that I have done, nor never do mean, while I do live, to go back from this that is done, nor with Honour proceed further, until ſuch time as you there ſhall remove ſuch Stumbling-blocks, as be Impeachment to our more apparent Proceeding; which when by me it ſhall be finiſh'd, upon mine Honour the reſt ſhall follow to your Contentment and Comfort. Wherefore my earneſt Requeſt, at this preſent, to my good Lord, is, that you will proceed herein with ſuch Expedition, as the Enemies of this good Purpoſe, which will be no ſmall number, againſt the uniting of this Land into one Kingdom in time coming, and the Maintenance of God's true Religion, may not have Opportunity, thro the Delay given them, to hinder our pretended Determination; againſt the which, I am of opinion, there will be no Practices by foreign Princes omitted. This I hope will be ſufficient to reſolve you, my Lord, of your Deſire, touching the Marriage; referring my ſelf wholly, for your more ample Inſtruction and Satisfaction in all Points, to my Lord *Boid*, who hath Commiſſion both by the Queen of *Scotland*, your Siſter, and alſo by me, to reſolve you of all Doubts, whom I wiſh you to credit as my ſelf. You ſhall not want the furtherance in this Enterprize of the moſt part of the Noblemen of this Realm; whoſe faithful Friendſhip in this Caſe, and all other my Actions, I have to my Contentment ſufficiently prov'd. Thus being perſuaded that your Lordſhip's Endeavour is for the Maintenance of God's Glory, and the Advancement of the common Weal of this Iſland, I have adventur'd to impart my ſecret Determination, as to one whom I make account to be aſſur'd of, and unto whom I wiſh long Life and proſperous Health, to his Heart's Deſire. So with my hearty Commendations at this preſent, without further Moleſtation, I am,

From my Houſe in London, July 1. My good Lord,

Your faithful and moſt aſſur'd Friend.

'I have heard you have been in the *North* of *Scotland*, and doubt not but you have ſatisfy'd the Requeſt I made for the Biſhop of *Roſſe*, and have caus'd his Servants to be obey'd of his Benefices; and what is left undone, I pray you cauſe it to be effectually further'd. He hath the Queen of *Scots* Letter, directed to you for that effect; but truſting that my Requeſt ſhall make him to be obey'd, e'er the other come to your hands, wherein you ſhall do me ſingular Pleaſure.'

James, Regent.

Duke. All theſe are Letters, and anſwer'd two years ago, when Mr. *Sadler* and Mr. *Attorny* were ſent to examine me upon Interrogatories. Indeed I muſt confeſs my Folly; it is an ill Cook that cannot lick his own Fingers. The Biſhop of *Roſſe* wrote the Letter, and he lick'd his own Fingers. The Earl of *Murray* wrote to me very humbly, and that he was at my Commandment, with ſuch like words. I having no leiſure to write Anſwer to him, drew Articles to give him thanks: but that the Noblemen lik'd of that Marriage, and that I wiſh'd no Man's Friendſhip more than his in it, the Biſhop of *Roſſe* added of his own, and put it in Cypher in this Form, which Cypher I had not then.

Serj. This is the very Copy of your own Letter.

Duke. See my Anſwer made in my firſt Troubles, two years paſt.

Serj. The Queen's Majeſty underſtanding the Duke's Intention to marry with the *Scottiſh* Queen, the Duke himſelf, by way of Prevention, complain'd to her Majeſty of the Rumour that was ſpread againſt him, That he ſought the *Scottiſh* Queen's Marriage, and pray'd it might be examin'd. In which her Complaint, as I have heard her Majeſty her ſelf declare it, and ſome here of my Lords have likewiſe heard it, he ſaid, among other things, To what end ſhould I ſeek to marry her, being ſo wicked a Woman, ſuch a notorious Adultereſs and Murderer? I love to ſleep upon a ſafe Pillow: I account my ſelf, to your Majeſty's good Favour, as good a Prince at home in my Bowling-Alley at *Norwick*, as ſhe is, tho ſhe were in the middle of her Kingdom. The Revenues of the Crown of *Scotland* (all the ordinary Charges deducted) about the neceſſary Affairs of the Realm, are not comparable to mine own that I enjoy by your Goodneſs, as I have heard of the chief Officers of that Realm; conſidering alſo that her Kingdom is not in her hand, but poſſeſs'd by another; if I ſhould ſeek to match with her, knowing, as I do know, that ſhe pretendeth a Title to the preſent poſſeſſion of your Crown, your Majeſty might juſtly charge me with ſeeking your own Crown from your Head. This the Duke ſpake to the Queen's Majeſty, in his Excuſe, when the Fame went of his Marriage with the *Scottiſh* Queen, when yet, beſide that time, he had dealt earneſtly in it.

Duke. I may not nor will not ſtand againſt her Majeſty's Teſtimony, I muſt give place unto it; but

but hereof I was examin'd two years ago, and then I declar'd, as I now do, that at that time I intended not the Marriage. And true it is, that I have at ſundry times, ſome at one time, and ſome at another, us'd ſome of thoſe kinds of Speeches; but at that time I dealt not with that Marriage, nor minded it.

Serj. Your own Confeſſion is otherwiſe; for your ſelf have ſince confeſs'd, that you conceal'd from the Queen your Conferences with *Ledington* and *Roſſe* about the Marriage, both the Conferences had at *York*, and at *Hampton-Court*.

Duke. I never conſented to the Marriage at thoſe times of their Conferences, and ſo I might well uſe their Speeches.

Then was produc'd his own Examination the 6th of *November*, 1571. and it was read, and he confeſs'd his Concealment of thoſe Speeches and Conferences before uſed about the Marriage, and that it had indeed been mov'd, but not concluded on; He remembreth that the Queen charg'd him ſtraitly not to proceed in that Marriage; but he remembreth not that ſhe charg'd him upon his Allegiance.

The Duke of Norfolk, *the 6th of* November, 1571.

To the firſt and ſecond, he ſaith, That he remembreth that at *Hampton-Court*, upon a Report made by *Robert Melvin*, ſo declared by *Woolcock*, that this Examinant had gone about a matter of Marriage with the *Scottiſh* Queen for himſelf, wherein he took himſelf to be much wrong'd, and deſir'd to have the Matter examin'd; for that he had not dealt in that Matter, and doth not remember what the Queen's Majeſty ſaid unto him at that time: at which time he ſaid for himſelf, That he intended no ſuch thing, nor meant any ſuch thing; and yet he confeſſeth, That he did not declare to the Queen's Majeſty, at that time, of any Speech that had been uſed unto him by *Ledington* at *York*, and the Earl of *Murray* at *Hampton-Court*, touching the ſaid Marriage. Being at *Titthfield*, the Queen's Majeſty call'd him to her Gallery, asking of him, Whether he had dealt any wiſe for the Marriage of the Queen of *Scots*, as it was reported? Whereunto he anſwer'd, He thought her Majeſty had heard by others. But ſhe willed him to declare the Truth, becauſe ſhe had rather hear it of himſelf: And ſo he declar'd, That he had receiv'd Letters from her; that the Matter had been mov'd and written unto her; but he had not made any Concluſion in that Matter with her. Whereupon her Majeſty ſhewing her ſelf to miſlike thereof, commanded and charg'd him that he ſhould not deal any further therein with the Queen of *Scots*, nor any other Perſon in that Matter: But that he was charg'd upon his Allegiance, he doth not certainly remember; but that he was ſtraitly commanded, he doth well remember.

At length he confeſs'd, that he was charg'd upon his Allegiance.

Serj. At *Titchfield* the Queen's Majeſty expreſly commanded the Duke of *Norfolk* upon his Allegiance, as himſelf hath now confeſs'd, not to proceed in that Marriage with the *Scottiſh* Queen: Now, if we prove that this Commandment notwithſtanding, and againſt his own Promiſe, he afterward ſtill proceeded, and that much more earneſtly than before; and yet nevertheleſs, that he had all the while conceiv'd an evil Opinion againſt the *Scottiſh* Queen, and upon the ſight of her Letters, and other Evidences, ſhew'd he thought her plainly guilty of abominable Whoredom, of the Murder of her Husband, and ſignify'd it by Letters, and declar'd the ſame his Opinion to *Banniſter*: And alſo, That he made no account of her Kingdom of *Scotland*, which ſhe had not in Poſſeſſion; or if ſhe would have it, yet he counted it not comparable to his own Dukedom. He (I ſay) ſo doing, and ſo conceiving, and ſo declaring, and yet ſtill more and more proſecuting the Marriage, cannot be ſaid to have proſecuted it, in reſpect of her Perſon, but of ſome other thing (forſooth the Crown of *England*) which he hop'd to attain under her pretended Title. You never ſaw her, you could not then be carried with Love of her Perſon; you conceiv'd ill Opinion of her, ſo could you not be led with Love of her Conditions; the Fame of her good Qualities and vertuous Conditions you never heard much of, except it were by her ſelf, or the Biſhop of *Roſſe*, or ſome of her Miniſters; her Kingdom of *Scotland* you eſteemed not, both becauſe ſhe had it not in Poſſeſſion, but it was in Poſſeſſion of her Son, by her own Dimiſſe ratify'd by Parliament, and for that it was not of ſo good value as your own Poſſeſſions were. To what end then purſued you the Marriage? To no other End ſurely, but to advance and maintain the falſe and pretended Title to the preſent Poſſeſſion of the Crown of *England*; and for the attaining thereof, to practiſe the Deprivation, Death and Deſtruction of the Queen's Majeſty. If further, we ſhall plainly prove that after your departing from the Court, you meant not only to proſecute the Marriage, but alſo to proſecute it with Force, againſt the Queen in her own Realm; then it muſt needs be with intent of her Majeſty's Deprivation and Deſtruction, and ſo High Treaſon, within Compaſs of the Statute of 25 of *Edward* the Third. For whoſo ſhall take upon him to proſecute and maintain a Title to the Crown by force againſt the Queen, and within her own Realm, muſt needs make account that the Queen muſt and will reſiſt that Force; if then that Force may overcome the Prince's Force, what is the likelihood then to enſue? There muſt needs follow Deprivation of the Queen, and thereupon her Death and Deſtruction; for the Jealouſy of an Uſurper by Force, can in no wiſe ſuffer a rightful Prince to live. Now to prove your Intention to purſue the Marriage with Force againſt the Queen; In your Journey towards *London*, you entred into Conference and Device between another and you, for taking the *Tower* of *London*, with all the Queen's Ordnance, Ammunition and Treaſure therein, and to have kept the *Tower* by Force againſt the Queen, and ſo to have brought the Marriage to paſs by Force, whether the Queen would or no. But it took not effect; for the Queen's Majeſty having Underſtanding thereof before, provided for enforcing the Place with new Supply; and Mr. *Pelham*, Lieutenant of the Ordnance, was, for that purpoſe, put in with ſufficient Power. Afterward being at your own Houſe, the *Charter-Houſe*, the Queen's Majeſty underſtanding of theſe Attempts, ſent for you, whereunto you make a feigned Excuſe of doubt of Sickneſs, and that you had taken Phyſick,

ſick, ſo that for four or five Days you could not journey; promiſing after thoſe four or five Days, to wait on her Majeſty, according to your Duty. And immediately after this Excuſe ſent, without tarrying four or five Days, or any more Days, the ſame Night, you by and by ſtole away into *Norfolk*, and there intended to have levied Force; but that the Queen's Majeſty and her Council ſuſpecting your Purpoſe, had ſecretly ſent into thoſe Parts before, and taken Order for impeaching of your Intention. If this then be prov'd true, That you ſtill proſecuted the Marriage, without liking of her Perſon, without Eſtimation of her Poſſeſſions, with only reſpect to her falſe Title to the Crown of *England*, and with Force; and ſithence it cannot be purſued with Force againſt the Queen, nor Force levied againſt her Majeſty, without Purpoſe to ſuppreſs her Majeſty's Force, and to depoſe her from her Crown and Dignity; and he that ſo ſeeketh to depoſe her, muſt needs be thought that he will not ſuffer her to live: All theſe Matters conſider'd, the ſeeking of this Marriage in this Form, muſt needs be High Treaſon, within Compaſs of the Statute of 25 of *Edward* the Third.

Here was produc'd the Duke's own Letter, and the other Commiſſioners, from *York* to the Queen's Majeſty; wherein is ſignified the great Abomination of the *Scottiſh* Queen, appearing in her own Letters, and the Certainty of the Truth of thoſe Letters, both by offer of Oath of thoſe that exhibited them, and by Diſcourſes of ſome Matters there; which could not be written but by herſelf, being known to none other, as followeth.

" AFterwards they ſhew'd unto us an horrible " and long Letter of her own Hand (as they " ſay) containing foul Matter, and abominable to " be either thought of, or to be written by a Prin- " ceſs, with divers fond Ballads of her own Hand; " which Letters, Ballads, and other Writings be- " fore ſpecify'd, were clos'd in a little Coffer of " Silver, and gilt, heretofore given to her by " *Bothwell*. The ſaid Letters and Ballads did diſ- " cover ſuch inordinate and filthy Love, between " her and *Bothwell*, her Loathſomneſs and Abhor- " ring of her Husband that was murder'd, and the " Conſpiracy of his Death, in ſuch ſort as every " good and godly Man cannot but deteſt and " abhor the ſame. And thoſe Men here do con- " ſtantly affirm the ſaid Letters and other Wri- " tings, which they produce of her own Hand, " to be her own Hand indeed, and do offer to " ſwear, and to take their Oath thereupon; as " indeed the Matter contain'd in them being ſuch " as could hardly be invented or devis'd by any " other than by her ſelf; for that the Diſcourſe " of ſome things, which were unknown to any " other than to her ſelf and *Bothwell*, doth the ra- " ther perſuade us to believe that they be in- " deed of her own Hand-writing. And as it is " hard to counterfeit ſo many and ſo long Let- " ters; ſo the Matters of them, and the Manner " how theſe Men came by them, is ſuch, as it " ſeemeth that God, in whoſe ſight the Murder " and Blood of the Innocent is abominable, would " not permit the ſame to be hid or conceal'd. " In a Paper herein inclos'd, we have noted to " your Majeſty the chief and principal Points of " their Letters, written (as they ſay) with her " own Hand, to the intent it may pleaſe your " Majeſty to conſider of them, and ſo to judge " whether the ſame be ſufficient to convince her " of the deteſtable Crime of the Murder of her " Husband; which, in our Opinion and Conſci- " ences, if the ſaid Letters be written with her " own Hand (as we believe they be) is very hard " to be avoided."

Duke. This maketh for me; for this proveth that I ſo much miſliking her, and ſignifying by my Letter ſo much againſt her, dealt not on that ſide when I was at *York*, where this Letter was written.

Serj. There were others join'd with you in the Letter, ſo that you could not otherwiſe write, however you otherwiſe dealt: but this maketh much againſt you, for it prov'd you had an evil Opinion of her, and ſo could not ſeek the Marriage in reſpect of her Perſon, but only in reſpect of her falſe Title; and that not to the Kingdom of *Scotland*, which ſhe had not, and which you deſpis'd, but to the Crown of *England*. Now you ſhall, to the ſame end, hear your own Report againſt her to *Banniſter*.

Duke. Banniſter was ſhrewdly cramp'd, when he told that Tale. I beſeech you, let me have him brought Face to Face.

Serj. No more than you were.

Then was read *Banniſter*'s Confeſſion, in *October*, 12 *Eliz.*

This ſheweth that you had an evil Opinion of her, and ſo no Affection to the Perſon; therefore your ſeeking of that Marriage was for another reſpect; and therefore *Ledington*, *Roſſe*, and you practis'd the Matter at *York*.

Duke. They broke it to me, What is this to me? Did I conſent?

Serj. You conſented.

Duke. No.

Serj. They ſay plainly, that you practis'd to withdraw the things that might charge her.

Wilbraham. You have ſaid, that the Biſhop of *Roſſe* hath accus'd you of Malice; but you anſwer nothing to that which the Biſhop of *Roſſe* wrote to his Miſtreſs, the *Scottiſh* Queen, in Secrecy, wherein could be no Malice.

Duke. Ledington broke it to me, and the Earl *Murray* broke it to me. I pray you, let them be brought face to face to me: I have oft requir'd it, and the Law I truſt is ſo.

Serj. The Law was ſo for a time, in ſome Caſes of Treaſon; but ſince, the Law hath been found too hard and dangerous for the Prince, and it hath been repeal'd. You intended to have proceeded with the Marriage by Force, and for proof thereof, you have heard of the Device for taking of the *Tower*. Now to prove further your Purpoſe to purſue your Enterprize by Force, let be read the Confeſſion of the Biſhop of *Roſſe* to the ſecond Article.

The Biſhop of Roſſe's *Confeſſion the* 3*d of* November, 1571.

To the ſecond Article. The Duke being after conferr'd with the Biſhop of *Roſſe*, from his Miſtreſs, to know what he would do in the Matter of the Marriage, if the Queen would not aſſent, ſaid, he knew ſhe would, tho not at the firſt; becauſe moſt of the Council and Noblemen thought it meet; and that he had known the Minds of moſt of the Noblemen. And after, when the Queen was offended with him coming

from *Southampton*, he told the Biſhop, he would depart into his own Country, and ſo was reſolv'd, by the Earls of *Arundel* and *Pembroke*, who would do the like; and there would take purpoſe, by the Advice of his Countrymen and Friends, and do that was likelieſt for the Advancement of the Cauſe. The Biſhop ſaid, The Queen's Majeſty would by Force fetch him out of his Country. He anſwer'd, That no Nobleman in *England* would accept that Charge at her Commandment; for he knew their Minds, ſpecially for thoſe in the *North*, who would aſſiſt. And if that he might once have that open Quarrel againſt her, that ſhe would firſt purſue him, he would have Friends enough to aſſiſt him, and that the *Scottiſh* Queen ſhould be ſafely enough provided for; for that was the principal Mark he ſhot at, and would do what he could to have her in his hands. And the Earls of *Arundel* and *Pembroke* had promis'd to do as he did; and they in the *North* had promis'd the like. *Item*, *Leggons* told the Biſhop, that the Duke was reſolv'd to go through with the Matter by Force, if the Queen would not aſſent to it. At this time common Meſſages paſt between the *Scottiſh* Queen and the Duke, and them of the *North*.

Duke. All is falſe, ſaving that the Biſhop of *Roſſe* once ſpake with me, and then underſtanding him to be a ſuſpected Man, I deſir'd him to forbear to come to me; nevertheleſs, by his great Earneſtneſs and Importunity, that I would but once admit him to come to me, at length he came, and then he mov'd me for certain Money of the *Scottiſh* Queen's, about 2000 *l.* remaining in my keeping: One Letter he brought me, and no more Letters, till after my firſt Trouble. As for my going into *Norfolk*, I can bring good Witneſs, that I meant not to go into *Norfolk*, four Hours before I went, and that I ſpake not with him in two days before. It is of good ground that I have prayed to have the Biſhop of *Roſſe* brought to me in private Examination face to face, whereby I might have put him in remembrance of Truth; but I have not had him face to face, nor have been ſuffer'd to bring forth Witneſſes, Proofs, and Arguments, as might have made for my Purgation. As for ſending of Letters to my Lord of *Northumberland*, or my Brother of *Weſtmoreland*, all is falſe; I never receiv'd Letters from them in all my time. If ever I ſent to them, or receiv'd from them any Letters in three Quarters of a Year before, let me never be credited.

Serj. You ſhall have Proofs that the Biſhop of *Roſſe* hath ſaid it. You ſtand much upon your own Credit: Now therefore to your Credit, I will ſay ſomewhat againſt your Oath ſpecially taken, when you were appointed Commiſſioner for the Matter at *York*; and againſt your Oath of a Counſellor to the Queen's Majeſty, you dealt indirectly and partially; you deceiv'd the Queen's Majeſty's Truſt, and diſclos'd her Secrets.

Duke. I deny it.

Serj. It is well prov'd, that at *Hampton-Court*, being examin'd of the Matter by the Queen's Majeſty, you diſſembled it: Being examin'd of Money lent by you to the *Scottiſh* Queen, you deny'd it: Being charg'd upon your Allegiance, you promis'd not to proceed further in the Matter. Notwithſtanding that expreſs Commandment of her Majeſty; yet, againſt your Duty, againſt your Promiſe and Faith, you ſtill proceeded.

Duke. I confeſs this was mine Error; but I have already made humble Petition to my Peers, not to confound my Faults together, nor to mingle my inferior Offences with this great Cauſe.

Serj. Sithence the Commandment given to you at *Titchfield*, not to proceed in Dealing with the *Scottiſh* Queen in any wiſe, you have continually dealt with her: You have lent her Money; you have maintain'd *Liggons*, your Man and your Sollicitor, continually to advertiſe you, from the Biſhop of *Glaſgow*, and the Pope's Nuncio; and you have advertis'd him from hence. He hath had Money of you, and you have receiv'd Letters from him four times in Coffers.

Duke. *Liggons* is not my Sollicitor.

Serj. He is your Sollicitor, and ſo your ſelf have expounded him; for where the *Scottiſh* Queen, in her Letters, ſpeaketh of your Sollicitor, being ask'd whom ſhe meant thereby, you have anſwer'd, *Liggons*.

Duke. At the firſt indeed ſhe ſo called him; but Sollicitor is no Name of uſe. He hath not been ſo ſince my firſt Trouble; and ſo for her calling, it is no matter, ſhe once called me *Legiſta*.

Serj. He is your Sollicitor; for ſhe ſo taketh him, and your ſelf do ſo expound it.

Then was read his own Confeſſion, of Money lent 2000 *l.* and receiv'd, *&c.*

The Duke confeſs'd this Receiving and Lending of Money.

Then was read the Biſhop of *Roſſe*'s Confeſſion, concerning Money ſent by *Barthwick*, and of Money deliver'd to *Francis Biſhop*.

Duke. This I deny not.

Serj. *Francis Biſhop* was a Traitor.

Duke. I knew him not.

Serj. Now for the matter of taking the *Tower*.

Duke. I deny it.

Serj. Was it not mention'd unto you in the way, when you came from *Titchfield*, by one that came to you, and moved you a Device between you and another, for taking the *Tower*?

Duke. I have confeſs'd that ſuch a Motion was made to me, but I never aſſented to it.

Serj. You concealed it: And to what end ſhould you have taken the *Tower*, but to have kept it againſt the Queen by Force? But you ſay you lik'd not the Motion, you ask'd advice of it.

Duke. Indeed I told one of it: *Owen* met me by the way from *Titchfield*, and told me how we were all in danger; and ſaid, That ſome of our Friends thought it was beſt to take the *Tower*. I refus'd to do it, and ſaid, Take the *Tower*! that were a proper Device indeed! And thence I went to my Lord of *Pembroke*'s, and there din'd; and then I told my Lord of *Pembroke* of that Device; whereunto he anſwer'd, We are well, and ſafe enough: Let them that be faulty take the *Tower*, if they will. And to what end ſhould I have taken the *Tower*?

Serj. To maintain by Force that which you had practis'd againſt the Queen's Majeſty's Commandment, which was the Marriage with the *Scottiſh* Queen.

Duke. I had not then dealt with it.

Serj.

Serj. It is well prov'd that you had; and afterward, at your Houſe at *Charter-houſe*, you receiv'd Letters, Meſſages, and Tokens from the *Scottiſh* Queen; you receiv'd from her a Brooch, with a hand cutting down a Vine, and this Poſy upon it, *Vireſcit vulnere Virtus.* But, my Lord, do green Vines grow when they be cut? and a green Vine it was.

Wilbraham. My Lord, you ſtill ſay you dealt not at this time, or that time, againſt her Majeſty's Commandment; I pray you at what time, ſince her Majeſty's Commandment upon your Allegiance, did you forbear to deal with the *Scottiſh* Queen?

Serj. Beſide this, you have given Advice as a Counſellor to the *Scottiſh* Queen, againſt the Queen's Majeſty: namely, when in Treaty againſt the Queen's Majeſty and her, there were three Articles propounded on the Queen's Majeſty's part: the one for the Delivery of her Son into the Queen's Majeſty's Cuſtody; the other for delivering the *Engliſh* Rebels that were fled into *Scotland*; the third for delivering of certain Holds in *Scotland* into *Engliſh* Mens Poſſeſſion: He gave Advice herein as a Counſellor, againſt the Queen his Sovereign Lady. The Articles were expreſly ſent to the Duke to have his Advice, before that the *Scottiſh* Queen would reſolve of any Anſwer; and ſhe reſpited her Anſwer to be made according to his Direction. He gave Advice, that ſhe ſhould in no wiſe deliver her Son, for it was againſt her own Safety, not knowing whether ſhe deliver'd him into her Friends hands or no. As for the Rebels, ſhe ſhould in no wiſe deliver them, for it were againſt her Honour: And as for the Holds, ſhe ſhould not deliver any; for it were againſt the Safety of her Friends in *Scotland.*

Duke. For adviſing not to deliver the Rebels, I deny that ever I gave any ſuch Advice. As for Delivery of her Son, I advis'd her no otherwiſe but thus, that I wiſh'd her to beſtow him there, where ſhe might have ſure Friends.

Serj. Thus, contrary to your Oath, Allegiance, and Fidelity, and againſt the Credit that you would fain be thought of, you became, by your own Confeſſion, a Counſellor to a foreign Prince againſt your own Sovereign Lady.

Burleigh. My Lord, did you ever deſire to have any Proofs or Witneſſes produc'd for your part, to prove any thing that might make for you? And were you deny'd?

Duke. I have divers times pray'd, that if any thing were deny'd to be true which I ſaid, I might be driven to my Proof of it.

Burleigh. I ask it, becauſe I have not heard it reported to her Majeſty that you made any ſuch Requeſt, to have any ſpecial Witneſſes examin'd, or Proofs heard, on your part.

Here was produc'd and read the Confeſſion of *Hickford* to the 3d Article.

Duke. I advis'd her, touching her Son, that ſhe ſhould firſt be well aſſur'd that he ſhould be beſtow'd among her Friends. For her Caſtles, I advis'd her, that ſhe ſhould in any wiſe take heed, that they might not after come into the hands of her Enemies; for ſo if ſhe deliver'd *Edinburgh-Caſtle*, ſhe ſhould not be ſafe in *Holyrood-Houſe.*

Serj. How ſtandeth this with the Duty and Oath of a Counſellor, to give Advice to a foreign Prince againſt the Queen's Majeſty?

Duke. I excuſe it not, herein I confeſs my Error; I beſeech you call not theſe my inferiour Faults, which I have confeſs'd, among the greater wherewith I am charg'd.

Serj. Thus appeareth how he hath given Advice againſt the Queen to the *Scottiſh* Queen. Now it ſhall be further prov'd unto you, that where the *Scottiſh* Queen is here in Cuſtody as the Queen's Priſoner, he hath alſo been privy to Devices for conveying her away.

Here was produc'd the Confeſſion of *Barker*, *October* 5. 1571. Article 13.

Duke. This is not true, ſaving that indeed Advice was broken to me of conveying her away at a Window, at a Gallery's end, in one of my Lord of *Shrewsbury's* Houſes, of the which Window the Biſhop of *Roſſe* had taken a meaſure; but this Device was overthrown at ſuch time as it was told me. As for that which *Barker* hath here confeſs'd, it is utterly falſe.

Serj. Now ſhall you hear the Duke's own Confeſſion.

Here was read the Duke's Examination, *13 Octobris.*

Serj. Beſides this, the Duke being in Priſon in the *Tower*, made a Submiſſion to the Queen's Majeſty, confeſs'd his Error in dealing with the *Scottiſh* Queen, and promis'd, upon his Faith and Allegiance, never to deal with that Marriage, nor with any other Matter touching the *Scottiſh* Queen.

Duke. I confeſs I did ſo.

Serj. Before his ſubſcribing his ſaid Submiſſion, he firſt made the *Scottiſh* Queen privy to it, and ſent her a Double of it.

Duke. I ſent it to the Biſhop of *Roſſe.*

Serj. All is one.

Duke. I confeſs it.

Serj. What ſhould move my Lord of *Norfolk* now ſo earneſtly ſtill to purſue this Marriage? You ſee he lik'd not the Perſon, ſhe was not of good Fame, he ſo ſignify'd to the Queen, he ſo reported to *Banniſter.* The Kingdom of *Scotland* he eſteem'd not, and alſo it was out of her poſſeſſion, in the hands of the King her Son, by her own Dimiſſion ratify'd by Parliament. Forſooth he had an old blind Prophecy lying by him: *In exaltatione Lunæ Leo ſuccumbet, & Leo cum Leone conjungetur, & catuli eorum regnabunt*; which belike is thus to be expounded, *At the Exaltation of the Moon* (which was the Riſing of the Earl of *Northumberland*, that giveth the Moon) *the Lion*, (which is the Queen's Majeſty) *ſhall be overthrown*; *then ſhall the Lion be join'd with a Lion* (which is the Duke of *Norfolk* with the *Scottiſh* Queen, for they both bear Lions in their Arms) *and their Whelps ſhall reign*, (that is, their Poſterity ſhall have the Kingdom.)

Duke I do not remember any ſuch Prophecy.

Serj. It was in your own keeping.

Duke. What ſhould I do with it?

Serj. Such blind Prophecies have oft deceiv'd Noblemen.

Duke. This is nothing to the purpoſe; I kept it not to any ſuch end.

Serj. You utter'd it to your Servant *Hickford.*

Here was produc'd and read *Hickford's* Teſtimony.

Duke. A Toy! You ſee I call it a fooliſh Prophecy.

Serj. Where had you it?

Duke. I remember it not.

Serj. Hitherto have you heard the Evidence to prove the Duke's Imagination, Compaſſing, and Conſpiracy, to deprive the Queen's Majeſty of the Crown and her Royal Eſtate, and ſo to bring her Highneſs to Death and Deſtruction. For proving this his Intent, you have heard their Matters prov'd, his Practice to join himſelf in Marriage with the *Scottiſh* Queen, whom he then well knew falſly to claim and pretend Title to the preſent poſſeſſion of the Crown of *England*: alſo his proſecuting the ſame Marriage without the Queen's Majeſty's Knowledge, againſt her Highneſs's expreſs Commandment upon his Allegiance, againſt his Faith, Promiſe, and Submiſſion; yea, and to purſue that with force, and to uſe the Advice and Strength of his Friends, to maintain the ſame force againſt the Queen; his hearkning to blind Prophecies, Mony by him lent to the *Scottiſh* Queen, and againſt the Queen his Sovereign Lady. If then his Purpoſe ſo were to purſue it with force, it muſt needs follow, that the ſame muſt be of Intent, Imagination, and Compaſſing, to deprive and depoſe the Queen's Majeſty from her Crown, Royal Eſtate, and Dignity, and to advance and maintain that falſe and uſurp'd Title of the *Scottiſh* Queen unto the preſent poſſeſſion of the Crown of *England*, and ſo conſequently, for maintenance of his Imagination and Purpoſe, to compaſs the Queen's Majeſty's Death and Deſtruction. Now ſhall you further hear Proof of his own words, declaring the ſame intent to purſue the Marriage by force, and rather ro loſe his Life than to give it over.

Cavendiſh's *Depoſition.*

That at his ſeveral Journies unto the Places of the Queen of *Scots* Abode, the Duke procur'd him to labour the Cauſe of his Marriage with her with all diligence. *Item*, That her Majeſty being at *Southampton*, *Richard Candiſh*, a certain Night walking in his Chamber, and perſuading him by all means to labour for the Queen's Favour concerning that Marriage; the Duke affirm'd, that before he loſt that Marriage he would loſe his Life: and ſaid moreover, that if ever he handled thing wiſely or cunningly, I would ſay it was the Matter of that Marriage, if I knew it from the beginning. *Item*, That the Monday at night, after the Duke's Departure from *Southampton*, *Richard Candiſh* being at *Hayward-houſe* with him, in the Company of the Lord *Lumley*, the Duke and the ſaid Lord *Lumley* talking ſecretly together, ſuddenly the Duke brake out into this Speech: *Candiſh*, quoth he, *is able to accuſe me of no diſloyal Practices.* Whereat the Lord *Lumley*, as it were wondring, *Can he not indeed*, quoth he? *No indeed*, quoth the Duke; and turning to *Candiſh*, ſaid, *Candiſh, I in this Caſe defy thee, ſay thy worſt.* To which *Candiſh* anſwer'd, *Beſides the Practice of this Marriage, I truly can accuſe you of none. Item*, The Duke, at another time, in the ſaid Houſe, ask'd *Candiſh, If God take away the Queen's Majeſty, whether he could aſſure him of his Brother* Candiſh, *and procure his ſaid Brother to promiſe unto him Sir* Robert Ningfield? *Item*, At his laſt being at *Remming-hall*, among many others talking, he had this Speech; *Candiſh* (quoth he) *nothing will undo us but the Riſing of the* Northern *Lords.* To whom I anſwer'd, *God forbid that any ſuch thing ſhould be, for it will undo us all*; whereat he replying, ſaid, *I fear they will riſe.*

Duke. The Duke looking upon *Cavendiſh* with a ſcornful and ſmiling Countenance, ſaid, *You are an honeſt Man!* That which he ſaith of the Talk between him and me at *Southampton*, is utterly falſe: At that time you were moſt earneſt on my part, and came to me as for Succour, for that as you ſaid your Couſin *Chriſtmas* was fallen out with you. When we rode to my Lord of *Pembroke*'s, you came to me and told me, my Lord *Burleigh* findeth me well, I will ride with him and find his Humour, and I will face that Fellow thorowly; ſo from *Salisbury* you ſaid you would ride to *Leiceſter*, ſo and home with my Lord *Burleigh*, and you doubted not to bring me ſuch word from him as ſhould ſatisfy me. You told me how my Lord of *Leiceſter* was firm, and Sir *Nicholas Throgmorton* my ſure Friend, and that they would both join to deal with the Queen for me; and how Sir *Nicholas Throgmorton* ſent me word, That he doubted not the Queen would take order to my Contentation at her next Coming to a ſtaid Houſe. Then came you to *London*, and tho I had no great Liking of you, yet becauſe you were loth to lie at *Arundel*'s, and were ſomewhat ill at Eaſe, I let you lie in my Houſe. I never made great account of you; my Lord of *Leiceſter* made us firſt acquainted, your Brother you know was not my Friend, I then took you as I now find you. While you could hold on, you ſhew'd your Letters that you did write on my behalf; then you came to me and ſaid, you had need, and borrow'd Mony of me; I had none at that time, but I ſent it you by *Bowes*. I was warn'd by divers of my Friends to take heed of you; you dealt with *Dier* and with *Stranuge* very maliciouſly. As for the Speech at *Remminghall*, that you ſpeak of me, it is untrue; I dealt not with you there about any ſuch matter; I left you at *London*, I look'd not for you; when you came, I was glad to be rid of you; you ſaid you were going to *Norwich*, and I was glad you were going, and will'd you to look at my Houſe at *Norwich* and tell me how you liked it: Out of the *North* I heard nothing in ſix Weeks before. You ſuddenly ſlipp'd away from me, and then came I up to *London* ward; you are an honeſt Man indeed, it is all falſe that he hath ſaid. Then *Cavendiſh* began to report and juſtify what he had ſaid, and to put the Duke in remembrance, when the Duke gave him reproachful words of Diſcredit.

Serj. He is ſworn, there needeth no more proving; you ſent *Havers* to the Earl of *Weſtmoreland.*

Then was alledg'd the Examination of one *Haveling* touching *Havers*, whom the Duke ſent to the Earl of *Northumberland*, with this Meſſage, *That if the two Earls ſhould riſe, he were undone.*

Duke. This may be ſeen of two years old, and by me fully declar'd and anſwer'd.

Then was read the Confeſſion of *Havers.*

Then was alledg'd a Letter of the *Scottiſh* Queen's in Cypher to the Duke, containing, that the Lord of *Shrewsbury* had told her, that the Earl of *Northumberland* was deliver'd to the Earl of *Suſſex*; for which ſhe was very ſorrowful three days together, for fear of cumbring of Friends if he were taken.

Serj. What Friends was ſhe ſo careful for, that ſhe wrote to the Duke, unleſs ſhe thought it ſhould light upon the Duke himſelf?

Duke. That Letter never came to my hands.

Serj. It was found in the Bag which you will'd to be burn'd.

Then the ſaid Letter was read.

Duke. All this is nothing to me.

Serj.

Serj. This proveth in you a Practice to the Rebellion; for all her Sorrow of the yielding of the Earl of *Northumberland* was, for fear he ſhould bewray and cumber her Friends.

Duke. That toucheth not me; for I am ſure the Earl of *Northumberland* hath been ſought for me, and yet he cannot accuſe me.

Serjeant. Had it not concern'd you, it had not been written to you.

Duke. Some Letters never came to my hands: ſometime they came to the Biſhop of *Roſſe*, ſometime to *Banniſter*, ſometime not all decipher'd; as *Stranage* and *Bowes*, and other that have been Meſſengers for me, can tell.

Here Mr. *Attorney* began to proſecute the ſecond part, and ſpeak firſt to this effect.

Attorney. Now you have heard enough of the firſt matter. In this Indictment are contain'd three principal Treaſons, whereof the firſt is imagining and conſpiring the Deprivation, Death, and Deſtruction of the Queen's Majeſty: for proof hereof, it hath been truly ſaid, That to imagine, compaſs, or procure the Depoſing or Death of the Prince, is High Treaſon by the Statute of 25 *Edward* III. and at the Common Law; for the Statute is but a Declaration what was Treaſon at Common Law: which Imagination, when it appeareth by Overt-fact, muſt needs be judg'd Treaſon; for Overt-fact is but a ſhewing of a Man's mind, which when a Man by outward Speech or Deed hath utter'd, it muſt needs be judg'd that ſo was his meaning; which muſt be gather'd by ſuch means, as it may be made to appear. For no Traitor is ſo bold, to ſay expreſly, he will depoſe or kill the King; but often it hath been ſeen, that they go about indirectly, and by Means that tend to that End: and therefore he that goeth about to ſtir the People to Rebellion, or to levy War within the Realm, to aſſail or withſtand the Prince by Force, is taken to ſeek the Death of the Prince. Now therefore to prove that the Duke of *Norfolk* hath imagin'd and compaſs'd the Depoſing and Death of the Queen's Majeſty, this hath been ſhew'd you, firſt, by ſecret and indirect means: he ſought to join himſelf in Marriage with the *Scottiſh* Queen, who pretendeth Title to the Queen's Crown. This he did without the Queen's Majeſty's privity, againſt her Highneſs's expreſs Commandment upon his Allegiance, againſt his own Promiſe and Submiſſion. Firſt, being at *York*, a Commiſſioner appointed by the Queen, contrary to his Oath and Charge, he dealt undirectly and partially, and play'd an untrue part with the Queen; he ſecretly practis'd for the Marriage. This being objected againſt him, he hath deny'd it: you have heard it teſtify'd by three Witneſſes, the Earl of *Murray*, *Ledington*, and the Biſhop of *Roſſe*. So appeareth, that all that Practice and indirect Dealing was to this end, to compaſs the Deprivation and Death of the Queen's Majeſty; for he well knew that the *Scottiſh* Queen made Title to the preſent Poſſeſſion of the Crown of *England*; that ſhe deny'd the Queen's Majeſty to be lawful Queen of this Realm; that ſhe uſurp'd the Royal Stile; that ſhe quarter'd the Arms of *England* without any difference: all this he knew, he was of the Queen's Majeſty's Privy Council at the ſame time; he knew that ſhe made no Renunciation of her unjuſt Claim, though it were required of her. It was alſo one Article in the Commiſſion where he himſelf was Commiſſioner, To require the Recognition of her Error, and of the Queen's Majeſty's preſent Right: he knew well it was not done. If the *Scottiſh* Queen claim'd ſuch preſent Title, then was ſhe no Friend to the Queen's Majeſty, but a Seeker of her Highneſs's Overthrow and Deſtruction: and yet the Duke of *Norfolk* knowing this, practiſed to compaſs this Marriage. Wherefore, I pray you, ſought he that Marriage? yea, and ſought it as he meant to atchieve it with Force? It was not in reſpect of her Perſon, for he knew her not; it could not be for any good Report of her virtuous Conditions, for he had an evil Opinion of her: he did by his writing certify againſt her, he declar'd to *Banniſter* that he thought very ill of her. It was not for her Title to the Kingdom of *Scotland*, for neither was ſhe poſſeſs'd of it, neither did he eſteem it though ſhe had it. Wherefore ſought he her then? Surely in reſpect of that unjuſt Claim and Title that ſhe pretended to the preſent Poſſeſſion of the Crown of *England*; which Title cannot be maintain'd without evident purpoſe to depoſe the Queen's Majeſty, and to bring her to Death and Deſtruction, which is plain Treaſon by the Statute of 25 *Edward* III. for no more can *England* bear two Queens, than the World can bear two Suns. And how ſhould he have maintain'd it, but with Force? And how could that have been, without depriving of the Queen's Majeſty from the Royal Eſtate? And how could that have been done, without compaſſing her Highneſs's Death and Deſtruction? For the Jealouſy of an Uſurper cannot ſuffer the juſt Prince to live. This your Honours are to ſearch and conſider, and to your Judgments we refer it. Now my Lord of *Norfolk's* chief and only Anſwer is but his bare Denial, which is no ſufficient Anſwer; ſpecially ſith he himſelf hath fallen into ſo great diſcredit, by doing againſt his Word, his Hand, his Oath. He promis'd, being commanded upon his Allegiance, never to deal in that matter; he promis'd, by his Submiſſion under his own Hand, utterly to forſake it, and to deal no more with the *Scottiſh* Queen for that Marriage, nor any other matter: He promis'd by Oath ſpecially taken when he was Commiſſioner for hearing the matter at *York*, to do therein directly and indifferently without partiality. All theſe Oaths and Promiſes he hath brokon, beſide the Oath of a Counſellor which he hath alſo broken, in diſcloſing the Queen's Secrets, and in ſecret practiſing againſt her expreſs Commandment. Now alſo, ſince he was laſt apprehended and committed, he hath deny'd certain things, which he hath afterward, being conſtrain'd with ſtrength of proof, confeſs'd; yea, he hath deny'd thoſe things upon his Oath, which he hath afterward granted to be true: ſo is he not to be believ'd upon his Word, if his own Word diſcredit him, how great ſoever he be in Degree.

Duke. Upon the Statute of 25 *Edward* III. he inferreth, that it is Treaſon to imagine or compaſs the Deprivation and Death of the Queen's Majeſty; as the Lord forbid, and I pray God I may ſooner be bury'd in the Earth, than I ſhould ſeek or attempt any thing to the Deſtruction of her Majeſty's Perſon. There is a Maxim in Law, that penal Statutes muſt be conſtru'd ſtrictly, and no penal Statute ought to be extended further than the very words: Now in all that my Accuſers have depos'd or ſaid againſt me, there is not one word, how falſe ſoever they be, that ſay that I went about any hurt to her Majeſty's Perſon, or that I levy'd or practis'd to levy any Power againſt her, or to do any of thoſe things that are contain'd

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for Treasons within the words of the Statute. Is the Bishop of *Rosse* a sufficient Witness against me? There be Points enough in the Law to prove him no sufficient Witness: He is a Stranger and a *Scot*; a Stranger can be no sufficient Witness, much less a *Scot*: for whereas when there is Peace between the Queen's Majesty and a foreign Realm, the People of that foreign Realm may freely come and traffick in this Realm; yet though there be a Peace between *England* and *Scotland*, if a *Scot* come into *England* without a Passport, he may be a lawful Prisoner. Again, I cannot tell what he may for fear. *Bracton* saith, That Witnesses must be *Liberi Homines*, Free Men, of full Age, Honest, and of Good Report: the Bishop of *Rosse* is none such. So is nothing prov'd of any Overt-fact against me, neither am I accus'd by any but the Bishop of *Rosse*, who can be no sufficient Witness against me. What care I what *Hamlin* says? it toucheth me not. As for *Havers*, I never sent him with any such Message; indeed I ask'd him what Company he found with my Brother of *Westmoreland*. He told me, he found none but my Brother *Westmoreland*. But as for my Lord of *Northumberland*, I sent not to him. If I might have brought forth my Proofs, I could have brought forth Proofs of good fame, that I sent no such Message; I could have prov'd it by Confessions, and not by Hearsay. So is only the Bishop of *Rosse* Witness against me, and what he is, all you perceive. I never heard of the Rebellion, till Sir *Henry Nevill* told me of it. If I had had such a mind when I was in *Norfolk*, I needed not to have come hither; I could have made a shift well enough. If I had intended any such Rebellion or Treason, I would not have put my Lord of *Northumberland* in trust withal, nor yet my Brother of *Westmoreland*, nor would have come hither to put my Head in the Halter in the *Tower*: but being, as I was, in such place where I might have shifted, I would have kept me from coming here well enough. If Fear had moved me, and that I doubted of mine own Case, I could easily have avoided. So, I say, to prove me guilty of Treason, you must shew some Overt-fact that I have done against her Majesty's Person: And to the Witnesses, I think I have said sufficiently. As touching my dealing with the *Scottish* Queen, so far as I dealt without compass of Treason, this I say for my meaner Faults, inferiour to Treason, I have with all Repentance and Humility submitted my self to the Queen's Majesty, I beseech you confound not those with this Case: but in my dealing with her about Marriage, I pray you draw it not to such Intention, to advance her Title against the Queen; because, though she once made such Claim, yet considering what Amity hath since been between the Queen and her, to make her now an Enemy, is hard; and surely to marry her, though I treated of it, I never concluded, minded, nor intended. Where it's said I was privy to the Device of her taking away, I utterly deny it. If I had been so, I would not have been against her, nor would have certified against her; I ever advis'd her to submit her self to the Queen's Majesty: but when no Overt-fact of Treason can be prov'd against me, to bring me in thus by Arguments and Circumstances, I think it very hard. If I should have stolen her away, I could not do it alone; was I so destitute of Friends, that I could not make any Man privy to it? And who is there that accuseth me of it, that may spend five Marks a year? Now sith nothing is proved against me by any Witness sufficient, I beseech you consider favourably of me. Indeed my Brother of *Westmoreland* sent me his Man with Recommendations; and I sent him, by his Man, a Ring which my Sister had sent me before; and also *Havers* with this Message, *Commend me to my Brother of* Westmoreland, *and tell him that I am well, mine Innocency shall deliver me*: but nothing touching any Rising at all. If ever I were privy to that Rebellion, then condemn me of all the Treasons that you lay against me.

Attorney. My Lord and I are now at issue upon this point; I affirm it with Proofs, and his Lordship barely denieth it. If his Intent were to compass the Marriage, knowing her to pretend Title to the present Possession of the Crown; then must this grow to an Imagining to depose the Queen, and then it is Treason. An Overt-fact is a Declaration of the Mind; Letters, Tokens, Speeches, Messages, and such-like, be Overt-facts. Now if you had marry'd her, you must have maintain'd her pretended Title, which you could not have done without manifest Purpose and Compassing to depose the Queen, and to bring her to Death, which is High Treason. Now beside, there is one other Fact, which I will give you in evidence; which most evidently proveth the Duke of *Norfolk*'s Imagination and Compassing to depose and destroy the Queen. It is well known that *Pius* V. the Bishop of *Rome*, is the Queen's Majesty's notorious Enemy, he hath been so publish'd; he hath so shew'd himself in his Proceedings; he hath shew'd it in his Bulls, they have been brought into this Realm, and some have suffer'd for them. The Duke of *Norfolk* knowing it to be so, hath practis'd with his Factor, hath sent unto the Pope for Aid and Force against the Queen; he confer'd with one *Rodolphe* a Merchant Stranger, to go over Sea to the Duke of *Alva* and to the Pope, in the name of the *Scottish* Queen and the Duke of *Norfolk*, to procure Power to invade this Realm, for the Advancement of the *Scottish* Queen's false Title to the Crown of this Realm of *England*; and in the mean time, the Duke promis'd to move her Friends to levy such Power as they were able, to assist the Strangers when they came in. If this be proved unto you, then is it flat Treason. To use Force against her Majesty in her own Realm, must needs be done with intent to depose her, which Force she must needs resist; which if she be not able to do, then followeth her Death and Destruction. My Lords, here goeth still all to one manner of purpose, his own bare Denial and Allowing of no sufficient Witness; but here God, him shall be Witness: this is a matter open'd by God himself. It was known, that a Treason was in hand; many Searches were made to understand it, no Man could by any Travel find it out, till God himself open'd it; so as the Saying is fulfill'd, *What is done in secret shall be made open.* The Treasons my Lords of the Council knew of; it appear'd in *April* last, that such a Treason was; but whom it toucheth was not known to them, no not to him that open'd it. So as God hath open'd it, to affirm these mean Men to be of credit. The Treason being known to the Privy Council half a year together, yet could they not understand the Party, till God discloſed it by marvellous chance. In *August* last, there was six hundred Pound of Mony prepared to be sent with Letters into *Scotland* to the Queen's Enemies, for their Relief and Maintenance, and by the Duke of *Norfolk*'s appointment to be convey'd to his Man *Banniſter*,

and ſo into *Scotland*. This Mony was deliver'd to one *Browne* of *Shrewsbury*, by one of the Duke's Servants, one *Hickford*; who ſaid to *Browne*, *Here is* 50 l. *I pray you help that it be convey'd to Mr.* Banniſter's *Dwelling near* Shrewsbury. *Browne* having receiv'd the Mony, though the Bulk was ſomewhat like the proportion of 50 *l.* in Silver, yet the Weight, by reaſon it was Gold, made him ſuſpect it: whereupon he went to one of the Queen's Privy Council, and diſclos'd his Suſpicion, that ſo he might learn what he carried. This Bag being open'd, there was found 600 *l.* in Gold, and certain Letters withal, to the Queen's Enemies, and to *Banniſter*: Whereupon, the Duke's Man, that ſent the Mony, was apprehended; and then, by God's good Providence, was it found that this Treaſon touch'd the Duke of *Norfolk*, under the Name and Cypher of *Guarante* 40, and another Nobleman was ſignify'd by the Cypher of 3 *Trente*. Then fell out new Matters: Certain of the Duke's Servants examin'd, whether they knew of any Cypher us'd to any Man by the Name *Guarante*, they confeſs'd that *Guarante* was the Duke of *Norfolk*; they ne'er were in ſeveral Places, the Biſhop alſo a Priſoner in a place ſeveral from them all, and yet they all agreed in one. So God's Work hath enforc'd their Credit by their Agreement, being ſeverally kept. Thus came it to light by God's own Work. Now ſee what the Cauſe was: The great Treaſon was contain'd in Letters written in Cypher, to one ſignify'd by the Number *Guarante*; this *Guarante* was for the Duke, and ſo the Duke confeſſeth. What Cauſe had they to ſuſpect him? Letters from *Rodolph* made mention of great Treaſon, and of Proviſion of Men from beyond the Seas, to invade this Realm, according to his Order and Requeſt, which was Men by *Guarante*. If then we ſhall prove unto you that *Rodolph* had this Meſſage and Commiſſion from the *Scottiſh* Queen and the Duke of *Norfolk*, to treat with the Pope, King *Philip*, and the Duke of *Alva*, for the bringing in of ten thouſand Men to invade *England*, and to make War againſt the Queen in her own Realm; there muſt needs be compaſſing to depoſe the Queen, and to bring her to Death, and ſo High Treaſon: For he that will levy Force to invade or make War in a Prince's Realm, and that in Maintenance of a Title to the preſent enjoying of the Crown, doth what he can to depoſe the Prince, and conſequently alſo doth what he can to deſtroy the Prince. Now to prove that the Duke of *Norfolk* dealt in this manner, ſent this Meſſage, and practis'd to bring in this Force of Strangers, and to levy War againſt the Queen within the Realm, it ſhall be good firſt to ſhew what manner of Man this *Rodolph* was: He was one that liv'd divers Years here in this Realm, a notable Traitor and Enemy to the Queen and Realm of *England*, and of long time the Pope's Factor. In the Duke's firſt Trouble, this *Rodolph* was ſuſpected of ſuch Practices, and therefore by the Council committed to the Cuſtody of Mr. *Walſingham* till *October* was Twelve-months; and for that no evident Matter appear'd, he was deliver'd again in the *November* following: So ſoon as he was deliver'd, he by and by open'd to the Biſhop of *Roſſe*, That he was Factor for the Pope; he ſhew'd him his Commiſſion, and ſundry Letters written to him by the Pope's Nuncio in *France*, about Matters of the Practice a long time. This *Rodolph* was well known to the *Scottiſh* Queen, the Pope himſelf and his Nuncio recommending him to the *Scottiſh* Queen: The Duke was made privy of it, and made him privy to his Dealings, and kept it ſecret from the Queen and her Council. When the Bull was brought over, that *Felton* dy'd for, this *Rodolph* had ſix Copies of it, and diſpers'd them; whereof he gave one to the Biſhop of *Roſſe*, one other to the *Spaniſh* Embaſſador, and the third to the *French* Embaſſador, and the reſt we know not what he did with them. Now the Duke knowing him to be ſuch a one, he was a fit Man to deal with. That he was ſuch a one, and that the Duke well knew it, and ſent him in Meſſage to the Duke of *Alva*, and to the Pope, you ſhall ſee plainly prov'd. Then what his Meſſage was, you ſhall ſee alſo diſclos'd, and how things hidden will, by God's Providence, come to light. The Letters were written in Cypher, and decypher'd, and the Cypher hid in the Tiles, and found by chance; ſo as it may appear God's own Work to open theſe Treaſons.

Here the Duke took exception to his ſaying, that the Cypher was found in the Tiles; and ſaid, it was not the Cypher that was found there, but the Alphabet: ſo the Duke always in his Speech call'd the Letters or Matter written in ſtrange Characters, the Cypher; and the Paper of the Characters themſelves he call'd the Alphabet, which Mr. Attorney uſually call'd the Cypher.

Then was read the Biſhop of *Roſſe*'s Confeſſion the 3d of *November*, to the 5th Article.

Alſo *Roſſe*'s Confeſſion ad 7 Article, litera 6.

Alſo his Confeſſion the laſt of *October*, Article 23.

All this the Duke deny'd, and ſaid, I never ſaw any Letters from the Pope, but one, which I will ſpeak of anon.

Then was read the Biſhop of *Roſſe* to the 6th, 7th, and 8th, making mention of a Pacquet, wherein was one Letter to the Duke, by the Title of *Guarante*.

Then was read the Biſhop of *Roſſe*'s Confeſſion, 26th of *October*, Fo. 2. concerning *Andrew Beton*'s coming.

Attorney. The Duke had theſe decypher'd, and read them.

Then was read *Barker*'s Confeſſion, 6th of *November*, Article 3.

Attorney. Thus plainly appeareth, that the Duke was privy to theſe Meſſages to the Pope, and Conference with his Factor: Now it reſteth to underſtand what followeth of this Courſe begun with *Rodolph* the Pope's Factor; what Meſſages were ſent; what Practices deviſ'd; and what enſued. Upon this Letter, the *Scottiſh* Queen wrote a Letter to the Biſhop of *Roſſe*, wherein ſhe wrote back a Diſcourſe of her Eſtate and Device, what ſhe thought beſt to be done, referring all to the Direction of the Duke of *Norfolk*. Here is the Letter itſelf to be ſeen.

This Letter came to the Biſhop of *Roſſe*; he ſent it over to the Duke, with a Letter from the *Scottiſh* Queen to the Duke. This Letter was decypher'd, and found hidden in the Duke's Houſe under the Matts in an Entry, in the Way as the the Duke went to his Bed-chamber; the Cypher it ſelf was found in the Tiles of the Houſe. This plainly declareth, how the Duke in dealing with the *Scottiſh* Queen and the Pope, purſued his Purpoſe of advancing the *Scottiſh* Queen

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to the Crown of *England*. That the *Scottiſh* Queen was in practice for it with the Pope, and referr'd the Diſpatch of *Rodolph* to the Duke; and the Receipt of thoſe Letters is confeſs'd by *Hickford*, and by the Duke himſelf.

Here was read the Letter of the *Scottiſh* Queen to the Biſhop of *Roſſe*.

Attorney. By this Letter appeareth, how the *Scottiſh* Queen hath ſet out the whole Plot of the Treaſon: A Meſſage ſhould be ſent for Aid from foreign parts; *Rodolph* the fitteſt Man to be the Meſſenger; and that *Rodolph* ſhould be diſpatch'd to go about it, when the Duke of *Norfolk* would. The Device was to move King *Philip* for Aid, upon a Conſideration of her State here, to enter into Deliberation of the Time and Opportunities to ſet her Friends to Field, and to ſeize themſelves of her. This is confeſs'd by *Hickford*; and this Letter is alſo confeſs'd by the Duke himſelf, that he receiv'd it about *January* was Twelve-month, and it was hid under the Matts.

Duke. I bid that the Letter ſhould be burnt.

Attorney. God would not have it ſo; but that it ſhould remain for diſcloſing the Matter.

Duke. As touching *Rodolph*, what manner of Man he was, is no matter to me: I know of no more, nor am to be charg'd with no more than I my ſelf am privy to. I never dealt with him about any Cauſe of mine. I receiv'd no ſuch Letter, but that which *Barker* ſaid came from him, which was not that *January* that you ſpeak of, about two Years ago; and as for Inſtructions and Letters about that *January* was Twelve-month, I receiv'd none.

Burleigh. Here the Lord *Burleigh* ſaid to Mr. Attorney, You may miſtake, it was this time Twelve-Month, for now we are in *January*. And ſo Mr. Attorney remembring this preſent Month to be *January*, referr'd the Letter to *January* now a Year paſt; and ſaid, This Letter that I now charg'd you with, came to your hands at this *January* was Twelve-month: It came firſt to the *Scottiſh* Queen's hand; ſhe took occaſion, upon conſidering her own Caſe here in *England*, in *France*, and in her own Country, that it was beſt for her to cleave unto *Spain*. She wrote to the Biſhop of *Roſſe* her Diſcourſe to that end: She counted *Rodolph* the fitteſt Meſſenger; Matter was deviſ'd for his Inſtructions; ſhe referr'd the Diſpatch wholly to the Duke of *Norfolk*: the Duke dealt in it, his Meſſage appeareth. And thus it continued till *March*; and then, according to the Plot before laid, *Rodolph* was diſpatch'd, and went over indeed.

Duke. What was deliver'd to *Barker*, I know not; that is nothing to me: I am ſure they will not ſay they deliver'd it me, nor that I receiv'd any ſuch Letters or Inſtructions. This I ſay, the Biſhop ſent me a Letter of the *Scottiſh* Queen's, together with a Letter of his own: In her Letter ſhe complaineth of her own Subjects, and ſaith, ſhe will ſeek other Means for her Relief. This Letter was decypher'd; I miſlik'd the Device, and bad that the Letter ſhould be burn'd; ſo the Letter in Cypher was burn'd, and the Alphabet was ſav'd. I ſent word that I miſlik'd all thoſe Devices, and I adviſ'd the *Scottiſh* Queen to depend only upon the Queen's Majeſty, or elſe, if ſhe would take any other Cauſe, both I, and all other her Friends in *England*, would give her over; and thereupon it was that I ſaid, that the Queen, if ſhe fell to ſuch Practices, would publiſh her Letters and Doings to her Infamy. Upon which my Words, the Biſhop of *Roſſe* excus'd himſelf, and laid all this Matter, of this new Device, to *Beyton* and *Rewley*. It is not true that *Barker* made me privy to any ſuch Meſſage or Inſtructions, as hath been alledg'd. Alſo he is not to be allow'd for a Witneſs againſt me, for he hath confeſs'd Treaſon againſt himſelf; and Perſons out-law'd, or attainted of Treaſon, are no ſufficient Witneſſes.

Catlin. My Lord, there is none of thoſe Witneſſes, that have declar'd Matter againſt you, outlaw'd, or attainted of Treaſon, or yet indicted.

Duke. They are worſe; for they have confeſs'd Treaſon.

Attorney. The Biſhop of *Roſſe*, at this time, was in Cuſtody, and theſe Men alſo that have confeſs'd againſt you, were alſo kept in Cuſtody, kept aſunder in ſeveral Places, and ſeverally examin'd, agreed all in one, and your own Confeſſions agree with them; How can this be imagin'd and falſe? All [illegible] it with one Conſent. The Biſhop of *Roſſe*, when he firſt came to the City, was examin'd of theſe things, he deny'd all, he ſtood in it earneſtly; when Queſtions were ask'd him, he ſaid, He was an Embaſſador, and not ſo to be dealt with, but to be referr'd to his own Miſtreſs the *Scottiſh* Queen. When he was committed to the *Tower*, and there again examin'd, ſeeing things confeſs'd already; and by the manner of the Queſtions that were ask'd, perceiving ſome Light that the Truth was known; then he confeſſed alſo, and in his Confeſſions doth agree fully with *Barker* and the reſt; which Conſent could not poſſibly be, if the Matter were not true; beſides that, he hath in his Confeſſion touch'd himſelf.

Duke. They have not agreed in Confeſſion againſt me, that I told them any ſuch thing, but one of them told another, and ſo from hand to hand it went among them.

Attorney. Well you ſee what is confeſs'd, and with what Conſent we are at Iſſue; here is but your Lordſhip's Denial; I leave it to my Lords here to conſider of the Proofs. If you had been a good Subject, being then a Priſoner in your own Houſe, when ſuch dangerous Matter came to your Underſtanding, you would have open'd it, that the Queen's Majeſty and her Council might have provided to withſtand them, but you did it not. The Duke of *Norfolk* found flat Treaſon intended; *Rodolph* was the Meſſenger that procured it; the Duke knew it; *Rodolph* was referr'd to the Duke's Diſpatch, upon the Conference of the Biſhop of *Roſſe* and *Rodolph* about the Matter, and the *Scottiſh* Queen's Willingneſs to have him ſent about the Matter. Thus it proceeded: It was agreed that *Rodolph* ſhould have his Meſſage in Writing; and at the ſame Conference, *Barker* being alſo among them, it was agreed, and ſet down in his Inſtructions, that his Meſſage ſhould be this: He ſhould go to the Pope and the King of *Spain*, in the Name of the *Scottiſh* Queen and of the Duke of *Norfolk*, to require of them Money and Men for the Enterprize. *Rodolph* requir'd to ſpeak with the Duke; *Barker* brought him to the Duke at *Howard-houſe*; there they talk'd together, the Duke and *Rodolph* a whole Hour, till it was nine of the Clock at Night. After this Talk, the Duke deliver'd to *Barker* a Paper, ſaying, that *Rodolph* left it with him; which Paper contain'd the Sum of the Treaſon, and therein was

alſo

alſo a Paper of the Names of divers Noblemen, Knights, and Gentlemen in Cypher, whom they counted that they would take the Duke's part, but they counted without their Hoſt; ſo that there was for every Name a Cypher, of the which 40 was for the Duke, and 30 for the Lord *Lumley*. *Barker* receiv'd it of the Duke, and deliver'd it again to *Rodolph*. Upon this Cypher of 40, fell out the Underſtanding of the Treaſon.

Here was read *Barker*'s Depoſition, 10 *October*, Interr. 8.

Item, *Barker* to the 22 Interr.

Attorney. In this Bill the Duke is proved to be 40, the Duke himſelf hath alſo confeſs'd that 40 ſtandeth for his own Name. *Barker* brought *Rodolph* to the Duke, which the Duke alſo confeſs'd, and that *Barker* brought him Inſtructions for *Rodolph*'s Money.

Here Mr. Treaſurer and Mr. Chancellor of the Exchequer, ſworn, did teſtify that *Barker* made all theſe Confeſſions freely, without Compulſion.

Alſo Mr. *Wilſon*, ſworn, did teſtify the ſame; and that *Barker* was never offer'd Torture, nor was once in the Priſon where the Rack was: but the Duke ſaid *Barker* ſaw where his Fellow had been.

Attorney. Did not *Barker* bring *Rodolph* to you at nine of the Clock at Night? Did he not leave with you Inſtructions in *French*?

Duke. I confeſs it.

Then was read *Barker* to the 16th.

Attorney. *Rodolph* came alſo the ſecond time to the Duke; after he was come from the Duke, he ſaid to *Barker*, That the Duke and he were agreed of his Journey, and that the Duke pray'd him to depart with ſpeed.

This Meſſage was to procure Men and Money for the Enterprize of the Treaſon; and on this Meſſage the Duke diſpatch'd him.

Duke. Touching *Rodolph*'s coming, I have indeed confeſs'd that he came to me. I was in Summer was Twelve-Month bound in Recognizance for 1800 *l.* to *Rodolph*, for my Lord of *Arundel*, and for my Brother *Lumley*; the Day was paſs'd whereby I ſtood in danger of my Recognizance. I ſent to *Rodolph* to intreat him to cancel my Recognizance, and I offer'd to give him Twenty Yards of Velvet; *Rodolph* would not be perſuaded, but deſired to ſpeak with me himſelf, which *Barker* reported to me. I was very loth that he ſhould come to me, for he was in Trouble at my laſt Trouble, and ſo I thought his coming to me would be ſuſpicious. *Barker* promis'd that he would bring him to me ſecretly, and at ſuch a time as it ſhould not be known to make any Suſpicion. So *Rodolph* came to me, and I did what I could to intreat him about my Recognizance, and I could not perſuade him more, than to promiſe that he would not ſue me. He told me of his Trouble and of his Impriſonment at Mr. *Walſingham*'s, and what Words Mr. *Walſingham* gave unto him, alſo of the *Scottiſh* Queen; and that he ſhould deal with the Duke of *Alva* for Money for her to her own Uſe, and for Neceſſaries, as he had done before. He pray'd alſo my Letters in the *Scottiſh* Queen's Favour to the Duke of *Alva*: I began to miſlike him, and was loth to write; I ſought ways to ſhift me from him; I ſaid I was not well at eaſe; I could not write, and it was late, and ſo I would not deal. As for the Bill of Names, I ſaw none ſuch, nor underſtood of any ſuch, till the Letter that came over from *Rodolph* about *Eaſter*. I deliver'd a Writing to *Barker*: I confeſs it; but it was about that Matter which I have confeſs'd already for my Recognizance; and ſo I dealt not with any ſuch Matter as is alledg'd againſt me, nor receiv'd any other Inſtructions, but only as I have ſaid, about my own Matters.

Attorney. My Lord, this is but your own ſaying, and it carrieth no Likelihood: But *Barker* goeth nearer to you; he telleth you plainly what the Inſtructions were: It was to King *Philip* for Men, and to the Pope for Money.

Duke. *Barker* hath confeſs'd himſelf a Traitor, and therefore is no ſufficient Witneſs againſt me. I never knew of any ſuch Bill of Names, nor ſuch Inſtruction in *French*.

Attorney. It is ſufficiently prov'd. Now *Rodolph* came to you again the ſecond time.

Duke. I deny it: He came no more to me.

Attorney. That is not ſo: for *Barker* telleth plainly, not only the Time, but alſo the ſeveral Ways by which he himſelf brought *Rodolph* to you.

Duke. There be Ways enough, he might have devis'd alſo a dozen Ways more, if he would, in that Houſe.

Here was read *Barker* ad 11.

Attorney. Lo! he telleth you which way *Rodolph* came to you.

Duke. So he may deviſe more Ways when he will.

Attorney. Now you ſhall alſo hear it confeſs'd by the Biſhop of *Roſſe*, who at the time of his Confeſſion was in Priſon, not knowing what *Barker* had ſaid.

Here was read *Roſſe*'s Confeſſion of that Matter.
Here was alſo read *Roſſe*, the ſixth of *November*.

Attorney. Here you ſee how the Duke agreeth with *Barker*. And there was read *Roſſe* more, the ſixth of *November*; how *Rodolph* made account of his Time, and of his Return before the Parliament ended.

Then Mr. Attorney made a brief Rehearſal of the Matters contain'd in thoſe Confeſſions, and ſhew'd the Agreement of *Roſſe* and *Barker*; and then was read *Roſſe*, Fol. 3. touching *Rodolph*'s Account of his old Soldiers, that he could bring againſt the *Engliſh*, of the Duke of *Medina*'s coming, of 7000 *Spaniards* to be ſpar'd. Now the Duke had ſatisfy'd *Rodolph* for his Credit, and tho the Duke ſubſcribed not, yet if the Duke were a Chriſtian Man, he was aſſur'd of him, and ſo would aſſure foreign Princes on the Duke's part.

Then was read the Confeſſion of the Biſhop of *Roſſe*, to the 18th.

Now ſhall you hear further: *Rodolph*, before his Voyage, mov'd to have Letters of Credit, that he might deal with foreign Princes; whereupon three Letters were devis'd, to commend *Rodolph* to the Pope, the King of *Spain*, and the Duke of *Alva*, and to give him Credit in his Meſſage, that he might be able to procure Aid for the *Scottiſh* Queen, and for the Advancement of the Catholick Faith. The Duke anſwer'd, I am loth to write; for if I write, the Queen's Majeſty hath great Intelligence, and ſo if my Writing ſhould come to light, all were marr'd; and ſo he would not write. Then the Biſhop of *Roſſe*, and

Barker, travailed earneſtly with him to ſubſcribe the Letters; but he would not. Then, at length, it was advis'd and agreed among them, that if the Duke ſhould ſend one to the *Spaniſh* Embaſſador, to declare his Aſſent to affirm the Letters, it ſhould ſatisfy *Rodolph* and the foreign Princes, tho he ſubſcribed not: wherewith the Duke was content, and ſent *Barker* with the Biſhop of *Roſſe*, and *Rodolph*, to declare to the *Spaniſh* Embaſſador, that the Duke was content to affirm the Letter, and to let it paſs in his Name. And ſo the *Spaniſh* Embaſſador recommended *Rodolph*'s Meſſage in the Duke's Name, without the Duke's Subſcription.

Here was read the Biſhop of *Roſſe*, ult. *Octob.* ad 20.

Alſo *Barker* was read of the ſame Matter.

Attorney. Thus it is plainly prov'd: and if they ſay true, as it cannot be that they can ſo agree, if it were not true; then can it not be deny'd that the Duke is guilty of all this Treaſon.

Duke. Here is too much at once for me to anſwer without Book; my Memory is not ſo good, to run through every thing, as they do that have their Books and their Notes lying before them: Therefore, I pray you, if I forgot to anſwer to any thing, remember me of it.

It is ſaid, That there are two or three Witneſſes againſt me; all this two or three are but one Witneſs: for *Rodolph* ſaid it to the Biſhop of *Roſſe*, and of his Mouth the Biſhop of *Roſſe* told it to *Barker*, and ſo from Mouth to Mouth; they are all but one Witneſs. Beſides that they have confeſs'd themſelves wholly in Treaſon, and now they would bring me in with them too; and ſo are no ſufficient Witneſſes againſt me. Note, I pray you, the Advices, and ſee how likely they are: Ten thouſand Men muſt be landed, whereof three or four thouſand muſt be Horſemen; they muſt land at *Harwich*, and a Port in my Country; neither is *Harwich* a Port in my Country: And I am not of ſo little Skill, that I would have three or four thouſand Horſemen land in *Eſſex*, the unfitteſt Place for Horſemen to land in all *England*, a Country beſt inhabited of Noblemen, Gentlemen, and other Ability to reſiſt them: And who would land Horſemen in *Eſſex*, a Country all full of Lanes, Woods, Ditches, and Marſhes? I would have choſen ſome other Country rather, if I had been ſo minded. Again, in reſpect of Religion, I would not have landed them in *Eſſex*, that came to deſtroy Religion, and ſo ſhould have found but little Aſſiſtance? And would I have brought in Power, or join'd with them to the Overthrow of Religion? It hath lately been ſaid by that ſide, that I could not be recover'd from my Religion: I would not be chang'd from my Religion; I had rather be torn with wild Horſes. Beſides that, the County of *Eſſex*, adjoining to the County of *Suffolk*, is moſt unfit for that purpoſe; no County in *England* more repleniſh'd with Proteſtants, nor of better Ability, and none more likely to withſtand Papiſts. As for moving of Friends, I never dealt to move any Perſon in the Matter; I never made Proviſion for it; I provided no Armour, Shot, Powder, nor Money; I made no Friends privy to any ſuch Intent. Some Preſumption it is, that if I had intended any ſuch matter, I would have made ſome privy to it. I was not otherwiſe ſo deſtitute of Friends, I would have provided Armour, Shot, and Powder; I would have provided Money; I am ſure there was not much Money found. For Armour, I had not at my houſe here paſt eight Armours which were of Proof, and a hundred Harquebuſies; and beſides this, I beſtow'd not 10 *l.* in Armour theſe ten Years: Powder I have not two Barrels; yea, not above a Barrel in all. So ſee the likelihood of their Devices; no Conference of Friends to take part; no Proviſion of Furniture; a Country, both in Religion and Situation, unapt for the Matter.

Where they ſay *Rodolph* told *Barker*, and *Barker* told me; and *Barker* came from *Roſſe* and from *Rodolph* to me, and from me to *Roſſe*, to declare that I was content to affirm the Letters of Credit: I deny it. As for my Conſent, that the *Spaniſh* Embaſſador ſhould affirm the Letters in my Name, how unlikely a thing it is, that I was content to affirm them, but not to ſubſcribe them; as if I knew not how ſmall is the Difference between ſubſcribing and affirming; and as if I had ſuch ſlender Wit. *Rodolph* never came to me but once; indeed I heard that *Rodolph* would fain have came to me again the ſecond time, but I would not; *Barker* earneſtly urg'd it, but I refus'd. To pleaſe the curious *Italian* Head of *Rodolph*, they devis'd it among them to deal with the *Spaniſh* Embaſſador. As for me, I never heard from the *Spaniſh* Embaſſador in the matter; I never ſaw him but once at my Lord Treaſurer's. I was angry with *Barker* for going to him in my Name; and he excus'd it, and ſaid, he could not otherwiſe content the Biſhop of *Roſſe* and *Rodolph*: and ſo that affirming of the Letters was *Barker*'s own Doing, and not mine. I would they might, in our private Examinations, have been brought face to face with me. I could have put them in mind of things they have confeſs'd, Treaſon of themſelves, and they would bring me in with them, and lay it on my ſhoulders. I am hardly handled, I have been eighteen Weeks committed, I can ſpeak with no body; if I might have had them face to face, and been allow'd to bring forth my Proofs, I would have brought forth direct Matter and Proofs, and therewith made them remember themſelves. Conſider, I beſeech you, what they be that accuſe me; the Preſumptions be in all likelihood, that I ſhould not ſo do as they accuſe me; and as for them, they be Perſons that have accus'd themſelves of Treaſon, and ſo be of no Credit. As for mine own Examinations, they wholly agree in ſuch ſort as I have here declar'd in mine Anſwer.

Attorney. Your Anſwer is nothing but bare Denial; and here are three Witneſſes againſt you, and all three ſeverally examin'd, have agreed in one; and *Barker* hath directly confeſſed; and if you doubt of Impulſion, you ſhall hear how willingly and how freely he confeſs'd it: becauſe the ſame Examination was taken before Sir *Thomas Smith*, and ſubſcrib'd with his Hand, Mr. *Wilſon* upon his Oath declar'd the ſame to be Sir *Thomas Smith*'s Hand.

Duke. Where it is ſaid, that I ſhould bid them to write, or ſhould affirm their Writing, it is not true. Indeed *Banniſter* ſpake to me to write for Money for the *Scottiſh* Queen, and I refuſed to do it. If I ſhould have dealt in any ſuch matter, I would have truſted One *Banniſter* afore Fifteen *Barkers*. And as for your number of Witneſſes in this manner by Hands one from another, twenty Witneſſes may prove but one Witneſs.

Attorney. You ſhall hear your own Confeſſion agreeing with them; you were content *Rodolph* ſhould uſe your Name to the Duke of *Alva*, and that

that he ſhould aſſure the Duke you were a Catholick, and that he ſhould ſhew Tokens to prove it, for that you kept Papiſts in your Houſe, and were a Friend to Papiſts.

Here was read the Duke's Confeſſion, 10 *October, ad interr.* 58.

Here his own Hand confeſſeth the Matter.

Duke. I ſaw the Inſtructions indeed, and this Matter was in it. They ſought to have it thought I was a Catholick, to ſerve their Purpoſe, and did put it in of themſelves; but I allowed it not, I would rather be torn with wild Horſes, than forſake my Religion.

Attorney. Theſe Inſtructions remained ſtill in your cuſtody: Why did you not burn theſe, as well as you ſay that you commanded the Letter to be burned?

Duke. Becauſe it was their Writing, and not mine.

Wilb. You are content it ſhould be extant; to what purpoſe was that, if you miſliked it?

Attorney. Your Lordſhip ſhall yet ſee further a Letter of the Biſhop of *Roſſe*, written to the *Scottiſh* Queen, wherein the whole Plot and Courſe of the Treaſon is plainly ſet out at large; the Letter came to the *Scottiſh* Queen's hands while my Lord Steward was there, which my Lord Steward affirmed. So the Letter was read.

Duke. The Biſhop of *Roſſe* is no ſufficient Witneſs againſt me, for the Cauſes that I have declared.

Attorney. I leave his Credit to my Lords here to conſider, let them weigh it as they ſee cauſe. Now come to conſider your own Doings: ſince your laſt Impriſonment, Letters have been conveyed unto you, and you have ſent Letters abroad, by many ſubtle and ſecret Ways of Conveyance. One Letter you ſent out, written with Red-Ocre, wherein plainly appeareth that you feared the Matter, and that ſomething was confeſſed, and that you were afraid of more; you willed the Biſhop of *Roſſe* ſhould take all upon him, becauſe he was an Embaſſador, and that a Bag of Writings ſhould be ſought out and burned.

Here the Letter written in Red-Ocre was read, which the Duke confeſſed to be his own.

Attorney. This Letter gave occaſion to ſeek the Bag, and ſo were the Writings found under Boards faſt nailed, and thereby was underſtood that *Guarante* was the Duke, and ſo by God's Work broke out the whole Practice of the Treaſon. This Letter was directed to no body.

Duke. It was written to *Bayly*, and *Bayly* received it. I can anſwer this Letter well enough. Here I am charged with two Matters, for matter of my Confeſſions, and for burning the Bags of Letters. As for that which is there ſaid, that I confeſſed nothing but what I ſaw confeſſed by other, the truth is, I received a Letter, wherein I was charged, that I had accuſed ſome falſly. I wrote to ſatisfy, that I had not accuſed any of any matter of Treaſon, nor could if I would; and this was the meaning of that Part of my Letter.

Attorney. Where is the Letter whereby you were charged that you had accuſed falſly?

Duke. I kept it not; think you I would keep Letters? Burned Letters do no hurt. As for burning the Writings in the Bag, it maketh nothing againſt me in this Caſe; for they were nothing but private Letters of the *Scottiſh* Queen's, written before, and when I was laſt in Trouble, long before this Matter. At *Bannifter's* coming up at *Eaſter* laſt, he brought them to me, and I willed *Barker* to lay them up: What needeth ſuch ſearching for elder Matters? I bad them be made away, for they were but private Matters between the *Scottiſh* Queen and me.

Attorney. There was the Letter that diſcloſed you to be *Guarante*, whereby the Treaſon was known: now here is alſo another Letter of your own, which you ſecretly ſent out of the *Tower*, which ſheweth your Guiltineſs in the matter of the great Treaſon with *Rodolph*.

Here the Duke's other Letter was read.

Duke. This was only, as I have declared before, for my Conference with *Rodolph*, for the matter of Money, both touching mine own Recognizance, and procuring of Money for the *Scottiſh* Queen, for her Neceſſity.

Attorney. By the whole courſe of the Matter that goeth before, it is for the Treaſon, and not for the Money.

Here is alſo another Letter of your own, which carrieth manifeſt Preſumptions of the Treaſon, where, among other things you will *Barker* to confeſs no further, if he love his Life; beſides other moſt manifeſt ſuſpicious Matters.

Duke. I wrote it not in reſpect of any fear that *Barker* could hurt me, when I willed that *Barker* ſhould confeſs no more, as he loved his Life: For indeed he might touch himſelf in Treaſon, (as he hath done) but not me, for I never conſented to it.

Attorney. Now ſhall you ſee how the Matter proceeded further: After the diſpatch of *Rodolph*, in *Lent* laſt, as he had made ſhew before, that he intended to go over Sea, and was all this while practiſing about this Treaſon; at length being frighted with theſe Meſſages, he came to ſue to the Queen's Majeſty for a Paſs-port, which was granted him, and he carried over two Geldings with him, which is evident Proof that he went over. Now ſhall you ſee what effect it took, and by the Anſwer you ſhall diſcern the Meſſage and Practice: Being beyond the Sea, and having done his Meſſage, he ſent advertiſement to the Duke how he ſped, and likewiſe from the Pope; which plainly diſcloſeth the whole Purpoſe and Plot of the Treaſon, as ſhall be declared unto your Lordſhips.

Here began Mr. Sollicitor.

Sollicitor. For that the time is ſpent, and your Lordſhips, I think, are weary, I will not now make any Collection what hath been gathered of the attempt of Marriage with the *Scottiſh* Queen, only I will deal with the Matter of *Rodolph*'s Meſſage, and the effect thereof: And the Duke's adhering to the Queen's Enemies and Rebels, ſhall be another part. In this Matter of *Rodolph*, hath been laid before you a plain Plot for a Rebellion, and for Invaſion of the Realm, ſet forth in the *Scottiſh* Queen's Letter, which was decyphered by *Hickford*, by the Duke's Commandment, as hath been ſaid unto you; the effect whereof was as hath been declared.

And here he repeated the Effect of that Letter, containing the Device of putting Men into the Field, and to ſeize the *Scottiſh* Queen. Now if the Device were follow'd, and if the Duke were a Doer in it, if he were a Conſenter unto it, if *Rodolph* were practiſed with for the Journey, if he received

ceived his Meſſage to that end, if he went and purſu'd it, if he ſent Anſwer accordingly; then it muſt needs be that here is matter of High Treaſon, and the Duke of *Norfolk* guilty of it. It hath been ſhewed by the Declaration of *Barker*, and of the Biſhop of *Roſſe*, how *Rodolph* was the Pope's Factor, was commended by the *Scottiſh* Queen for a fit Meſſenger in this Matter, was conferred with about it, Articles were deviſed, they were ſhewed the Duke, and the Duke himſelf hath confeſſed that he ſpake with *Rodolph*, and that he ſaw the Inſtructions. Now is the queſtion, How far the Inſtructions extended, whether to matter of High-Treaſon, as hath been alledged, or no? The Duke ſaith for his excuſe, That the Inſtructions were but for a private cauſe of Money, and that when *Rodolph* required him to write his Letters, the Duke refuſed and caſt him off. See how this accordeth: If it were but a private Cauſe, whereto ſerved that refuſal to write? As well he might by Letters, as by Inſtructions, purſu'd a private Cauſe. What needeth that ſecret coming in the Night-time about a private Cauſe? The Duke himſelf confeſſeth, that the Inſtructions were ſhewed him before *Rodolph* came to him; he confeſſeth alſo that *Rodolph* was commended by the *Scottiſh* Queen, the Inſtructions have here been ſhewed, containing the Matter of his Journey, and extending to the Treaſon: He came to confer with the Duke. Now let your Lordſhips judge why, and about what Matters they conferred.

The Biſhop of *Roſſe* and *Barker* do, of their own knowledge, declare, how, for Furniture of this Meſſage, there were Letters of Credit deviſed in the name of the *Scottiſh* Queen and the Duke of *Norfolk*, to the Pope, the *Spaniſh* King, and the Duke of *Alva*; the Duke refuſed to ſubſcribe them, for fear, if he ſhould deal too openly, the Treaſon might perhaps to ſome appear: therefore a Device was found out how to ſalve the matter, That he ſhould, by his Servant, affirm the Letters to the *Spaniſh* Embaſſador, and ſo they ſhould, by the *Spaniſh* Embaſſador's commendation, paſs with as good credit as if they had been ſubſcribed. This Device was performed, his Aſſent was witneſſed, and the Letters of credit confirm'd accordingly. *Rodolph* went over to the Duke of *Alva*, and from thence to the Pope; he return'd anſwer of his Meſſage, and gave advertiſement to the Duke. Did not he ſend his anſwer concerning the very Inſtructions that have been alledg'd, and the matter of Treaſon, and not of a private Cauſe? And to whom? Sent he not anſwer to the Duke, by the name of *Guarante*? Would *Rodolph* make anſwer to, and advertiſe him that never ſent him, and of a Matter that he never ſent him about? By this you may ſee the intent of the Meſſage. Now ſhall you ſee what Anſwer was return'd.

The Biſhop of *Roſſe*, after this, ſent over a Servant of his, one *Charles Bayly*, to fetch certain Books that were printed in thoſe Parts; Books containing very ſeditious Matter, whereof I have ſeen ſome, by permiſſion, tending to theſe ends. Firſt, therein is conveyed to the *Scottiſh* Queen a Title to the Crown of *England*, a Deſcent above the Conqueſt, and ſo labouring to impair the Intereſt of all our Kings that have reigned ſince the Conqueſt. Then the Judgment of the Right of the Crown of this Realm is reduc'd to an univerſal Law, which they call *Jus Gentium*, and the diſcerning thereof exempted from the Laws of this Realm. And of that univerſal Law they eſtabliſh one univerſal Judge, whom they inſinuate to be the Pope, whoſe Bulls you ſee have paſs'd in prejudice of the Queen's Majeſty's undoubted Right. This *Charles Bayly* being in thoſe parts for this occaſion of the Books, met with *Rodolph* at *Bruſſels*, after that *Rodolph* had had his diſpatch from the Duke of *Alva*, and was haſting to the Pope; and therefore having haſte of his Journey, and much to write, and ſmall leiſure, he deſired *Charles Bayly* to write for him two Letters for two Noblemen of this Realm, both in Cypher: but to whom the Letters were directed, *Charles* himſelf could not tell; for *Rodolph* ſubſcrib'd the Letters himſelf, one to *Guarante*, the other to *Trente*. *Charles Bayly* bringing their Books and Letters, was taken at *Dover*, the Books were brought to the Council, the Pacquet of Letters were convey'd away to the Biſhop of *Roſſe*: And daily more and more grew the Suſpicion, by reaſon of the repair of the Biſhop of *Roſſe*'s Servants to the *Marſhalſea*, where *Charles* was. At length there were Letters taken between the Biſhop of *Roſſe* and *Charles*, mentioning the recovery of *Rodolph*'s Pacquet. In this Pacquet was the Advertiſement of the Succeſs of the Voyage, from *Rodolph* to the Duke, by the name of 40. This Letter of *Rodolph*'s was ſent to the Duke from the Biſhop of *Roſſe* by *Barker*; *Barker* deliver'd it to the Duke, from whence it was ſent back again to the Biſhop of *Roſſe* by *Gutbert*, and by *Gutbert* it was decyphered, and carried again to the Duke by *Barker*: Upon this occaſion *Gutbert* was ſought for, the Duke convey'd him away, and this conveying away of *Gutbert*, the Duke hath confeſſed. If this be thus, then muſt it needs be that *Rodolph* was ſent by him, and to ſuch end as the Letter bringeth anſwer of. In the Letter, this was contain'd, That *Rodolph* had ſpoken with the Duke of *Alva*; That he had very good and loving Audience; That the Duke of *Alva* lovingly promis'd all the help that he could; and that he would commend the Cauſe to the King of *Spain* his Maſter: And he adviſed *Rodolph* to go forward to the Pope, and that he ſaid, he could not do further without more Warrant, which he would ſeek to procure. Alſo certain queſtions ask'd by the Duke of *Alva*; as what Fort was between the Haven where they ſhould land and *London*? How near *London* it was? So the nearneſs of *London* was reſpected, how incommodious ſoever your Lordſhip ſaith the place was for Horſemen. Theſe Queſtions belike depended upon the Matter propounded, which touch the Plot of the Treaſon, and not a private Cauſe, as your Lordſhip pretendeth. The Duke of *Norfolk* confeſſeth the receipt of theſe Letters, and the decyphering of them. So *Charles Bayly*, by *Rodolph*'s Requeſt, wrote the two Letters in Cyphers; *Rodolph* himſelf directed them to 40 and 30. *Charles* being taken, and confeſſing the writing, and bringing of theſe Letters, and the Matter contain'd in them in *April* laſt, yet knew not who was 40 nor 30. This was ſtrangely convey'd, Treaſon known in Matter, and yet the Perſon not known to himſelf that wrote it.

Here was read *Charles Bayly*'s Letter.

Theſe Letters of *Rodolph* were convey'd to the Biſhop of *Roſſe* to deliver to 30 and 40, referring the reſt to his Diſpatch at *Rome*. And this falleth out alſo very likely for the Time; for *Rodolph* departed home about *Eaſter* before.

Here was read *Charles Bayly*'s Confeſſion, *ad* 3. *Sollic.* Now you ſee to what End the Effect of the Meſſage tended; you ſee what it was, and

how it was done; you see how it was receiv'd, and the Duke of *Alva*'s Questions upon it: now you shall see the Contents of the Answer, by the Examinations of the Bishop of *Rosse*, and *Barker*; the receipt of the Letters of answer the Duke himself hath confessed.

Duke. Where they say this Message was sent by my Privity, by reason that I was meant by 40, I deny it; I never wrote by *Rodolph*, I refus'd to do it, I knew not his Letters were to me, but as *Barker* said: And it was not likely they should be to me; for it was a Matter which I was not privy of, and in a Cypher which I had not; *Rodolph* left no Cypher with me. As for the taking of the Pacquet, I knew nothing of it; the Letter I never saw in Cypher; *Barker* brought me a Decypher, telling me, That 40 was for me, and 30 for the Queen of *Scots*. When he told me first he had the Cypher, I ask'd what I should do with it, and how I should read it, having no Cypher? *Barker* answered, that it was left with *Gutbert*; for *Rodolph*, at his departure, had told him, That he would write answer of the Money for the *Scottish* Queen, and that he would leave the Cypher with *Gutbert*; and that he had so done, and in the Letters decyphered did appear, that the Duke of *Alva* had promised aid of Money for the *Scottish* Queen for her Necessities; but he could not yet do it for want of Commission, but as soon as he had Commission he would. When I heard of this, I mislik'd this dealing with the Duke of *Alva*, having before refus'd to write to him in the Matter at *Rodolph*'s Request; and I threatned *Barker* if he so dealt any more with me. The Letters might be to me, as *Barker* said; but I knew not so much.

Sollic. This your Answer is in all no more than a bare denying, and so be all your Speeches, all upon your own Credit only.

Here was read *Barker*'s Confession, ad 2. & 3. concerning *Rodolph*'s Letters in Cypher, and the Decyphering by *Gutbert*, and the Port where the *Walloons* should have landed, *&c.*

Then was read the Bishop of *Rosse*'s to the 12 and 13, to the same effect.

Then Mr. Sollicitor recited again the Effect of the Letters, and the said Confessions of *Rosse* and *Barker*, and proceeded further thus:

You see all these agree in one concerning the Contents of the Letter; now the Letter being decyphered by *Gutbert*, and *Gutbert* being able to discover the whole, this *Gutbert*, when he was sent for by the Council, was convey'd away by the Duke's means, as the Duke himself hath confessed.

Duke. It may be that *Barker* received this Letter as you spake of, and that *Gutbert* decyphered it, and that it contain'd the Matters that you alledge; it may be that they kept that Letter still to themselves, and might bring me another Letter, containing only such Matter as I was content with, containing the private Cause.

Sollic. An unlikely matter; but thus you see the Duke confesseth the receipt of the Letter, he only denieth that it was to this effect. It was confessed, that a Letter to this effect was written to 40; he also confesseth, that 40 was for the Duke himself.

The Duke of *Alva*'s Questions prov'd the form of the matter; the Duke read that Letter.

Duke. I read not that Letter, but of another Matter, and you bring but one Witness to prove it.

Sollic. There be two Witnesses, *Barker* and the Bishop of *Rosse*, severally examined, who agreed directly, expressing it. And *Bayly* also wrote the Letter himself containing the Treason, and not knowing to whom the Letter was directed, accordeth with them.

Duke. Barker and *Gutbert* might make the Letter themselves, and put in and out what they list.

Sollic. Why did *Rodolph* write you any Letter at all?

Duke. I know not. *Barker* presented me the Letters out of Cypher, and I had not the Cypher, nor saw any such Letter as you alledge.

Sollic. It appeareth further, how after this dispatch with the Duke of *Alva*, *Rodolph* went forward on his Message to the Pope, and having also good Success there, he so advertis'd again. The Pope sent Letters to the Duke and the *Scottish* Queen, to this effect, That he liked well of their Enterprize, *&c.*

Would *Rodolph* have gone to the Pope and procur'd Letters, if he had not had Instructions accordingly? The Duke himself hath confessed such a Letter, conceived there came two Letters, both of one Tenure; the one by the way of *France*, the other by the way of *Flanders*; the effect you have heard, and the receipt is confessed.

Duke. Barker indeed brought me about six or seven Lines, written in a Roman Hand in *Latin*, beginning thus, *Delecte fili salutem.* I asked what it was? And *Barker* told me, it was a Letter from the Pope to me: Wherewith I was offended, and said, A Letter to me from the Pope! What have I to do with him, that is Enemy to my Religion and Country? How cometh this to pass? So I received it, and not otherwise; and *Barker* excus'd it, and said, That *Rodolph* had procur'd it for his own Credit.

Here was read *Barker*, ad 29.

Sollic. Thus you see the Effect of this Letter, and how this was directed to the Duke from *Rodolph*, also by the name of 40, decyphered by *Gutbert*, and delivered to the Duke by *Barker*. The Duke received it and read it, and said, *Rodolph* hath been at *Rome*, I perceive there will nothing be done this year. By this it appeareth, that he reproved not *Barker* at all for bringing it unto him, for *Barker* brought it him twice: Would he have brought it him the second time, if the Duke had been angry with him for it at the first?

Duke. I knew not at the first time what it was for, it was in Cypher.

Then was read *Barker*'s Confession to the 8th.

Duke. Barker is not of Credit, he accuseth me falsly.

Sollic. He was your Servant, and of near Place and Credit about you; why should he accuse you wrongfully?

Duke. He was not of Credit about me; for I us'd him not this fourteen years.

Sollic. That is not so, as hath well appeared. Besides this, the conveying away of *Gutbert*, which was done by your means, and who decyphered this Letter, and could have disclosed the Matter, proveth a great Guiltiness in you.

Duke. He was convey'd away at his own request made, and not for my Safety.

Sollic. You caused him to be convey'd away, and were privy to his Conveying.

Duke. Barker removed him; indeed I was not privy.

Sollic.

Sollic. You moved *Bowes* to join with *Barker* to do it.

Then Mr. Sollicitor ſaid further to the Peers, I have alſo, my Lords, one thing more to ſay to you from the Queen's Majeſty's own Mouth, the Lords that be here of the Privy Council do know it very well, not meet here in open Preſence to be uttered, becauſe it toucheth others that are not here now to be named; but by her Highneſs's Order, we pray that their Lordſhips will impart it unto you more particularly. In *Flanders*, by the Embaſſador of a foreign Prince, there the whole Plot of this Treaſon was diſcovered, and by a Servant of his brought to her Majeſty's Intelligence; the Miniſter not meaning to conceal ſo foul and diſhonourable a Practice, gave Intelligence hither by Letters, and hath therein diſcloſed the whole Treaſon in ſuch Form as hath here been proved unto you: Wherefore I refer the more particular Declaration thereof to the Peers of the Privy-Council.

Then began Mr. *Wilbraham*, Attorney of the Wards, and ſaid to this effect.

Wilbraham. There is yet ſomething unſpoken, it conſiſteth in two Points, I will be ſhort in both. The Matters are plain, and eaſy to underſtand. Let my Lord anſwer, and your Lordſhips ſhall eaſily judge of them. Here have been ſet forth before you the imagining and practiſing of the Deprivation and Death of the Queen's Majeſty, with bringing in of Strangers into the Realm to invade, and levy War, with the Appurtenances both miſerable and many. This Requeſt I am now to make, that for proof of theſe Treaſons, that I will intreat you to have in memory what hath before been ſaid; for though the Proofs of theſe Treaſons we divide to ſeveral Parts, for Eaſe and Shortneſs, as the ſeeking of the Marriage, *Rodolph*'s Voyage, the Succeſs thereof, and the Reſidence that remaineth, ought all to be compared together; any one appearing plainly true, giveth Credit to the reſt. The Queen's Majeſty's Proceeding in this Tryal is very honourable, mild and gracious; the Confeſſions have been made by the Parties freely, without Torture or Conſtraint. You ſhall ſee each of them, and each part ſo prove the other, as the whole ſhall be clearly out of doubt. Where the Earl of *Northumberland* and his Wife, the Earl of *Weſtmoreland*, *Richard Norton*, and others in the North Parts raiſed Rebellion, and levy'd open War againſt the Queen's Majeſty within her Realm; and being overthrown by the Queen's Power, fled into *Scotland*, and there were received by the Duke of *Chaſtelleroy*, the Lord *Harris*, the Lord *Hume*, the Lord *Buccleugh*, and others, and by them were comforted and detained againſt the Queen's Majeſty, requiring to have them delivered. Her Majeſty being denied to have them reſtored, publiſhed and proclaim'd open War againſt thoſe Detainers of her Rebels, and appointed the Earl of *Suſſex*, her Lieutenant-General, with an Army to invade *Scotland*, and there to purſue thoſe her Enemies, ſparing the reſt. He entred into the Land, made open War upon them, blew up their Houſes with Powder, waſted their Countries, and drove the Rebels out of *Scotland*. The one Matter now that I am to diſcloſe, is, That the Duke of *Norfolk* knowing all this, yet did adhere unto, comforted and relieved the ſaid Rebels; he procured Money to be diſtributed to the Earl of *Weſtmoreland*, the Counteſs of *Northumberland*, and other of them; and this is manifeſt Treaſon. The other Matter is, That the Duke of *Norfolk* knowing all this to be true, adhered unto, comforted and relieved the ſaid Lords of *Scotland*, the Queen's Enemies, Receivers and Detainers of her Rebels; and this is alſo Treaſon. And firſt for the aiding of the Rebels: After this Rebellion, and their Overthrow by the Queen's Power, they fled into *Scotland*, (a very bare Country) where they were driven to hard Shifts, ſo were they enforced to ſue to the Pope for help; they wrote to him, the *Scottiſh* Queen wrote in their favour to the Pope's Nuncio, the Matter was purſued for them by one *D. Morton*: this *Morton* was he that was the Procurer of the Bull that was ſent over againſt the Queen's Majeſty; this *Morton* was he that reconciled the Earl of *Northumberland* to the *Romiſh* Church, by a Bull of Abſolution: he went to the Pope on their Meſſage; the Pope granted them Relief, and wrote Letters in the mean time to comfort them, which were directed thus; Thomæ & Charolo Northumbriæ & Weſtmorlandiæ *Comitibus, reliquiſq; Nobilibus Catholicis partium Borealium Regni* Angliæ: *To* Thomas *and* Charles, *Earls of* Northumberland *and* Weſtmoreland, *and other of the Catholick Noblemen of the North Parts of the Realm of* England. Belike, ſo calling them Noble in the fulfilling of *D. Story*'s Promiſe, that by their rebellious Enterprize they were now of Worſhipful become Honourable.

Here was read the Effect of the Pope's Letters to the Rebels.

The Letters hereof came to the Biſhop of *Roſſe*; the Money was aſſigned in *Flanders*; the Biſhop of *Roſſe* ſent to the Duke of *Norfolk* for his Advice, and for his Help to convey the Money to them. The Biſhop thought it beſt to have the Money ſent by the Weſt-Borderers, where the Lord *Harris* was, and with him *Leonard Davis*: the Duke, for their ſpecial Diſpleaſures to *Leonard Davis*, was not willing that *Leonard Davis* ſhould have part of it; but had more mind to have his Brother of *Weſtmoreland* relieved, and to that end he deviſed with *Banniſter* for the ſending of the Money. In the mean time, behold how that courſe was interrupted: The Queen's Majeſty had a Treaty with the Queen of *Scots*, wherein one ſpecial Article was, That the Rebels ſhould be delivered. This the *Scottiſh* Queen was loth and liked not to do; ſhe asked the Duke of *Norfolk*'s Counſel in it, he adviſed that in no wiſe they ſhould be delivered, for that were too much againſt her Honour: nevertheleſs, for that he feared that the Article concerning the delivery of the Rebels might be ſome ſtay to ſuch concluſion, as otherwiſe they might have liked of; he gave advice that the Rebels ſhould depart out of *Scotland*. *Roſſe* wrote to them to that end, and therewith ſent them the Pope's Letters, and ſo they all departed out of *Scotland* into *Flanders*, except only *Leonard Davis*, who remained with the Lord *Harris* and the Earl of *Northumberland*, who would alſo fain have been gone if he might; and ſo by this occaſion, and by *Banniſter*'s means, was this ſending of the Money into *Scotland* diſappointed. Then was there another Device taken, to diſtribute it in *Flanders*; and becauſe it ſhould not all be ſuddenly waſted, it was agreed by the Biſhop of *Roſſe*, that it ſhould be diſtributed monthly.

This Order was opened to the Duke by *Barker*, the Duke liked well of it, and willed it to be done accordingly. A Man was ſent over for this purpoſe, and the Money diſtributed. The Counteſs of *Northumberland* wrote over to the Biſhop of

Roſſe

Roſſe a Letter of Thanks. Hereupon report was made to the Duke, that it was done as he had appointed. Now the Duke will ask us, What proof we have hereof? we ſay, The Confeſſions of *Roſſe* and *Barker*. Againſt this he taketh Exception; his only anſwer is his bare denial, and his defacing of their Credit. He ſaith they are Traytors, and have confeſſed Treaſon againſt themſelves, and not to be received for ſufficient Witneſſes againſt him. This hath been well anſwered already by my Lords the Juſtices, that by the Law they are ſufficient Witneſſes. You may not ſtand upon your Honour and Difference of Degree, and thereby limit how far they are to be credited. But now let us examine their Credit, and their likelineſs to tell Truth, and how meet in this Caſe they are to be believed. Firſt, For the Biſhop of *Roſſe*, he is a wiſe Man, he is Learned, he is a Biſhop, he is an Embaſſador, a great Friend to the Duke of *Norfolk*; ſo far in Credit with the *Scottiſh* Queen, that he hath been the principal Doer of all her Affairs; ſo the fitteſt Man for this Treaſon, the meeteſt Man to be uſed in it, ſince the *Scottiſh* Queen's Title is the ground of the Title. Who then but ſuch a Man was fit to be uſed? Who meeter to be heard in ſuch a matter than he? A *Scot*, a wiſe Man, well acquainted with the matters, well able to deal in them, ever at hand, and every way the meeteſt Man. He was a *Scot*, ſay you; the more to blame the Duke of *Norfolk* to deal ſo with him, againſt the expreſs Commandment of his Sovereign upon his Allegiance, and againſt his own Faith, Submiſſion and Promiſe, and ſo himſelf unworthier Man to be believed than the *Scottiſh* Witneſs. Why ſhould the Biſhop of *Roſſe* accuſe him falſly? What ſhould move him to it? He accuſeth you, he alſo proveth it againſt you; he is the apteſt Man to know it, the apteſt of all other to repeat it. And why will you ſay he is ſo oft produced for every matter againſt you? Surely great Cauſe, great Difference between him and all other; he knew all, he dealt in all, and where the reſt had every one but his Part to play, the Biſhop of *Roſſe* continually kept the Stage; he had a long Part, he anſwered all Men, when every Man brought forth their Tallies, he kept the Stocks of all; he ſpeaketh of that he underſtandeth, he ſpeaketh credibly, he carrieth Proof and Conſent of other. Speaketh he of Malice againſt the Duke? That cannot be, the Duke never offended him; the Duke was ever his greateſt Friend, and he the greateſt Friend to the Duke, and the chief Advancer of the Marriage that the Duke ſo earneſtly ſought, as moſt beneficial; he hath in his Confeſſion touched his own Miſtreſs upon whom he depended, to whom he ought no Malice; he hath diſcloſed the Treacheries of the Pope, him he hath offended, he gets no more Benefices at his hand; he hath offended the King of *Spain* and the Duke of *Alva*, he is faln out with all his Friends, he is faln from all his commodious Hopes by his Confeſſion: Beſides that, How hath he told it? Not at the firſt as of Malice, and deſirous to do the Duke a ſhrewd turn; but with leiſure, after others former Confeſſions. He held off, and diſcloſed nothing, till his Face (tho it were a Face of Braſs) could no longer withſtand apparent Truth diſcloſed by others; except he had been mad and a ſtark Fool, as he is very Wiſe, he would not have thruſt himſelf into all thoſe Hardineſſes, to tell an untruth of his own ſo great Loſs and Hindrance. Would he, being Wiſe, for Malice to the Duke of *Norfolk*, undo his own Miſtreſs the *Scottiſh* Queen; and bring upon himſelf the hatred of the Duke of *Alva*, the *Spaniſh* King, and the Pope; and ſo loſe all his Friends, and make them his Foes, and indanger himſelf, and undo himſelf, with confeſſing Treaſon againſt himſelf, for only Malice of the Duke of *Norfolk*? It cannot be true; I muſt needs believe him, becauſe it is Treaſon that he ſpeaketh of the Man's own Faculty: He is a credible Traitor. If he had told us a matter of Virtue, good Life, and true Religion, it had been a Vanity to hear the Biſhop of *Roſſe* ſpeak; but ſpeaking of Treaſon, he is the skilfulleſt Man, and meeteſt to be heard. As for *Hickford* and *Banniſter*, they be both ſtill in Credit, the Duke excepteth not againſt them, and yet they accuſe him deeply. For compariſon of their Values and Credit, the Duke is Noble, and theſe are ſaid not able to ſpend five Marks. What then? Indeed their Honour is leſs, but their Underſtanding is great, and their Credit ſufficient. *Barker* is miſliked, and counted by the Duke not worthy to be believed. It is miſliked that he is ſtill brought forth, he is as the baſe Inſtrument ſtill play'd on. There is good cauſe why the Duke ſo continually uſed him: You muſt underſtand that things muſt be done by Means and Inſtruments: The Heads need the Service of inferior Members; the Heads do deviſe, the Hands and the Feet do put in execution. If the Duke of *Norfolk* ſhould, for every Meſſage and Matter to be treated with the Biſhop of *Roſſe*, *Rodolph*, and the *Spaniſh* Embaſſador, or other, have himſelf trotted through dirty *Smithfield*, and the Streets of *London*, unto *Thames-ſtreet*, and other Places, it muſt needs have been wondred at, and would not have been without notable Suſpicion. But *Barker*, a ſly Fellow, ſufficient for Skill, exerciſed in the Matters, acquainted with the Practices, might well go dreaming to all Places without Suſpicion. Sometimes upon a Robbery or a ſhrewd Turn done, the length of a Foot in the Snow, or in the Mire, hath betrayed the Doer; ſo the Foot may ſometime accuſe the Head. *Barker* was one of the Duke's Secretaries, privy to his greateſt Affairs, the Writer of his Cyphers, the common Carrier of cyphered and decyphered Letters, the common Conveyer and Sender of his Meſſages and Letters between him and the Queen of *Scots*: The Duke himſelf agreeth with them in confeſſing of ſundry Circumſtances of the Matters, which he calleth his Errors and inferior Faults; with theſe Men he dealt in them himſelf, gave them Credit, therefore it is no reaſon himſelf ſhould take from them the Credit of their Confeſſions.

But he ſaith there are but two of them; the fault is in the Duke of *Norfolk* there are no more, for there are more if they were here, and by the Duke's means they are abſent: *Liggons*, *Gutbert* and *Rodolph* could tell it alſo. The one of them, *Liggons*, he hath ſent away, and findeth him in *France*. *Gutbert*, as the Duke himſelf hath confeſſed, the Duke hath cauſed to be carried away. *Rodolph* is, by the Duke himſelf, ſent out of the Realm on his Meſſage, and not return'd (it is no reaſon that their abſence excuſe him) for it is not reaſon that he ſhould take advantage of his own Wrong, that hath made them be abſent; ſo their abſence muſt ſtand for great Teſtimony againſt him, and be judged to concur with them that are preſent, and have confeſſed.

Rodolph, the greateſt Teſtimony of all is in Perſon withdrawn; but his Letters ſpeak lively. He hath teſtified by his Letters againſt the Duke, and

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of a matter that himſelf well knew, not conſtrained, not examined, but with the Terror and Courſe of the Proceeding of the Treaſon, advertiſing the Duke of the anſwer of his Meſſage. You ſay he dealt for you in other private Matters, not in the Treaſon: If that were ſo, then the Pope had not given him charge to deal with the *Scottiſh* Queen and you; the *Scottiſh* Queen had not commended him to you; the Inſtructions had not been ſo penned; the Anſwer had not been ſo return'd. But ſaith the Duke, It is true, *Rodolph* talked with me indeed, he required my Letters to the Duke of *Alva*, for the *Scottiſh* Queen; he moved me about theſe matters; but I was angry with him, I would not write by him, I departed from him in anger, and thus in anger away he went. And whither went he? Even ſtrait to the Duke of *Alva*, and from thence to the Pope, even to the ſame Places and Perſons to whom he ſhould have gone for the Duke, if the Duke had been without anger, beſt pleaſed and contented with his Journy. To what Intent, and of what Meſſage went he thither? Even the ſame that the Duke ſaid he was angry to be moved of, and refuſed to write in. What effect hath it? Gentle Audience, great Promiſes and Agreement to the Requeſts, as if he had travailed not for a Man angry with the matter, but moſt deſirous. What anſwer return'd he? Even the ſame that accordeth with the Inſtructions concerning the Treaſon, the very Plat and Ground of his Meſſage. He reporteth Queſtions asked by the Duke of *Alva*, agreeing only with the matter of the Treaſon, and no private Caſe. Would he have written anſwer to him that ſent him not? Would he have written as to pleaſe him with good News of a good Audience that ſent him not? From whence departed he in anger? He writeth of the Courſe to be kept in Execution of the Treaſon, which he would not have done to him that was angry to hear of it. He braggeth of his 10000 *Walloons*, old beaten Soldiers. If the Duke of *Norfolk* had been a true Man, and angry with the matter, as he now ſaith, and done his Duty; tho they had come, his *Walloons*, his old beaten Soldiers, might have been ſo new beaten of the old *Engliſh* Faſhion, as they were never ſo ſwinged in their Lives.

This Point Mr. Attorney ſpake with ſuch a Grace, ſuch Chearfulneſs of Heart and Voice, as if he had been ready to be one at the doing of it; like a hearty true *Engliſhman*, a good Chriſtian, a good Subject, a Man enough for his Religion, Prince and Country.

If the Duke ſays it was the *Scottiſh* Queen's Meſſage only, and not his (for advancement of her wrongful Claim by force) he knowing this, Why ſought he to marry her againſt the Queen's Majeſty's will, and to purſue it by force? If he ſay it was *Barker*'s ſingle Device, to ſend theſe Meſſages, to procure theſe Treaſons, and work all theſe Miſchiefs of his own head; to what end I pray you ſhould *Barker* do it, but to advance the Marriage of the Duke his Maſter, and the *Scottiſh* Queen? And was this without the Duke's privity? Could *Barker* compel the Duke to take a Wife at his pleaſure? Examine now all theſe Witneſſes, and weigh their Credits together; conſider them ſeverally, their Credits are great; join them all together, they be much greater; but ſeverally examin'd, and all according in one, they be greateſt of all, and not poſſible to be falſe. Add to that the Duke's own Confeſſions of Circumſtances concerning himſelf, and their uttering of matters of Treaſon againſt themſelves; conſider the difference of dangers in telling truly or falſly: for if they utter'd it, and it were true, then ſtood they but in danger of their bodily Life; if they ſhould falſly accuſe, yet that Accuſation ſuffering againſt themſelves for Treaſons, they loſt both Body and Soul, in falſly accuſing others. The Duke was their Maſter, they his Servants, and his true Servants, and ſuch as were to gain by his Proſperity; would they untruly accuſe him, the ſtay of their Preferment? For tho they be Traitors, and howſoever they be otherwiſe without Credit, yet againſt the Duke of *Norfolk* they are well to be believ'd.

Now on the other ſide, conſider the Duke's own Credit, which he hath by his own doings impaired, and made inferior to theſe of lower degree: You have heard of this Oath eſpecially taken for the Commiſſion at *York*, to deal truly and ſincerely; he kept it not, he ſo dealt as if an Oath were of no great weight with him. His Oath of a Counſellor he hath broken, both in diſcloſing of Secrets, and in giving advice to a foreign Prince, and a Competitor of the Queen's Crown, againſt the Queen's Majeſty his Sovereign Lady. Now may it not be that theſe Men of mean degree and value, againſt whom it is not alledg'd that they have been at any time perjured, may be produced and credited againſt him that hath ſo little eſteem'd his Oath? I have heard alſo, that there was an Oath wilfully taken upon a Bible, in denying of things laid to his charge, and yet the matter found true, and by himſelf within a ſhort ſpace confeſſed: ſo that his Oath, his Hand, and his Word, bear no ſway with him.

He ſubmitted himſelf, he ſubſcribed his Submiſſion, and ſeal'd it; he added ſolemn Promiſes upon his Faith and Allegiance, not to proceed in the Marriage between the *Scottiſh* Queen and himſelf: but he kept not touch, he broke Promiſe alſo, and yet he ſaith his Hand, Mouth and Heart go together. If they go together in the right way, it is well; but when they go together in Untruth, it is evil and dangerous: therefore it is not for my Lord of *Norfolk* to ſtand ſo much upon the diſcrediting of the Witneſſes, and advancing of his own Credit, which himſelf hath ſo much decayed. Now I will go to the Proof.

Duke. I ſhall hardly come, after ſo ſmooth a Tale as Mr. Attorney of the Wards can tell; yet one good Proof I have to my Comfort, that they be as pleaſe your Lordſhips to weigh them. If you would not have dealt thus untruly with me, I would not have taken exception againſt them, tho I chiefly challenge none but *Barker*, in whom you may ſee what Fear may do; beſides that they have confeſſed themſelves Traitors, and ſo Men of no Conſcience or Credit. It is well known that *Barker*'s Stomach is nothing; he hath been known well enough, Fear hath done much in him. The Biſhop of *Roſſe* is alſo a fearful Man. As touching *Barker* and the Biſhop of *Roſſe*, *Bracton* hath a ſaying, That Witneſſes muſt be Freemen and not Traitors, neither outlawed nor attainted.

Catlyn. None of them be outlaw'd, attainted, or indicted.

Duke. I mean not that they were indicted, but they be in as ill Caſe; for they have confeſſed themſelves Traitors. He ſaith alſo, they muſt be *Legales*, lawful Men, and ſo cannot Strangers be, as the Biſhop of *Roſſe* and *Rodolph*; it is theſe Strangers that charge me only, the other having dealt ſo diſloyally, and confeſſed it againſt themſelves,

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are not to be believ'd. As for *Barker*, I have not us'd him for my Secretary these thirteen years; he entred with the Bishop of *Rosse*, and dealt with him in these Matters against my knowledge.

Catlin. Bracton indeed is an old Writer of our Law, and by *Bracton* he may be a Witness; a Stranger, a Bondman may be a Witness: Ask you all the Judges here. And the Judges affirm'd that he may.

Duke. If a Stranger be to give Evidence whereby Lands should be recovered, you shall not recover upon that Evidence given by a Stranger.

Wilbraham. This were a strange Device, that *Scots* might not be Witnesses; for so, if a Man would commit Treason, and make none privy but *Scots*, the Treason were unpunishable; and so were a kind of Men found out, with whom a Man might freely conspire Treason.

Duke. You say my Indictment is only upon the Statute of 25 *Edward* III. that Statute standeth upon three points, compassing the Death of the Prince's Person, levying of War against the Prince, and aiding of the Prince's Enemies; and all these must be prov'd Overt-fact. If by any way, by any Overt-fact, you can prove that I have directly touch'd the Prince's Person, or done any of the said things that the Statute extendeth to, I will yield my self guilty. If any thing be doubtful, the Statute referreth it to the judgment of the Parliament.

Catlin. Usage is the best Expounder of the Law, that is, the common use how the Statute hath been taken and expounded; and the same Statute is but the declaration of the common Law.

Duke. The Preamble of the Statute is to bring the Laws of Treason to a certainty, that Men may certainly know what is Treason.

Attorney-Gen. You complained of your close keeping, that you had no Books to provide for your Answer; it seemeth you have had Books and Counsel, you alledge Books, Statutes, and *Bracton*; I am sure the study of such Books is not your Profession.

Duke. I have been in Trouble these two Years, think you that in all this time I have not had cause to look for my self?

Attorney-Gen. But if you stand still upon proof, whether you have done any thing to the Destruction of the Prince's Person, if the Lords, upon the Evidence already produc'd, do think the Matters true in Fact that are already alledg'd against you, surely the same must needs be construed a compassing of the Queen's Death; for the Law of Treason hath even been largely construed for the Prince's Safety. Think you that practising to levy War within the Realm is not Treason? Yes indeed is it; and a compassing of the Prince's Death. Sir *William Stanley*'s Case was this: He did but send *Clifford* over Sea, to hearken and send him word what *Perkin Warbeck* was; that if he thought *Perkin* was such a Man as he was said to be, he would take his part. This was *Stanley*'s Case, and this was judged Treason, and a compassing of the King's Death.

Here was read *Barker*'s Confession the 6th of *November*.

Duke. I never dealt with that Money, nor heard of it; I dealt not at that time with *Barker*, nor heard any thing of the Rebels, since they went into *Flanders*.

Then was read the Bishop of *Rosse*'s Confession of the same Matter, 6 *November*, ad 5.

And again *Rosse*, 6 *November*, Fo.

Also *Rosse* 29, of 1700 Crowns sent by *Morton*'s means, and what *Moreton* was.

Wilbraham. You hear how the Money was procured; how it was distributed by the Duke's Order, and Thanks written by the Countess of *Northumberland* for the receipt of it, which was also declared to the Duke. You shall hear, that after the Practice of the Marriage, it was a general Rule between the *Scottish* Queen and the Duke, That the Bishop of *Rosse* should never propone to the Queen's Majesty's Council, nor deal in any great Matter, but by the advice and directions of the Duke of *Norfolk*.

Here was read, for the proof thereof, the Bishop of *Rosse*.

Wilbraham. This is a plain Course.

Duke. What doth this make against me?

Wilbraham. That he follow'd his Commission, that he kept his manner of Conference continually, and that according to that use, the Money was distributed by your Directions.

Duke. He dealt not with me in a great time, and I can tell when he broke off and dealt no more with me; I was never privy to the distribution of the Money, nor I never spake with *Barker* about it; I was in the Tower at that time.

Wilbraham. That was when you were not in the *Tower*; they lurked in *Flanders* a while in great necessity, without Apparel, and suddenly, with this Money, they were waxed gay; and these Men have confessed that it is distributed by your Order and Direction.

Duke. None accuse me but three, one absent, a Stranger, and a Traitor.

Wilbraham. And if every one that is privy to Treason must be refus'd for Witnesses, then should no Treason be proved; for none can tell it but they that be privy, and all such are guilty.

Now to the second point, That you adhered to, and aided the *Scottish* Lords, the Queen's Majesty's Enemies, and Maintainers of her Rebels. The Rebels, after their flying into *Scotland*, were there received by the Duke of *Chastelleroy*, the Lord *Harris*, the Lord *Hume*, the Lord of *Buccleugh* and others; and being there, they entred again of new into the Realm, and made new Roads, and burned and wasted *England* with Fire and Sword. These *Scots* that thus assisted the Rebels, the Nobles of *Scotland* that remain'd in Amity with the Queen's Majesty, went about to suppress. The Queen's Majesty proclaim'd open War against them; she appointed my Lord of *Sussex* her Lieutenant, with a strong Army to invade them, and to pursue both the Rebels and the said *Scots* that were her Enemies. This my Lord of *Sussex* pursu'd, made open War upon them, burned their Towns, Houses, Corn and Goods, blew up their Castles with Powder, and kept good Peace with the rest: So were they publish'd the Queen's Enemies, both by Proclamation, which is here ready to be shewed, and by open War it self, the best Proclamation of all. The Queen's Power there tarried a great while, some came home, some remain'd still in *Hume*-Castle, and other Places. These thus known the Queen's Enemies, and so publish'd, the *Scots* that were the Queen's Friends did still pursue so far, that the said *Scottish* Queen hearing thereof, complain'd to the Duke of *Norfolk*, *viz.* How she had no Aid from *France*, and if none came at all, her Friends in *Scotland* must

of force be conſtrained to yield: She prayed the Duke of *Norfolk*'s Advice. The Duke made anſwer, and *Hickford* wrote it to the *Scottiſh* Queen, That ſhe ſhould procure the *French* Embaſſador's Letters to them in *Scotland*, to put them in ſome good hope, that they might hold out a while till Aid come. The *Scottiſh* Queen accordingly wrote to the *French* Embaſſador Monſieur *de la Mot*; he by and by wrote ſix Letters to the Lord *Harris*, and other Lords of *Scotland*, with fair and comfortable Promiſes. The Pacquet of theſe Letters were ſent to the Duke, he had it, he cauſed it to be ſent with a Letter to *Banniſter*, to convey it to *London*, upon the Weſt Borders of *Scotland*, and that *Lowther* ſhould convey it over to the Lord *Harris*. *Hickford*, the Duke's Secretary, delivered this *French* Pacquet, and the other Letter, to *Henry* the Duke's Footman, who carry'd it to *Banniſter*, and *Banniſter* ſent it to *Lowther*, by *Colborn* his Servant: and to diſſemble the Cauſe of his Servant's going, and to know ſome certainty, whether it came to *Lowther*'s hand or no; *Hill* feigned a privy Token between him and *Lowther*, about the gathering of the Rent of the Lord *Dacre*'s Lands. *Lowther* ſent over the Pacquet, and returned anſwer to *Banniſter*, That he had ſent it to the Lord *Harris*, and willed *Colborn* to tell him which was their privy Token, that tho it were troubleſome, yet he would gather up the Rents for him.

Here was read *Barker*'s Confeſſion, 14 *September*, That in *July* laſt he receiv'd the Pacquet, *&c.*

All *Hickford*'s Confeſſion the ſame day, with a great Proteſtation why he confeſſed not at the firſt, but tarried till *Barker* had diſcloſed; becauſe he would not be counted a Betrayer of his Maſter.

Wilbraham. You hear how *Barker* bewrayeth it; you hear alſo how *Hickford* himſelf confeſſeth it: And in what manner, I pray you, do they diſcloſe it? They make no haſte to accuſe the Duke, but all by leiſure; and *Hickford* maketh it a matter of great Conſcience, to utter it againſt his Maſter: And here is a Leſſon meet to be learned of all Servants. Many ſuppoſed it a Treaſon and foul Offence to utter their Maſter's Treaſons; they muſt otherwiſe think it is a dangerous Opinion.

Duke. I challenge not this Man.

Then was read *Hickford*'s Examination, 11 *October*.

Alſo *Banniſter*, 17. *September* 1.

The ſame *Bamiſter*, 29. *November* pa.

Alſo *Banniſter*, 28. and 29. *Septemb.* ante 5. and 6.

Wilbraham. Thus it appeareth, that thoſe the *Scottiſh* Queen's Friends in *Scotland*, for whom ſhe ſorrowed and feared their yielding, were the Queen's Majeſty's Enemies; and how to thoſe the Duke adhered, thoſe he comforted, for thoſe he procured the comfortable Letters to be ſent, as you have heared.

Duke. I confeſs it, that I cauſed the Letters to be ſent, but that I procured the Letters to be written, I remember not; but therein I truſt *Banniſter*'s Memory.

Wilbraham. Now for ſending Money to relieve the Queen's Majeſty's Enemies, and touching the 6000 *l.* the *French* Embaſſador had 14 hundred Crowns ready to relieve them, which he ſent to the *Scottiſh* Queen, to know how it ſhould be beſtowed. She would have had the Duke to make it up three thouſand Crowns; ſhe ſent one thouſand more her ſelf, and referred the Direction of all to the Duke himſelf. The Duke having the chief Charge of all, willed two thouſand Crowns to be conveyed to the Queen's Majeſty's Enemies in *Scotland*. The Biſhop of *Roſſe* had deviſed, that it ſhould be ſent ſewed in *Panton*'s Doublet. The Duke was made privy to it on the *Sunday* after *Bartholomew-Day*, becauſe *Panton* was a *Scot*, and like to be ſearched: this Device was miſliked, ſo was the Money delivered to *Brown* of *Shrewsbury*; and ſo he rehearſed the manner of the delivery to *Brown*, and the Letters in Cypher, as it was afore rehearſed by Mr. Attorney-General.

Duke. I received the Money at *Thambour*'s hands; I was not by at the writing of the Letter in Cypher.

Wilbraham. I ſaid not ſo.

Then was read the Letter to *Banniſter*: You ſhall receive in a Bag by this Bearer, *&c.*

Duke. I do not deny the conveying of the Money; but it never came to the Queen's Enemies hands.

Wilbraham. It was out of your Poſſeſſion; *Panton* was ſent before to receive the Money.

Duke. Not of my knowledge. And as for *Grange* and *Ledington*, I have not heard they were the Queen's Enemies.

Wilbraham. That is no matter; for the Indictment is generally of the Queen's Enemies, and you know the Money went to the Lord *Harris*.

Duke. Lord *Harris* was not appointed to have any part of it.

Wilbraham. That is no matter, it was a comfort to him, being the Queen's Enemy, to be the Factor, and to have the Countenance and Diſtribution of it at his pleaſure: Beſide that, you may be ſure he would not let all paſs without ſome ſhare to himſelf.

Duke. May a Subject be the Queen's Majeſty's Enemy, and the Prince being her Friend, and in Amity with her?

Catlin. In ſome caſes it may be ſo: As in *France*, if the Dukedom of *Britany* ſhould rebel againſt the *French* King, and ſhould (during the Amity between the *French* and Queen's Majeſty) invade *England*, thoſe *Britons* were the *French* King's Subjects, and the Queen's Enemies, though the *French* King remaineth in Amity; and ſo in your Caſe.

Duke. Where was the Proclamation made?

Wilbraham. The Proclamation was made in *England*, and here it is to be ſhewed; but the War it ſelf is ſufficient Proclamation. The Queen's Army was ſent againſt him, and the Queen is not otherwiſe bound to proclaim.

Duke. I truſt my Lords the Peers will have Conſideration of me, who they be that accuſe me, the Biſhop of *Roſſe* and Strangers; and the reſt over-reach'd in Treaſon themſelves.

The Lord Steward ask'd if they had ought elſe to ſay.

The Duke ſaid, I truſt to God and my Truth.

Then the Priſoner was withdrawn.

Then the Serjeant made an *O Yes*, ſaying, *My Lord Grace, the Queen's Commiſſioner, High-Steward of* England, *chargeth all Men to keep ſilence upon peril of Impriſonment.*

Then the Lord Steward ſpake to the Lords, and willed them to go together as followeth.

Note, *That the Money was taken up by the way.*

Then

Then the Lords withdrew themſelves into a Place prepar'd in the *Chancery-Court* for Conſultation, and the Priſoner was withdrawn.

The Lords continu'd in Conſultation ſtill an hour and a quarter; the Lord Steward ſtill remain'd in his Seat.

After an hour and a quarter, which was immediately after eight of the Clock at night, the Lords came again upon the Scaffold, and took their Places as they were afore; and then the Lord Steward demanded of every of them ſeverally, ſitting in their Places, beginning at the youngeſt Baron, in this manner:

My Lord *De la Ware*, What ſay you, Is the Priſoner guilty of theſe Treaſons or not? And they all ſeverally anſwer'd in Order and Form following:

L. *La Ware*,	*Burleigh*,	Guilty.
Buckhurſt,	*Howard*,	
St. John of *Bletſhoe*,	*Hereford*,	
North,	*Leiceſter*,	
Rich,	*Hertford*,	
St. John,	*Pembroke*,	
Mordant,	*Bedford*,	
Burghe,	*Warwick*,	
Wentworth,	*Huntington*,	
Sandes,	*Suſſex*,	
Mountjoy,	*Worceſter*,	
Grey of *Wilton*,	*Kent*.	

Then the Lieutenant was, by the Serjeant, commanded to bring again the Priſoner to the Bar, which he did.

Then the Lord Steward ſaid thus: *Thomas* Duke of *Norfolk*, thou haſt been heretofore indicted of High Treaſon, and haſt been arraign'd upon the ſame, and haſt pleaded Not Guilty, and haſt put thy ſelf upon thy Peers; the Lords, thy Peers, have found thee Guilty: what haſt thou to ſay, why I may not proceed to Judgment? The Duke anſwer'd, The Lord's Will be done, God be Judge between me and my falſe Accuſers. Then the Axe turn'd the Edge towards him.

Then ſtood up Mr. Serjeant *Barrham*, and ſaid, It appeareth that *Thomas* Duke of *Norfolk* hath heretofore been indicted of High Treaſon, and now hath been arraign'd upon the ſame, and hath pleaded Not Guilty, and hath put himſelf upon his Peers; now the Lords, his Peers, upon Conſideration of the Evidence ſhew'd forth to prove the Indictment, have found him guilty. I am moſt humbly to pray of your Grace Judgment againſt him for the Queen's Majeſty, according to the Verdict.

Then ſaid the Lord Steward; *Thomas* Duke of *Norfolk*, whereas thou haſt heretofore been indicted of High Treaſon, and haſt been arraign'd upon the ſame, and haſt pleaded Not Guilty, and haſt put thy ſelf upon thy Peers, and the Lords thy Peers have found thee Guilty: Wherefore thou ſhalt be had from hence to the *Tower* of *London*, from thence thou ſhalt be drawn thro the midſt of the Streets of *London* to *Tyburn*, the Place of Execution; there thou ſhalt be hang'd, and being alive thou ſhalt be cut down quick, thy Bowels ſhall be taken forth of thy Body, and burnt before thy Face, thy Head ſhall be ſmitten off, thy Body ſhall be divided into four Parts or Quarters; thy Head and thy Quarters to be ſet up where it ſhall pleaſe the Queen's Majeſty to appoint; and the Lord have mercy upon thee.

Then the Duke ſaid, This is the Judgment of a Traitor, and I ſhall die as true a Man to the Queen as any liveth: knocking himſelf hard upon the Breaſt, he ſaid, I will not deſire any of you all to make any petition for my Life; I will not deſire to live, I am at a point. And, my Lords, ſeeing you have put me out of your Company, I truſt ſhortly to be in better Company: Only I beſeech you, my Lords, to be humble Suitors to the Queen's Majeſty for my poor Orphan Children, that it will pleaſe her Majeſty to be good to my poor Orphan Children, and to take Order for the Payment of my Debts, and ſome Conſideration of my poor Servants; for I am at a point. God doth know how true a Heart I bear to her Majeſty, and how true a Heart to my Country, whatſoever this Day hath been falſly objected againſt me. Farewel, my Lords.

Then the Lieutenant was commanded to avoid his Priſoner; which thing was done.

Then the Serjeant made an *O Yes*, and proclaim'd thus: *My Lord's Grace, the Queen's Commiſſioner, High Steward of* England, *chargeth all Perſons to depart in God's Peace and the Queen's, and hath diſſolv'd his Commiſſion.*

And therewith the Lord Steward ſtanding up afore his Chair, broke his Rod in the midſt, and the People cry'd,

God ſave the Queen. Amen.

The Tryal of Mr. Robert Hickford, Saturni, 9 Februarii, 1571.

AFTER the reading of the Indictment, being ask'd by the Clerk of the Crown, If he were Guilty or Not Guilty? He anſwer'd to this effect; being admoniſh'd to ſpeak higher, whereunto he excus'd himſelf by the Lowneſs of his Voice.

Hickford. I am here indicted of divers Points of High Treaſon, part whereof I deny, for that I was never privy to the ſame: My Fact, ſuch as it is, I am ready to confeſs, and declare as I have already confeſs'd it. I am not learned in the Law, I know not in what Form to anſwer unto it. This only I require to be heard to declare the Truth, ſo far as the Matter toucheth me: I here proteſt before your Honours, and in the Preſence of God, that I bring a Conſcience untouch'd with any intent of hurt, ever conceiv'd by me againſt the Queen's Majeſty's Perſon, or my Country; I never meant any ſuch thing in my Heart: I know the Law hath not Intent to the Conſcience, or Intent of Men; but is to judge only of the Mind, according to the appearing of outward

Facts, ſo the Law cannot accept my Intent for my Purgation. Therefore I ſhall declare the Truth of my Doing, and upon that further open unto you at large my Dealing in the Matters contain'd in the Indictment. Firſt, For the Matter of moving of Sedition, I did never know that any ſuch thing was meant by my Lord, or any other; and whatſoever was by him, or any other intended, I was not privy unto it. I do confeſs indeed, that the Articles mention'd in the Indictment were ſent to my Lord, my late Maſter, which by his Commandment I decypher'd, for they were brought in Cypher. Then my Lord read them, and folded them up, and put them in the Pocket of his Hoſe, and ſaid, The Biſhop of *Roſſe* will never be quiet, and then he went to Supper; and from that time I never ſaw that Writing till it was ſhew'd me in the *Tower*. What Anſwer my Lord made to them, or whether he anſwer'd them or no, I know not.

Catlin. Hickford, you ſeem a Man of Knowledge and Learning, you have been indicted, and are now arraign'd according to Order of Law; you muſt follow Order, you muſt anſwer to the Indictment, confeſs or deny it, you ſhall be heard after to ſay your Mind. You muſt plead unto it Guilty or not Guilty.

Hickford. I do confeſs the Law hath not reſpect to Man's Intent, but judgeth according to his Fact. I confeſs I ſaw theſe Articles and decypher'd them, I ſhew'd them to my Lord; I revok'd them not, as in Duty I ought to have done, and therefore I think my ſelf Guilty.

Catlin. The Indictment containeth divers Clauſes of Treaſon, therefore anſwer, if you be guilty, to any ſpecial Matters contain'd in the Indictment, or that you will confeſs your ſelf Guilty of the whole.

Hickford. I may not confeſs of my ſelf that whereof my Conſcience doth not accuſe me, ſome Parts I am not privy to; the firſt Point, concerning ſtirring of Sedition, I do not know that ever any ſuch thing was meant by my Lord. What Intention he had, God and his own Conſcience knoweth it. As touching the Matter of *Rodolph*'s going over to the King of *Spain*, to the Pope, and the Duke of *Alva*, and the Inſtructions of that Voyage contain'd in the thing, that by my Lord's Commandment I decypher'd: I anſwer, as I have before ſaid, that I never knew of any Proceeding, nor dealt therein afterward; and my Lord, when he read it decypher'd, he anſwer'd as I ſaid before, The Biſhop of *Roſſe* will never be in quiet. I thought he had burnt that Paper, as a thing that he lik'd not; but what he did with it, or in the Matter afterward, I cannot tell.

Catlin. You muſt anſwer more roundly and directly to the Matter; for theſe Circumſtances and Points, you ſhall be heard afterward. In the mean time anſwer plainly, if you be Guilty or not Guilty.

Southcote. Mr. *Southcote* ſpake to the ſame effect, and told him, That if he pleaded Not Guilty, theſe his Declarations ſhould be heard at large upon the Evidence.

Hickford. To part of the Indictment I confeſs my ſelf Guilty, which concerneth the decyphering of the Letters by my Lord's Procurement and Commandment; after which time I never dealt in it.

Southcote. You were beſt to plead Not Guilty to the whole Indictment; and for ſuch Matters and Parts of the Indictment as you can clear your ſelf, the Jury may find you Not Guilty, and find you Guilty for the reſt.

The Lord Chief Juſtice and Mr. Attorney adviſ'd to the ſame effect.

Hickford. I am Guilty. I know under how merciful a Queen I live; I ſubmit my ſelf wholly to her Majeſty's Mercy. I will not ſtand long upon that, whereof mine own Conſcience condemneth me.

Catlin. Confeſs you Guilty to the whole Indictment?

Hickford. Yea.

Attorney. Are you Guilty of adhering to, and comforting the Queen's Enemies, and the conveying of the *French* Packet and Mony that was ſent to relieve them?

Hickford. I confeſs my ſelf Guilty;

Serj. Then, after ſome pauſe, Mr. Serjeant *Barham* ſpake to this effect: Foraſmuch as *Robert Hickford* hath been indicted of High Treaſon, and, among other things, that he hath adher'd to and comforted the Queen's Enemies, and the ſame Indictment hath been read unto him, and he hath confeſs'd the Treaſons; I am to pray your Lordſhips, on the Queen's Majeſty's behalf, that his Confeſſion may be entred, and Judgment given for the Queen againſt him, according to the Law.

Hickford. May I now declare to what Points I am not Guilty?

Attorney. There are two Points in the Indictment that concern your ſelf; the Dealing in the Matter about *Rodolph*'s Voyage, and the Inſtruction for the ſame; and the adhering to and comforting of the Queen's Enemies: Are you not Guilty of theſe?

Hickford. I am Guilty.

Catlin. If you will yet wave and forſake your Confeſſion, we are content to admit you to do ſo, and you may yet plead Not Guilty, and you ſhall have your Trial.

Hickford. No, I will ſubmit me wholly to her Majeſty's Mercy: I know under how merciful a Prince I live, tho my Deſerts be far unworthy, by my Maſter's Means and Procurement. I know I bring, as I ſaid, a Conſcience untouch'd with any Intent or Meaning of Hurt to her Majeſty's Perſon, or to my Country. And this I ſay before God, and in the Preſence and Witneſs of you all; howbeit the Law accepteth not, nor judgeth by ſecret Intents, for ſo might every Man clear himſelf.

Catlin. Hickford, thou haſt heard the Indictment read, where by the Oaths of a Jury thou art found and preſented guilty of divers High Treaſons: Thou haſt been arraign'd thereof, and confeſs'd thy ſelf guilty, and ſubmitted thy ſelf to her Majeſty's Mercy. The Queen's Majeſty's Serjeant hath, on her behalf, requir'd Confeſſion to be entred, and Judgment to be given againſt thee, according to the Order of the Laws; ſo nothing reſteth now but Judgment to be given againſt thee, and that thou hear thy Judgment. A few words for good Admonition ſhall ſerve; thou art a Gentleman, wiſe, and well-learned, I would to God there had been in thee as much Loyalty and Truth, as there is Learning, and other good Qualities and Gifts of God, then hadſt thou not fallen into this great Fault and Miſery. But there have been evil Inticers, evil Schoolmaſters, evil Seedſmen, as one call'd them here laſt day; they have brought thee from Truth and good Eſtate, to Untruth, Treaſon, and Wretchedneſs; where before thou and others were of good

Name

Name and Fame, they have brought you to Infamy; of loyal, good, and true Subjects, they brought you to the Name and State of disloyal Traitors: A great Blot to be a Traitor, and the greatest Infamy that can be. It is the chiefest Point of the Duty of every natural and reasonable Man, which by the Gift of Reason differeth from a Beast, to know his Prince and Head, to be true to his Head and Prince. All the Members are bound to obey the Head; every Man is bound to repair Life, to lay out and expend Goods, Lands, and Possessions, to forsake Father, Mother, Kindred, Wife, and Children, in respect of preserving the Prince; for in defending the Prince, they preserve Father, Mother, Kindred, Wife, Children, and all. It was well and wisely spoken here the last day, by one that stood at the Bar, that was learned and as wise as you are, upon his confessing of himself guilty of Treason against his Prince; I would he had had as much Truth and Loyalty, as he had of Learning and Understanding: in few words, he comprehended a great heap of Matter concerning the Duty of the Subject to the Prince. All the Duties, said he, to Father, Mother, Friends, Kindred, Children, yea to a Man's Wife that is his own Flesh, are all inferior to the Duty that a Subject oweth to his Prince; for this Duty comprehendeth them all. In respect of Duty to the Prince, and preserving the Prince, neither Wife, Parent, nor other are to be regarded, they must all stand behind. If in any Case, any respect shall allure a Man from Loyalty and Truth to his Prince, they must be forsaken, they must come behind; it must be said, *Vade post me Satana.* We must first look unto God the high Prince of all Princes, and then to the Queen's Majesty the second Prince, and God's Deputy, and our Sovereign Prince on Earth; in these few words he comprehended much Matter, he satisfy'd the Hearers for their Duty to the Queen's Majesty. You are wise and learned as he was, and for knowledge of Duty and Understanding as much bound to God as he; but the evil Seedsmen, the evil Inticers and Seducers have wrought evil Effect in you both: the great good Seedsman hath sow'd in you good Gifts, Learning, Knowledge, and good Quality, to serve him, your Prince, and your Country withal, as it is said in the Gospel, *Bonus Seminator seminavit semen bonum*; but *supervenit Inimicus & seminavit Zizania*: The good Seedsman sow'd good Seed; but there came the Enemy, the evil Seedsman, and he sow'd Darnel, Cockle, and noisome Weeds. Such wicked Seedsmen have been in *England*; if they had sown the right Seed for their own use, the Seed of Hemp, and felt of it, they had receiv'd according to their Deserving. God hath sown in you good Gifts and Qualities, meet to have serv'd any Prince in *Christendom*; but *supervenit Inimicus*, the Devil and his Ministers, wicked Seedsmen, sow'd in you Darnel and Cockle, Treason and Disloyalty; they have made you forget your Duty to your natural Prince and Country. If these had been handled as they have deserv'd, they should long ago have had of their own due Seed, Hemp bestow'd upon them, meet Seed for such Seedsmen; such mischievous Seedsmen they be, that corrupt Men, otherwise well indu'd, that sow Treason so abundantly in this Realm. O strange matter! that such Treasons should be, and so ripe in this Realm; a common Slander to this Realm of *England*, the Treasons of *England* are every where talk'd of among strange Nations: For proof of it they refer us to our Histories of *H.* 2. *E.* 2. *Ric.* 2. *E.* 5. and so prove the oft Practices in this Realm to murder and depose our Princes, to the great Infamy and Slander of our Country. The very regard of our Country's Fame, that this great Slander of Treason should not by your Fault have been renew'd and increas'd against us, if nothing else would, it should have staid you from so foul dealing in Treason. But is this sowing of Treason lawful for any? May Embassadors be such Seedsmen? Be these the Parts of Embassadors? They have their Articles in Law, by which they are bound, let them do as Law will let them. If they will transgress these, and fall to Treason, and procure the Danger of Princes, let them feel as Law will. I can shew you a Precedent and History for it within memory, about twenty seven or twenty eight Years ago, about the 25th year of King *Henry* VIII. it was done by the Duke of *Millan*. The *French* King, that then was *Francis*, Grandfather to the *French* King that now is, sent one Monsieur *de Merveilles* to the Duke of *Millan* as his Embassador: This Monsieur *de Merveilles*, the *French* King's Embassador, conspir'd Treason against the State and the Duke of *Millan*; the Duke understood it, he caus'd him to be arraign'd after the Order of their Law, and being found guilty, he beheaded him: and this *Jure Gentium* was lawfully done. May Messengers conspire Treason against Princes to whom they be sent? Treason to Princes is not their Message, it is no lawful Cause of their sending; if of their own Heads they presume it, they must by Law be touch'd and taught to keep them within their Duties. As for them that seek Fame by Treason, and by procuring the Destruction of Princes, where shall found that Fame? Shall the golden Trump of Fame and good Report, that *Chaucer* speaketh of? No; but the black Trump of Shame shall blow out their Infamy for ever. Again, these that follow such heinous Treasons, that bring forth the Fruit of such Seeds as such wicked Seedsmen have sown, are in foul fault, and justly to be condemn'd, and worthy extremely to feel it. For that you are in Misery, Men may have Pity and Compassion of your Misery, and so forbear to grieve you with due Rehearsal; else Men might aggravate your Offence, with setting out the Particulars of it at length, and as they should have fallen out, if you had stood in Tryal: But you have confess'd it, and yielded your self guilty, and submitted your self to the Queen's Majesty's Mercy. Therefore I will leave to aggravate your Faults, and will proceed, as the Order of Law requireth, to Judgment. I pray God to give you Grace to make a good end. I need not give you long Exhortation, I am no Doctor of Divinity; you are learned your self, your Knowledge is great, I would your Loyalty and Truth had been as great. But because we are to do with Law, we must follow the Order of Law; one must speak for all, and so I, for all the rest, shall proceed to Judgment.

Then my Lord Chief Justice granted the Judgment usual in Treason, concluding it in these words; *God be merciful unto you, and give you Grace to make a good End.*

Then *Hickford* answer'd to this effect: I humbly thank your Lordship for your good Admonition; I know and confess, that I ought unto the Queen's Majesty a much greater and higher Duty than

than to my Maſter. And as it is ſaid of your Lordſhips to have been wiſely ſpoken, ſo was it truly ſaid, that the Duty of all Subjects to the Prince, is a much greater Duty than a Man oweth to his Maſter, or to any other; yea, or to thoſe that bear him into the World. I confeſs I have neglected that Duty to my Prince, howbeit I did it by my Lord, my late Maſter's Procurement and Commandment, and for good Intent, as my Maſter bare me in hand and perſuaded me, whereof I pray your Lordſhips I may declare the Truth. When firſt my Lord made choice of me to wait on him in the *Tower*, as I would to God he had rather made choice of any other, within ſhort time he receiv'd a Letter from the *Scottiſh* Queen in Cypher. He made me privy to it, and will'd me to acquaint my ſelf with that Cypher, for the decyphering of the like hereafter. At that firſt time I ſaid little unto it: Within three Weeks after there came another Letter to him from the *Scottiſh* Queen, and then I began to miſlike the Matter. Then my Lord walking on the Leads, (having ſo much liberty granted him) Sir *Henry Nevil* and Mr. *Lieutenant* being preſent upon the Leads, and departing a little aſide, my Lord call'd me to him, and after other Matters, entred into Talk of the *Scottiſh* Queen. I ſaid unto him, I would ask a Queſtion of you, if I might without offending you. He ask'd me what? I ſaid I would ſhew him, ſo that he would not be offended, for otherwiſe I durſt not. After he had aſſur'd me he would not be offended, I ſaid unto him, My Lord, I marvel much at your Doings; you are here, as you know, committed upon high Diſpleaſure of the Queen's Majeſty, for dealing with the *Scottiſh* Queen without the Queen's Majeſty's Conſent. Now in proceeding further by Letters between you, the Contrivance of this Dealing muſt much aggravate her Highneſs's Diſpleaſure againſt you. He anſwer'd me, Tuſh Fool, thou art a Fool, thou underſtandeſt not the Matter. I anſwer'd, I preſum'd to ſay this unto you, upon your Aſſurance that you would not be offended, and that maketh me ask, why you continue this Dealing with the *Scottiſh* Queen? He anſwer'd me again, thou art a Fool, thou ſeeſt not my Caſe; I hold a Wolf by the Ears, I can neither let go without danger, nor hold without peril. Unhappy Man I was when I was firſt committed; for if I could then have come to the Speech of the Prince, I would have laid it all at her Feet, and I truſt I ſhould have found Grace to have obtain'd Favour: But now, on the one ſide, I am entred into my Prince's high Diſpleaſure; on the other ſide*, if I ſhould pull the *Scottiſh* Queen, and all her Friends upon me, and make them mine Enemies, then were I in worſe Caſe than ever I was. If I could once recover my Prince's Favour, then would I ſoon ſhake off all Dealing with the *Scottiſh* Queen. In the mean time, till her Majeſty's Favour may be recover'd, I am driven to this Hardneſs that you ſee. I anſwer'd him again, You are your ſelf much wiſer than I am; but, in my poor Opinion, the ſooner you rid your ſelf of this Dealing the better. Then becauſe I was perſuaded that he truſted to recover the Queen's Majeſty's Favour, I was in the mean time contented to decypher the Letters from time to time, as they paſs'd between them. Shortly after he had ſo much Favour and Liberty, that his Men had recourſe unto him freely into the *Tower*; whereupon we conceiv'd hope of his ſhort Delivery, but it fell contrary, and ſo continu'd till Midſummer. Then was he adviſ'd to make ſubmiſſion to the Queen's Majeſty, and promis'd, that if he would ſubmit himſelf, and renounce all Dealing with the *Scottiſh* Queen, there was hope that the Queen's Majeſty would receive him to Grace. Whereupon he wrote a Submiſſion, he ſent it, it was deliver'd, and, as we heard, it was very well lik'd of. Within a fortnight after, he had the liberty of the *Tower*, and comfortable Letters came. I look'd, and had hope that he ſhould have been deliver'd preſently; it came not ſo to paſs, the cauſe God knoweth.

* *Behold an evident Entry into a Reſolution to leave the Queen, and ſeek to the* Scot *and her Friends.*

Catlin. Here the Lord Chief Juſtice offer'd to interrupt and end this courſe of Speech as impertinent, when he yet proceeded further, and ſaid:

Hickford. I beſeech you, my Lord, let me uſe a few words, to declare the Courſe of my Doing. My Lord was not then deliver'd: Shortly after it happen'd, that by occaſion of a Sickneſs, and being ſick of the Plague in the *Tower*, my Lord was remov'd to his own Houſe at the *Charter-houſe*; then we had great hope that we ſhould ſhortly be receiv'd into her Majeſty's Favour, and come to the Court again, and ſo continu'd till the Cypher came from the Biſhop of *Roſſe*, before which time and ſince I was never privy to that Matter. The Cauſe why I was never afterward made privy, was this; My Lord being at home at his Houſe at *Charter-houſe*, I told him, I lik'd not this Doing, it would not have good end.

Attorney. Why did you then ſtill follow? Why left you him not?

Hickford. He anſwer'd me, thou art a Fool, thou underſtandeſt not.

Catlin. He told you Truth, that you were a Fool, for you play'd the Fool indeed.

Hickford. I would then have gone from him, and I ſought to depart; he would never give me leave, as Mr. *Banniſter* well knoweth.

Catlin. Why? he was not your Prince, you were not ſo bound that he could compel you to tarry with him.

Hickford. Otherwiſe I dealt not with the Biſhop of *Roſſe*.

Catlin. In following him, the Hurt was yours; if you had been a good Subject, and had regard of your Duty, you might and ſhould have taken other Courſe; but you had a higher Hope, to have ſeen your Maſter in higher State to advance you; you had more Reſpect to your Maſter than to your Miſtreſs.

But this is nothing to the matter.

So his purpos'd longer Speech was cut off, and then he ſaid ſhortly thus:

Hickford. I humbly thank your Lordſhip again for your good Admonition; and as your Lordſhip hath rehears'd the Hiſtory of the *French* Embaſſador to the Duke of *Milan*, ſo I would and pray God, that he that hath brought my Lord to this, may have the like Succeſs. I humbly ſubmit my ſelf to the Queen's Majeſty's Mercy. I know I have liv'd under a moſt gracious and merciful Queen. I wiſh God long to preſerve her Majeſty, and this little time that I have left I will ſpend in Prayer for her Preſervation; and I beſeech God have Mercy upon me.

Whereunto

Whereunto the Court, and all that were preſent, ſaid, *Amen*; and ſome ſaid ſecretly, he had then ſhew'd himſelf a wiſer Man than his Maſter.

And ſo the Lieutenant was commanded to avoid the Priſoner.

God ſave Queen Elizabeth.

The Tryal of William Parry, *the 25th of* Feb. 1584. *in the 26th Year of the Reign of Queen* Elizabeth, *at* Weſtminſter, *by virtue of her Majeſty's Commiſſion of Oyer and Terminer, before* Henry *Lord* Hunſdon, *Governor of* Berwick; *Sir* Francis Knolles *Knight, Treaſurer of the Queen's Majeſty's Houſhold*; *Sir* James Croft *Knight, Comptroller of the ſame Houſhold*; *Sir* Chriſtopher Hatton *Knight, Vice-Chamberlain to her Majeſty*; *Sir* Chriſtopher Wray *Knight, Chief Juſtice of* England; *Sir* Gilbert Gerrard *Knight, Maſter of the* Rolls; *Sir* Edmund Anderſon *Knight, Chief Juſtice of the* Common Pleas; *Sir* Roger Manwood *Knight, Chief Baron of the* Exchequer; *and Sir* Thomas Hennage *Knight, Treaſurer of the Chamber.*

FIRST, three Proclamations for Silence were made, according to the uſual Courſe in ſuch Caſes. Then the Lieutenant was commanded to return his Precept; which he did, and brought the Priſoner to the Bar: to whom *Miles Sandes* Eſq; Clerk of the Crown, ſaid, *William Parry*, hold up thy Hand; and he did ſo. Then ſaid the Clerk of the Crown, Thou art here indicted by the Oaths of twelve good and lawful Men of the County of *Middleſex*, before Sir *Chriſt. Wray* Knight, and others, who took the Indictment by the name of *William Parry*, late of *London* Gentleman, otherwiſe call'd *William Parry*, late of *London* Doctor of the Law; for that thou, as a falſe Traitor againſt the moſt Noble and Chriſtian Prince Queen *Elizabeth*, thy moſt gracious Sovereign and Liege Lady, not having the Fear of God before thine Eyes, nor regarding thy due Allegiance, but being ſeduc'd by the Inſtigation of the Devil, and intending to withdraw and extinguiſh the hearty Love and due Obedience which true and faithful Subjects ſhould bear unto the ſame our Sovereign Lady, didſt at *Weſtminſter*, in the County of *Middleſex*, on the 1ſt day of *February*, in the 26th year of her Highneſs's Reign, and at divers other Times and Places in the ſame County, maliciouſly and traitorouſly conſpire and compaſs, not only to deprive and depoſe the ſame our Sovereign Lady of her Royal Eſtate, Title, and Dignity, but alſo to bring her Highneſs to Death and final Deſtruction, and Sedition in the Realm to make, and the Government thereof to ſubvert, and the ſincere Religion of God eſtabliſh'd in her Highneſs's Dominions to alter and ſubvert. And that whereas thou *William Parry*, by thy Letters ſent unto *Gregory* Biſhop of *Rome*, didſt ſignify unto the ſame Biſhop thy Purpoſes and Intentions aforeſaid, and thereby didſt pray and require the ſame Biſhop to give thee Abſolution; that thou afterwards, that is to ſay, the laſt day of *March*, in the 26th year aforeſaid, didſt traitorouſly receive Letters from one call'd Cardinal *de Como*, directed unto thee *William Parry*, whereby the ſame Cardinal did ſignify unto thee, that the Biſhop of *Rome* had perus'd thy Letters, and allow'd of thine Intent; and that to that end he had abſolv'd thee of all thy Sins, and by the ſame Letter did animate and ſtir thee to proceed with thine Enterprize; and that thereupon thou, the laſt day of *Auguſt*, in the 26th year aforeſaid, at St. *Giles in the Fields*, in the ſame County of *Middleſex*, didſt traitorouſly confer with one *Edmund Nevill* Eſq; uttering to him all thy wicked and traitorous Devices, and then and there didſt move him to aſſiſt thee therein, and to join with thee in thoſe wicked Treaſons aforeſaid, againſt the Peace of our ſaid Sovereign Lady the Queen, her Crown and Dignity. What ſaiſt thou, *William Parry*, Art thou guilty of theſe Treaſons whereof thou ſtandeſt here indicted, or Not Guilty?

Then *Parry* ſaid, Before I plead Not Guilty, or confeſs my ſelf Guilty, I pray you give me leave to ſpeak a few words; and with humbling himſelf, began in this manner: God ſave Queen *Elizabeth*, and God ſend me Grace to diſcharge my Duty to her, and to ſend you home in Charity. But touching the Matters that I am indicted of, ſome were in one place, and ſome in another, and done ſo ſecretly as none can ſee into them, except that they had Eyes like unto God; wherefore I will not lay my Blood upon the Jury, but do mind to confeſs the Indictment. It containeth but the Parts that have been openly read,

read, I pray you tell me? Whereunto it was answer'd, that the Indictment contain'd the Parts he had heard read, and no other: Whereupon the Clerk of the Crown said unto *Parry*; *Parry*, thou must answer directly to the Indictment, whether thou be Guilty or not.

Then said *Parry*, I do confess that I am Guilty of all that is therein contain'd; and further too, I desire not Life, but desire to die. Unto which the Clerk of the Crown said, If you confess it, you must confess it in manner and form as it is compris'd in the Indictment. Whereunto he said, I do confess it in manner and form as the same is set down, and all the Circumstances thereof. Then the Confession being recorded, the Queen's learned Council being ready to pray Judgment upon the same Confession, Mr. *Vice-Chamberlain* said, These Matters contain'd in this Indictment, and confess'd by this Man, are of great Importance; they touch the Person of the Queen's most excellent Majesty in the highest Degree, the very State and Well-doing of the whole Commonwealth, and the Truth of God's Word establish'd in these her Majesty's Dominions, and the open Demonstration of that capital Envy of the Man of *Rome*, that hath set himself against God and all Godliness, all good Princes and good Government, and against good Men. Wherefore, I pray you, for the satisfaction of this great Multitude, let the whole Matter appear, that every one may see that the Matter of it self is as bad as the Indictment purporteth, and as he hath confess'd. Whereto in respect that the Justice of the Realm hath been of late very impudently slander'd, all yielded as a thing necessary to satisfy the World in particular, of that which was but summarily compris'd in the Indictment, tho in the Law his Confession serv'd sufficiently to have proceeded thereupon unto Judgment. Whereupon the Lords and others the Commissioners, her Majesty's learned Counsel, and *Parry* himself agreed, that *Parry*'s Confession, (taken the 11th and 13th of *February*, 1584. before the Lord of *Hunsdon*, Master *Vice-Chamberlain*, and Master *Secretary*) and Cardinal *de Como*'s Letters, and *Parry*'s Letters to the Lord Treasurer and Lord Steward, should be openly read.

And *Parry*, for the better satisfying of the People and Standers by, offered to read them himself; but being told that the Order was, the Clerk of the Crown should read them, it was so resolved of all parts. And then Master Vice-Chamberlain caused to be shewed to *Parry* his said Confession, the Cardinal's Letter, and his own Letter aforesaid; which after he had particularly viewed every Leaf thereof, he confessed, and said openly they were the same.

Then said Master Vice-Chamberlain; Before we proceed to shew what he hath confessed, what say you, said he to *Parry*, is that which you have confessed here true? and did you confess it freely and willingly of your self, or was then any extort means used to draw it from you?

Surely, said *Parry*, I made that Confession freely without any Constraint, and that is all true, and more too; for there is no Treason that hath been hithence the first Year of the Queen, any way touching Religion, saving receipt of *Agnus Dei*, and persuading of others, wherein I have not much dealt, but I have offended in it. And I have also delivered mine opinion in Writing, who ought to be Successor to the Crown, which he said to be Treason also.

Then his Confession of the eleventh and thirteenth of *February*, all of his own Hand-writing, and hereafter particularly set down, was openly and distinctly read by the Clerk of the Crown.

The voluntary Confession of William Parry *Doctor of the Laws, (now Prisoner in the* Tower) *and accused of Treason by* Edmund Nevil *Esq; promised by him (with all Faith and Humility) to the Queen's Majesty, in discharge of his Conscience, and Duty towards God and her: Before the Lord* Hunsdon, *Lord Governour of* Berwick; *Sir* Christopher Hatton *Knight, Vice-Chamberlain*; *Sir* Francis Walsingham *Knight, principal Secretary*; *the 13th of* February, 1584.

IN the Year 1570, I was sworn her Majesty's Servant, from which time until the Year 1580, I served, honoured, and loved her with as great Readiness, Devotion and Assurance as any poor Subject in *England*. In the end of that Year, and until Midsummer 1582, I had some Trouble for the hurting of a Gentleman of the *Temple*. In which Action I was so disgraced and oppressed by two great Men (to whom I have of late been beholden) that I never had contented Thought since. There began my Misfortune, and here followeth my woful Fall.

In *July* after, I laboured for Licence to travel for three Years, which (upon some Consideration) was easily obtain'd. And so in *August*, I went over with doubtful mind of return; for that being suspected in Religion, and not having received the Communion in twenty two Years, I began to mistrust my advancement in *England*. In *September* I came to *Paris*, where I was reconciled to the Church, and advised to live without Scandal; the rather, for that it was mistrusted by the *English* Catholicks, that I had Intelligence with the greatest Counsellor of *England*. I staid not long there, but removed to *Lions* (a place of great Traffick) where, because it was the ordinary Passage of our Nation to and fro, between *Paris* and *Rome*, I was also suspected.

To put all Men out of doubt of me, and for some other cause, I went to *Millan*, from whence, as a place of some danger (tho I found favour there) after I had clear'd my Conscience, and justified my self in Religion before the Inquisitor, I went to *Venice*. There I came acquainted with Father *Benedicto Palmio*, a grave and learned Jesuit. By Conference with him of the hard state of the Catholicks in *England*, and by reading of the Book *De Persecutione Anglicana*, and other Discourses of like Argument;

1. I conceived a possible mean to relieve the afflicted state of our Catholicks, if the same might be well warranted in Religion and Conscience by the Pope, or some learned Divines. I asked his Opinion; he made it clear, commended my Devotion, comforted me in it, and after a while made me known to the Nuncio *Campeggio*, Resident there for his Holiness. By his means I wrote to the Pope, presented the Service, and sued for a Passport to go to *Rome*, and to return safely into *France*. Answer came from Cardinal *Como*, that I might come, and should be welcome. I misliked the Warrant, sued for a better, which I was promised:

miſed: but it came not before my departure to *Lyons*, where I promiſed to ſtay ſome time for it. And being indeed deſirous to go to *Rome*, and loth to go without Countenance; I deſired *Chriſtofero de Salazar*, Secretary to the Catholick King in *Venice*, who had ſome underſtanding by Conference of my Devotion to the afflicted Catholicks at home and abroad, to commend me to the Duke *di Nova Terra*, Governour of *Millan*, and to the Count of *Olivaris Embi*, then Reſident for the King his Maſter in *Rome*: which he promiſed to do effectually for the one, and did for the other. And ſo I took my Journy towards *Lyons*, whither came for me an ample Paſſport (but ſomewhat too late) that I might come and go, *in verbo Pontificis per omnes Juriſdictiones Eccleſiaſticas, abſque impedimento.* I acquainted ſome good Fathers there, of my neceſſity to depart towards *Paris* by Promiſe, and prayed their advices upon divers Points; wherein I was well ſatisfied. And ſo aſſuring them that his Holineſs ſhould hear from me ſhortly, it was undertaken that I ſhould be excuſed for that time.

In *October* I came to *Paris*, where (upon better Opinion conceived of me amongſt my Catholick Countrymen) I found my Credit well ſettled, and ſuch as miſtruſted me before, ready to truſt and imbrace me. And being one day at the Chamber of *Thomas Morgan* a Catholick Gentleman (greatly beloved and truſted on that ſide) amongſt other Gentlemen, talking (but in very good ſort) of *England*, I was deſired by *Morgan* to go up with him to another Chamber; where he brake with me, and told me that it was hoped and looked for, that I ſhould do ſome Service for God and his Church. I anſwered him, I would do it, if it were to kill the greateſt Subject in *England*; whom I named, and in truth then hated. No, no, ſaid he, let him live to his greater Fall and Ruin of his Houſe.

2. It is the Queen I mean. I had him as I wiſhed, and told him it were ſoon done, if it might be lawfully done, and warranted in the opinion of ſome learned Divines. And ſo the Doubt once reſolved, (tho as you have heard I was before reaſonably well ſatisfied) I vowed to undertake the Enterprize, for the reſtitution of *England* to the antient Obedience of the See Apoſtolick. Divers Divines were named: Dr. *Allein* I deſired, *Parſons* I refuſed; and by chance came Maſter *Waites* a learned Prieſt, with whom I conferred, and was over-ruled.

3. For he plainly pronounced (the Caſe only altered in name) that it was utterly unlawful; with whom many *Engliſh* Prieſts did agree, as I have heard, if it be not altered ſince the Book made in anſwer of the Execution of the *Engliſh* Juſtice was publiſhed, which I muſt confeſs hath taken hard hold in me, and (I fear me) will do in others, if it be not prevented by more gracious handling of the quiet and obedient Catholick Subjects, whereof there is good and greater ſtore in *England*, than this Age will extinguiſh. Well, notwithſtanding all theſe doubts, I was gone ſo far by Letters and Conference in *Italy*, that I could not go back, but promiſed faithfully to perform the Enterprize, if his Holineſs upon my Offer and Letters would allow it, and grant me full Remiſſion of my Sins.

4. I wrote my Letters the firſt of *January*, 1584. by their Computation; took Advice upon them in Confeſſion of Father *Anibal à Codreto*, a learned Jeſuit in *Paris*; was lovingly embraced, commended, confeſſed, and communicated at the Jeſuit's at one Altar with the Cardinals of *Vandoſmi* and *Narbone*, whereof I prayed Certificate, and encloſed the ſame in my Letter to his Holineſs, to lead him the rather to abſolve me; which I required by my Letters, in Conſideration of ſo great an Enterprize undertaken without Promiſe or Reward.

5. I went with *Morgan* to the Nuncio *Ragazzoni*, to whom I read the Letter and Certificate encloſed, ſealed it, and left it with him to ſend to *Rome*; he promiſed great Care of it, and to procure Anſwer: And ſo lovingly imbraced me, wiſhed me good ſpeed, and promiſed that I ſhould be remembred at the Altar.

6. After this I deſired *Morgan*, that ſome ſpecial Man might be made privy to this matter, leſt he dying, and I miſcarrying in the Execution, and my intent never truly diſcovered, it might ſtick for an everlaſting ſpot in my Race. Divers were named, but none agreed upon, for fear of betraying.

7. This being done, *Morgan* aſſured me, that ſhortly after my departure, the Lord *Fernehurſt* (then in *Paris*) ſhould go into *Scotland*, and be ready upon the firſt News of the Queen's Fall to enter into *England* with 20 or 30000 Men to defend the Queen of *Scotland*, (whom, and the King her Son, I do in my Conſcience acquit of any privity, liking, or conſent to this, or any other bad Action, for any thing that ever I did know.) I ſhortly departed for *England*, and arrived at *Rye* in *January*, 1583. from whence I wrote to the Court, advertiſed ſome, that I had a ſpecial Service to diſcover to the Queen's Majeſty.

8. Which I did more to prepare Acceſs and Credit, than for any Care I had of her Perſon, tho I were fully reſolved never to touch her (notwithſtanding any Warrant) if by any Device, Perſuaſion, or Policy ſhe might be wrought to deal more graciouſly with the Catholicks than ſhe doth, or by our manner of proceeding in Parliament meaneth to do, or any thing yet ſeen. I came to the Court (then at *Whitehall*) prayed Audience, had it at large, and very privately diſcovered to her Majeſty this Conſpiracy, much to this effect, tho covered with all the skill I had. She took it doubtfully, I departed with Fear. And amongſt other things, I cannot forget her Majeſty's gracious Speech then uttered touching the Catholicks, which of late, after a ſort I avowed in Parliament: She ſaid to me, that never a Catholick ſhould be troubled for Religion or Supremacy, ſo long as they lived like good Subjects. Whereby I miſtruſted that her Majeſty is borne in hand, that none is troubled for the one or the other. It may be truly ſaid, that it is better than it hath been, tho it be not yet as it ſhould be.

In *March* laſt, while I was at *Greenwich* (as I remember) ſuing for St. *Katherines*, came Letters to me from Cardinal *Como*, dated at *Rome*, the laſt of *January* before; whereby I found the Enterprize commended and allowed, and my ſelf abſolved (in his Holineſs name) of all my Sins, and willed to go forward in the name of God. That Letter I ſhewed to ſome in Court, who imparted it to the Queen; what it wrought, or may work in her Majeſty, God knoweth; only this I know,

9. That it confirmed my Reſolution to kill her, and made it clear in my Conſcience, that it was Lawful and Meritorious. And yet was I determined never to do it, if either Policy, Practice, Perſuaſion, or Motion in Parliament could prevail. I feared to be tempted, and therefore always when

when I came near her, I left my Dagger at home.

10. When I looked upon her Majesty, and remembred her many Excellencies, I was greatly troubled: and yet I saw no Remedy, for my Vows were in Heaven, my Letters and Promises in Earth; and the Case of the Catholick Recusants, and others, little bettered. Sometimes I said to my self, Why should I care for her? What hath she done for me? Have I not spent 10000 Marks since I knew her Service, and never had Penny by her? It may be said, she gave me my Life. But I say (as my Case stood) it had been Tyranny to take it; and I fear me it is little less yet. If it please her graciously to look into my Discontentments, I would to Jesus Christ she had it, for I am weary of it. And now to come to an end of this Tragical Discourse; In *July* I left the Court, utterly rejected, discontented, and as her Majesty might perceive by my passionate Letters, careless of my self. I came to *London*; Dr. *Allein*'s Book was sent me out of *France*.

11. It redoubled my former Conceits; every word in it was a Warrant to a prepared Mind: It taught that Kings may be excommunicated, deprived, and violently handled: It proveth that all Wars Civil or Foreign undertaken for Religion, are honourable. Her Majesty may do well to read it, and to be out of doubt (if things be not amended) that it is a Warning, and a Doctrine full dangerous. This is the Book I shewed, in some places read, and lent it to my Cousin *Nevil* (the Accuser) who came often to mine House, put his Finger in my Dish, his Hand in my Purse; and the Night wherein he accused me, was wrapped in my Gown, six Months at least after we had entred into this Conspiracy: In which space her Majesty, and ten Princes in several Provinces, might have been killed. God bless her Majesty from him; for before Almighty God, I joy and am glad in my Soul, that it was his hap to discover me in time, tho there were no danger near.

And now to the Manner of our Meetings. He came to me in the beginning of *August*, and spake to me in this or like sort. 'Cousin, let us do somewhat, sithens we can have nothing. I offered to join with him, and gladly heard him, hoping because I knew him to be a Catholick, that he would hit upon that I had in my head; but it fell not out so. He thought the delivery of the Queen of *Scotland* easy, presuming upon his Credit and Kindred in the North: I thought it dangerous to her, and impossible to Men of our Fortunes: He fell from that to the taking of *Berwick*. I spake of *Quinborough* and the Navy, rather to entertain him with Discourse, than that I cared for those Motions, my Head being full of a greater matter.

12. I told him that I had another manner of Enterprize, more honourable and profitable to us, and the Catholicks Commonwealth, than all these, if he would join in it with me, as he presently vowed to do: He pressed to know it; I willed him to sleep upon the Motion: He did so, and (belike overtaken) came to me the next Morning to my Lodging in *London*, offered to join with me, and took his Oath upon a Bible, to conceal and constantly to pursue the Enterprize for the advancement of Religion; which I also did, and meant to perform; the killing of the Queen was the matter.

The Manner and Place, to be on horseback, with eight or ten Horses, when she should ride abroad about *St. James's*, or some other like place. It was once thought fit in a Garden, and that the escape would be easiest by Water into *Shepey*, or some other part; but we resolved upon the first.

This continued as agreed upon many Months, until he heard of the Death of *Westmoreland*, whose Land and Dignity (whereof he assured himself) bred belike this Conscience in him to discover a Treason in *February*, contrived and agreed upon in *August*. If it cost him not an ambitious Head at last, let him never trust me. He brought a tall Gentleman (whom he commended for an excellent Pistolier) to me to *Chanon-Row*, to make one in the Match: but I refused to deal with him, being loth to lay my Head upon so many Hands.

Master *Nevil* hath (I think) forgotten, that he did swear to me at divers times, that all the advancement she could give, should serve but for her Scourge, if ever time and occasion should serve; and that tho he would not lay hand upon her in a Corner, his Heart served him to strike off her Head in the Field. Now leaving him to himself, this much (to make an end) I must confess of my self, I did mean to try what might be done in Parliament, to do my best to hinder all hard Courses, to have prayed hearing of the Queen's Majesty, to move her (if I could) to take Compassion upon her Catholick Subjects; and when all had failed, to do as I intended. If her Majesty by this Course would have eased them, tho she had never preferred me, I had with all Comfort and Patience borne it.

13. But if she had preferred me without Ease or Care of them, the Enterprize had held.

Parry.

God preserve the Queen, and incline her merciful Heart to forgive me this desperate Purpose; and to take my Head (with all my Heart) for her better Satisfaction.

After which, for the better manifesting of his Treasons, on the 14th of *February* last, there was a Letter written by him to her Majesty, very voluntarily, all of his own Hand, without any Motion made to him: the Tenor whereof, for that which concerneth these his traitorous Dealings, is as followeth.

A Letter written by Parry *to her Majesty.*

'YOUR Majesty may see by my voluntary 'Confession, the dangerous Fruits of a dis-'contented Mind; and how constantly I pursued 'my first conceived purpose in *Venice*, for the re-'lief of the afflicted Catholicks; continued it in '*Lions*, and resolved in *Paris* to put it in adventure 'for the Restitution of *England* to the antient Obe-'dience of the See Apostolick. You may see 'withal, how it is commended, allowed, and 'warranted in Conscience, Divinity, and Policy, 'by the Pope and some great Divines: Tho it be 'true or likely, that most of our *English* Divines '(less practised in matters of this weight) do ut-'terly mislike and condemn it.

'The Enterprize is prevented, and Conspiracy 'discovered by an honourable Gentleman, my 'Kinsman and late familiar Friend, Master *Ed-'mund Nevil*, privy and by solemn Oath (taken 'upon the Bible) Party to the matter, whereof 'I am hardly glad, but now sorry (in my very 'Soul) that ever I conceived or intended it, how

'com-

'commendable or meritorious ſoever I thought it. 'God thank him, and forgive me, who would 'not now (before God) attempt it (if I had 'liberty and opportunity to do it) to gain 'your Kingdom. I beſeech Chriſt, that my 'Death and Example may as well ſatisfy your 'Majeſty and the World, as it ſhall glad and con-'tent me.

'The Queen of *Scotland* is your Priſoner; let her 'be honourably entreated, but yet ſurely guarded.

'The *French* King is *French*, you know it well 'enough, you will find him occupied when he 'ſhould do you good; he will not loſe a Pilgrimage 'to ſave you a Crown. I have no more to ſay at 'this time, but that with my Heart and Soul I 'do now honour and love you; am inwardly 'ſorry for mine Offence, and ready to make you 'amends by my Death and Patience. Diſcharge 'me *à culpâ*, but not *à pœnâ*, good Lady. And ſo 'farewel, moſt gracious, and the beſt-natured and 'qualified Queen that ever lived in *England*. From 'the *Tower*, the 14th of *February*, 1584.

W. Parry.

This done, the Cardinal *di Como* his Letter in *Italian* was delivered unto *Parry*'s hand, by the direction of Mr. Vicechamberlain, which *Parry* there peruſed, and openly affirmed to be wholly of the Cardinal's own Hand-writing, and the Seal to be his own alſo, and to be with a Cardinal's Hat on it: And himſelf did openly read it in *Italian*.

A mon Signore, mon Signore *Guglielmo Parry*.

MON Signore, la Santita di N. S. ha veduto le Lettere di V. S. del primo con la ſede incluſa, & non puo ſe non laudare la buona diſpoſitione & riſolutione che ſcrive di tenere verſo il ſervitio & beneficio publico, nel che la Santita ſua leſſorta di perſeverare, con farne riuſcire li effetti che V. S. promette: Et accioche tanto maggiormente V. S. ſia ajutata dà quel buon Spirito che l'ha moſſo, le concede ſua Beneditione, plenaria Indulgenza & Remiſſione di tutti li peccàti, ſecondo che V. S. ha chieſto, aſſicurandos ſi che oltrè il merito, che n'havera in cielo, vuole anco ſua Santita conſtituirſi debitore a riconoſcere li meriti di V. S. in ogni miglior modo che potra, & cio tanto piu, quanto che V. S. uſa maggior modeſtia in non pretender niente. Metta dunq; ad effetto li ſuoi ſanti & honorati penſieri, & attenda aſtar ſano. Che per fine io me le offero di core, & le deſidero ogni bueno & felice ſucceſſo. Di Roma *a* 30 *di* Gennaro, M.D.LXXXIV.

Al piacer di V. S.
N. Cardinale di Como.
Al Sig. Guglielmo Parry.

The Words bearing Senſe as it were written to a Biſhop, or to a Man of ſuch degree, it was demanded of him by Mr. Vice-Chamberlain, Whether he had not taken the Degree of a Biſhop? He ſaid, No: But ſaid at firſt, thoſe Terms were proper to the Degree he had taken. And after ſaid, That the Cardinal did vouchſafe, as of a favour, to write ſo to him. Then the Copy of that Letter in *Engliſh* was in like manner openly read by the Clerk of the Crown; which *Parry* then acknowledged to be truly tranſlated.

Cardinal de Como's *Letter to* Will. Parry, *January* 30, 5484. *by account of* Rome.

'MOnſignor, the Holineſs of our Lord hath 'ſeen the Letter of your Signory of the 'firſt, with the aſſurance included, and cannot 'but commend the good Diſpoſition and Reſolu-'tion, which you write to hold towards the Ser-'vice and Benefit publick: Wherein his Holineſs 'doth exhort you to perſevere, with cauſing to 'bring forth the effects which your Signory pro-'miſeth. And to the end you may be ſo much the 'more holpen by that good Spirit which hath mo-'ved you thereunto, his Bleſſedneſs doth grant to 'you plenary Indulgence and Remiſſion of all your 'Sins, according to your requeſt; aſſuring you, 'that beſides the Merit that you ſhall receive 'therefore in Heaven, his Holineſs will further 'make himſelf Debtor, to re-acknowledge the 'Deſervings of your Signory in the beſt man-'ner that he can. And that ſo much the more, 'in that your Signory uſeth the greater Modeſty, 'in not pretending any thing. Put therefore to 'effect your holy and honourable Thoughts, and 'attend your Health. And to conclude, I offer my 'ſelf unto you heartily, and do deſire all good and 'happy Succeſs.

From Rome *the* 30*th of* January, 1584.

At the pleaſure of your Signory,
N. Card. of *Como.*

And thereupon was ſhewed unto *Parry* his Letter of the 18th of *February*, written to the Lord Treaſurer, and the Lord Steward: which he confeſſed to be all of his own Hand-writing, and which was read accordingly.

William Parry's *Letter to the Lord Treaſurer, and the Earl of* Leiceſter.

'MY Lords, now that the Conſpiracy is 'diſcovered, the Fault confeſſed, my Con-'ſcience cleared, and Mind prepared patiently to 'ſuffer the Pains due for ſo heinous a Crime; I 'hope it ſhall not offend you, if crying *Miſerere* 'with the poor Publican, I leave to deſpair with 'curſed *Cain*. My Caſe is rare and ſtrange, and, 'for any thing I can remember, ſingular: A na-'tural Subject ſolemnly to vow the Death of his 'natural Queen (ſo born, ſo known, and ſo taken 'by all Men) for the Relief of the afflicted Ca-'tholicks, and Reſtitution of Religion. The 'Matter firſt conceived in *Venice*, the Service '(in general words) preſented to the Pope, 'continued and undertaken in *Paris*; and laſtly, 'commended and warranted by his Holineſs, di-'geſted and reſolved in *England*, if it had not 'been prevented by Accuſation, or by her Maje-'ſty's greater Lenity, and more gracious Uſage of 'her Catholick Subjects. This is my firſt and laſt 'Offence conceived againſt my Prince or Country, 'and doth (I cannot deny) contain all other 'Faults whatſoever. It is now to be puniſhed by 'Death, or moſt graciouſly (beyond all common 'Expectation) to be pardoned. Death I do con-'feſs to have deſerved; Life I do (with all Hu-'mility) crave, if it may ſtand with the Queen's 'Honour, and Policy of the Time. To leave ſo 'great a Treaſon unpuniſhed, were ſtrange: To 'draw it by my Death in example, were dange-'rous. A ſworn Servant to take upon him ſuch an 'Enterprize, upon ſuch a Ground, and by ſuch a

'Warrant, hath not been ſeen in *England:* To 'indict him, arraign him, bring him to the Scaf-'fold, and to publiſh his Offence, can do no good: 'To hope that he hath more to diſcover than is 'confeſſed, or that at his Execution he will un-'ſay any thing he hath written, is in vain: To 'conclude, that it is impoſſible for him in time to 'make ſome part of amends, were very hard, and 'againſt former Experiences. The Queſtion then 'is, Whether it be better to kill him, or (leſt the 'matter be miſtaken) upon hope of his Amend-'ment to pardon him. For mine own Opinion '(though partial) I will deliver you my Con-'ſcience. The Caſe is good Queen *Elizabeth*'s, 'the Offence is committed againſt her Sacred Per-'ſon, and ſhe may (of her Mercy) pardon it with-'out prejudice to any. Then this I ſay, in few 'words, as a Man more deſirous to diſcharge his 'troubled Conſcience, than to live. Pardon poor '*Parry*, and relieve him; for Life without living 'is not fit for him. If this may not be, or be 'thought dangerous, or diſhonourable to the 'Queen's Majeſty (as by your favours, I think it 'full of Honour and Mercy) then I beſeech your 'Lordſhips (and no other) once to hear me be-'fore I be indicted, and afterwards (if I muſt die) 'humbly to intreat the Queen's Majeſty to haſten 'my Tryal and Execution, which I pray God '(with all my heart) may prove as honourable to 'her, as I hope it ſhall be happy to me; who will 'while I live (as I have done always) pray to Je-'ſus Chriſt for her Majeſty's long and proſperous 'Reign. From the *Tower*, the 18th of *February*, 1584.

W. Parry.

Theſe Matters being read openly, for manifeſtation of the matter, *Parry* prayed leave to ſpeak: Whereto Mr. Vice-Chamberlain ſaid, If you will ſay any thing for the better opening to the World of thoſe your foul and horrible Facts, ſpeak on; but if you mean to make any excuſe of that which you have confeſſed, which elſe would have been and do ſtand proved againſt you, for my part, I will not ſit to hear you.

Then her Majeſty's Attorney-General *Popham* ſtood up and ſaid, It appeareth before you, my Lords, that this Man hath been indicted and arraigned of ſeveral moſt heinous and horrible Treaſons, and hath confeſſed them, which is before you of Record; wherefore there reſteth no more to be done, but for the Court to give Judgment accordingly, which here I require in the behalf of the Queen's Majeſty.

Then ſaid *Parry*, I pray you hear me for diſcharging of my Conſcience. I will not go about to excuſe my ſelf, nor to ſeek to ſave my Life, I care not for it; you have my Confeſſion of Record, that is enough for my Life: And I mean to utter more, for which I were worthy to die. And ſaid, I pray you hear me, in that I am to ſpeak to diſcharge my Conſcience.

Then ſaid Mr. Vice-Chamberlain, *Parry*, then do thy Duty according to Conſcience, and utter all that thou canſt ſay concerning thoſe thy moſt wicked Facts.

Then ſaid *Parry*, My Cauſe is rare, ſingular, and unnatural, conceiv'd at *Venice*, preſented in general words to the Pope, undertaken at *Paris*, commended and allow'd of by his Holineſs, and was to have been executed in *England*, if it had not been prevented. Yea, I have committed many Treaſons, for I have committed Treaſon in being reconcil'd, and Treaſon in taking Abſolution. There hath been no Treaſon ſithens the firſt year of the Queen's Reign touching Religion, but that I am guilty of (except for receiving of *Agnus Dei*, and perſuading, as I have ſaid) and yet never intended to kill Queen *Elizabeth*: I appeal to her own Knowledge, and to my Lord Treaſurer's, and Maſter Secretary's.

Then ſaid my Lord *Hunſdon*, Haſt thou acknowledg'd it ſo often, and ſo plainly in Writing under thy Hand, and here of Record; and now, when thou ſhouldſt have thy Judgment according to that which thou haſt confeſs'd thy ſelf guilty of, doſt thou go back again, and deny the Effect of all? How can we believe that thou now ſaiſt?

Then ſaid Maſter Vice-Chamberlain, This is abſurd; thou haſt not only confeſs'd generally, that thou wert Guilty, according to the Indictment, which ſummarily, and yet in expreſs words, doth contain, that thou hadſt traitorouſly compaſs'd and intended the Death and Deſtruction of her Majeſty; but thou alſo ſaidſt particularly, that thou wert guilty of every of the Treaſons contain'd therein, whereof the ſame was one, in plain and expreſs Letter ſet down, and read unto thee. Yea, thou ſaidſt that thou wert Guilty of more Treaſons too beſides theſe. And didſt thou not, upon thy Examination, voluntarily confeſs, how thou waſt mov'd firſt thereunto by Miſlike of thy State after thy Departure out of the Realm, and that thou didſt miſlike her Majeſty, for that ſhe had done nothing for thee; how by wicked Papiſts and Popiſh Books thou wert perſuaded that it was lawful to kill her Majeſty; how thou wert by Reconciliation become one of that wicked ſort, that held her Majeſty for neither lawful Queen nor Chriſtian, and that it was meritorious to kill her? And didſt thou not ſignify that thy Purpoſe to the Pope by Letters, and receivedſt Letters from the Cardinal, how he allow'd of thine Intent, and excited thee to perform it, and thereupon didſt receive Abſolution? And didſt thou not conceive it, promiſe it, vow it, ſwear it, and receive the Sacrament that thou wouldſt do it? And didſt not thou thereupon affirm, that thy Vows were in Heaven, and thy Letters and Promiſes on Earth to bind thee to do it? And that whatſoever her Majeſty would have done for thee, could not have remov'd thee from that Intention or Purpoſe, unleſs ſhe would have deſiſted from dealing, as ſhe hath done, with the Catholicks, as thou calleſt them? All this thou haſt plainly confeſs'd; and I proteſt before this Great Aſſembly, thou haſt confeſs'd it more plainly and in better ſort than my Memory will ſerve me to utter: and ſaiſt thou now, that thou never meant'ſt it?

Ah, ſaid *Parry*, your Honours know how my Confeſſion, upon mine Examination, was extorted.

Then both the Lord *Hunſdon* and Maſter Vice-Chamberlain affirm'd, that there was no Torture or threatning Words offer'd him.

But *Parry* then ſaid, that they told him, that if he would not confeſs willingly, he ſhould have Torture: Whereunto their Honours anſwer'd, That they us'd not any Speech or Word of Torture to him.

You ſaid, ſaid *Parry*, that you would proceed with Rigour againſt me, if I would not confeſs it of my ſelf.

But their Honours expreſly affirm'd, that they us'd no ſuch words: But I will tell thee, ſaid Maſter Vice-Chamberlain, what we ſaid. I ſpake theſe words: If you will willingly utter the Truth of your

your ſelf, it may do you good, and I wiſh you to do ſo; if you will not, we muſt then proceed in ordinary Courſe to take your Examination. Whereunto you anſwer'd, that you would tell the Truth of your ſelf: Was not this true? Which then he yielded unto.

And hereunto her Majeſty's Attorney-General put *Parry* in remembrance what Speeches he us'd to the Lieutenant of the *Tower*, the Queen's Majeſty's Serjeant at Law, Maſter *Gaudie*, and the ſame Attorney, on Saturday the 20th of *February* laſt, at the *Tower*, upon that he was by them then examin'd by Order from the Lords; which was, that he acknowledg'd he was moſt mildly and favourably dealt with in all his Examinations; which he alſo at the Bar then acknowledg'd to be true.

Then Mr. Vice-Chamberlain ſaid, That it was a wonder to ſee the Magnanimity of her Majeſty, which after that thou hadſt opened thoſe Traitorous Practices in ſort as thou haſt laid it down in thy Confeſſion, was nevertheleſs ſuch, and ſo far from all fear, as that ſhe would not ſo much as acquaint any one of her Highneſs's Privy-Council with it, to his knowledge, no not until after this thine Enterprize diſcovered and made manifeſt. And beſides that which thou haſt ſet down under thine own hand, thou didſt confeſs, that thou hadſt prepared two *Scottiſh* Daggers, fit for ſuch a purpoſe; and thoſe being diſpoſed away by thee, thou didſt ſay, that another would ſerve thy turn. And withal, *Parry*, didſt thou not alſo confeſs before us, how wonderfully thou wert appalled and perplexed upon a ſudden, at the Preſence of her Majeſty at *Hampton-Court* this laſt Summer, ſaying, that thou didſt think, thou then ſaweſt in her the very Likeneſs and Image of King *Henry* VII? And that therewith, and upon ſome Speeches uſed by her Majeſty, thou didſt turn about and weep bitterly to thy ſelf? And yet didſt call to mind that thy Vows were in Heaven, thy Letters and Promiſes on Earth; and that therefore thou didſt ſay with thy ſelf, that there was no remedy but to do it? Didſt thou not confeſs this? The which he acknowledged.

Then ſaid the Lord *Hunſdon*, Sayeſt thou now, that thou didſt never mean to kill the Queen? Didſt thou not confeſs, that when thou didſt utter this practice of Treachery to her Majeſty, that thou didſt cover it with all the skill thou hadſt, and that it was done by thee, rather to get Credit and Acceſs thereby, than for any regard thou hadſt of her Perſon? But in truth thou didſt it, that thereby thou mighteſt have better opportunity to perform thy wicked Enterprize. And wouldſt thou have run into ſuch fear as thou didſt confeſs that thou wert in, when thou didſt utter it, if thou hadſt never meant it? What reaſon canſt thou ſhew for thy ſelf?

With that he cried out in a furious manner, I never meant to kill her: I will lay my Blood upon Queen *Elizabeth* and you, before God and the World. And thereupon fell into a rage and evil words with the Queen's Majeſty's Attorney-General.

Then ſaid the Lord *Hunſdon*, This is but thy Popiſh Pride and Oſtentation, which thou wouldſt have to be told to thy fellows of that Faction, to make them believe that thou dieſt for Popery, when thou dieſt for moſt horrible and dangerous Treaſons againſt her Majeſty, and thy whole Country. For thy laying of thy Blood, it muſt lie on thine own head, as a juſt Reward of thy Wickedneſs. The Laws of the Realm moſt juſtly condemn thee to die, out of thine own mouth, for the conſpiring the Deſtruction both of her Majeſty, and of us all: Therefore thy Blood be upon thee; neither her Majeſty nor we at any time ſought it, thy ſelf haſt ſpilt it.

Then he was asked, What he could ſay, why Judgment of Death ought not to be awarded againſt him.

Whereto he ſaid, he did ſee that he muſt die, becauſe he was not ſettled.

What meaneſt thou by that, ſaid Mr. Vice-Chamberlain Said he, Look into your Study, and into your new Books, and you ſhall find what I mean.

I proteſt (ſaid his Honour) I know not what thou meaneſt: thou doſt not well to uſe ſuch dark Speeches, unleſs thou wouldſt plainly utter what thou meaneſt thereby. But he ſaid, he cared not for Death, and that he would lay his Blood amongſt them.

Then ſpake the Lord Chief Juſtice of *England*, being required to give the Judgment, and ſaid, *Parry*, you have been much heard, and what you mean by being ſettled, I know not; but I ſee you are ſo ſettled in Popery, that you cannot ſettle your ſelf to be a good Subject. But touching that you ſhould ſay, to ſtay Judgment from being given againſt you, your Speeches muſt be of one of theſe kinds, either to prove the Indictment (which you have confeſs'd to be true) to be inſufficient in Law; or elſe to plead ſomewhat touching her Majeſty's Mercy, why Juſtice ſhould not be done of you. All other Speeches, wherein you have us'd great liberty, is more than by Law you can ask. Theſe be the Matters you muſt look to, what ſay you to them? Whereto he ſaid nothing.

Then ſaid the Lord Chief Juſtice; *Parry*, thou haſt been before this time indicted of divers moſt horrible and hateful Treaſons, committed againſt thy moſt Gracious Sovereign and native Country: The Matter moſt deteſtable, the Manner moſt ſubtle and dangerous, and the Occaſions and Means that led thee thereunto moſt ungodly and villanous. That thou didſt intend it, it is moſt evident by thy ſelf. The Matter was the Deſtruction of a moſt ſacred and an anointed Queen, thy Sovereign and Miſtreſs, who hath ſhew'd thee ſuch Favour, as ſome thy Betters have not obtain'd; yea, the Overthrow of thy Country wherein thou wert born, and of a moſt happy Commonwealth whereof thou art a Member, and of ſuch a Queen, as hath beſtow'd on thee the Benefit of all Benefits in this World, that is, thy Life, heretofore granted thee by her Mercy, when thou hadſt loſt it by Juſtice and Deſert. Yet thou her Servant, ſworn to defend her, meant'ſt with thy bloody hand to have taken away her Life, that mercifully gave thee thine when it was yielded into her hands: This is the Matter wherein thou haſt offended. The Manner was moſt ſubtle and dangerous, beyond all that before thee have committed any Wickedneſs againſt her Majeſty: For thou making ſhew as if thou wouldſt ſimply have utter'd for her Safety the Evil that others had contriv'd, didſt but ſeek thereby Credit and Acceſs, that thou mighteſt take the apter Opportunity for her Deſtruction. And for the Occaſions and Means that drew thee on, they were moſt ungodly and villanous, as the Perſuaſions of the Pope, of Papiſts, and Popiſh Books. The Pope pretendeth that he is a Paſtor, whenas in truth he

is far from feeding of the Flock of Chriſt, but rather as a Wolf, ſeeketh but to feed on, and to ſuck out the Blood of true Chriſtians, and as it were thirſteth after the Blood of our moſt gracious and Chriſtian Queen. And theſe Papiſts and Popiſh Books, while they pretend to ſet forth Divinity, they do indeed moſt ungodly teach and perſuade that which is quite contrary both to God and his Word: For the Word teaches Obedience of Subjects towards Princes, and forbiddeth any private Man to kill; but they teach Subjects to diſobey Princes, and that a private wicked Perſon may kill; yea, and whom? A moſt godly Queen, and their own natural and moſt gracious Sovereign. Let all Men therefore take heed how they receive any thing from him, hear or read any of their Books, and how they confer with any Papiſts. God grant her Majeſty, that ſhe may know by thee how ever ſhe truſt ſuch like to come ſo near her Perſon: But ſee the end, and why thou didſt it, and it will appear to be a moſt miſerable, fearful, and fooliſh thing; for thou didſt imagine that it was to relieve thoſe that thou calleſt Catholicks, who were moſt likely amongſt all others to have felt the worſt of it, if thy deviliſh Practice had taken effect. But ſith thou haſt been indicted of the Treaſons compris'd in the Indictment, and thereupon arraign'd, and haſt confeſs'd thy ſelf guilty of them, the Court doth award, that thou ſhalt be had from hence to the Place whence thou didſt come, and ſo drawn thro the open City of *London*, upon an Hurdle, to the Place of Execution, and there to be hang'd and let down alive, and thy Privy Parts cut off, and thy Entrails taken out and burnt in thy ſight; then thy Head to be cut off, and thy Body to be divided in four Parts, and to be diſpos'd at her Majeſty's Pleaſure: And God have Mercy on thy Soul.

The Arraignment of Anthony Babington, Chidiock Titchburne, Thomas Salisbury, Robert Barnewell, John Savage, Henry Donn, *and* John Ballard, *in* Weſtminſter-Hall, *on Tueſday and Wedneſday being the* 13*th and* 14*th of* September, Anno 28 Reginæ Elizabethæ, 1586.

THE Commiſſion of Oyer and Determiner of all manner of Treaſons, Rebellions, Felonies, Offences, Routs, Riots, *&c.* was directed to *William* Lord *Cobham*, Lord Warden of the Cinque-Ports; *Thomas* Lord *Buckhurſt*; Sir *Francis Knowles*; Sir *James a Croft*; Sir *Chriſtopher Hatton*; Sir *Francis Walſingham*; Sir *Chriſtopher Wray*, Lord Chief Juſtice of *England*; Sir *Edmund Anderſon*, Lord Chief Juſtice of the Common-Pleas; Sir *Roger Manwood*, Lord Chief Baron of the Exchequer; Mr. Doctor *Dale*; Mr. *Rugby*, Maſter of the Requeſts; Sergeant *Fleetwood*, Recorder of *London*; Mr. *Brograve* Attorney of the Dutchy; Mr. *Randall*; Mr. *Cooke*; Mr. *Wrathe*. By force whereof was a Precept directed to the Lieutenant of the *Tower*, commanding him to have the Bodies of *Anthony Babington* Eſq; *Chidiock Titchburne* Eſq; *Thomas Saliſbury* Eſq; *Robert Barnewell* Gent. *John Savage* Gent. *Henry Donn* Gent. and *John Ballard* Clerk, before the ſaid Commiſſioners, the Day and Year aforeſaid. At which Day, before the Commiſſioners aforeſaid, (excepting Sir *Francis Knowles*, Sir *Francis Walſingham*, and Sir *Chriſtopher Wray*) Sir *Owen Hopton*, Lieutenant of the *Tower*, return'd his Precept in effect, That the ſaid Priſoners were committed to his Cuſtody by Commandment of the Privy-Council, there to be ſafely kept; whereupon Mr. Vice-Chamberlain demanded of the Queen's learned Counſel, what Order they would take in arraigning the Priſoners; and Anſwer was by them given, that they would proceed to the Arraignment of *Savage* firſt, foraſmuch as he meddled firſt in theſe Matters.

Savage's *Arraignment, Indictment and Confeſſion.*

Then *Savage* being brought to the Bar, and the other Priſoners removed, the Clerk of the Crown ſaid;

Sands, *Clerk of the Crown*. *John Savage* Gent. hold up thy Hand: Thou haſt been before this time indicted by virtue of Commiſſion, directed to Sir *Edmund Anderſon*, Knight, *&c.* (and ſo read his Indictment) which in effect was, That *William Gifford*, Doctor of Divinity, maliciouſly moved him at *Rhemes* in the Country of *Champaigne*, traitorouſly and wickedly to kill and murder the Queen's moſt excellent Majeſty, his liege Sovereign and natural Prince; affirming to the ſaid *Savage*, that the killing of her Majeſty was an Action lawful, honourable and meritorious: and that thereupon the ſaid *John Savage* did traitorouſly agree, conſpire and ſwear to murder the Queen's moſt excellent Majeſty, his own natural Prince. And afterwards, that is to ſay, the firſt day of *April*, 1586. at St. *Giles's in the Fields*, in the County of *Middleſex*, did falſly conſpire to murder her ſaid Majeſty, to diſinherit her of her Kingdom, to ſtir up Sedition in the Realm, and to ſubvert the true Chriſtian Religion: and that to perform this malicious Practice, deviſed with *John Ballard* how to bring the ſame to paſs; and afterwards, the laſt day of *May*, did receive Letters from *Morgan*, *William Gifford*, and *Gilbert Gifford*, whereby they did perſuade and provoke the ſaid *Savage* to execute and fulfil his ſaid Purpoſe and Determination. How ſayeſt thou, *Savage*, art thou Guilty, or Not Guilty?

Savage.

Savage. For conſpiring at St. *Giles*'s, I am Guilty; that I received Letters, whereby they did provoke me to kill her Majeſty, I am Guilty; that I did aſſent to kill her Majeſty, I am not Guilty.

Anderſon. Whether thou didſt conſpire at St. *Giles*'s, or not, is not the ſubſtance of the Indictment; but, whether thou didſt conſpire or no, is the Matter, and the reſt is but Circumſtance: Moreover thou muſt ſay either, that thou art Guilty or not Guilty, for ſo hath the Law ordained every one to anſwer; and if thou anſwer not, ſo thou refuſeſt to be tried by the Law, and ſo ſhalt be cauſer of thy own Death.

Manwood. Whoſoever refuſeth to anſwer directly, the Law pronounceth grievous Puniſhment to ſuch, and they are Murderers of themſelves, which is abominable before God.

Hatton. To ſay, that thou art Guilty to that, and not to this, is no Plea; for thou muſt either confeſs it generally, or deny it generally: Wherefore delay not the time, but ſay either Guilty, or not; and if thou ſay Guilty, then ſhalt thou hear further; if not Guilty, her Majeſty's learned Counſel is ready to give evidence againſt thee.

Savage. Then, Sir, I am Guilty.

Then her Majeſty's Counſel ſaid, Albeit there were nothing now further to be done, but to proceed to Judgment upon his own Confeſſion; yet foraſmuch as they deſired that the Hearers ſhould be ſatisfied, and all the World know, how juſtly he was to be condemned, they crave licence to give ſuch Evidence as would ſufficiently and fully prove the Indictment. Which being granted, the Clerk of the Crown did read *Savage*'s own Confeſſion, taken before the Lord Chancellor, Lord Treaſurer, Mr. Vice-Chamberlain, and Mr. Secretary; which particularly in ſubſtance was,

That the ſaid *John Savage* ſerved in the Camp of the Prince of *Parma*, and from thence he departed towars *Rhemes*, where falling acquainted with one *Hodgſon*, and talking with him about Exploits of Services, it chanced Doctor *Gifford* over-heard them, and coming to them, ſaid, But a better Service could I tell you than all this (moving the Murder of the Queen of *England*:) But *Savage* ſeemed to object how dangerous and difficult it was. So they went to Supper, and after Supper ended, *Gifford* declaring unto them, how neceſſary, how juſt, and merritorious, the committing of the Murder ſhould be, ſaid, That peradventure he ſticked to do the Fact, foraſmuch as he, percaſe, was not reſolved whether the killing of a Prince were lawful or not. Whereupon he deſired him to adviſe himſelf, and to ask Opinions of others: And *Savage* having heard others affirm, that the Murder was lawful, foraſmuch as in their pretence ſhe was an Heretick, an Enemy to true Religion, and a Schiſmatick Perſon; at laſt, after three weeks, wherein he had not ſeen *Gifford*, he anſwered, That he was contented to do any thing for his Country's Good. Then ſaid *Gifford*, aſſure yourſelf you cannot do a greater Good unto your Country, nor whereby the Country ſhould be more beholden, eſpecially all the *Throckmortons* and *Giffords*. At laſt *Savage*, overcome with their Perſuaſions, gave his Aſſent and Oath, that he would put the ſame in practice. When he had given his Oath to murder her, *Gifford* declared unto him how, and in what Place her Majeſty might be ſlain; And therefore *Gifford* charged him to forbear no Time nor Place, but to murder her; and therefore, as her Majeſty ſhould go into her Chappel to hear Divine Service, *Savage* might lurk in the Gallery, and ſtab her with his Dagger: or if her Majeſty ſhould walk into her Garden, he might then ſhoot her through with his Dagg; or if her Majeſty did walk abroad to take the Air, as ſhe would often do, rather (as *Gifford* ſaid) accompanied with Women than Men, and thoſe few Men but ſlenderly weapon'd, *Savage* might then aſſault her with his arming Sword, and ſo make ſure Work; albeit in all theſe Caſes *Savage* ſhould be in extreme Hazard of his own Life, foraſmuch as the Thing itſelf was ſo lawful, honourable and meritorious, and he ſure to gain Heaven thereby. Thereupon came *Savage* over into *England* with this Intent and Purpoſe, for to kill the Queen: But not doing the ſame ſo ſoon as was looked for, he received Letters from *Morgan* and *Gifford* from beyond the Seas, perſuading him to execute the ſame. But then he fell acquainted with the moſt notorious Conſpiracy of *Babington*, whereby was another Plot deviſed, That there ſhould be Six which ſhould kill the Queen: *Savage* would not aſſent thereto, foraſmuch as he thought, except he did it himſelf, his Conſcience could not be ſatisfied, becauſe he had promiſed and vowed to do that himſelf. But *Babington* told him, he ſhould be one. In the mean ſeaſon was *Ballard* the Prieſt apprehended, the 4th of *Auguſt* laſt. Then came *Babington* to *Savage*, ſaying, *Ballard* is taken, all will be bewrayed, what Remedy now? Then ſaid *Savage*, no Remedy now, but to kill her preſently. Very well, ſaid *Babington*; then go you unto the Court to-morrow, and there execute the Fact. Nay, ſaid *Savage*, I cannot go to-morrow, for my Apparel is not ready, and in this Apparel ſhall I never come near the Queen. Go to, quoth *Babington*, here is my Ring, and all the Money I have, get thee Apparel and diſpatch it. But the ſame Night, *Babington* fearing leſt *Savage* alone ſhould fail to do it, continued his other Plot, that Six ſhould ride to the Court and do it: But the next day, *Babington* ſuſpecting ſomewhat, fled, and all was diſcovered. Alſo it appeared by *Savage*'s own Confeſſion, how, between *Midſummer* and *Alhallontide*, 1585. he was ſollicited by *Gifford* to kill the Queen and the Earl of *Leiceſter*. Furthermore, divers other Proofs were ſhewed forth by Confeſſion of others, all agreeing to *Savage*'s Confeſſion.

Attorney. Now I hope, is *Savage*'s Indictment ſufficiently and fully proved.

Hatton. Savage, I muſt ask thee one Queſtion: Was not all this willingly and voluntarily confeſſed by thy ſelf, without Menacing, without Torture, or without offer of any Torture?

Savage ſaid, Yes.

Then ſpake her Majeſty's learned Counſel, deſiring to adjourn the Court until the morrow.

Hatton. Foraſmuch as if we ſhould now proceed with the other Priſoners which be here put, it would ask time till three of the Clock in the Morning, and the Day is already far ſpent; alſo her Majeſty's Counſel having prayed that *Savage*'s Judgment be deferred till to-morrow by ſeven of the Clock: Therefore it is neceſſary that the Court ſhould be adjourned. Whereupon the Cryer made an O yes, that all ſhould keep their Day to-morrow Morning by ſeven of the Clock, and ſo the Court aroſe.

Wedneſday 14 *Septembris*, 1586.

The next Day being *Wedneſday*, the ſame Priſoners were brought unto the Bar, and the Commiſſioners

miſſioners being ſet, the Cryer commanded every Man to hold his peace, and keep ſilence; and then ſpake *Sandes* the Clerk of the Crown, in ſort enſuing.

Sandes. *John Ballard*, *Anthony Babington*, *John Savage*, *Robert Barnewell*, *Chidiock Titchburne*, *Thomas Salisbury*, and *Henry Donn*, hold up your Hands; which being done, he ſaid, Before this time you were indicted before Sir *Edmund Anderſon* Knight, and others, *&c.* by virtue of her Majeſty's Commiſſion, *&c.* That where *Barnardino de Mendoza* a *Spaniard*, and *Charles Pagget*, the 26th Day of *April*, 1586. at *Paris* in *France*, did maliciouſly and wickedly deviſe, by what ways and means this Realm of *England* might be invaded, and by what ways and means *Mary* Queen of *Scots* might be delivered: it was concluded then, that thou the ſaid *John Ballard* ſhould go into this Realm of *England*, to underſtand and know what Ports and Landings might be procured and provided for the Enemies Invaſion, and for to learn by what means and ways the ſaid *Mary* Queen of *Scots* might be delivered from the Cuſtody wherein ſhe was. And that thou the ſaid *John Ballard*, coming into this Realm of *England*; you the ſaid *Anthony Babington*, *John Savage*, *Robert Barnewell*, *Chidiock Titchburne*, *Thomas Salisbury*, and *Henry Donn*, as falſe Traitors againſt the Crown, and the Queen's moſt excellent Majeſty, your true and natural Sovereign; intending to put away the Love of her Majeſty's moſt loving Subjects, the 5th Day of *June*, in the 28th Year of the Reign of our Sovereign Lady Queen *Elizabeth*, by the Grace of God, *&c.* at St. *Giles's in the Fields*, within the County of *Middleſex*, did falſly, horribly, traitorouſly and deviliſhly, conſpire, conclude and agree, the Queen's moſt excellent Majeſty not only from her Royal Crown and Dignity to depoſe, but alſo her to kill and ſlay; and Sedition, Inſurrection and Rebellion to ſtir up and procure, and the Government of this Realm, and the true and Chriſtian Religion therein planted to ſubvert, and the whole State thereof for to deſtroy; and for to raiſe and levy War within the Realm. And thou the ſaid *John Ballard*, the 17th Day of *June*, in the 28th Year aforeſaid, at St. *Giles's* aforeſaid in the County of *Middleſex* aforeſaid, didſt go to have Speech, and confer with thee the ſaid *Anthony Babington*, by what means and ways your falſe traitorous imagined Practices might be brought to paſs. And that thou the ſaid *John Ballard* didſt oftentimes declare of an Army of the Pope, and the King of *Spain*, for to invade this Realm; and didſt alſo declare that *Pagget* and *Mendoza* required them the ſaid *Babington*, *Savage*, &c. to procure means how this Realm of *England* might be invaded. And that there thou the ſaid *Anthony Babington* didſt ſay the ſame could not be brought to paſs, without the Murder of the Queen's moſt excellent Majeſty; and afterwards, that is to ſay, the 7th Day of *June*, at St. *Giles's* aforeſaid, in the County of *Middleſex* aforeſaid, thou the ſaid *Anthony Babington*, didſt falſly, horribly, traitorouſly, and deviliſhly conſpire to kill the Queen's moſt excellent Majeſty, and for to deliver the ſaid *Mary* Queen of *Scots* out of the Cuſtody wherein ſhe was, and how to bring foreign Enemies for to invade this Realm. And that thou *Thomas Salisbury*, went to St. *Giles's* aforeſaid, in the County of *Middleſex* aforeſaid; traitorouſly to confer by what means and ways thy traitorous imagined Practices might be brought to paſs; and that thou didſt there conclude falſly and traitorouſly to go into thy Country, in the County of *Denbigh*, there to move and ſtir up Sedition and Rebellion; and for to perſuade the Subjects to conjoin with thee, for the delivery of the ſaid *Mary* Queen of *Scots* from the Cuſtody wherein ſhe was; and for to aid and aſſiſt the foreign Enemies which ſhould invade this Realm. And afterwards the 9th Day of *June*, that you the ſaid *Anthony Babington*, and *John Savage*, went to St. *Giles's* aforeſaid, in the County of *Middleſex* aforeſaid, traitorouſly to confer how, and by what means your traitorous imagined Practices might be brought to paſs; and afterwards, the 10th of *June*, you the ſaid *Anthony Babington*, and *John Savage*, maliciouſly between your ſelves, did appoint and conclude that thou the ſaid *John Savage* traitorouſly the Queen's moſt excellent Majeſty ſhouldſt kill and ſlay, and her to final Deſtruction for to bring. And that thou the ſaid *Babington* and *Savage* ſhould join and aſſiſt the foreign Enemies which ſhould invade this Realm. And that thou the ſaid *Anthony Babington*, *Chidiock Titchburne*, and *Robert Barnewell*; afterwards, that is to ſay, the 11th Day of *June*, in the Year aforeſaid, went to St. *Giles's* aforeſaid, in the County of *Middleſex* aforeſaid, to confer by what ways and means your Treaſons might be fulfilled and brought to paſs. And thereupon the 12th Day of *June*, you the ſaid *Babington*, *Titchburne* and *Barnewell*, with divers other falſe Traitors, moſt horribly, deviliſhly, wickedly and traitorouſly did conclude and agree, that you the ſaid *Robert Barnewell*, *Chidiock Titchburne*, with divers other horrible Traitors, the Queen's moſt excellent Majeſty would kill and ſlay, and the foreign Invaders would aid and aſſiſt. And furthermore, that thou the ſaid *Thomas Salisbury*, together with *Edward Jones* Eſq; and other falſe Traitors, to bring to paſs your traitorous imagined Practices, the 13th Day of *June*, in the Year aforeſaid, did go to St. *Giles's-Field* aforeſaid, in the County of *Middleſex* aforeſaid, to confer how your Treaſons might be brought to paſs: And the ſame 13th Day did confer, and had Speech by what means your traitorous compaſſed Imaginations might be performed. And afterwards, that is to ſay, the 15th Day of *June*, at St. *Giles's-Field* aforeſaid, in the County of *Middleſex* aforeſaid, thou the ſaid *Thomas Salisbury*, and the ſaid *Edward Jones*, did conclude, and agree, that the ſaid *Edward Jones* ſhould conjoin with thee for the delivery of the ſaid *Mary* Queen of *Scots*, and for to aid and aſſiſt the foreign Enemies which ſhould invade this Realm. And furthermore, that *John Travers* Gent. another falſe Traitor in this Conſpiracy, went to *Clerkenwell* in the County of *Middleſex* aforeſaid, traitorouſly to confer with thee the ſaid *Thomas Salisbury*, how your traitorous compaſſed Imagination might be brought to paſs. And the ſame 15th Day of *June*, at *Clerkenwell* aforeſaid, in the County of *Middleſex* aforeſaid, the ſaid *John Travers* did traitorouſly conſpire, and agree, for the delivery of *Mary* Queen of *Scots*, and to aſſiſt the foreign Invaders of this Realm. And furthermore, that thou the ſaid *Henry Donn*, for the compaſſing of thy traitorous Practices, the 22d of *June*, in the Year aforeſaid, traitorouſly didſt repair, and go to have Speech, and confer with the ſaid *Anthony Babington*, and *John Ballard*, how your traitorous compaſſed Imaginations might be brought to paſs. And the ſame 22d of *June*, as well in St. *Giles's* aforeſaid, as in other places, didſt confer, and had Speech how your Treaſons might be brought to paſs. And that thou the

* ſaid

ſaid *Henry Donn*, the 24th Day of *June*, at St. *Giles*'s-*Fields* aforeſaid, didſt conclude, and agree with the ſaid *Ballard* and *Babington*, to perform the beſt they could for the compaſſing of your Treaſons. And furthermore, that thou the ſaid *Anthony Babington*, the 8th Day of *July*, in the Year aforeſaid, received Letters dated the 25th of *June*, from *Mary* Queen of *Scots*, by which ſhe ſignified unto thee, that ſhe would not be unmindful of thy Affection towards her; and required thee to ſend her Letters from Friends in *France* and *Scotland*. And the ſame Day, thou the ſaid *Anthony Babington* didſt write unto the ſaid *Mary* Queen of *Scots*, declaring the Plot of thy Treaſons, and requiring from her, as from thy Sovereign and Prince, Authority and Commiſſion to proceed in thy Practices; and the 25th of *July* received Letters of anſwer, by which the ſaid *Mary* Queen of *Scots* willingly allowed of theſe Treaſons; and alſo by her ſaid Letters, did animate, comfort and provoke thee to fulfill the ſame effectually. And furthermore, that Sir *Thomas Gerrard*, another falſe Traitor, and thou the ſaid *John Ballard* as falſe Traitors, not having the Fear of God before your Eyes, the 27th of *July*, in the 28th Year aforeſaid, at St. *Giles*'s aforeſaid, in the County aforeſaid; did conſpire traitorouſly to deprive and depoſe the Queen's moſt excellent Majeſty from her Royal Crown and Dignity, and her to final Death and Deſtruction for to bring; and Sedition and Rebellion to ſtir up and procure, and to alter the Government of the Realm, and the true Religion to ſubvert. And that thou the ſaid *Anthony Babington*, and the ſaid Sir *Thomas Gerrard*, the 29th of *July*, in the Year aforeſaid, went to St. *Giles*'s aforeſaid, in the County aforeſaid, traitorouſly to conſpire how and by what means your traitorous compaſſed Imaginations might be brought to paſs. And thereupon the laſt Day of *July*, at St. *Giles*'s aforeſaid, in the County aforeſaid; you the ſaid *Anthony Babington*, and the ſaid Sir *Thomas Gerrard* did agree, that thou the ſaid Sir *Thomas Gerrard* ſhould join with thee the ſaid *Anthony Babington*, for the delivery of the ſaid *Mary* Queen of *Scots* from the Cuſtody wherein ſhe was, and for the aiding and aſſiſting of the foreign Enemies which ſhould invade this Realm. And furthermore, that thou the ſaid *John Ballard* didſt traitorouſly go to *Southampton-Houſe* in *Holborne*, within the County of *Middleſex*, traitorouſly to confer with *John Charnock* Gent. and other falſe Traitors in this Conſpiracy, how your traitorous compaſſed Imaginations might be brought to paſs; and there didſt confer and had Speech, by what means your Treaſons might be performed, and afterwards the 2d Day of *Auguſt* at *Southampton-Houſe* aforeſaid, the ſaid *John Charnock* did traitorouſly aſſent to perform the beſt he could in fulfilling of your Treaſons, contrary to your Allegiances you owe to the Queen's moſt excellent Majeſty, her Crown and Dignity, and contrary to divers Statutes in ſuch Caſe provided.

Sandes. How ſayſt thou *John Ballard*, art thou Guilty of theſe Treaſons whereof thou ſtandeſt indicted, or not?

Ballard. That I practiſed the delivery of the Queen of *Scots*, I am Guilty; and that I went about to alter the Religion, I am Guilty; but that I intended to ſlay her Majeſty, I am not Guilty.

Sandes. Anſwer directly, art thou Guilty according to the purport of the Indictment?

Ballard. I anſwer as my Caſe is.

Anderſon. Either deny the Indictment generally, or confeſs it generally.

Hatton. *Ballard*, under thine own Hand are all things confeſſed; therefore now it is much vanity to ſtand vain-glorioufly in denying it.

Ballard. Then Sir, I confeſs I am Guilty.

Sandes. How ſayſt thou, *Anthony Babington*, art thou Guilty of the Treaſons contained in the Indictment?

Babington. Then began *Babington* with a mild Countenance, a ſober Geſture, and a wonderful good Grace, to declare the Beginnings and Proceedings of his Treaſons, which was according as he was indicted, and according to *Savage*'s Confeſſion, and *Ballard*'s Indictment. In the end he laid all the blame upon *Ballard*, for bringing him to his Deſtruction.

Hatton. A very fit Author for ſo bad a Fact!

Babington. Very true Sir, for from ſo bad a Ground never proceeds any better Fruits; he was he that perſuaded me to kill the Queen, and to commit the other Treaſons, whereof now I confeſs my ſelf Guilty.

Sandes. How ſayſt thou, *John Savage*, art thou Guilty of the Treaſons contained in the Indictment?

Savage. I am Guilty.

Sandes. How ſayſt thou, *Robert Barnewell*, art thou Guilty? *&c.*

Barnewell. I never intended harm to her Majeſty's Perſon, but I confeſs I knew thereof, and I held it not lawful to kill the Queen: Howbeit, for my other Actions, foraſmuch as I know I am within the danger of the Law, I plead Guilty.

Sandes. How ſayſt thou, *Chidiock Titchburne*, art thou Guilty of the Treaſons contained in the Indictment?

Titchborne. That I knew of theſe Treaſons and concealed them, I muſt confeſs that I am Guilty; but unto the reſt, I am not Guilty.

Sandes. You muſt either anſwer Guilty, or not Guilty.

Titchborne. What I am Guilty of, I plead Guilty, and I will confeſs no more.

Hatton. Then you may plead not Guilty.

Titchborne. Then Sir, I ſay, that I am not Guilty.

Hatton. Very well, ſtay then till we have asked as much of *Salisbury* and *Donn*, and then you ſhall be tried.

Sandes. How ſayſt thou, *Henry Donn*, art thou Guilty of the Treaſons, *&c?*

Donn. When I was moved, and made privy to theſe Treaſons, I always ſaid that I prayed unto God, that that might be done, which was to his Honour and Glory.

Hatton. Then it was thus, that they ſaid the Queen ſhould be killed, and thou ſaidſt, God's Will be done.

Donn. Yea, Sir.

Hatton. O Wretch, Wretch! thy Conſcience and own Confeſſion ſhew that thou art Guilty.

Donn. Well Sir, then I confeſs I am Guilty.

Sandes. How ſayſt thou, *Thomas Salisbury*, art thou Guilty? *&c.*

Salisbury. For killing of the Queen's Majeſty, I proteſt I always ſaid I would not do it for a Kingdom.

Sandes. You are indicted, that you practiſed the Delivery of the Queen of *Scots*, the Invaſion of this Land with foreign Forces, and of ſtirring up Rebellion and Sedition in this Realm; are you Guilty of that?

Salisbury. Then I am Guilty of that I ſtand indicted of.

Sandes. Chidiock Titchborne, thou haſt pleaded not Guilty, how wilt thou be tried?

Titchborne. I beſeech you, my Lords, give me leave to ſpeak.

Hatton. Say what you will.

Titchborne. I thank your Honours: My good Lords, in the beginning of this Broil had I ſent for my Horſes to ride into the Country; and the occaſion of my longer abode in *London*, was for that I had a lame Leg. Then what probability may it be, that I went to kill the Queen here hard by *London*; when had it not been for my lame Leg, I had been in *Hampſhire?*

Anderſon. Well then, if you plead not Guilty, we will proceed to your Tryal.

Sandes. How ſayſt thou, art thou Guilty, or not Guilty?

Titchborne. I will confeſs a Truth, and then I muſt confeſs that I am Guilty.

The Queen's Counſel. Then albeit nothing were to be done but Judgment to be given; yet for ſatisfying all the People, her Majeſty's learned Counſel gave in ſuch Evidence, as would ſufficiently prove the Indictment: Firſt, *Savage*'s own Confeſſion according to his former Arraignment, how that *Gifford* hearing them talk of Services at *Rhemes*, ſaid I know not what Service you mean. But what ſay you to ſuch a Service, meaning the cutting of the Throat of the Queen of *England*, and of the Earl of *Leiceſter?* ſaying, he ſhould never do more good than kill an excommunicate Perſon, and that to do the ſame were a far better Service than to ſtudy Divinity. And *Gifford* ſaid moreover, that if *Savage* failed to do it, others ſhould do it. And how that *Ballard* going over into *France* at *Lent* laſt, did meet with one *Gratley*, who brought him to *Charles Paggett*, who told him that the Pope would reform the State here in *England*; and how that *Barnardino de Mendoza* ſaid the King of *Spain* his Maſter would invade this Realm. And that thereupon *Ballard* ſhould be ſent into *England*, to know what Friends they could make, and thereupon *Ballard* took an Oath to perform the ſame, and how that he had in mind to move *Babington* in that behalf before he came, and that he came over about *Whitſontide* laſt. And breaking the ſame with *Babington*, who thereupon ſaid that the Invaſion would never come to effect during her Majeſty's Life; whereupon *Ballard* ſaid that would eaſily be removed, and then made him privy to *Savage*'s practice: and that thereupon *Ballard* ſent to *Savage* to ſpeak with him on *Lambeth* ſide, and there told *Savage* of *Babington*'s Practice, and brought him to *Babington*, who was not friends with *Savage* before. Then *Ballard* went into the North to ſollicite the People, and at his coming up, ſaid he had made 500 ſure more than he knew of before. Furthermore, it was declared that during *Ballard*'s abode in the North, *Babington* did write Letters to the Queen of *Scots*, a true Copy of which Letters written with *Babington*'s own Hand were read in the Court: wherein he began, 'Moſt high and mighty Princeſs, his 'true and Sovereign Liege, to whom alone he ow-'eth Fidelity; declaring how he was her Servant, 'and that he ſtudied to deviſe her one good day's 'Service; and how himſelf with ten Gentlemen, 'and an hundred Horſe, would work her delivery 'from the Cuſtody wherein ſhe was, being in the 'Guard of a Puritan Knight, a mere Leiceſtrian. 'And how that he had appointed ſix noble Gen-'tlemen for diſpatch of the wicked Competitors, 'declaring alſo at large the remainder of his Trea-'ſons, and what means he had invented to com-'paſs the ſame.' And then *Ballard* returned from the North; and before it was determined that *Savage* ſhould have gone to the North, but he could not go, becauſe he had ſworn to kill the Queen. And therefore when *Babington* had deviſed that ſix ſhould kill the Queen, *Savage* would not agree, except himſelf were one: And how in the mean ſeaſon, *Ballard* on Thurſday the 4th of *Auguſt*, about 11 of the Clock was apprehended. Then *Babington* went to *Titchborne*'s Lodging, where not finding him, he went to a Barber's without *Biſhopſgate*, where were his own, *Titchborne*'s and *Savage*'s Pictures; and on *Babington*'s Picture was written:

Hi mihi ſunt Comites, quos ipſa pericula jungunt.

But then miſliking that, was written;

Quorſum hæc alio properantibus.

Then *Babington* went to *Smithfield*, and there walked with *Titchborne*, and there ſaid unto him, I had rather than 500 *l.* thy Leg were whole, for then this matter ſhould be diſpatched. Alſo *Salisbury* confeſſed how *Babington*, *Titchborne*, and he had communication as concerning the ſacking of the City of *London*. Alſo it was proved by their Confeſſion, how that to provide themſelves of Mony for this Practice, they had deviſed to rob all the richeſt Men in *England*, and to ſet fire on the Ships (although *Babington* miſliked to fire the Ships) and to cloy all the great Ordnance. And all the Indictment was ſufficiently and moſt plainly proved by their Confeſſions, accordingly as they were intended.

Sandes. John Ballard, thou haſt been indicted of High-Treaſon, and thereupon arraigned, and haſt pleaded Guilty; what haſt thou to ſay for thy ſelf, wherefore Judgment and Execution of Death ſhould not be given againſt thee?

Ballard. Ballard ſpake ſomething, but not to any effect.

Sandes. Then *Sandes* demanded of *Babington* in like manner.

Babington. Who ſaid he was Guilty of the Treaſons, according to his Confeſſion, for killing of the Queen, and the reſt by *Ballard*'s Perſuaſion.

Hatton. O *Ballard*, *Ballard*, what haſt thou done? A ſort of brave Youths otherwiſe endued with good Gifts, by thy inducement haſt thou brought to their utter Deſtruction and Confuſion.

Babington. Yea, I proteſt before I met with this *Ballard*, I never meant nor intended for to kill the Queen; but by his Perſuaſions I was induced to believe that ſhe was excommunicate, and therefore lawful to murder her.

Ballard. Yea, Mr. *Babington*, lay all the blame upon me, but I wiſh the ſhedding of my Blood might be the ſaving of your Life: Howbeit, ſay what you will, I will ſay no more.

Hatton. Nay, *Ballard*, you muſt ſay more, and ſhall ſay more, for you muſt not commit High-Treaſons and then huddle them up; but is this thy *Religio Catholica?* Nay rather, it is *Diabolica.*

Sandes. John Savage, thou haſt been indicted of High-Treaſon, *&c.* (*ut ſupra*, to *Ballard.*)

Savage and *Titchborne.* *Savage* anſwered nothing, neither did *Titchborne*, being demanded in like ſort alſo.

Sandes. So *Sandes* demanded of *Robert Barnewell* in like manner.

Barne-

Barnewell. Foraſmuch as I have offended againſt the Law, I am contented to ſuffer Puniſhment according to the Law; howbeit, I here proteſt what I have done, was only for my Conſcience-ſake, neither did I ever intend Violence to her Majeſty's Perſon.

Hatton. O *Barnewell, Barnewell,* didſt not thou come to *Richmond,* and when her Majeſty walked abroad, didſt not thou there view her and all her Company, what Weapons they had, how ſhe walked alone? and didſt traverſe the Ground, and thereupon coming back to *London,* didſt make relation to *Babington,* how it was a moſt eaſy matter to kill her Majeſty, and what thou hadſt ſeen and done at the Court; yes, I know thou didſt ſo: How canſt thou then ſay, that thou never didſt intend to lay violent hands on her Majeſty? Nay, I can aſſure thee moreover, and it is moſt true which I ſay, that her Majeſty did know that thou didſt come to that end, and ſhe did ſee and mark thee how thou didſt view her and her Company; but had it been known to ſome there, as well as unto her, thou hadſt never brought news to *Babington.* Such is the Magnanimity of our Sovereign, which God grant be not overmuch, in not fearing ſuch Traitors as thou art.

Barnewell. What I did was only for my Conſcience ſake, and not for any Malice or Hatred to her Majeſty's Perſon.

Hatton. Then wouldſt thou have killed the Queen for Conſcience. Fie on ſuch a deviliſh Conſcience!

Sandes. Henry Donn, thou haſt been indicted of High-Treaſon, *&c. ut ſupra* to *Ballard;* What canſt thou ſay for thy ſelf wherefore Judgment and Execution of Death ſhould not be pronounced againſt thee?

Donn. What I have done herein, was for my Religion and Conſcience ſake; and ſince it is counted Treaſon, I muſt abide the Puniſhment, and therefore *Fiat voluntas Dei.*

Sandes. Salisbury, What canſt thou ſay wherefore Judgment, *&c.* (*ut ſupra* to *Ballard.*)

Salisbury. I beſeech her Majeſty's moſt merciful Pardon for my Offence.

Then Mr. Attorney began to declare at large the Sum of their Treaſons: How they had conſpired her Majeſty's Death, and to make the Queen of *Scots* Queen of *England*; and if peradventure ſhe miſcarried in theſe Hurliburlies as to be ſlain, then would they ſet up the King of *Scots,* if he were a Catholick; if he were not a Catholick, then would they enforce the King of *Spain* to take the Crown and ſet it on his Head, and derive him a Title from the Houſe of *Clarence.* But becauſe that Title would be but ſlender, the Pope ſhould diſpenſe, and ſo make it clear without queſtion. Furthermore he declared, how Prieſts continually had been the beginning of all the Treaſons committed againſt her Majeſty; he began at the Rebellion in the North, and ſo proceeded till the Treaſons of *Throckmorton* and *Parry,* and ſo ended.

Then began Sir *Chriſtopher Hatton,* and made an excellent good Speech, in opening and ſetting forth their Treaſons, and how they all proceeded from the wicked Prieſts the Miniſters of the Pope. And firſt he ſhewed; How theſe wicked and deviliſh Youths had conſpired to murder the Queen's moſt excellent Majeſty; Secondly, To bring in foreign Invaſion; Thirdly, To deliver the Queen of *Scots,* and make her Queen; Fourthly, To ſack the City of *London*; Fifthly, To rob and deſtroy all the wealthy Subjects of this Realm; Sixthly, To kill divers of the Privy-Council, as the Earl of *Leiceſter,* the Lord Treaſurer, Mr. Secretary, Sir *Ralph Sadler,* Sir *Amias Paulett*; Seventhly, To ſet fire on all the Queen's Ships; Eighthly, To cloy all the great Ordnance; Ninthly and laſtly, To ſubvert Religion, and the whole State of Government. The Inventers and Beginners whereof, were theſe deviliſh Prieſts and Seminaries, againſt whom he doubted the Parliament had not yet ſufficiently provided, who, now-a-days, do not go about to ſeduce the antient and diſcreet Men, for they (as the Prieſts ſay) be too cold; but they aſſail, with their Perſuaſions, the younger Sort, and of thoſe, the moſt ripe Wits, whoſe high Hearts and ambitious Minds do carry them headlong to all Wickedneſs. In the end, he concluded with Remorſe for the Youth of ſome of theſe unhappy Men, and with Deteſtation of the Facts of *Ballard*; and alſo ſhewed forth a notable Proof of the Falſhood of theſe lying Papiſts, which was a Book printed at *Rome,* and made by the Papiſts, wherein they affirm, That the *Engliſh* Catholicks which ſuffer for Religion, be lapped in Bear-Skins, and baited to death with Dogs; a moſt monſtrous Lye, and manifeſt Falſhood.

Then ſpake my Lord *Anderſon* to the like effect, almoſt in every Point, in abhorring the Abomination of the Jeſuits and Seminaries; and in the end concluded with an Exhortation for the Health of their Souls; and laſt of all, pronounced the terrible Sentence of their Condemnation.

The Tryal of Edward Abington, Charles Tilney, Edward Jones, John Travers, John Charnock, Jerome Bellamy, *and* Robert Gage, *in* Weſtminſter-Hall, *on Thurſday being the 15th Day of* September, Anno 28 Reginæ Elizabethæ, 1586.

ON Thurſday the 15th of *September*, the Commiſſioners came, and the Cryer commanded Silence, and the Lieutenant of the Tower was commanded to bring forth the Priſoners, which were *Edward Abington*, *Charles Tilney*, and *Edward Jones*, Eſquires; *John Travers*, *John Charnock*, *Jerome Bellamy* and *Robert Gage*, Gentlemen; and *Elizabeth Bellamy* Widow. All which the Lieutenant of the Tower had ready at the Bar, and there informed the Court, the Woman's name was *Katherine*, and not *Elizabeth*: whereupon the Lieutenant was commanded to take her from the Bar, and bring her to ſome other place.

Whereupon *Sandes*, Clerk of the Crown, began in ſort enſuing; *Edward Abington*, *Charles Tilney*, *Edward Jones*, *John Travers*, *John Charnock*, *Jerome Bellamy* and *Robert Gage*, hold up your Hands: which being done, he proceeded, ſaying, Before this time ye were indicted, that where *Bernardyne de Mendoza* a *Spaniard*, *Charles Paget* and *John Ballard*, the 2d day of *April*, in the 28th year of the Reign of our Sovereign Lady the Queen's Majeſty, that now is, at *Paris* in *France*, did conſer in what Place this Realm of *England* moſt aptly might be invaded, and what Aid and Aſſiſtance might be procured for the ſame, and how and by what Ways and Means *Mary* Queen of *Scots* might be deliver'd from the Cuſtody wherein ſhe was. And that thereupon it was reſolved by the Counſel of *Morgan*, a moſt notorious Traitor, that the ſaid *Ballard* ſhould paſs into this Realm of *England* to underſtand what Help might be procured, and to prepare Ports to land the Enemies, for to invade the Realm, and to prepare Ways and Means how *Mary* Queen of *Scots* might be delivered; and thereupon the ſaid *John Ballard*, coming into *England*, you the ſaid *Edward Abington*, *Charles Tilney*, *Edward Jones* and *John Travers*, together with *Anthony Babington*, *John Ballard*, *John Savage*, *Henry Donn*, *Thomas Salisbury*, *Chidiock Titchburne* and *Robert Barnewell*, as falſe Traitors, the 8th day of *June*, in the 28th year of the Reign of our Sovereign Lady the Queen's Majeſty, that now is, at St. *Giles*'s *in the Fields*, in the County of *Middleſex*, did conſpire the Queen's moſt Excellent Majeſty, not only from her Crown and Dignity to depoſe, but alſo her to kill and ſlay, and to ſtir up Sedition and Rebellion in the Realm, and Slaughter among the Subjects for to make, and the Government and Religion to ſubvert, and the whole Eſtate for to deſtroy, and divers Strangers, her Majeſty's Enemies, to invade the Realm, did procure and ſtir up. And afterwards, the twelfth day of *June*, in the year aforeſaid, thou the ſaid *Charles Tilney* and *Anthony Babington*, *Robert Barnewell*, and *Chidiock Titchburne*, went to *St. Giles*'s aforeſaid, to confer by what Ways and Means, your traitorous compaſſed Imaginations might be brought to paſs; and there, the ſame day, had Speech, and did conſer how your Treaſons might be performed: And on the ſaid 12th day of *June*, in the year aforeſaid, at St. *Giles*'s aforeſaid, did conclude, that thou the ſaid *Charles Tilney*, and *Robert Barnewell*, and *Chidiock Titchburne*, would kill the Queen, and aid the foreign Enemies that ſhould invade the Realm; and that thou *Edward Jones*, with *Thomas Salisbury*, to perform your traitorous Imaginations, the 13th day of *June*, in the 28th year aforeſaid, went to St. *Giles*'s aforeſaid, to conſer how your traitorous compaſſed Imaginations might be brought to paſs. And thereupon thou the ſaid *Edward Jones*, with the ſaid *Thomas Salisbury*, the 15th day of *June*, in the year aforeſaid, at St. *Giles*'s aforeſaid, did conclude and agree traitorouſly to join with the ſaid *Thomas Salisbury*, for the Delivery of the ſaid *Mary* Queen of *Scots*, and for to aid and aſſiſt the foreign Enemies, which ſhould invade this Realm: And that thou the ſaid *John Travers*, to fulfil thy traitorous compaſſed Imaginations, the 15th day of *June*, in the 28th year aforeſaid, traitorouſly diddeſt go to *Clerkenwell*, within the County of *Middleſex*, to conſer by what Means your Treaſons might be brought to paſs: And the ſame 15th day of *June*, at *Clerkenwell* aforeſaid, in the County aforeſaid, had Speech, and did conſer how your traitorous compaſſed Imaginations might be brought to paſs. And the 16th of *June*, at *Clerkenwell* aforeſaid, in the County aforeſaid, didſt appoint and conclude, with the ſaid *Thomas Salisbury*, to join with him for the delivery of *Mary* Queen of *Scots*, and in aiding and aſſiſting the foreign Enemies which ſhould invade this Realm. And further, that thou *John Charnock*, with *Thomas Gerrard* Knight, *John Ballard* and *Anthony Babington*, the 27th of *July*, at St. *Giles*'s aforeſaid, in the County aforeſaid, didſt conſpire the Queen's moſt excellent Majeſty, not only from her Crown and Dignity to depoſe, but alſo her to murder and ſlay, and to make Sedition and Rebellion, and Slaughter of her Majeſty's Subjects, and the True and Chriſtian Religion to ſubvert, and the whole Eſtate and Government to alter. And that thou *John Charnock* traitorouſly didſt go to *Southampton*-Houſe in *Holbourn*, within the ſaid County of *Middleſex*, the laſt day of *July*; and the ſame laſt day didſt confer there with *John Ballard*, how your traitorous compaſſed Imaginations might be brought to paſs; and thereupon, the 2d day of *Auguſt*, at *Southampton*-Houſe in *Holbourn* aforeſaid, didſt conclude and agree to do the beſt thou couldſt for Performance of the Treaſons aforeſaid. And that thou *Jerome Bellamy* and *Robert Gage*, knowing that the ſaid *Anthony Babington*, *Robert Barnewell* and *Henry Donn*, had committed High-Treaſon at *Harrow on the Hill*, in the County of *Middleſex*, did receive and aid,

contrary

contrary to your Allegiance you owe to our Sovereign Lady the Queen, her Crown and Dignity, and contrary to divers Statutes in such Case provided. How sayest thou *Edward Abington*, art thou Guilty of these Treasons whereof thou standest indicted, or Not Guilty?

Abington. Not Guilty.

Sandes. How wilt thou be tried?

Abington. By God and my good Country.

Sandes. Thou must say, by God and my Country.

Abington. Yea Sir, by God and my Country.

Sandes. How sayst thou *Charles Tilney*, art thou Guilty of these Treasons whereof thou standest indicted, or Not Guilty?

Tilney. In no sort Guilty, no more guilty than you are.

Sandes. Answer me directly, art thou Guilty or Not Guilty?

Tilney. No Sir, I am not Guilty; and that I am ready to answer and prove.

Sandes. How wilt thou be tried?

Tilney. By God and honest Men.

Harton. What Answers are these? *Abington* says, By God and my good Country; and thou sayst, By God and honest Men. Thou must say, by God and my Country.

Tilney. Yea Sir, so I say.

In like manner *Jones*, *Travers*, *Charnock*, *Bellamy* and *Gage* pleaded Not Guilty.

Thereupon was an Inquest of *Middlesex* called, who appeared at the Bar, and their Names were, *Richard Martin*, *William Fleetwood*, *Jasper Cholmeley*, *William Kempton*, *Robert Lothe* and *John Barnes*, Esquires; *John Hill*, *Robert Wood*, *Thomas Hargrave*, *Thomas Clark*, *John Chawkellett* and *John Draper*, Gentlemen.

Then said *Sandes* to the Prisoners, Have you any Challenge?

Tilney. No not I; for I know them not.

Anderson. Lieutenant of the *Tower*, take away *Gage* and *Bellamy* to some other place out of the hearing of the Court.

So the Lieutenant did.

Abington's *Tryal.*

Then said *Abington*, I beseech your Honours I may have a pair of Writing-Tables to set down what is laid against me, that I may yield a sufficient Answer thereunto.

Sandes. It was never the Course here.

Harton. When you hear any thing you are desirous to answer, you shall speak an answer at full, which is better than a pair of Tables.

Puckering. Well Sir, then will we give Evidence. And first, because it falls out that *Abington* and *Tilney* were acquainted with *Savage*'s Conspiracy, we will shew a little that which yesterday was opened at full; and therefore, by *Ballard*'s Confession, this Summer was Twelve-month, *Ballard* went into *Scotland* to understand of the Willingness of the People, and *Tilney* offered to go with him.

Tilney. Yea Sir, so I did; What can you prove by that?

Puckering. Soft, I will tell you when I come to give Evidence against you. After *Christmas*, *Ballard* went into the North, and afterwards had Speech with *Tilney* to go over beyond the Seas, and *Tilney* agreed and was contented. *Ballard* went over and sent Letters to *Tilney*, desiring to stay till *Ballard* came over back, and he would tell him more. When *Ballard* came over, *Tilney* was acquainted with *Savage*'s Purpose, and *Abington* too: But then *Ballard* fell acquainted with *Babington*, and so came a greater Conspiracy. And *Abington* put forth a Proposition to surprize the Queen, and *Tilney* was privy: And it is under *Babington*'s hand, that *Tilney*, *Titchburne*, *Barnewell* and *Savage* undertook to kill the Queen. *Jones*, at *London*, talked with *Salisbury*, and stay'd for him, and was privy to a Writing that was sent for *Salisbury*'s Apprehension. And *Jones* repaired unto *Salisbury* at Midnight, being in *Jones*'s House, and told him, That he had undone them all, and sent him his own Horse, and his Man's Cloak. *Charnock*, the same day that *Ballard* was taken, was moved by *Babington* to be one of the six to kill the Queen; and he assented, and afterwards sent *Babington* Apparel to fly in. Whereupon was *Ballard*'s Confession read, which was, that he confessed, That he conferred with *Priest* about the State of our Country; and that *Ballard* said, It is now more easy to invade the Realm than before, because the Earl of *Leicester*, with the best of our Captains, were in *Flanders*: and that they two talked with *Mendoza*; who asked them, what armed Men they could make, and what Ports they could yield to the Invaders for to land in; and *Mendoza* told them, his Master had a greater Preparation than ever he had by Sea, but he knew not for what Matter; but he said, He cared not whether they have any Help of them or no: but said, If you will not assist us herein, we will be as Conquerors when we come, and use him also like Enemies. For when it came to the brunt, they always shrunk, only he had a great care for the Delivery of the Queen of *Scots*, and so sent *Ballard* into *England*; and said, His Master, the King of *Spain*, had vowed to lose his Crown, and the Pope his Life, but they would convert *England*, and deliver the Queen of *Scots*. After *Ballard* arrived, he talked with *Babington*, and he seemed willing: Also he confesseth the killing of the Queen.

Attorney. Edward Abington, upon his Examination, denieth he knew *Ballard*; which we will prove to be false: Therefore read first his Denial, which was, That he denied the Surprizing of her Majesty; he denieth the knowledge of *Ballard*, *Fortescue*, or *Brown*; he denieth the Delivery of the Queen of *Scots*; and being told, that the *Frenchmen* would invade this Land, he said, He would spend his Life in her Majesty's Defence: He confesseth, that on Sunday was sevennight, he and his Brother lay on a Hay-mow.

Sollicitor. Whoso is guiltless will speak truly and directly, but the Counterfeit must speak Untruths. Thereupon was another Examination of his read, which was, That *Ballard* being brought to his face, said, That *Ballard* was not with him since *Whitsontide*; but he confesseth, he knew him some years ago at *Chertsey*. *Abington*'s Brother confesseth, That *Ballard* was twice at *Edward Abington*'s Lodging at *Charing-Cross*; and at one of the times his Brother *Ballard* talked secretly in one end of the Chamber: And *Ballard* was first acquainted with *Thomas Abington* at *Rhemes*; and *Ballard* saith, That he made *Edward Abington* acquainted with these Treasons, and he gave his Consent. And *Babington* saith, That *Abington* moved first the Surprize of the Queen. Then was read the Confession of *Babington*, which was, that *Edward Abington* moved first the Surprize of the Queen to some strong Place, and there to move her for Reformation or Toleration of Religion. *Tilney* confesseth, That at the *Three-Tonns* in *Newgate-Market Babington* moved a Proposition for removing of the Lord-Treasurer and Mr. *Secretary*; and that *Abington* spake broad

Speeches

Speeches concerning that Matter; and that *Tilney* did reprove him for the ſame.

Tilney. I deny it, I never ſaid ſo.

Puckering. Here is your own Hand, and read it.

Tilney, It is mine own Hand, but what did I mean? When I ſaid concerning that Matter, I muſt interpret mine own Meaning, I meant to ſpeak broad Words concerning Religion.

Attorney. Then belike you reproved *Abington* for Religion.

Tilney. Yea, I reproved him for ſpeaking broad Words concerning Religion.

Attorney. What Matter did you talk of then but Treaſon? It is well the Jury doth hear your Anſwers.

Manwood. Tilney, you are too hot, this Evidence is againſt *Abington,* you ſhall anſwer your ſelf when it comes to you.

Sollicitor. Tilney confeſſeth that there was ſpeech between him and *Abington* concerning a Surprize of the Queen; and that *Abington* ſaid, he would ride to *Thomas Salisbury* into the Country.

Then ſaid the Queen's Attorney unto the Jury, You perceive how that *Abington* is found falſe for his Acquaintance with *Ballard.*

Then was read *Babington's* Confeſſion, that *Abington* and *Tilney* were diſpoſed to kill the Queen.

Attorney. Salisbury confeſſeth, that *Abington* deſired him to make haſte to his Country; and ſaid, He underſtood by *Babington* of certain Matters, and that he would come to *Salisbury's* Country for Things to be done ſhortly.

Sollicitor. He confeſſeth himſelf, that he was privy unto it, and concealed it.

Then was read *Babington's* Confeſſion before the Lords, which was, That when certain Seminaries in *Rome* came to take leave of the Pope, and to kiſs his Foot, the Pope asked, what they were; and it was told him, that they were *Engliſhmen,* which went to ſpend their Lives for Reformation of Religion in their Country. The Pope ſaid, it was a good ſlow Way; but ſaid, that he would make a Bridge over that Ditch into *England* e'er it were long. Alſo he confeſſeth, That he and *Babington* heard *Edward Abington* uſe ſpeech to the ſame effect.

So you hear how *Babington* ſets down *Abington* to be one of the Six to kill the Queen.

Alſo here is *Ballard's* own Hand, that *Babington* appointed Six to kill the Queen, *Abington, Titchburne, Tilney,* and others.

Abington. It is very well, if I be at *Babington's* Commandment; I proteſt I never knew thereof.

Sollicitor. Here is *Babington's* Letter to the Queen of *Scots,* which proveth you to be one.

The Letter was read, among other, this Sentence was in; There be ſix noble Gentlemen which have undertaken the Tragical Execution, meaning the murdering of the Queen of *England,* only it reſteth, that their Attempt be honourably rewarded.

Abington. I proteſt before Heaven and Earth, as I am a true Chriſtian, I never knew thereof.

The Letter went further, and contained this; All the Actors have vowed, either to die, or elſe to perform their Purpoſe.

Abington. This is *Babington's* Brag, to get Credit with the Queen of *Scots.*

Attorney. We will prove, *Abington,* that thou didſt provide Armour of proof too for your Brother and your ſelf, and one for another Perſon.

Then was *Foſter's* Examination, an Armourer in *Holborn,* read, which proved ſo much directly.

Attorney, to *Hatton.* Mr. Vice-Chamberlain, you deſired *Abington* to ſet down the Truth of theſe Things, thereupon he ſet down a great deal in Writing, and yeſterday he tore it in a hundred pieces; and here Mr. Lieutenant of the Tower hath given me the pieces, and here they be.

Hatton. Abington, you be very obſtinate, and ſeem indurate in theſe Treaſons.

Abington, I will anſwer what is laid againſt me: My firſt acquaintance was with *Savage,* by reaſon that my Brother and he were both of *Bernard's-Inn,* and by him came I acquainted with *Savage,* who talking with me, he told me of a Book written at *Rhemes,* which inveighed againſt the Earl of *Northumberland, Throckmorton* and *Parry,* for that they intended Violence againſt her Majeſty's Perſon, which Book I liked; yea but, ſaid *Savage,* it may be but for a Colour. Then he told me, that it was written but for to blind the Counſellors in *England,* and make them ſecure and careleſs, when in very deed they at *Rhemes* deſire nothing more than the Murder of the Queen of *England.* Then I anſwered, He that allows of *Parry's* Actions, ſavours not of Divinity. And this I proteſt is true. For *Ballard's* Acquaintance, true it is, he came unto my Chamber, and I knew him not; and then he told me, he had ſeen me four years ago at *Chertſey.* So then I asked, What News? And he told me of an Invaſion intended againſt this Country. Whereunto I gave ſuch cold Anſwers, and ſuch cold Entertainment, as I never ſaw him ſince. For my Doings with *Babington,* his Lodging was right in my way to go from *Charing-Croſs,* through the Fields to *London;* and true it is, he made me privy to his Treaſons, and that I concealed them: And when he told me Strangers would invade this Realm to reform Religion, I proteſted to *Babington,* I had rather be drawn to *Tyburn* by the Heels for my Religion, than to have it reform'd by Strangers. And for *Babington's* Accuſation, what force can it be of? for he having committed and confeſſed Treaſon in the moſt high degree, there was no hope for him but to accuſe.

Hatton. For *Babington's* Hope thereof, I am perſuaded he hath no Hope at all; and my Lords here can aſſure there is no Hope at all of his Life; but he confeſſed what he knew for diſcharge of his Conſcience; and what he did, he did it willingly and voluntarily; for had not *Babington* voluntarily named *Abington,* who could have named *Abington?* And had he not alſo willingly accuſed *Tilney,* who could have accuſed *Tilney?*

Abington. Well then Sir, to you my Lords the Judges, I do now ſpeak: There is a Statute in the 1ſt and 13th of this Queen made, That who ſhall conſpire, *&c.* it ſhall be Treaſon, *&c.* provided, that he ſhall have two lawful Witneſſes, face to face, to avow it, *&c.* Now may it pleaſe your Honours to have two lawful Witneſſes to teſtify againſt me. As for *Babington,* what Witneſs can he be, a condemned Man, *Savage* a condemned Man alſo, and *Ballard* a condemned Man likewiſe? So then there is no Witneſs againſt me; but I ſtand not upon this point, I ſtand upon mine own not Guiltineſs. Furthermore, it is not proved that *Babington* and I would be one to kill the Queen; but that he had appointed me to be one, and it is not proved that I knew thereof; and that I ſaid to *Salisbury,* I would come into the Country to underſtand of Things to be done, I proteſt I re-

* member

member not; for what needed any coming into the Country to underſtand, when as *Salisbury* and *Babington* did ride to *St. Albans* in *Babington's* Coach?

Manwood. You anſwer by Arguments, and not by Anſwers.

Abington. If it be true, that they rode together, as it is moſt true, what needed thoſe Speeches?

Manwood. That only anſwereth that *Babington* might confer; but it doth not anſwer, that you needed not to go into the Country to underſtand of things to bedone, for you rode not in the Coach with them.

Abington. I proteſt before God, I remember not that ever I ſaid ſo.

Manwood. Let the Jury conſider of this Anſwer.

Anderſon. For Anſwer to you, *Abington*, for the point of the Statute, true it is, had you been indicted on the Statute of the 1ſt and 13th of this Queen, two Witneſſes ought to have been produced; but you ſtand indicted by the Common Law, and the Statute of 25 *Eliz.* 3. which is, who ſhall intend the Death of the King, *&c.* and in that Statute is not contained any ſuch Proof.

Tilney. The Statute of 25 *Eliz.* 3. is, who ſhall compaſs or imagine, *&c.*

Anderſon. Very well, and not contained to prove by Witneſſes, as you would have it.

Sollicitor. See how they would acquit themſelves for want of Witneſs, and if it ſhould be as they would have it, then could never any Treaſon be ſufficiently proved. The Statute of *primo* is ſo, the Overt-act muſt be proved by two Witneſſes; but the Statute of 25 *Eliz.* 3. is, who ſhall imagine; how then can that be proved by honeſt Men, being a ſecret Cogitation which lieth in the Minds of Traitors? And ſuch Traitors will never reveal their Cogitations unto honeſt men, but unto ſuch as themſelves, and they I hope be no honeſt Men; ſo then they would have their Treaſons never revealed.

Abington. For anſwer that I lay in a Hay-mow, it is moſt true I was in *Hertfordſhire*, when my Houſe in *Worceſterſhire* was in ſearching, and there I heard how my Houſe was ſearch'd; and coming to *Worceſterſhire*, the Country hearing of the horribleneſs of the Things wherewith I was charged, I knew none would receive me nor entertain me; and ſo I was conſtrained to lie in a Hay-mow. And for preparing mine Armour, I proteſt I had the ſame in *Shoe-Lane*, and would have had it ready againſt the going over of the Earl of *Leiceſter*; and hearing him in *Holbourn* to be commended for the moſt ſingular Man in *England* in his Trade, I ſent to him to have it finiſhed.

Then ſaid the Attorney to the Jury, You have heard how *Babington* confeſſeth *Abington* would be one to kill the Queen, and you have heard his Anſwer thereunto.

Abington. If *Babington* ever moved it to me, let me die for it.

Attorney. It is *Babington's* own Confeſſion, that Six, whereof *Abington* was one, diſpoſed to kill the Queen.

Abington. If ever I imagined, or any part thought, of the Indictment which you have alledged, I beſeech God I ſink as I ſtand in this Place.

Anderſon. You had a Seminary Prieſt in your Houſe.

Abington. He was only with me, but not in mine Houſe.

Hatton. Before *Babington* was taken, *Ballard* did voluntarily declare, that you two, *Abington* and *Tilney*, were diſpoſed to kill the Queen.

Anderſon. The Jury hath heard the Indictment and your Anſwers, let them conſider thereof in their Conſciences.

Tilney's *Tryal.*

Firſt was read his Confeſſion, wherein he deny'd *Ballard's* Acquaintance, and he denied that ever he heard *Ballard* ſay, we ſhould have a new World ſhortly. Then was read *Ballard's* Confeſſion, which was, That before *Chriſtmas* laſt, *Ballard* did confeſs *Gage* and *Tilney* at a Houſe in *Holbourn.*

Tilney. I denied *Ballard's* Acquaintance, becauſe, by the laſt Statute, he is a Traitor, and not for my Guilt or Crime. And for that I was confeſſed by him, it was no otherwiſe than all the Subjects of the Realm of *England* were confeſſed in the days of King *Henry* VII.

Sollicitor. But now is the ſtate of this Realm quite other than it was in the days of *Henry* VII. For now the Pope is the greateſt Enemy her Majeſty hath, but it was not ſo then.

Tilney. How know I the Pope is her greateſt Enemy?

Hatton. Know not you how he invaded the Realm of *Ireland?*

Attorney. Know not you how he induced *Mary?*

Tilney. No Sir, in my Conſcience wherein I ſhall die, I never conſpired any Treaſon.

Manwood. Were not you ſworn when you were made a Penſioner? How far different is it to theſe Actions, to be confeſſed, and to conceal Traitors?

Tilney. Yea Sir, but I was not then a Catholick, but now I am; for which I thank God moſt heartily.

Puckering. Did not you ſay, if her Majeſty would forgive you this, you would never deal more with any Seminary Prieſt; but if there were any old Prieſt in *England*, you would have him, if he were to be gotten for Money?

Tilney. But what is this? This only concerneth my Religion, which I was promiſed I ſhould not be charged withal.

Attorney. No more you are for Lands nor Goods, this is only an Introduction to the Treaſon.

Then was read *Tilney's* own Confeſſion, wherein he confeſſed (which alſo was given in evidence againſt *Abington*) that *Abington* ſaid, Why might not her Majeſty be as well ſurprized as the Queen of *Scots*? Which Words he ſpake at the *Three-Tuns* in *Newgate-Market.* He confeſſed, *Ballard* came to his Chamber in *Weſtminſter*, in his Withdrawing-Chamber (as it was termed) where *Ballard* told him, He had provided a Penſion for *Windſor* in *France*, and would do ſo for him; and told him of an Invaſion intended againſt this Realm: He confeſſeth, he would have gone to *Scotland* to have liv'd there among the Catholicks, when *Ballard* went thither; and ſaid, that *Windſor* made him acquainted with *Ballard.*

Tilney. Theſe things I confeſs, but yet 'tis no Treaſon to hear Treaſon talked of by others; as for my ſelf, what Preſumptions may there be if I ſhould be Guilty, being her Majeſty's ſworn Servant, (whoſe Highneſs God grant long to reign) a young Man of ſmall Ability, neither in Lands nor Goods, able to make any Power at all: for Religion, I confeſs I am a Catholick, which I thank God for it, but that I am not now to be charged withall. As for *Ballard's* coming

to

to me, I do confeſs it, but it was in ſuch publick manner, as no Man in the World could judge his coming for any ſuch intent as Treaſon: For he came openly in the Day-time, not in the Night, and never came diſguiſed.

Sollicitor. *Tilney*, you ſay true, he came not diſguiſed, but I will tell you how he came; being a Popiſh Prieſt, he came in a grey Cloak laid on with Gold Lace, in Velvet Hoſe, a cut Sattin Doublet, a fair Hat of the neweſt Faſhion, the Band being ſet with Silver Buttons; a Man and a Boy after him, and his Name Captain *Forteſcue*.

Tilney. All this concerneth my Religion only.

Sollicitor. You confeſs that you were privy to theſe Treaſons; then we will prove directly that you did aſſent thereunto.

Then was read *Ballard*'s Confeſſion, wherein *Ballard* thinketh that *Tilney* did aſſent to kill the Queen, for he ſaw him not diſſent when he told him theſe Treaſons: likewiſe *Tilney* requeſted him for ſome Penſion in *France* when he came over.

Tilney. I ſtand upon the Aſſent.

Sollicitor. *Ballard* affirmeth it; *Babington* ſaid that you *Tilney* were one of the ſix.

Tilney. *Babington* told him ſo, that proves that *Babington* forſooth will be a Stateſman, when God knows he is a Man of no Gravity.

Sollicitor. *Babington*'s Confeſſion is, that *Tilney* and *Abington* were diſpoſed to kill the Queen.

Puckering. *Babington* heard yeſterday at the Bar, that *Tilney* would have had her Majeſty ſet upon in her Coach.

Tilney. No, I ſaid not ſo, only at the *Three Tunns* in *Newgate-Market*, I ſaid it might be her Majeſty might be ſet upon in her Coach, and I ſaid no more. But that proves not I did conſent.

Attorney. You have ſaid enough, if we had no other Evidence againſt you.

Tilney. How ſo?

Attorney. Becauſe you have confeſſed High-Treaſon.

Tilney. I tell you no, there is no ſuch matter intended in my words.

Manwood. Your Cenſure was your Aſſent, and your Cenſure was to kill the Queen in her Coach.

Hatton. Your Words prove that you were concluded upon the Matter, and were deviſing on the Manner.

Attorney. *Babington* and *Ballard* reckoned *Tilney* for one of the ſix to kill the Queen, as by their Confeſſion appeareth.

Tilney. The firſt time that I knew *Babington*, was, that he came to my Chamber in *Weſtminſter*, to crave mine Acquaintance; I uſed him courteouſly, as appertained to a Gentleman. The ſecond time was at the *Three Tunns* in *Newgate-Market*. And the third time was in the Fields, and I never ſaw him elſe: that I ſhould truſt him in ſo high a matter for three times Acquaintance, is altogether improbable. As for *Babington* himſelf, albeit he be very wiſe, yet is he altogether vain.

Hatton. *Babington* declared all this voluntarily, for who could accuſe *Tilney* before *Babington* named *Tilney*?

Tilney. I will tell you how I meant my words in *Newgate-Market*. If a Servant which is faithful, knowing where his Maſter's Mony is, do ſay, if I would be a Thief, I could rob my Maſter, for in ſuch a place his Mony is; this proves not that he would rob his Maſter, albeit he uſed ſuch words. And ſo, although I ſaid ſhe might be ſet upon in her Coach, it proveth not that I aſſented to the ſame; for I proteſt before God, I never intended any Treaſon in my Life.

Anderſon. But if a Servant knowing where his Maſter's Mony is among Thieves, which are deviſing to take away the Maſter's Mony, do ſay, This way my Maſter's Mony may be taken, and be in view when it is taken; I ſay that he is acceſſary. And you *Tilney* being amongſt Traitors, that were deviſing how to kill her Majeſty, to ſhew by what means her Majeſty might be ſlain, it manifeſtly proveth your Aſſent. Therefore let the Jury conſider of their Evidence.

Tilney. Then ſaid *Tilney* unto the Jury, My very good Friends and Countrymen of the Jury, foraſmuch as I am charged highly to have offended againſt the Law, I am now to be tried according to the Law by you. And therefore if you ſhall find this Evidence ſufficient to prove my Guilt, you ought to find me Guilty; but if you ſee in your Conſcience that I have anſwered fully each Objection laid unto my Charge, I charge you to find me not Guilty, as you will anſwer me at the dreadful Day of Judgment.

The Arraignment of Jones.

Firſt was read his Confeſſion, That he ſaid to *John Travers* at *Jones*'s Houſe in *Denbighſhire*, *Salisbury* hath brought us all to Deſtruction; what remedy, ſaid *Travers*, it is then time for us to be packing. But *Jones* lent *Salisbury* his Horſe to ride away with. *Salisbury* confeſſed he acquainted *Jones* with the foreign Invaſion, and Delivery of the Queen of *Scots*, deſiring his aid, which he promiſed him in *Lincolns-Inn-Fields*: And how that *Salisbury* fled upon *Jones*'s relation of *Babington*'s Apprehenſion. Alſo *Salisbury* confeſſed that he cauſed *Jones* to proteſt he would not diſcover him. *Jones* ſaith in his Examination, that *Salisbury* never asked his Aſſent, becauſe he always thought himſelf aſſured of him. Alſo *Jones* ſaid to *Saliſbury*, what have you don? you have undone us all. This was the effect of the Evidence which was given againſt him.

Jones. For concealing of the Treaſon, I put me to her Majeſty's Mercy; I confeſs I haſtened *Salisbury* away.

Manwood. Then you deny not but that you horſed him away.

Jones. Then ſaid *Jones* to the Jury, I confeſs this, and put me to her Majeſty's Mercy; my Caſe was hard and lamentable, either to betray my deareſt Friend, whom I loved as my own ſelf; and to diſcover *Thomas Salisbury*, the beſt Man in my Country, of whom I only made choice; or elſe to break my Allegiance to my Sovereign, and ſo undo my ſelf and my Poſterity for ever. And this was my Caſe.

Travers's *Arraignment.*

Salisbury confeſſed he acquainted *John Travers* with his Treaſons, and that he conſented unto him. And *Travers* ſaid unto him, he would go beyond the Seas with him. *Salisbury* confeſſeth he exacted no Oath of *Jones* and *Travers* when he acquainted them, but that they proteſted they would not diſcover him. Alſo it was proved that when *Jones* intended to have gone to *Ireland*, now lately when it was to have been inhabited by the *Engliſhmen*, *Travers* asked him what he meant to go now, when his preſence was neceſſary; and ſaid, if Mr. *Salisbury* came home, he would ſurely ſtay him.

Then was read *Culey*'s Confeſſion, that *Travers* and *Salisbury* fled, and *Travers* called his own Name *Lacon*, and *Salisbury* called his Name *Johnſon*,

ſon, and that *Culey* would not change his Name, becauſe he had changed it before.

Travers. I fled and changed my Name, becauſe I was a Catholick, and doubted to be troubled for my Religion and Conſcience.

Sollicitor. Nay *Travers*, thou didſt fly for Treaſon, for when *Jones* told you *Salisbury* had undone you all, thou ſaidſt what remedy, and that it was time to be packing; and you had your Chaplain with you, *Culey* I mean.

Travers. If he be a Prieſt, I honour him for his Prieſthood. And ſaid little elſe, as one that ſeemed not to care what Evidence came againſt him, but was reſolute to be hanged.

He confeſſed nothing in his Examination, he denieth he had any Speech with *Babington*, ſaving Salutations. He confeſſed he ſerved in the *Spaniſh* Camp, and there was acquainted with *Savage*, and it was proved againſt him, that he ſaid *Savage*'s ſudden Bravery would bewray all their matters.

Charnock. I confeſs that *Ballard* did make me acquainted with the Invaſion of the Realm, and the other Treaſons, and thereupon I founded *Savage*, who anſwered he was not his own Man, but ſaid there was one in the Court who ſhould have done that long ſince, and that he was a *Morganiſt*.

Then was read *Babington*'s Confeſſion, that *Charnock* promiſed him to be at his Commandment, and *Babington* told him the Queen of *Scots* liked of their Actions.

And *Ballard*'s Confeſſion was read, that he told *Charnock* at large, and *Charnock* liked very well, and ſaid he would do the beſt he could herein.

And *Savage*'s Confeſſion was read, which was, that *Babington* moved *Charnock* to be one of the ſix, and *Charnock* told *Savage* that *Babington* moved him alſo.

Charnock. That I ſaid to *Babington* I would be at his Commandment, it is very true; for *Babington* was my good Friend in divers reſpects, and therefore I thought it pertained to Courteſy, to ſay I remained at his Commandment.

Sollicitor. Nay, thou didſt offer to be at *Babington*'s Commandment in this Action of Treaſon.

Then was *Babington*'s Confeſſion read, which was, that he talking in *Pauls* with *Charnock* of the Queen's Death, *Charnock* promiſed to be diſpoſed by him in this Action, and that he offered to ſpend his Life, wherein *Babington* ſhould direct him.

Then was read *Charnock*'s own Confeſſion, wherein he confeſſed he lent Apparel to *Savage* to fly in, and that he fled into the Woods himſelf.

Charnock. *Savage* and I were acquainted when he was of *Barnard's-Inn*, and I of *Furnival's-Inn*, and we both ſerved in the *Spaniſh* Camp together, and *Savage* brought me acquainted with *Ballard*. As for *Savage*, becauſe I knew he was an excellent Soldier, a Man skilful in Languages, and learned beſides; when I met him here in *England*, I was glad to renew old Acquaintance with him. That I ſhould conſent to *Ballard* the 2d Day of *Auguſt*, ſee (if you pleaſe) what probability there is to the contrary: For on the 4th of *Auguſt* *Ballard* was apprehended, and before his Apprehenſion *Ballard* ſent a Letter to Mr. Secretary, offering to diſcover all; my ſelf was the Bearer of the Letter, and delivered it to one of Mr. Secretary's Men: what likelihood is it then, that I knowing of this Letter after that *Ballard* was taken, would conſent to *Babington* to kill the Queen, or that I conſented to *Ballard* the 2d of *Auguſt*; *Ballard* being apprehended the 4th of *Auguſt*, and before that time had written to Mr. Secretary, and my ſelf was the Meſſenger.

Hatton. *Savage* confronted thee to thy face, and avouched theſe things to thy face.

Charnock. For flying away with my Friend, I fulfilled the part of a Friend therein.

Hatton. To perform thy Friendſhip, thou didſt break thy Allegiance to thy Sovereign.

Charnock. Therein have I offended.

Anderſon. You of the Jury, you have now heard their ſeveral Anſwers at large; go together and conſider thereof in your Conſciences.

Then the Jury upon this Evidence and their Anſwers, went up to a Houſe to agree upon their Verdict; and theſe five Priſoners were ſent away from the Bar.

Then *Bellamy* and *Gage* were called to the Bar, and a new Inqueſt were called and appeared at the Bar, and Evidence was given againſt the two Priſoners in ſort enſuing.

The Arraignment of Gage.

Firſt, was given in Evidence that *Gage* knew *Ballard* to be a Prieſt, and was reconciled, and gave Lodging unto *Ballard*, and attended *Ballard* as his Man when he went into the North to provoke the People to Rebellion: Alſo when all the matter was diſcovered, he lent *Savage* a Horſe to fly to *Croyden*, and directed him to one of *Savage*'s Father's Men, who ſhould help him away: Alſo that he lent *Babington* his Apparel to fly in. Then was ſhewed forth his own Confeſſion, which was, that *Ballard* told him we ſhould have a new World ſhortly, and that he lodged *Ballard* for his Safety: Alſo he confeſſed, that during his flight he lodged in a Barn: Alſo he confeſſed that he was reconciled by *Ballard*.

Alſo *Charnock*'s Confeſſion was read, that *Gage* borrowed Apparel of him to fly in.

Then *Gage* was asked by the Lord Chief Baron *Manwood*, wherefore he fled into the Woods.

Gage ſtoutly and friendly anſwered, for Company.

Bellamy's *Tryal.*

He confeſſed that the noiſe of the Country was, that they (that is to ſay) *Babington*, *Barnewell* and *Donn*, had conſpired the Queen's Death, and how that after that he brought them Meat into the Woods, and lodged them in his Houſe. Alſo Evidence was given, that one coming to *Bellamy*'s Houſe to ſeek for the Traitors, telling him they conſpired the Queen's Death, he denied he knew whom they were; whereas at the ſame time he had them in his Houſe. *Bellamy* ſpake very little for himſelf, only he ſeemed to be a very clowniſh, blunt, wilfull and obſtinate Papiſt.

Then this other Jury went up to a Houſe to agree upon their Verdict, and by that time was the firſt Jury agreed, which came to the Bar; and Alderman *Martin* being their Foreman, ſpake for them, and ſaid that they found all the five Priſoners Guilty; and further, that they knew not what Lands, Tenements, Goods or Chattels the Priſoners had, *&c.* So the Clerk of the Crown ſet down the Verdict, and diſcharged the Inqueſt of that Service.

Forthwith was the other Inqueſt agreed of their Verdict, and found *Gage* and *Bellamy* alſo Guilty of the Treaſons they were indicted of.

Puckering. Then *Puckering*, the Queen's Serjeant, craved Judgment of Death againſt the Priſoners.

Sandes. Then ſaid *Sandes*, the Clerk of the Crown; *Edward Abbington*, thou haſt been indicted of High-Treaſon, and thereupon arraigned, and haſt pleaded not Guilty, thy Country hath found thee Guilty; what haſt thou to ſay for thy ſelf, wherefore Judgment and Execution of Death ſhould not be given againſt thee?

Abbington. My good Lords, ſithence I have been tried by the Law, and am found Guilty of Offence againſt the Law, I am contented to abide the Puniſhment due unto my Guilt. The Inqueſt I cannot accuſe, foraſmuch as they thought in their Conſciences the Evidence ſufficient to condemn me; howbeit that brainleſs Youth *Babington*, whoſe proud Stomach, and ambitious Mind incenſing him to commit moſt abominable Treaſons, hath been the cauſe to ſhed the Blood of others guiltleſs in his Actions. But I cry not Vengeance againſt him, for I am contented to die, being condemned to die. Only this one Petition to you, my good Lords, I make: I have one Siſter whoſe Preferment alſo hath miſcarried, wherefore if it might pleaſe her Majeſty, with the Revenues of my Lands in ſome ſort to provide for her; if I live I will endeavour to be thankful, and if I die, I will pray for her.

Then the Clerk of the Crown demanded the like of *Tilney*; who ſaid,

Tilney. And I my good Lords am able to ſay nothing in deferring of my Judgment. This humble ſuit muſt I make to your Honours; I owe in *London* about two or three hundred Pounds, and I beſeech your Honours to procure my Friends to pay it for diſcharge of my Conſcience.

Then the Clerk of the Crown demanded the like of *Jones*; who ſaid,

Jones. I beſeech your Honours to be a means to her Majeſty for Mercy, for I deſiring to be counted a faithful Friend, am now condemned for a falſe Traitor. The Love of *Thomas Salisbury* hath made me hate my ſelf, but God knows how far I was from intending any Treaſon. But if Mercy be not to be had, I beſeech your Honours this; I owe ſome Sums of Mony, but not very much, and I have more owing me; I beſeech that my Debts may be paid with that which is owing me. Moreover, my good Lords, the Lands I have, I had by deſcent from my Father, at the Marriage of the Gentlewoman which is now my Wife, were intailed unto me, and the Heirs Male of my Body; I beſeech you ſome Conſideration may be had of my Poſterity.

Hatton. *Jones*, did not you tell me that your Lands were Fee-ſimple, for an Argument of your Innocency?

Jones. Yea, Sir, ſo my Lands are, but at the time of my Marriage they were intailed as I tell you.

Sandes. Then the Clerk of the Crown demanded the like of *Travers*; who ſaid,

Travers. I never committed any Treaſon, but for my Religion, I will die in it; only I owe 4 *l.* or ſuch a matter, I beſeech you it may be paid out of the Profits of my Lands.

Then the Clerk of the Crown demanded the like of *Charnock*; who ſaid,

Charnock. I beſeech your Honour, Mr. Vice-Chamberlain, to get her Majeſty to pardon me.

Hatton. *Charnock*, thy Offence is too high for me to be an Obtainer of thy Pardon, but I am ſorry for thee; if thou hadſt applied thy ſelf the beſt way, thou mighteſt have done thy Country good Service.

Charnock. I beſeech you then, that ſix Angels, which ſuch a one hath of mine, may be delivered unto my Brother to pay my Debts.

Hatton. How much is thy Debt?

Charnock. The ſame ſix Angels would diſcharge it.

Hatton. Then I promiſe thee it ſhall be paid.

Then the Clerk of the Crown demanded the like of the reſt, who anſwered little; whereupon they all received Judgment of Death, according to their demerits.

PROCEEDINGS againſt MARY *Queen of* Scots, *at* Fotheringay-Caſtle, *the 12th of* October, 1586. *for being concerned in a Conſpiracy againſt Queen* Elizabeth; *with ſome things previous thereto, and neceſſary to introduce and explain thoſe Proceedings.*

THE Subjects of *England* finding the Kingdom in danger of an Invaſion from abroad, and the Life of the Queen attempted by various Plots at home, carried on by the Papiſts, in proſpect of a Popiſh Succeſſor; voluntarily entered into an Aſſociation for the Queen's Safety, ſolemnly engaging and obliging themſelves to each other, to revenge her Death on thoſe who ſhou'd be the occaſion of it: which Aſſociation was as follows.

'FORASMUCH as Almighty God hath ordain'd Kings, Queens, and Princes to have Dominion and Rule over all their Subjects, and to preſerve them in the Poſſeſſion and Obſervation of the true Chriſtian Religion, according to his holy Word and Commandment; and in like ſort, that all Subjects ſhould love, fear, and obey their Sovereign Princes, being Kings or Queens, to the utmoſt of their power; at all times to withſtand, purſue, and ſuppreſs all

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'manner of Perſons, that ſhall by any means intend and attempt any thing dangerous or hurtful to the Honour, State, or Perſons of their Sovereigns.

'Therefore we whoſe Names are or ſhall be ſubſcrib'd to this Writing, being natural-born Subjects of this Realm of *England*; and having ſo gracious a Lady, our Sovereign *Elizabeth*, by the Ordinance of God, our moſt rightful Queen, reigning over us theſe many years with great Felicity, to our ineſtimable Comfort: And finding lately by divers Depoſitions, Confeſſions, and ſundry Advertiſements out of foreign Parts, from credible Perſons, well known to her Majeſty's Council, and to divers others, that for the Furtherance and Advancement of ſome pretended Title to the Crown, it hath been manifeſted, that the Life of our gracious Sovereign Queen *Elizabeth* hath been moſt dangerouſly deſigned againſt, to the Peril of her Perſon, if Almighty God her perpetual Defender of his Mercy had not revealed and withſtood the ſame; by whoſe Life, we, and all other her Majeſty's true and loyal Subjects, do enjoy all ineſtimable benefit of Peace in this Land: Do for the Reaſons and Cauſes before alledged, not only acknowledge our ſelves moſt juſtly bound with our Lives and Goods for her defence, and in her ſafety to perſecute, ſuppreſs and withſtand all ſuch Intenders, and all other her Enemies, of what Nation, Condition or Degree whatſoever they ſhall be, or by what Counſel or Title they ſhall pretend to be her Enemies, or to attempt any harm upon her Perſon; but do further think it our bounden Duties, for the great benefit of Peace, Wealth, and godly Government, we have more plentifully received theſe many Years under her Majeſty's Government, than any of our Forefathers have done in any longer time of any other Progenitors, Kings of this Realm; to declare, and by this Writing make manifeſt our bounden Duties to our Sovereign Lady for her Safety.

'And to that end, we and every of us, firſt calling to witneſs the Name of Almighty God, do voluntarily and moſt willingly bind our ſelves, every one of us to the other, jointly and ſeverally in the Band of one firm and loyal Society; and do hereby vow and promiſe by the Majeſty of Almighty God, that with our whole Powers, Bodies, Lives and Goods, and with our Children and Servants, we and every of us, will faithfully ſerve, and humbly obey our ſaid Sovereign Lady Queen *Elizabeth*, againſt all States, Dignities and earthly Powers whatſoever; and will as well with our joint and particular Forces during our Lives withſtand, purſue and offend, as well by force of Arms, as by all other means of Revenge, all manner of Perſons, of whatſoever ſtate they ſhall be, and their Abettors, that ſhall attempt any Act, or Counſel, or conſent to any thing that ſhall tend to the harm of her Majeſty's Royal Perſon, and will never deſiſt from all manner of forcible purſuit againſt ſuch Perſons, to the utter extermination of them, their Counſellors, Aiders and Abettors.

'And that any ſuch wicked Attempt againſt her moſt Royal Perſon ſhall be taken in hand, or procured, whereby any that have, may or ſhall pretend Title to come to this Crown by the untimely Death of her Majeſty ſo wickedly procured (which God of his Mercy forbid) may be avenged; we do not only bind our ſelves both jointly and ſeverally never to allow, accept or favour any ſuch pretended Succeſſor, by whom, or for whom any ſuch deteſtable Act ſhall be attempted or commited, as unworthy of all Government in any Chriſtian Realm or Civil State:

'But do alſo further vow and proteſt, as we are moſt bound, and that in the preſence of the eternal and everlaſting God, to proſecute ſuch Perſon or Perſons to death, with our joint and particular Forces, and to act the utmoſt Revenge upon them, that by any means we or any of us can deviſe and do, or cauſe to be deviſed and done for their utter Overthrow and Extirpation.

'And to the better Corroboration of this our Loyal Band and Aſſociation, we do alſo teſtify by this Writing, that we do confirm the Contents hereof by our Oaths corporally taken upon the Holy Evangeliſts, with this expreſs Condition, That no one of us ſhall for any reſpect of Perſon or Cauſes, or for Fear or Reward, ſeparate our ſelves from this Aſſociation, or fail in the Proſecution thereof during our Lives, upon pain of being by the reſt of us proſecuted and ſuppreſt as perjur'd Perſons, and as publick Enemies to God, our Queen, and to our Native Country; to which Puniſhment and Pains we do voluntarily ſubmit our ſelves, and every of us, without benefit of any Colour and Pretence.

'In witneſs of all which Premiſes to be inviolably kept, we do to this Writing put our Hands and Seals; and ſhall be moſt ready to accept and admit any others hereafter to this Society and Aſſociation.

This Aſſociation, although entred into voluntarily by Perſons in their private Capacities, was confirm'd and eſtabliſh'd by a Statute made 27 *Elizabeth* 1585. entitled; *An Act for the Security of the Queen's Royal Perſon, and the Continuance of the Realm in Peace*; and is as follows:

'FOraſmuch as the good Felicity and Comfort of the whole Eſtate of this Realm conſiſteth only (next under God) in the Surety and Preſervation of the Queen's moſt Excellent Majeſty; and for that it hath manifeſtly appeared, that ſundry wicked Plots and Means have of late been deviſed and laid, as well in foreign Parts beyond the Seas, as alſo within this Realm, to the great endangering of her Highneſs's moſt Royal Perſon, and to the utter Ruin of the whole Commonweal, if by God's merciful Providence, the ſame had not been revealed: Therefore for the preventing of ſuch great Perils as might hereafter otherwiſe grow by the like deteſtable and deviliſh Practices, at the humble Suit and earneſt Petition of the Lords Spiritual and Temporal, and the Commons in this Parliament aſſembled, and by the Authority of the ſame Parliament; Be it enacted and ordained, If at any time after the end of this preſent Seſſion of Parliament, any open Invaſion or Rebellion ſhall be had or made, into or within any of her Majeſty's Realms or Dominions, or any Act attempted, tending to the hurt of her Majeſty's moſt Royal Perſon, by or for any Perſon that ſhall or may pretend Title to the Crown of this Realm after her Majeſty's deceaſe; or if any thing that be compaſſed or imagined, tending to the hurt of her Majeſty's Royal Perſon, by any Perſon, or with the privity of any Perſon that ſhall or may pretend Title to the Crown of this Realm:

'That then by her Majeſty's Commiſſion under her Great Seal, the Lords and other of her Highneſs's Privy Council, and ſuch other Lords of Parliament to be named by her Majeſty, as with the ſaid Privy Council ſhall come up to the number of four and twenty at the leaſt, having with them for their aſſiſtance in that behalf ſuch of the Judges of the Courts of Record at *Weſtminſter*, as her Highneſs ſhall for that purpoſe aſſign and appoint, or the more part of the ſame Council, Lords and Judges, ſhall by virtue of this Act, have Authority to examine all and every the Offences aforeſaid, and all Circumſtances thereof, and thereupon to give Sentence or Judgment, as upon good Proof the matter ſhall appear unto them. And that after ſuch Sentence or Judgment given, and Declaration thereof made and publiſh'd by her Majeſty's Proclamation under the Great Seal of *England*, all Perſons againſt whom ſuch Sentence or Judgment ſhall be ſo given and publiſhed, ſhall be excluded and diſabled for ever to have or claim, or to pretend to have or claim the Crown of this Realm, or of any her Majeſty's Dominions; any former Law, or Statute whatſoever to the contrary in any wiſe notwithſtanding. And that thereupon all her Highneſs's Subjects ſhall and may lawfully by virtue of this Act, and her Majeſty's Direction in that behalf, by all forcible and poſſible means purſue to death every ſuch wicked Perſon, by whom or by whoſe means, aſſent, or privity, any ſuch Invaſion or Rebellion ſhall be in form aforeſaid denounced to have been made, or ſuch wicked Act attempted, or other thing compaſſed or imagined againſt her Majeſty's Perſon, and all their Aiders, Comforters and Abetters.

'And if any ſuch deteſtable Act ſhall be executed againſt her Highneſs's moſt Royal Perſon, whereby her Majeſty's Life ſhall be taken away (which God of his great Mercy forbid) that then every ſuch Perſon, by or for whom any ſuch Act ſhall be executed, and their Iſſues being any wiſe aſſenting or privy to the ſame, ſhall by virtue of this Act be excluded and diſabled for ever to have or claim, or pretend to have or claim the ſaid Crown of this Realm, or any other her Highneſs's Dominions, any former Law or Statute to the contrary in any wiſe notwithſtanding. And that all the Subjects of this Realm, and all other her Majeſty's Dominions, ſhall and may lawfully by virtue of this Act, by all forcible and poſſible means purſue to the death every ſuch wicked Perſon, by whom or by whoſe means any ſuch deteſtable Fact ſhall be in form hereafter expreſſed, denounced to have been committed, and alſo their Iſſues being any wiſe aſſenting or privy to the ſame, and all their Aiders, Comforters and Abettors in that behalf.

'And to the end that the Intention of this Law may be effectually executed, if her Majeſty's Life be taken away by any violent or unnatural means (which God defend) Be it further enacted by the Authority aforeſaid, that the Lords and others, which ſhall be of her Majeſty's Privy-Council at the time of ſuch her Deceaſe, or the more part of the ſame Council, joining unto them for their aſſiſtance five other Earls, and ſeven other Lords of Parliament at the leaſt (foreſeeing, that none of the ſaid Earls, Lords or Council be known to be Perſons that may make any Title to the Crown) thoſe Perſons which were Chief Juſtices of either Bench, Maſter of the Rolls, and Chief Baron of the Exchequer at the time of her Majeſty's Death, or in default of the ſaid Juſtices, Maſter of the Rolls, and Chief Baron, ſome other of thoſe which were Juſtices of ſome of the Courts of Records at *Weſtminſter* at the time of her Highneſs's deceaſe, to ſupply their Places; or any four and twenty, or more of them, whereof eight to be Lords of the Parliament, not being of the Privy-Council, ſhall to the uttermoſt of their power and ſkill examine the cauſe and manner of ſuch her Majeſty's Death, and what Perſons ſhall be any way guilty thereof, and all Circumſtances concerning the ſame, according to the true meaning of this Act; and thereupon ſhall by open Proclamation publiſh the ſame, and without any delay by all forcible and poſſible means, proſecute to Death all their Aiders and Abettors; for the doing thereof, and for the withſtanding and ſuppreſſing all ſuch Power and Force, as ſhall be any way levied or ſtirred in diſturbance of the due Execution of this Law, ſhall by virtue of this Act, have Power and Authority, not only to raiſe, and uſe ſuch Forces, as ſhall in that behalf be needful and convenient, but alſo to uſe all other means and things poſſible and neceſſary for the maintenance of the ſame Forces, and Proſecution of the ſaid Offenders. And if any ſuch Power and Force ſhall be levied and ſtirred in diſturbance of the due Execution of this Law, by any Perſon that ſhall, or may pretend any Title to the Crown of this Realm, whereby this Law may not in all things be fully executed, according to the effect and true meaning of the ſame; that then every ſuch Perſon ſhall by virtue of this Act be therefore excluded, and diſabled for ever to have, or claim, or pretend to have or claim the Crown of this Realm, or of any other her Highneſs's Dominions, any former Law or Statute whatſoever to the contrary notwithſtanding.

'And be it further enacted by the Authority aforeſaid, That all, and every the Subjects of all her Majeſty's Realms and Dominions, ſhall to the uttermoſt of their power aid and aſſiſt the ſaid Council, and all other the Lords and other Perſons, to be adjoined to them for aſſiſtance, as is aforeſaid, in all things to be done and executed according to the effect and intention of this Law; and that no Subject of this Realm ſhall in any wiſe be impeached in Body, Land or Goods, at any time hereafter, for any thing to be done or executed according to the Tenor hereof, any Law or Statute heretofore made to the contrary in any wiſe notwithſtanding.

'And whereas of late many of her Majeſty's good and faithful Subjects have in the Name of God, and with the Teſtimonies of good Conſciences, by one uniform manner of writing under their Hands and Seals, and by their ſeveral Oaths voluntarily taken, joined themſelves together in one Bond and Aſſociation, to withſtand and revenge to the uttermoſt all ſuch malicious Actions and Attempts againſt her Majeſty's moſt Royal Perſon: Now for the full explaining of all ſuch Ambiguities and Queſtions, as otherwiſe might happen to grow by reaſon of any ſiniſter or wrong Conſtruction or Interpretation to be made or inferred of, or upon the words or meaning thereof; Be it declared and enacted by the Authority of this preſent Parliament, that the ſame Aſſociation, and every Ar-

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'ticle and Sentence therein contained, as well 'concerning the disallowing, excluding, or dis-'abling any Person that may, or shall pretend 'any Title to come to the Crown of this Realm, 'as also for the pursuing, and taking revenge of 'any such wicked Act or Attempt as is mentioned 'in the same Association, shall, and ought to be 'in all things expounded and adjudged according 'to the true intent and meaning of this Act, and 'not otherwise, nor against any other Person or 'Persons.

The following Year, 1586. *Babington* and others being convicted of a Conspiracy to assassinate Queen *Elizabeth*; and the Queen of *Scots* being charg'd with countenancing and encouraging that Conspiracy, a Commission was issued out, founded upon the aboveſaid Statute for the Examination and Tryal of the said Queen of *Scots*, to the effect following.

ELIZABETH by the Grace of God, of *England*, *France*, and *Ireland* Queen, Defender of the Faith, *&c.* To the most Reverend Father in Christ, *John* Archbishop of *Canterbury*, Primate and Metropolitan of all *England*, and one of our Privy Council; and to our trusty and well-beloved Sir *Thomas Bromley* Kt. Chancellor of *England*, and one of our Privy Council; and also to our trusty and well-beloved *William* Lord *Burghley*, Lord Treasurer of *England*, another of our Privy Council; and also to our most dear Cousin *William* Lord Marquis of *Winchester*, one of the Lords of the Parliament; to our most dear Cousin *Edward* Earl of *Oxford*, Great Chamberlain of *England*, another of the Lords of the Parliament; and also to our most dear Cousin *George* Earl of *Shrewsbury*, Earl Marshal of *England*, another of our Privy Council; and to our most dear Cousin *Henry* Earl of *Kent*, another of the Lords of the Parliament; and also to our most dear Cousin *Henry* Earl of *Derby*, another of our Privy Council; and to our most dear Cousin *William* Earl of *Worcester*, another of the Lords of the Parliament; and also to our most dear Cousin *Edward* Earl of *Rutland*, another of the Lords of the Parliament; and to our most dear Cousin *Ambrose* Earl of *Warwick*, Master of our Ordnance, another of our Privy Council; and to our most dear Cousin *Henry* Earl of *Pembroke*, another of the Lords of the Parliament; and also to our most dear Cousin *Robert* Earl of *Leicester*, Master of our Horse, another of our Privy Council; and to our most dear Cousin *Henry* Earl of *Lincoln*, another of the Lords of the Parliament; and also to our most dear Cousin *Anthony* Viscount *Montague*, another of the Lords of the Parliament; and to our trusty and well-beloved *Charles* Lord *Howard*, our great Admiral of *England*, another of our Privy Council; and to our trusty and well-beloved *Henry* Lord of *Hunsdon*, our Lord Chamberlain, another of our Privy Council; and also to our trusty and well-beloved *Henry* Lord *Abergavenny*, another of the Lords of the Parliament; and to our trusty and well-beloved *Edward* Lord *Zouch*, another of the Lords of the Parliament; and also to our trusty and well-beloved *Edward* Lord *Morley*, another of the Lords of the Parliament; and to our trusty and well-beloved *William* Lord *Cobham*, Lord Warden of our Cinque-Ports, another of our Privy-Council; and also to our trusty and well-beloved *Edward* Lord *Stafford*, another of the Lords of the Parliament; and also to our trusty and well-beloved *Arthur* Lord *Grey* of *Wilton*, another of the Lords of the Parliament; and also to our trusty and well-beloved *John* Lord *Lumley*, another of the Lords of the Parliament; and also to our trusty and well-beloved *John* Lord *Sturton*, another of the Lords of the Parliament; and to our trusty and well-beloved *William* Lord *Sandes*, another of the Lords of the Parliament; and also to our trusty and well-beloved *Henry* Lord *Wentworth*, another of the Lords of the Parliament; to our trusty and well-beloved *Lewis* Lord *Mordant*, another of the Lords of the Parliament; and to our trusty and well-beloved *John* Lord *St. John* of *Bletsho*, another of the Lords of the Parliament; and also to our trusty and well-beloved *Thomas* Lord *Buckhurst*, another of our Privy Council; and to our trusty and well-beloved *Henry* Lord *Compton*, another of the Lords of the Parliament; and also to our trusty and well-beloved *Henry* Lord *Cheiney*, another of the Lords of the Parliament; to our trusty and beloved Sir *Francis Knolles* Kt. Treasurer of our Household, another of our Privy Council: and also to our trusty and well-beloved Sir *James Crofts* Kt. Comptroller of our said Household, another of our Privy Council; and to our trusty and beloved Sir *Christopher Hatton* Kt. our Vice-Chamberlain, another of our Privy Council; and also to our trusty and beloved Sir *Francis Walsingham* Kt. one of our principal Secretaries, another of our Privy Council; and also to our trusty and beloved *William Davison* Esq; another of our principal Secretaries, and of our Privy Council; and to our trusty and beloved Sir *Ralph Sadler* Kt. Chancellor of our Dutchy of *Lancaster*, another of our Privy Council; and also to our trusty and beloved Sir *Walter Mildmay* Kt. Chancellor of our Exchequer, another of our Privy Council; and to our trusty and beloved Sir *Amias Powlet* Kt. Captain of our Isle of *Jersey*, another of our Privy Council; and to our trusty and beloved *John Wolley* Esq; our Secretary for the *Latin* Tongue, another of our Privy Council; and also to our trusty and beloved Sir *Christopher Wray* Kt. Chief Justicer assigned for the Pleas to be holden before us; and to our trusty and beloved Sir *Edmund Anderson* Kt. our Chief Justicer of the Bench; Sir *Roger Manwood* Kt. our Chief Baron of our Exchequer; Sir *Thomas Gawdy* Kt. one of our Justicers assigned for the Pleas to be holden before us; and *William Periam* one of our Justicers of the Bench, Greeting, *&c.*

'Whereas since the end of the Session of Par-'liament; namely, since the first Day of *June*, 'in the 27th Year of our Reign, divers matters 'have been compassed and imagined, tending to 'the hurt of our Royal Person, as well by *Mary* 'Daughter and Heir of *James* V. King of *Scots*, 'and commonly called Queen of *Scots*, and Dowa-'ger of *France*, pretending Title to the Crown of 'this Realm of *England*; as by divers other 'Persons, *cum scientia*, in *English*, *with the privity* 'of the same *Mary*, as we are given to understand. 'And whereas we do intend and determine, that 'the Act aforesaid be in all and every part thereof, 'duly and effectually executed, according to the 'Tenor of the same, and that all Offences above-'said, in the Act abovesaid mentioned, as afore-'said, and the Circumstances of the same, be ex-'amined, and Sentence or Judgment thereupon 'given, according to the Tenor and Effect of the 'said Act: To you, and the greater part of you 'we do give full and absolute Power, Facul-'ty and Authority according to the Tenor 'of the said Act, to examine all and singu-'lar matters compassed and imagined, tending to

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'the hurt of our Royal Perſon, as well by the 'aforeſaid *Mary*, as by any other Perſon or Per-'ſons whatſoever, *cum ſcientia*, in *Engliſh*, *with 'the privity* of the ſame *Mary*, and all Circumſtan-'ces of the ſame, and all other Offences aboveſaid, 'in the Act aboveſaid (as aforeſaid) mentioned 'whatſoever, and all Circumſtances of the ſame, 'and of every of them. And thereupon, according 'to the tenor of the Act aforeſaid, to give Sen-'tence or Judgement, as upon good proof Matter 'ſhall appear unto you. And therefore we do 'command you, that you do at certain Days and 'Places, which you, or the greater part of you, 'ſhall thereunto fore-appoint, diligently proceed 'upon the Premiſes in form aforeſaid, *&c.*

The moſt part of theſe Commiſſioners came the 11th of *October to Fotheringay*-Caſtle in the County of *Northampton*, ſeated upon the Bank of the River *Nen*, where the Queen of *Scots* was then kept. The next day the Commiſſioners ſent to her Sir *Walter Mildmay*, *Powlet*, and *Edward Barker*, Publick Notary; who delivered into her hands Queen *Elizabeth*'s Letter: which when ſhe had read, ſhe, with a Countenance compoſed to Royal Dignity, and with a Mind untroubled, ſaid, It grieveth me that the Queen, my moſt dear Siſter, is miſinform'd of me; and that I having been ſo many years ſtraitly kept in Priſon, and grown lame of my Limbs, have lien neglected, after I have offered ſo many reaſonable Conditions for my Liberty. Though I have throughly forewarned her of many Dangers, yet hath no credit been given unto me, but I have been always contemned, though moſt nearly allied unto her in Blood. When the Aſſociation was enter'd into, and the Act of Parliament thereupon made, I foreſaw that what-ſoever Danger ſhould happen, either from foreign Princes abroad, or from ill-diſpoſed People at home, or for Religion's ſake, I muſt bear the whole blame, having many mortal Enemies in the Court. Certainly I might take it hardly, and not without cauſe, that a Confederacy hath been made with my Son without my knowledge: but ſuch Matters I omit. As for this Letter, it ſeem-eth ſtrange to me, that the Queen ſhould com-mand me as a Subject, to appear perſonally in Judgment. I am an abſolute Queen, and will do nothing which may prejudice either mine own Royal Majeſty, or other Princes of my Place and Rank, or my Son. My Mind is not yet directed, neither will I ſink under my Calamity. I refer my ſelf to thoſe things which I have proteſted before *Bromley*, now Chancellor, and the Lord *La-Ware*. The Laws and Statutes of *Eng-land* are to me moſt unknown; I am deſtitute of Counſellors, and who ſhall be my Peers I am utterly ignorant. My Papers and Notes are taken from me, and no Man dareth ſtep forth to be my Advocate. I am clear from all Crime againſt the Queen, I have excited no Man againſt her, and I am not to be charg'd but by mine own Word or Writing, which cannot be produced againſt me. Yet can I not deny but I have commended my ſelf and my Cauſe to foreign Princes.

The next day there returned unto her in the name of the Commiſſioners, *Powlet* and *Barker*, who ſhewed unto her this Anſwer drawn in Writing, and asked her, whether ſhe would perſiſt in the ſame. When ſhe had heard it diſtinctly read, ſhe commended it as rightly and truly conceived, and ſaid, ſhe would perſiſt therein. But this, ſaid ſhe, I have forgotten, which I would have to be added thereunto: Whereas the Queen hath written, that I am ſubject to the Laws of *England*, and to be judged by them, becauſe I have lived under the Protection of them; I anſwer, that I came into *England* to crave Aid, and ever ſince have been detained in Priſon, and could not enjoy the Pro-tection or Benefit of the Laws of *England*; nay, I could never yet underſtand from any Man, what manner of Laws thoſe were.

In the afternoon came unto her certain ſelected Perſons from amongſt the Comiſſioners, with Men learned in the Civil and Canon-Law. But the Lord Chancellor and the Lord Treaſurer declared their Authority by Patent, and ſhewed that nei-ther her Impriſonment, nor her Prerogative of Royal Majeſty could exempt her from anſwering in this Kingdom, with fair Words, adviſing her to hear what Matters were to be objected againſt her: Otherwiſe they threatned, that by Autho-rity of Law, they both could and would proceed againſt her, though ſhe were abſent. She an-ſwered, That ſhe was no Subject, and rather would ſhe die a thouſand deaths, than acknowledge her ſelf a Subject, conſidering, that by ſuch an Acknowledgement, ſhe ſhould both prejudice the Height of Regal Majeſty, and withal confeſs her ſelf to be bound by all the Laws of *England*, even in matter of Religion: Nevertheleſs ſhe was ready to anſwer to all things in a free and full Parliament, for that ſhe knew not whether this Meeting and Aſſembly were appointed againſt her, being already condemned by Fore-judgings, to give ſome ſhew and colour of a juſt and legal Proceeding. She warned them therefore to look to their Conſciences, and to remember, that the Theatre of the whole World is much wider than the Kingdom of *England*. She began then to com-plain of Injuries done unto her: And the Lord Treaſurer interrupting her, began to reckon up Queen *Elizabeth*'s Kindneſſes towards her, namely, that ſhe had puniſhed ſome which impugned the Claim ſhe laid to *England*, and had been a means to keep her from being condemned by the Eſtates of the Realm, for the Marriage ſought with the Duke of *Norfolk*, for the Rebellion in the North, and for other matters. All which when ſhe ſeem'd little to eſteem, they returned back.

Within few hours after, they delivered unto her, by the hands of *Powlet* and the Sollicitor, the chief Points of their Commiſſion, and the Names of the Commiſſioners, that ſhe might ſee that they were to proceed according to Equity and Right, and not by any cunning point of Law, and extraordi-nary Courſe. She took no Exceptions againſt the Commiſſioners, but moſt ſharply excepted againſt the late Law, upon which the Authority of their Commiſſion wholly depended; as that it was un-juſt, deviſed of purpoſe againſt her, that it was without Example, and ſuch whereunto ſhe would never ſubject her ſelf. She asked, by what Law they would proceed: If by the Civil or Canon-Law, then ſaid ſhe, Interpreters are to be fetched from *Pavia*, or *Poictiers*, and other foreign Univerſities; for in *England* none are to be found that are meet. She added alſo, That it was manifeſt, by plain Words in the Queen's Letters, That ſhe was al-ready fore-judged to be guilty of the Crime, tho unheard; and therefore there was no reaſon why ſhe ſhould appear before them: And ſhe required to be ſatisfied touching ſome Scruples in the ſaid Letters, which ſhe had for her ſelf noted confuſed-ly, and by Snatches, ſeverally by themſelves, but would not deliver them written out; for it ſtood not, ſaid ſhe, with her Royal Dignity, to play the Scrivener.

Touching

Touching this matter, the ſaid ſelected Commiſſioners went unto her again, to whom ſhe ſignified, That ſhe did not well underſtand what thoſe Words meant, ſeeing ſhe is under the Queen's Protection. The Lord Chancellor anſwered, That this was plain to every one of underſtanding, yet was it not for Subjects to interpret what the Queen's Meaning was, neither were they made Commiſſioners for that end. Then ſhe required to have her Proteſtation ſhewed and allowed, which ſhe had formerly made. It was anſwered, that it never had been, nor now was to be allowed, for that it was prejudicial to the Crown of *England*. She asked, By what Authority they would proceed? It was anſwered, By Authority of their Commiſſion, and by the common Law of *England*.

But, ſaid ſhe, ye make Laws at your pleaſure, whereunto I have no reaſon to ſubmit my ſelf, conſidering that the *Engliſh*, in times paſt, refuſed to ſubmit themſelves to the Law Salique of *France*: And if they would proceed by the common Law of *England*, they ſhould produce Precedents and Caſes, foraſmuch as that Law conſiſteth much of Caſes and Cuſtom: And if by the Canon Law, none elſe ought to interpret the ſame but the Makers thereof. It was anſwered, That they would proceed neither by the Civil nor Canon Law, but by the Common Law of *England*: That it might nevertheleſs be proved by the Civil and Canon Law, that ſhe ought to appear before them, if ſhe would not refuſe to hear it. And indeed ſhe refuſed not to hear it, but, but as ſhe ſaid, by way of *Interlocution*, not *Judicially*.

From hence ſhe fell into other Speeches, That ſhe had intended nothing to the Deſtruction of the Queen; that ſhe had been incenſed with Injuries and Indignities; that ſhe ſhould be a Stone of Offence to others, if ſhe were ſo unworthily handled: that by *Nawe* ſhe had offered her beſt means for revoking the Biſhop of *Rome*'s Bull; that ſhe would have defended her Innocency by Letters, but it was not allowed her; and finally, that all the Offices of Kindneſs which ſhe had tender'd theſe twenty years, were rejected. Thus while ſhe wandered far in theſe Digreſſions, they called her back again, and prayed her to ſpeak plainly, whether ſhe would anſwer before the Commiſſioners. She replied, That the Authority of their Delegation was founded upon a late Law made to intrap her; that ſhe could not away with the Queen's Laws, which ſhe had good reaſon to ſuſpect; that ſhe was ſtill full of good Courage, and would not offend againſt her Progenitors, the Kings of *Scots*, by acknowledging her ſelf a Subject to the Crown of *England*: For this were nothing elſe but to profeſs them openly to have been Rebels and Traitors. Yet ſhe refuſed not to anſwer, ſo as ſhe might not be reduced to the rank of a Subject: But ſhe had rather periſh utterly, than to anſwer as a criminal Perſon.

Whereunto *Hatton*, Vice-Chamberlain to Queen *Elizabeth*, anſwered: You are accuſed (but not condemned) to have conſpired the Deſtruction of our Lady and Queen anointed. You ſay you are a Queen: Be it ſo. But in ſuch a Crime the Royal Dignity is not exempted from anſwering, neither by the Civil nor Canon Law, nor by the Law of Nations, nor of Nature. For if ſuch kind of Offences might be committed without Puniſhment, all Juſtice would ſtagger, yea, fall to the ground. If you be innocent, you wrong your Reputation in avoiding Tryal. You proteſt your ſelf to be innocent, but Queen *Elizabeth* thinketh otherwiſe, and that neither without Grief and Sorrow for the ſame. To examine therefore your Innocency, ſhe hath appointed for Commiſſioners moſt honourable, prudent and upright Men, who are ready to hear you according to Equity with favour, and will rejoice with all their hearts if you ſhall clear your ſelf of this Crime. Believe me, the Queen herſelf will be much affected with joy, who affirmed unto me at my coming from her, that never any thing befel her more grievous, than that you were charged with ſuch a Crime. Wherefore lay aſide the bootleſs Privilege of Royal Dignity, which now can be of no uſe unto you; appear in Judgment, and ſhew your Innocency, leſt by avoiding Tryal, you draw upon your ſelf Suſpicion, and lay upon your Reputation an eternal Blot and Aſperſion.

I refuſe not (ſaid ſhe) to anſwer in a full Parliament before the Eſtates of the Realm lawfully aſſembled, ſo as I may be declared the next to the Succeſſion; yea, before the Queen and Council, ſo as my Proteſtation may be admitted, and I may be acknowledged the next of kin to the Queen. To the Judgment of mine Adverſaries, amongſt whom I know all defence of mine Innocency will be barred, flatly I will not ſubmit my ſelf.

The Lord Chancellor asked her, Whether ſhe would anſwer, if her Proteſtation were admitted? I will never (ſaid ſhe) ſubmit my ſelf to the late Law mention'd in the Commiſſion.

Hereupon the Lord Treaſurer inferred; We, notwithſtanding, will proceed to-morrow in the Cauſe, tho you be abſent and continue contumax.

Search (ſaid ſhe) your Conſciences, look to your Honour, God reward you and yours for your Judgment againſt me.

On the morrow, which was the 14th of the month, ſhe ſent for certain of the Commiſſioners, and pray'd them, that her Proteſtation might be admitted and allowed. The Lord Treaſurer asked her, Whether ſhe would appear to her Tryal, if her Proteſtation were only received and put in writing, without allowance. She yielded at length, yet with much ado, and with an ill-will, leſt ſhe ſhould ſeem (as ſhe ſaid) to derogate from her Predeceſſors or Succeſſors; but was very deſirous to purge her ſelf of the Crime objected againſt her, being perſuaded by *Hatton*'s Reaſons, which ſhe had weighed with Adviſement.

Soon after, the Commiſſioners which were preſent, aſſembled themſelves in the Preſence-Chamber. At the upper end of the Chamber was placed a Chair of Eſtate for the Queen of *England*, under a Cloth of Eſtate. Over-againſt it, below and more remote near the tranſom or beam that ran croſs the Room, ſtood a Chair for the Queen of *Scots*. At the Walls on both ſides, were placed Benches, upon which ſate, on the one ſide, the Lord-Chancellor of *England*, Lord-Treaſurer of *England*, the Earls of *Oxford*, *Kent*, *Derby*, *Worceſter*, *Rutland*, *Cumberland*, *Warwick*, *Pembroke*, *Lincoln*, and the Lord Viſcount *Montacute*; on the other ſide, the Barons of *Abergavenny*, *Zouch*, *Morley*, *Stafford*, *Grey*, *Lumley*, *Sturton*, *Sandes*, *Wentworth*, *Mordant*, *St. John* of *Bletſho*, *Compton*, and *Cheiney*. Nigh unto theſe ſate the Knights of the Privy-Council, Sir *James a Croftes*, Sir *Chriſtopher Hatton*, Sir *Francis Walſingham*, Sir *Ralph Sadleir*, Sir *Walter Mildmay*, and Sir *Amias Powlet*. Forward, before the Earls, ſate the two Chief Juſticers, and the Chief Baron of the Exchequer; and on the other ſide two Barons, the other Juſticers, *Dale* and *Ford*, Doctors of the Civil Law; and at

a little Table in the midſt ſate *Popham* the Queen's Attorney, *Egerton* the Sollicitor, *Gaudy* the Queen's Serjeant at Law, the Clerk of the Crown, and two Writers.

When ſhe was come, and had ſettled her ſelf in her ſeat, after ſilence proclaimed, *Bromley* Lord-Chancellor turning to her, ſpake briefly to this effect: The moſt High and Mighty Queen *Elizabeth*, being not without great grief of mind advertiſed, that you have conſpired the Deſtruction of her and of *England*, and the Subverſion of Religion, hath, out of her Office and Duty, leſt ſhe might ſeem to have neglected God, herſelf and her People, and out of no Malice at all, appointed theſe Commiſſioners, to hear the Matters which ſhall be objected unto you, and how you can clear your ſelf of them, and make known your Innocency.

She riſing up, ſaid, That ſhe came into *England* to crave aid, which had been promiſed her, and yet was ſhe detained ever ſince in Priſon. She proteſted, that ſhe was no Subject of the Queen's, but had been and was a free and abſolute Queen, and not to be conſtrained to appear before Commiſſioners, or any other Judge whatſoever, for any Cauſe whatſoever, ſave before God alone the higheſt Judge, leſt ſhe ſhould prejudice her own Royal Majeſty, the King of *Scots* her Son, her Succeſſors, or other abſolute Princes. But, that ſhe now appeared perſonally, to the end to refute the Crimes objected againſt her. And hereof ſhe prayed her own Attendants to bear witneſs.

The Lord Chancellor, not ackowledging that any Aid had been promis'd her, anſwer'd, That this Proteſtation was in vain, for that whoſoever (of what Place and Degree ſoever he were) ſhould offend againſt the Laws of *England*, in *England*, was ſubject unto the ſame Laws, and by the late Act might be examin'd and try'd; the ſaid Proteſtation therefore made in prejudice of the Laws and Queen of *England*, was not to be admitted. The Commiſſioners nevertheleſs commanded, that as well her Proteſtation, as the Lord Chancellor's Anſwer, ſhould be recorded.

Then after the Commiſſion was openly read, which was grounded upon the Act already often mention'd, ſhe ſtoutly oppos'd her Proteſtation againſt the ſame Act, as enacted directly and purpoſely againſt her, and herein ſhe appeal'd to their Conſciences.

When Anſwer was made by the Lord Treaſurer, that every Perſon in this Kingdom was bound even by the lateſt Laws, and that ſhe ought not to ſpeak againſt the Laws; and that the Commiſſioners would judge, according to that Law, what Proteſtations or Appellations ſoever ſhe interpos'd: ſhe ſaid at length, that ſhe was ready to hear and anſwer touching any Fact whatſoever againſt the Queen of *England*.

Gawdy now open'd the Law from Point to Point, affirming, that ſhe had offended againſt the ſame, and hereupon he made an hiſtorical Diſcourſe of *Babington*'s Conſpiracy, and concluded, That ſhe knew of it, approv'd it, aſſented unto it, promis'd her Aſſiſtance, and ſhew'd the Way and Means.

She anſwer'd with ſtout Courage, That ſhe knew not *Babington*, that ſhe never receiv'd any Letters from him, nor wrote any to him; that ſhe never plotted the Deſtruction of the Queen, and that to prove the ſame, her Subſcription under her own hand was to be produc'd; that for her part ſhe never ſo much as heard ſpeak thereof; that ſhe knew not *Ballard*, nor ever reliev'd him; but ſhe underſtood from ſome, that the Catholicks in *England* took many things very hardly, and hereof ſhe herſelf had advertis'd the Queen by Letters, and beſought her to take pity on them; that many alſo, which were to her utterly unknown, had offer'd her their Help and Aſſiſtance, yet had ſhe excited no Man to commit any Offence; and being ſhut up in Priſon, ſhe could neither know nor hinder what they attempted.

Hereupon it was urg'd out of *Babington*'s Confeſſion, that there had been Intercourſe by Letters betwixt her and *Babington*. She confeſs'd that there had paſs'd Conference by Letters betwixt her and many Men, yet could it not thereby be gather'd that ſhe was privy to all their wicked Counſels. She requir'd that her own Subſcription, under her hand, might be produc'd; and ask'd, what hurt it were, if ſhe had redemanded the Letters which had been kept from her almoſt a whole Year. Then were read the Copies of *Babington*'s Letters unto her, wherein the whole Conſpiracy was ſet down.

As for theſe Letters (ſaid ſhe) it may be that *Babington* wrote them, but let it be prov'd that I receiv'd them: If *Babington* or any others affirm it, I ſay they lye openly; other Mens Crimes are not to be caſt upon me. A Packet of Letters, which had been kept from me almoſt a whole Year, came to my hands about that time, but by whom it was ſent, I know not.

To prove that ſhe had receiv'd *Babington*'s Letters, there were read out of *Babington*'s Confeſſion the chief Heads of certain Letters, which he had voluntarily confeſs'd that ſhe wrote back unto him: wherein when mention was made of the Earl of *Arundel* and his Brethren, and the Earl of *Northumberland*, the Tears burſt forth, and ſhe ſaid, Alas! what hath that noble Houſe of the *Howards* endur'd for my ſake? And ſhortly after, having wip'd away the Tears, ſhe anſwer'd, That *Babington* might confeſs what he liſt, but it was an open Lye that ſhe had deviſ'd ſuch means to eſcape: That her Adverſaries might eaſily get the Cyphers which ſhe had us'd to others, and with the ſame write many things falſly: That it was not likely ſhe ſhould uſe *Arundel*'s help, whom ſhe knew to be ſhut up in Priſon; or *Northumberland*'s, who was very young, and to her unknown.

There were read alſo certain Points pick'd out of *Savage*'s and *Ballard*'s Confeſſions, who had confeſs'd that *Babington* imparted unto them certain Letters, which he had receiv'd from the Queen of *Scots*.

She affirm'd, That *Babington* receiv'd none from her, yea that ſhe was angry with ſome which had ſecretly ſuggeſted Counſels unto her for invading of *England*, and had warn'd them to beware.

Now was there a Letter brought forth, wherein *Babington*'s Plot was commended and approv'd. Hereof ſhe requir'd a Copy, and affirm'd, That it proceeded not from her, but haply from her Alphabet of Cyphers in *France*: That ſhe had done her beſt Endeavour for the Recovery of her Liberty, which Nature it ſelf alloweth, and had ſollicited her Friends to deliver her; yet to ſome, whom ſhe liſted not to name, when they offer'd her their Help to deliver her, ſhe anſwer'd not a word. Nevertheleſs, ſhe much deſir'd to divert the Storm of Perſecution from the Catholicks, and for this ſhe had made earneſt Suit to the Queen: For her part, ſhe would not purchaſe the Kingdom with the Death of the meaneſt Man of the common People, much leſs of the Queen: That there were

were many which attempted dangerous Deſigns without her knowledg; and by a very late Letter which ſhe had receiv'd, Pardon was ask'd of her by ſome, if they ſhould enterprize any thing without her Privity: That it was an eaſy Matter to counterfeit the Cyphers and Characters of others, as a young Man did very lately in *France*, which had vaunted himſelf to be her Son's baſe Brother: That ſhe fear'd alſo leſt this were done now by *Walſingham* to bring her to her Death, who (as ſhe heard) had practis'd againſt her Life and her Son's. She proteſted that ſhe not ſo much as thought the Deſtruction of the Queen; that ſhe had rather moſt gladly ſpend her own Life, than for her ſake the Catholicks ſhould be ſo afflicted in Hatred of her, and drawn to cruel Death. And withal ſhe ſhed plenty of Tears.

But (ſaid the Lord Treaſurer) no Man which hath ſhew'd himſelf a good Subject, was ever put to death for Religion, but ſome have been for Treaſon, while they maintain'd the Pope's Bull and Authority againſt the Queen.

Yet I (ſaid ſhe) have heard otherwiſe, and have read it alſo in Books ſet forth in print.

The Authors (reply'd he) of ſuch Books, do write alſo that the Queen hath forfeited her Royal Dignity.

Walſingham, who had found himſelf tax'd even now by her words, took opportunity; and riſing up, proteſted that his Mind was free from all Malice: I call God (ſaid he) to Record, that as a private Perſon I have done nothing unbeſeeming an honeſt Man, nor as I bear the place of a publick Perſon, have I done any thing unworthy my Place. I confeſs that being very careful for the Safety of the Queen and Realm, I have curiouſly ſearched out the Practices againſt the ſame. If *Ballard* had offered me his help, I ſhould not have refuſed it, yea, I would have recompenſed the pains he had taken. If I have practiſed any thing with him, why did he not utter it to ſave his Life?

With this anſwer, ſhe ſaid ſhe was ſatisfied: She prayed him he would not be angry that ſhe had ſpoken freely what ſhe had heard reported; and that he would give no more Credit to thoſe that ſlander'd her, than ſhe did to ſuch who accuſed him: That Spies were Men of doubtful Credit, which diſſemble one thing, and ſpeak another; and that he would in no ſort believe that ſhe had conſented to the Queen's Deſtruction. And now again, ſhe burſt forth into Tears; I would never (ſaid ſhe) make ſhipwreck of my Soul, by conſpiring the Deſtruction of my deareſt Siſter.

It was anſwered by the Lawyers, that this ſhould ſoon be diſproved by Teſtimony. Thus far in the Forenoon.

In the Afternoon, to diſprove this, was produced the Copy of a Letter which *Charles Paget* had written; and *Curle*, one of her Secretaries, had witneſſed that ſhe had received; touching a Conference betwixt *Mendoza* and *Ballard*, about the deſign for invading of *England*, and ſetting her at liberty.

This (anſwered ſhe) was nothing to the purpoſe, and proved not that ſhe had conſented to the Deſtruction of the Queen.

The Lawyers proceeded further, to prove that ſhe was both privy to the Conſpiracy, and conſpired alſo the Deſtruction of the Queen, by *Babington*'s Confeſſion, and Letters alſo that had paſſed betwixt her and him; wherein he called her, his moſt dread and Sovereign Lady, and Queen: And by the way, they mentioned that a Plot was laid for conveying the Kingdom of *England* to the *Spaniard*. She confeſſed, that a Prieſt came unto her, and ſaid, That if ſhe would not intermeddle, ſhe and her Son both ſhould be excluded from the Inheritance; but the Prieſt's Name ſhe would not tell. She added, that the *Spaniard* did lay claim to the Kingdom of *England*, and would not give place to any but to her.

Then preſſed they her with the Teſtimonies of her Secretaries *Naw* and *Curle*, out of *Babington*'s Confeſſion, and the Letters ſent to and fro betwixt her and *Babington*, and the whole Credit of their Proofs reſted upon their Teſtimony; yet were not they produced before her Face to Face. *Curle* ſhe acknowledged an honeſt Man, but not a meet Witneſs to be againſt her. As *Naw*, he had been ſometimes a Secretary (ſaid ſhe) to the Cardinal of *Lorain*, and commended unto her by the *French* King, and might eaſily be drawn either by Reward, or Hope, or Fear, or to bear falſe Witneſs, as one that had ſundry times raſhly bound himſelf by Oath, and had *Curle* ſo pliable unto him, that at his beck he would write what he bad him. It might be that theſe two might inſert into her Letters, ſuch things as ſhe had not dictated unto them. It might be alſo that ſuch Letters came to their hands, which notwithſtanding ſhe never ſaw; and ſo ſhe brake forth into ſuch words as theſe: All both Majeſty and Safety of all Princes falleth to the ground, if they depend upon the Writings and Teſtimony of Secretaries. I deliver'd nothing to them but what Nature delivered to me, that I might at length recover my Liberty. And I am not to be convicted but by mine own Word or Writing. If they have written any thing which may be hurtful to the Queen my Siſter, they have written it altogether without my knowledge; and let them bear the Puniſhment of their inconſiderate Boldneſs. Sure I am, if they were here preſent, they would clear me of all blame in this Cauſe. And I, if my Notes were at hand, could anſwer particularly to theſe things.

Amongſt theſe Speeches, the Lord Treaſurer objected unto her, that ſhe had purpoſed to ſend her Son into *Spain*, and to convey her Title ſhe claimeth in the Kingdom of *England*, to the *Spaniard*.

To whom ſhe anſwered, That ſhe had no Kingdom which ſhe could convey, yet was it lawful for her to give thoſe things which were hers, at her pleaſure, and not to be accountable for the ſame to any.

When her Alphabets of Cyphers, ſent over to *Babington*, the Lord *Lodouic* and *Fernihurſt*, were objected unto her out of *Curle*'s Teſtimony; ſhe denied not, but ſhe had written out many; and amongſt others, that for the Lord *Lodouic*, when ſhe had commended him and another to the dignity of a Cardinal; and that without Offence, (ſhe truſted) for that it was as lawful for her to have intercourſe of Letters, and to negotiate her matters with Men of her Religion, as for the Queen with the Profeſſors of another Religion.

Then preſſed they her hard with the conſenting Teſtimonies of *Naw* and *Curle* reiterated: And ſhe reiterated her Anſwers, or elſe refelled their Teſtimonies by a flat denial; proteſting again, that ſhe neither knew *Babington* nor *Ballard*.

Amongſt theſe Speeches, when the Lord Treaſurer had mentioned, that ſhe knew *Morgan* well, which had ſent *Parry* privily to murder the Queen, and that ſhe had aſſigned him a yearly Penſion;

ſhe replied, That ſhe knew not whether *Morgan* had done ſo, but ſhe knew that *Morgan* had loſt all for her ſake, and therefore it concerned her in Honour to relieve him; and ſhe was not bound to revenge an Injury done the Queen by a Friend that had deſerved well at her hands; yet had ſhe terrified the Man from ſuch wicked Attempts: But contrarywiſe (ſaid ſhe) Penſions have been aſſigned out of *England* to *Patrick Gray*, and to the *Scots* my Adverſaries, as alſo to my Son.

The Lord Treaſurer anſwered, When the Revenues of *Scotland* were by the negligence of the Regents much diminiſhed, the Queen beſtowed ſomewhat in bounty upon your Son the King, her near Kinſman.

Afterwards were produced the chief Points of certain Letters ſent to *England*, and the Lord *Paget*, and to *Bernardine de Mendoza*, about foreign Aid. But when ſhe had anſwered, That theſe things made not to the deſtruction of the Queen; and if Foreigners laboured to ſet her at liberty, it was not to be laid to her Charge; and that ſhe had ſundry times openly ſignified to the Queen that ſhe would ſeek her own Liberty: the matter was prorogued till the next Day following.

The next Day ſhe returned her former Proteſtation, and required to have it recorded, and a Copy thereof delivered unto her, lamenting that the moſt reaſonable Conditions, which ſhe had many times propounded to the Queen, were always rejected, even when ſhe promiſed to deliver her Son, and the Duke of *Guiſe*'s Son for Hoſtages, that the Queen or Kingdom of *England* ſhould receive no detriment by her: ſo as ſhe ſaw her ſelf already quite barred from all hope of her Liberty. But now ſhe was moſt unworthily dealt withal, whoſe Honour and Reputation was called in queſtion before foreign Lawyers, which by wretched Concluſions drew every Circumſtance into a Conſequence; whereas Princes anointed and conſecrate are not ſubject to the ſame Laws that private Men are. Moreover, whereas Authority was granted to the Commiſſioners, to examine matters tending to the hurt of the Queen's Perſon; yet was the Cauſe ſo handled, and Letters wreſted, that the Religion which ſhe profeſſed, the Immunity and Majeſty of foreign Princes, and the private Intercourſe betwixt Princes were called in queſtion, and ſhe her ſelf made to deſcend beneath her Royal Dignity, and to appear as a Party guilty, before a Tribunal Seat: and all to no other purpoſe but that ſhe might be quite excluded out of the Queen's Favour, and her own Right to the Succeſſion; whereas ſhe appeared voluntarily to clear her ſelf of the matters objected againſt her, leſt ſhe might ſeem to have neglected the defence of her own Honour and Innocency. She called alſo to remembrance, how Queen *Elizabeth* her ſelf had been drawn in queſtion about *Wiat*'s Conſpiracy, whereas notwithſtanding ſhe was moſt innocent: religiouſly affirming, that tho ſhe wiſhed the ſafety of the Catholicks might be provided for; yet would ſhe not that it ſhould be effected with the Death and Blood of any one. For her part, ſhe had rather play *Heſter* than *Judith*; make Interceſſion to God for the People, than deprive the meaneſt of the People of Life. She expoſtulated, that her Enemies had divulged abroad that ſhe was Irreligious; but the time was (ſaid ſhe) when I would have been inſtructed in the Proteſtant Religion, but they would not ſuffer me to be ſo, as if they cared not what became of my Soul. And now concluding, When ye have done all ye can (ſaid ſhe) againſt me, and have excluded me from my Right, ye may chance fail of your Cauſe and Hope. And withal making her appeal to God, and to the Princes her Kinſmen, and renewing her Proteſtation, ſhe prayed that there might be another meeting about this matter, and that an Advocate might be granted unto her to plead her Cauſe; and that ſeeing ſhe was a Princeſs, ſhe might be believed in the word of a Princeſs: For it were extreme folly to ſtand to their Judgment, whom ſhe ſaw moſt plainly to be armed with prejudice againſt her.

To theſe things the Lord Treaſurer ſaid, Whereas I bear a double Perſon, one of a Commiſſioner, another of a Counſellor, receive firſt a few Words from me as a Commiſſioner. Your Proteſtation is recorded, and a Copy thereof ſhall be delivered unto you. To us our Authority is granted under the Queen's Hand, and the great Seal of *England*, from which there is no Appeal; neither do we come with Prejudice, but to judge according to the exact Rule of Juſtice. The Queen's learned Counſel do level at nothing elſe but that the Truth may come to light, how far you have offended againſt the Queen's Perſon. To us full Power is given to hear and examine the matter, even in your abſence; yet were we deſirous you ſhould be preſent, leſt we might ſeem to have derogated from your Honour: We purpoſed not to object any thing unto you, but what you were privy to, or have attempted againſt the Queen's Perſon. The Letters have been read to no other purpoſe, but to diſcover your Offence againſt the Queen's Perſon, and the matters to it belonging, which are ſo interlaced with other matters, that they cannot be ſever'd. The whole Letters therefore, and not Parcels picked out here and there, have been openly read, for that the Circumſtances do give aſſurance what matters you dealt with *Babington* about.

She interrupting him, ſaid, The Circumſtances may be proved, but never the Fact: Her Integrity depended not upon the Credit and Memory of her Secretaries, tho ſhe knew them to be honeſt and ſincere Men. Yet if they have confeſſed any thing out of fear of Torments, or hope of Reward and Impunity, it was not to be admitted, for juſt Cauſes, which ſhe would alledge elſewhere. Mens minds (ſaid ſhe) are diverſly carried about with Affections, and they would never have confeſſed ſuch matters againſt her, but for their own Advantage and Hope. Letters may be directed to others than thoſe to whom they are written, and many things have been often inſerted which ſhe never dictated. If her Papers had not been taken away, and ſhe had her Secretary, ſhe could better confute the things objected againſt her.

But nothing (ſaid the Lord Treaſurer) ſhall be objected, but ſince the 19th Day of *June*; neither will your Papers avail you, ſeeing your Secretaries and *Babington* himſelf, being never put to the Rack, have affirmed that you ſent thoſe Letters to *Babington*; which tho you deny, yet whether more Credit is to be given to an Affirmation, than to a Negation, let the Commiſſioners judge. But to return to the matter; this which followeth, I tell you as a Counſellor: Many things you have propounded time after time, concerning your Liberty; that they have failed of Succeſs, it is long of you, or of the *Scots*, and not of the Queen. For the Lords of *Scotland* flatly refuſed to deliver the King in Hoſtage. And when the laſt Treaty was holden concerning your Liberty, *Parry* was

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ſent privily by *Morgan* a Dependent of yours to murder the Queen.

Ah (ſaid ſhe) you are my Adverſary. Yea (ſaid he) I am Adverſary to Queen *Elizabeth*'s Adverſaries. But hereof enough, let us now proceed to Proofs. Which when ſhe refuſed to hear; Yet we (ſaid he) will hear them: And I alſo (ſaid ſhe) will hear them in another Place, and defend my ſelf.

Now were read again her Letters to *Charles Paget*, wherein ſhe ſhewed him that there was no other way for the *Spaniard* to reduce the *Netherlands* to Obedience, but by ſetting up a Prince in *England* that might be of uſe unto him; and to the Lord *Paget* to haſten his Auxiliary Forces to invade *England*: And Cardinal *Allen*'s Letter, wherein he called her his moſt dread Sovereign Lady, and ſignified that the matter was commended to the Prince of *Parma*'s Care.

As theſe Letters were in reading, ſhe interpoſed theſe Speeches; That *Babington* and her Secretaries had accuſed her to excuſe themſelves; that ſhe never heard of the ſix Executioners, and that the reſt made nothing to the purpoſe. As for *Allen*, ſhe held him for a Reverend Prelate; and ſhe acknowledg'd no other Head of the Church, but the Biſhop of *Rome*. In what Rank and Place ſhe was eſteemed by him and foreign Princes, ſhe knew not, neither could ſhe hinder it, if in their Letters they called her Queen of *England*. As for her Secretaries, ſeeing they had done contrary to their Duty and Allegiance ſworn unto her, they deſerved no Credit. They which have once forſworn themſelves, tho they ſwear again with never ſo great Oaths and Proteſtations, are not to be credited. Neither did theſe Men think themſelves bounden by any Oath whatſoever in Court of Conſcience, foraſmuch as they had ſworn their Fidelity and Secrecy to her before, and were no Subjects of *England*. That *Naw* had many times written otherwiſe than ſhe had dictated unto him, and *Curle* wrote whatſoever *Naw* bade him. But for her part ſhe was willing to bear the burden of their fault in all things, but what might lay a blot upon her Honour. And haply alſo they confeſſed theſe things to ſave themſelves; ſuppoſing that they could not hurt her by confeſſing, who they thought ſhould be more favourably dealt withal as being a Queen. As for *Ballard*, ſhe never heard of any ſuch, but of one *Hallard*, which had offered her his help; which notwithſtanding, ſhe had refuſed, for that ſhe had heard that the ſame Man had alſo vowed his Service to *Walſingham*.

Afterwards, when certain brief Notes of her Letters to *Mendoza*, which *Curle* had confeſſed he had written in privy Cypher, were read, and out of them ſhe was preſſed as if ſhe had purpoſed to convey her Right in the Kingdom to the *Spaniard*, and that *Allen* and *Parſons* lay now at *Rome* for that cauſe; ſhe complaining that her Secretaries had broken their Allegiance bound by Oath, anſwered, When being Priſoner I languiſhed in Cares without hope of Liberty, and was without all hope to effect thoſe things which very many expected at my hands, declining now through Age and Sickneſs; it ſeemed good to ſome, that the Succeſſion of the Crown of *England* ſhould be eſtabliſhed in the *Spaniard*, or ſome *Engliſh* Catholick. And a Book was ſent unto me to avow the *Spaniard*'s Title; which when it was not allowed by me, I incurred diſpleaſure among ſome: But now all my hope in *England* being deſperate, I am fully reſolved not to reject foreign Aid.

The Sollicitor put the Commiſſioners in mind what would become of them, their Honours, Eſtates and Poſterities, if the Kingdom were ſo conveyed. But the Lord Treaſurer ſhewed that the Kingdom of *England* could not be conveyed, but was to deſcend by Right of Succeſſion according to the Laws: and asked her, if ſhe would any more.

She required that ſhe might be heard in a full Parliament, or that ſhe might in Perſon ſpeak with the Queen, who would (ſhe hoped) have regard of a Queen, and with the Council. And now riſing up with great Confidence of Countenance, ſhe had ſome Conference with the Lord Treaſurer *Hatton*, *Walſingham*, and the Earl of *Warwick* by themſelves apart.

Theſe things being done, the Aſſembly was prorogued to the 25th of *October*, at the *Star-Chamber* at *Weſtminſter*. Thus far touching this matter out of the Commentaries of *Edward Barker*, principal Regiſter to the Queen's Majeſty; *Thomas Wheeler* publick Notary, Regiſter of the Audience of *Canterbury*; and other credible Perſons which were preſent.

The ſaid 25th Day of *October*, all the Commiſſioners met, ſaving the Earls of *Shrewsbury* and *Warwick*, which were both of them ſick at that time: and after *Naw* and *Curle* had by Oath, *viva voce*, voluntarily without Hope or Reward, before them avowedly affirmed and confirmed all and every the Letters, and Copies of Letters, before produced, to be moſt true; Sentence was pronounced againſt the Queen of *Scots*, and confirmed with the Seals and Subſcriptions of the Commiſſioners, and recorded in theſe words: By their joint Aſſent and Conſent, they do pronounce and deliver their Sentence and Judgment, at the Day and Place laſt recited; and ſay, That after the end of the aforeſaid Seſſion of Parliament, in the Commiſſion aforeſaid ſpecified, namely after the aforeſaid 1ſt Day of *June*, in the 27th Year aboveſaid, and before the date of the ſame Commiſſion, divers matters have been compaſſed and imagined within this Realm of *England*, by *Anthony Babington* and others, *cum ſcientia*, in *Engliſh*, with the Privity, of the ſaid *Mary*, pretending Title to the Crown of this Realm of *England*, tending to the hurt, death and deſtruction of the Royal Perſon of our ſaid Lady the Queen. And namely, That after the aforeſaid 1ſt Day of *June*, in the 27th Year aboveſaid, and before the Date of the Commiſſion aforeſaid, the aforeſaid *Mary* pretending Title to the Crown of this Realm of *England*, hath compaſſed and imagined within this Realm of *England*, divers matters tending to the hurt, death and deſtruction of the Royal Perſon of our Sovereign Lady the Queen, contrary to the form of the Statute in the Commiſſion aforeſaid ſpecified.

Concerning this Sentence, which depended wholly upon the Credit of the Secretaries, and they not brought forth Face to Face, according to the firſt Act of the 13th Year of Queen *Elizabeth*, much talk there was, and divers Speeches ran abroad, while ſome thought them credible Perſons, and ſome unworthy to be credited. I have ſeen *Naw*'s Apology to King *James*, written in the Year 1605. wherein laboriouſly proteſting, he excuſeth himſelf, that he was neither Author, nor Perſuader, nor the firſt Revealer of the Plot that was undertaken, nor failed of his Duty through Negligence, or want of Foreſight; yea, that this Day he ſtoutly impugned the chief points of Accuſation againſt his Lady and Miſtreſs: which not-

notwithſtanding appeareth not by Records. But the ſame day was there a Declaration made by Commiſſioners and the Judges of the Land, That the ſaid Sentence did derogate nothing from *James* King of *Scots*, in Title or Honour, but that he was in the ſame place, degree and right, as if the ſame Sentence had never been pronounced.

Some few days after, a Parliament was holden at *Weſtminſter*, begun by virtue of a certain Power of Vice-gerency, granted by the Queen to the Archbiſhop of *Canterbury*, the Lord Treaſurer, and the Earl of *Derby*, and that not without Precedent. In which Parliament the Proſcription of the Lord *Paget*, *Charles Paget*, Sir *Francis Engleſield*, *Francis Throckmorton*, *Anthony Babington*, *Thomas Salisbury*, *Edward Jones*, *Chidiock Titchborne*, *Charles Tilney*, and the reſt of the Conſpirators, was confirmed, and their Goods and Poſſeſſions confiſcate. The Eſtates alſo of the Realm, which had by their Voices approved and confirmed the Sentence given againſt the Queen of *Scots*, did with joint Aſſent put up a Supplication to the Queen by the hands of the Lord Chancellor, as follows:

MAY it pleaſe your moſt excellent Majeſty, our moſt gracious Sovereign, we your humble, loving and faithful Subjects, the Lords and Commons in this preſent Parliament aſſembled, having of long time to our intolerable grief ſeen by how manifold moſt dangerous and execrable Practices, *Mary* the Daughter and Heir of *James* V. late King of *Scots*, Dowager of *France*, and commonly called Queen of *Scots*, hath compaſſed the Deſtruction of your Majeſty's Sacred and moſt Royal Perſon, in whoſe Safety (next under God) our chief and only Felicity doth conſiſt; and thereby not only to bereave us of the ſincere and true Religion of Almighty God, bringing us and this noble Crown back again into the Thraldom of the Romiſh Tyranny, but alſo utterly to ruinate and overthrow the happy State and Commonweal of this moſt noble Realm; which being from time to time by the great Mercy and Providence of God, and your Highneſs's ſingular Wiſdom foreſeen and prevented, your Majeſty of your exceeding great Clemency and Princely Magnanimity hath either moſt graciouſly paſſed over, or with ſingular favour tolerated, altho often and inſtantly moved by your moſt loving and faithful Subjects to the contrary, in Times of your Parliaments, and at many other times: and hath alſo protected and defended the ſaid *Scottiſh* Queen from thoſe great dangers which her own People, for certain deteſtable Crimes and Offences to her imputed, had determined againſt her. All which notwithſtanding, the ſame Queen was nothing moved with theſe and many other your Majeſty's moſt gracious Favours towards her; but rather obdurate in Malice, and by hope of continual Impunity imboldened to proſecute her cruel and miſchievous Determination by ſome ſpeedy and violent Courſe: and now lately a very dangerous Plot being conceived and ſet down by *Anthony Babington* and others, That ſix deſperate and wicked Perſons ſhould undertake that wicked and moſt horrible Enterprize, to take away your Majeſty's Life, (whom God of his infinite Mercy long preſerve) ſhe did not only give her Advice and Direction upon every point, and all Circumſtances concerning the ſame, make earneſt requeſt to have it perform'd with all diligence, but did alſo promiſe aſſurance of large Reward and Recompence to the doers thereof; which being informed to your Majeſty, it pleaſed your Highneſs, upon the earneſt Suit of ſuch as tendered the Safety of your Royal Perſon, and the good and quiet ſtate of this Realm, to direct your Commiſſion under the Great Seal of *England*, to the Lords and others of your Highneſs's Privy-Council, and certain other Lords of Parliament of the greateſt and moſt antient Degree, with ſome of your principal Judges, to examine, hear and determine the ſame Cauſe, and thereupon to give Sentence or Judgment according to a Statute in that behalf, made in the 27th Year of your moſt gracious Reign: By virtue whereof, the more part of the ſame Commiſſioners, being in number thirty ſix, having at ſundry times fully heard what was alledged and proved againſt the ſaid *Scottiſh* Queen in her own Preſence, touching the ſaid Crimes and Offences, and what ſhe could ſay for her Defence and Excuſe therein, did after long Deliberation give their Sentence and Judgment with one Conſent, that the Death and Deſtruction of your Royal Perſon was imagined and compaſſed by the ſaid *Anthony Babington*, with the privity of the ſame *Scottiſh* Queen: And that ſhe her ſelf did alſo compaſs and imagine the Death and Deſtruction of your moſt Royal Perſon. Now for as much as we your Majeſty's moſt humble, loyal and dutiful Subjects, repreſenting unto your moſt excellent Majeſty the univerſal State of your whole People of all degrees in this your Realm, do well perceive, and are fully ſatisfied, that the ſame Sentence and Judgment is in all things moſt Honourable, Juſt and Lawful; and having carefully and effectually, according to our moſt bounden Duties, weighed and conſidered upon what Ground and Cauſe ſo many traitorous Complots, and dangerous Practices againſt your moſt Royal Perſon and Eſtate, and for the invading of this Realm, have for the ſpace of many years paſt grown and proceeded, do certainly find, and are undoubtedly perſuaded that all the ſame have been from time to time attempted and practiſed, by and from the *Scottiſh* Queen, and by her Confederates, Miniſters and Favourers, who conceive an aſſured hope to atchieve ſpeedily by your Majeſty's untimely Death that which they have long expected, and whereof during your Life (which God long preſerve to our ineſtimable Comfort) they deſpair; to wit, to place her the ſaid *Scottiſh* Queen in the Imperial and Kingly Seat of this Realm, and by her to baniſh and deſtroy the Profeſſors and Profeſſing of the true Religion of Jeſus Chriſt, and the antient Nobility of this Land, and to bring this whole State and Commonweal to foreign Subjection, and utter Ruin and Confuſion: which their malicious and traitorous Purpoſe they will never ceaſe to proſecute by all poſſible means they can, ſo long as they may have their Eyes and Imaginations fixed upon that Lady, the only ground of their treaſonable Hope and Conceits, and the only Seed-Plot of all dangerous and traitorous Devices and Practices againſt your ſacred Perſon. And ſeeing alſo what inſolent Boldneſs is grown in the Heart of the ſame Queen, through your Majeſty's former exceeding Favours and Clemencies towards her; and thereupon weighing with heavy and ſorrowful Hearts, in what continual Peril of ſuch like deſperate Conſpiracies and Practices your Majeſty's moſt Royal and Sacred Perſon and Life (more dear unto us than our own) is and ſhall be ſtill, without any poſſible means to prevent it, ſo long as the ſaid *Scottiſh* Queen ſhall be ſuffered to continue, and ſhall not receive that due Puniſhment, which by Juſtice, and the Laws

of

of this your Realm, ſhe hath ſo often and ſo many ways for her moſt wicked and deteſtable Offences deſerved: Therefore, and for that we find, that if the ſaid Lady ſhould now eſcape the due and deſerved Puniſhment of Death for theſe her moſt execrable Treaſons and Offences, your Highneſs's Royal Perſon ſhall be expoſed unto many more, and thoſe more ſecret and dangerous Conſpiracies than before, and ſuch as ſhall not or cannot be foreſeen or diſcovered, as theſe her late Attempts have been; and ſhall not hereafter be ſo well able to remove or take away the ground and occaſion of the ſame, as now by Juſtice may and ought to be done: We do moſt humbly beſeech your moſt excellent Majeſty, that as well in reſpect of the Continuance of the true Religion now profeſſed amongſt us, and of the Safety of your moſt Royal Perſon and Eſtate, as in regard of the Preſervation and Defence of us your moſt loving, dutiful and faithful Subjects, and the whole Commonweal of this Realm; it may pleaſe your Highneſs to take ſpeedy Order, That Declaration of the ſame Sentence and Judgment be made and publiſhed by Proclamation, and that thereupon direction be given for further Proceedings againſt the ſaid *Scottiſh* Queen, according to the effect and true meaning of the ſaid Statute: Becauſe upon adviſed and great Conſultation, we cannot find that there is any poſſible means to provide for your Majeſty's Safety, but by the juſt and ſpeedy Execution of the ſaid Queen, the neglecting whereof may procure the heavy Diſpleaſure and Puniſhment of Almighty God, as by ſundry ſevere Examples of his great Juſtice in that behalf left us in the Sacred Scriptures doth appear. And if the ſame be not put in preſent Execution, we your moſt loving and dutiful Subjects ſhall thereby (ſo far as Man's Reaſon can reach) be brought into utter Deſpair of the Continuance amongſt us of the true Religion of Almighty God, and of your Majeſty's Life, and the Safety of all your faithful Subjects, and the good Eſtate of this moſt flouriſhing Commonweal.

The Queen with great Majeſty of Countenance and Voice, anſwered to this purpoſe: So many and ſo great are the bottomleſs Graces, and immeaſurable Benefits beſtowed upon me by the Almighty, that I muſt not only moſt humbly acknowledge them as Benefits, but admire them as Miracles, being in no ſort able to expreſs them. And tho there liveth not any that may more juſtly acknowledge himſelf bound to God than I, whoſe Life he hath miraculouſly preſerved from ſo many Dangers, yet am I not more deeply bound to give him Thanks for any one Thing, than for this which I will now tell you, and which I account as a Miracle: Namely, that as I came to the Crown with the moſt hearty Good-will of all my Subjects, ſo now after 28 years Reign, I perceive in them the ſame, if not greater Good-will towards me; which if I once loſe, well might I breath, but never think I lived. And now tho my Life hath been dangerouſly ſhot at, yet I proteſt there is nothing hath more grieved me, than that one not differing from me in Sex, of like Rank and Degree, of the ſame Stock, and moſt nearly allied unto me in Blood, hath fallen into ſo great a Crime. And ſo far have I been from bearing her any Ill-will, that upon the diſcovery of certain treaſonable Practices againſt me, I wrote unto her ſecretly, that if ſhe would confeſs them by a private Letter unto my ſelf, they ſhould be wrapped up in Silence. Neither did I write thus in mind to intrap her, for I knew then as much as ſhe could confeſs. And even yet, tho the matter be come thus far, if ſhe would truly repent, and no Man would undertake her Cauſe againſt me, and if my Life alone depended hereupon, and not the Safety and Welfare of my whole People, I would (I proteſt unfeignedly) moſt willingly pardon her. Nay, if *England* might by my Death attain a more flouriſhing Eſtate, and a better Prince, I would moſt gladly lay down my Life: For, for your ſakes it is, and for my Peoples, that I deſire to live. As for me, I ſee no ſuch great Cauſe why I ſhould either be fond to live, or fear to die. I have had good Experience of this World, and I know what it is to be a Subject, and what to be a Sovereign. Good Neighbours I have had, and I have met with bad; and in Truſt I have found Treaſon. I have beſtowed Benefits upon ill Deſervers; and where I have done well, have been ill requited. While I call to mind theſe things paſt, behold things preſent, and expect things to come, I hold them happieſt that go hence ſooneſt. Nevertheleſs againſt ſuch Miſchiefs as theſe, I put on a better Courage than is common to my Sex, ſo as whatſoever befall me, Death ſhall not take me unprepared.

And as touching theſe Treaſons, I will not ſo prejudicate my ſelf, or the Laws of my Kingdom, as not to but think that ſhe having been the Contriver of the ſame Treaſons, was bound and liable to the antient Laws, tho the late Act had never been made; which notwithſtanding was no ways made to prejudice her. So far was it from being made to intrap her, that it was rather intended to forewarn and terrify her from attempting any thing againſt it. But ſeeing it was now in force of a Law, I thought good to proceed againſt her according to the ſame. But you Lawyers are ſo curious in ſcanning the nice Points of the Law, and following of Precedents and Form, rather than expounding the Laws themſelves, that by exact obſerving of your Form, ſhe muſt have been indicted in *Staffordſhire*, and have holden up her hand at the Bar, and have been tried by a Jury of twelve Men. A proper Courſe forſooth of Tryal againſt a Princeſs! To avoid therefore ſuch Abſurdities, I thought it better to refer the Examination of ſo weighty a Cauſe, to a good number of the nobleſt Perſonages of the Land, and the Judges of the Realm; and all little enough. For we Princes are ſet as it were upon Stages, in the ſight and view of all the World. The leaſt Spot is ſoon ſpyed in our Garments, a Blemiſh quickly noted in our Doings. It behoveth us therefore to be careful that our Proceedings be juſt and honourable. But I muſt tell you one thing, that by this laſt Act of Parliament you have brought me to a narrow ſtraight, that I muſt give Order for her Death, which is a Princeſs moſt nearly allied unto me in Blood, and whoſe Practices againſt me have ſtricken me into ſo great Grief, that I have been glad to abſent my ſelf from this Parliament, leſt I ſhould increaſe my Sorrow by hearing it ſpoken of, and not out of fear of any danger, as ſome think. But yet I will now tell you a ſecret (tho it is well known that I have the property to keep counſel;) It is not long ſince theſe Eyes of mine ſaw and read an Oath, wherein ſome bound themſelves to kill me within a Month: hereby I ſee your danger in me, which I will be very careful to avoid.

Your

Your Aſſociation for my Safety I have not forgotten, which I never ſo much as thought of, till a great number of Hands, with many Obligations, were ſhewed me; which as I do acknowledge as a ſtrong Argument of your true Hearts, and great Zeal to my Safety, ſo ſhall my Bond be ſtronger tied to a greater Care for your Good. But foraſmuch as this matter now in hand is very rare, and of greateſt conſequence, I hope you do not look for any preſent Reſolution; for my manner is, in matters of leſs moment than this, to deliberate long upon that which is once to be reſolved. In the mean time I beſeech Almighty God to illuminate my Mind, that I may foreſee that which may ſerve for the Good of his Church, the Proſperity of the Commonwealth, and your Safety. And that Delay may not breed Danger, we will ſignify our Reſolution with all Conveniency. And whatever the beſt Subjects may expect at the hands of the beſt Princeſs, that expect from me to be performed to the full.

The twelfth Day after, when ſhe had throughly weighed the matter in her Mind, being diſtracted with doubtful Care and Thought, and as it were in ſome Conflict with her ſelf what to do in ſo important a Buſineſs, ſhe ſent the Lord Chancellor to the higher Houſe, and *Puckering* to the reſt in the lower Houſe; praying them to enter into a new Conſideration upon ſo weighty a matter, and to deviſe ſome better remedy, whereby both the Queen of *Scots* Life might be ſpared, and her own Security provided for.

After much and long Deliberation, they judging that both the Welfare and Hurt of the Prince belongeth to all, concurred again with one Voice in the ſame Opinion, and that for theſe Cauſes: For that the Queen's Safety could not be ſecured as long as the Queen of *Scots* lived, unleſs ſhe either ſeriouſly repented and acknowledg'd her Offence, or were kept with a more ſtreight Guard, good aſſurance being given by Bond and Oath for her good Demeanour, or delivered Hoſtages, or elſe departed the Realm. As for her Repentance, they were out of all hope of it, conſidering that ſhe had ill requited the Queen which had ſaved her Life, and did not yet acknowledge her fault. As for a ſurer Guard, ſtreighter Cuſtody, Bonds, Oath, and Hoſtages, they held them all as nothing, for that the Queen's Life being once taken away, theſe would preſently vaniſh. And if ſhe ſhould depart the Realm, they feared leſt ſhe would preſently take Arms to invade the ſame.

Theſe Reaſons when the Lord Chancellor, and *Puckering* Speaker of the lower Houſe, had opened more at large, urging hard that the Sentence might be put in Execution; for that as it were Injuſtice to deny Execution of Law to any one of her Subjects that ſhould demand it, ſo much more to her whole People of *England*, with one Voice and Mind making humble and inſtant Suit for the ſame: The Queen ſpake in this manner;

Full grievous is that way, whoſe going on, and end, yield nothing but Cumber for the hire of a laborious Journey. I have this day been in greater Conflict with my ſelf, than ever in all my Life, whether I ſhould ſpeak, or hold my peace. If I ſpeak, and not complain, I ſhall diſſemble: And if I ſhould be ſilent, your Labour taken were all in vain. If I ſhould complain, it might ſeem ſtrange and rare. Yet I confeſs that my moſt hearty deſire was, that ſome other means might have been deviſed to work your Security and my Safety, than this which is now propounded. So as I cannot but complain, tho not of you, yet unto you; that I perceive by your Petitions that my Safety dependeth wholly upon the Death of another. If there be any that think I have prolonged the time of purpoſe to make a counterfeit ſhew of Clemency, they do me moſt undeſerved wrong, as he knoweth which is the Searcher of the moſt ſecret Thoughts of the Heart. Or if there be any that be perſuaded, that the Commiſſioners durſt not pronounce other Sentence, as fearing thereby to diſpleaſe me, or to ſeem to fail of their care for my Safety, they do but heap upon me moſt injurious Conceipts. For either thoſe whom I have put in truſt, have failed of their Duties, or elſe they ſignified unto the Commiſſioners in my Name, that my Will and Pleaſure was, that every one ſhould deal freely according to his Conſcience, and what they would not openly declare, that they ſhould reveal unto me in private. It was of my moſt favourable Mind towards her, that I deſired ſome other means might be found out to prevent this miſchief. But ſince now it is reſolved, that my Surety is moſt deſperate without her Death, I have a moſt inward feeling of Sorrow, that I which have in my time pardoned ſo many Rebels, winked at ſo many Treaſons, or neglected them with ſilence, muſt now ſeem to ſhew Cruelty upon ſo great a Princeſs.

I have, ſince I came to the Crown of this Realm, ſeen many defamatory Books and Pamphlets againſt me, accuſing me to be a Tyrant: Well fare the Writers Hearts, I believe their meaning was to tell me News; and News indeed it was to me, to be branded with the note of Tyranny: I would it were as great News to hear of their Impiety. But what is it which they will not write now, when they ſhall hear that I have given Conſent, that the Executioner's hands ſhall be imbrued in the Blood of my neareſt Kinſwoman? But ſo far am I from Cruelty, that to ſave mine own Life, I would not offer her Violence; neither have I been ſo careful how to prolong mine own Life, as how to preſerve both: which that it is now impoſſible, I grieve exceedingly. I am not ſo void of Judgment, as not to ſee mine own Perils before mine eyes; nor ſo mad, to ſharpen a Sword to cut mine own Throat; nor ſo careleſs, as not to provide for the Safety of mine own Life. But this I conſider with my ſelf, that many a Man would put his own Life in danger to ſave a Princeſs's Life. I do not ſay, ſo will I; yet have I many times thought upon it.

But ſeeing ſo many have both written and ſpoken againſt me, give me leave, I pray you, to ſay ſomewhat in my own defence, that ye may ſee what manner of Woman I am, for whoſe Safety you have paſſed ſuch careful Thoughts; wherein as I do with moſt thankful Heart conſider your vigilant Care, ſo am I ſure I ſhall never requite it, had I as many Lives as you all.

When firſt I took the Sceptre, I was not unmindful of God the Giver, and therefore began my Reign with his Service, and the Religion I had been both born in, bred in, and I truſt ſhall die in. And tho I was not ignorant how many Perils I ſhould be beſet withal at home for altering Religion, and how many great Princes abroad, of a contrary Profeſſion, would attempt all Hoſtility againſt me; yet was I no whit diſmayed, knowing that God, whom only I reſpected, would defend both me and my Cauſe. Hence it is, that ſo many Treacheries and Conſpiracies have been attempted againſt me, that I rather marvel that I

am

am, than muſe that I ſhould not be, were it not that God's holy Hand hath protected me beyond all Expectation. Then, to the end I might make the better progreſs in the Art of ſwaying the Scepter, I enter'd into long and ſerious Cogitation what things were worthy and fitting for Kings to do: and I found it moſt neceſſary that they ſhould be abundantly furniſhed with thoſe ſpecial Virtues, Juſtice, Temperance, Prudence, and Magnanimity. As for the two latter, I will not boaſt my ſelf, my Sex doth not permit it: But for the two former, I dare ſay, (and that without Oſtentation) I never made a difference of Perſons, where Right was one; I never preferred for Favour, whom I thought not fit for Worth; I never bent my ear to credit a tale that was firſt told, nor was ſo raſh to corrupt my Judgment with Prejudice, before I heard the Cauſe. I will not ſay but many Reports might haply be brought me in too much Favour of the one ſide or other; for we Princes cannot hear all our ſelves: Yet this I dare ſay boldly, My Judgment went ever with the Truth according to my Underſtanding. And as full well *Alcibiades* wiſhed his Friend, not to give any Anſwer till he had run over the Letters of the Alphabet; ſo have I not uſed raſh and ſudden Reſolutions in any thing.

And therefore as touching your Counſels and Conſultations, I acknowledge them to be ſo careful, provident, and profitable for the preſervation of my Life, and to proceed from Minds ſo ſincere and to me moſt devoted, that I ſhall endeavour my ſelf all I can, to give you cauſe to think your pains not ill-beſtowed, and ſtrive to make my ſelf worthy of ſuch Subjects.

And now for your Petition, I pray you for this preſent to content your ſelves with an Anſwer without Anſwer. Your Judgement I condemn not, neither do I miſtake your Reaſons, but pray you to accept my Thankfulneſs, excuſe my Doubtfulneſs, and take in good part my Anſwer anſwerleſs. If I ſhould ſay, I would not do what you requeſt, I might ſay perhaps more than I think: And if I ſhould ſay I would do it, I might plunge my ſelf into Peril, whom you labour to preſerve; which in your Wiſdoms and Diſcretions ye would not that I ſhould, if ye conſider the Circumſtances of Place, Time, and the Manners and Conditions of Men.

After this, the Aſſembly of the Eſtates was prorogued.

About that time were Lord *Buckhurſt* and *Beale* ſent to the Queen of *Scots*, to ſignify unto her that Sentence was pronounced againſt her; that the ſame was approved and confirmed by Act of Parliament, as moſt juſt, and the Execution thereof inſtantly ſued for by the Eſtates, out of a due regard of Juſtice, Security and Neceſſity: and therefore to perſuade her to acknowledge her Offences againſt God and the Queen, and to expiate them before her Death by Repentance; letting her underſtand, that as long as ſhe lived, the received Religion in *England* could not ſubſiſt. Hereat ſhe ſeemed with a certain unwonted Alacrity to triumph, giving God thanks, and rejoicing in her heart that ſhe was holden to be an Inſtrument for the re-eſtabliſhing of Religion in this Iſland. And earneſtly ſhe prayed, that ſhe might have a Catholick Prieſt to direct her Conſcience, and miniſter the Sacraments unto her. A Biſhop and a Dean whom they commended unto her for this uſe, ſhe utterly rejected, and ſharply taxed the *Engliſh* Nation, ſaying often, That the *Engliſh* had many times ſlaughtered their Kings; no marvel therefore, if they now alſo ſhew their Cruelty upon me, that am iſſued from the Blood of their Kings.

The Publication of the Sentence was ſtayed a while by the Interceſſion of *L'Aubeſpine* the *French* Embaſſador: but in the month of *December*, through the earneſt Inſtance of ſome Courtiers, it was publickly proclaimed all over the City of *London*, the Lord Mayor, the Aldermen, and principal Officers and Citizens being preſent, and afterward throughout the whole Realm. In the Proclamation the Queen ſeriouſly proteſted, that this Publication was extorted from her not without exceeding Grief of Mind, out of a certain Neceſſity, and the moſt vehement Prayers and Obteſtations of the Eſtates of the Realm; though there were which thought this to proceed of Womens Cunning, who tho they much deſire a thing, yet will always ſeem rather to be conſtrained unto it.

The Scottiſh *Queen's Letter to* Anthony Babington, *to renew the Intelligence.*

'MY very good Friend, albeit it be long ſince
'you heard from me, not more than I have
'done from you, it is againſt my Will; yet would
'I not you ſhould think I have in the mean while,
'nor ever will be unmindful of the effectual Af-
'fection you have ſhewed heretofore towards all
'that concerneth me. I have underſtood, that
'upon the renewing of your Intelligence, there
'were addreſſed unto you, both from *France* and
'*Scotland*, ſome Packets for me; I pray you, if
'any be come to your hands, and be yet in place,
'to deliver them to the Bearer hereof, who will
'ſafely convey them unto me; and I will pray to
'God for your Preſervation.

June *the* 28*th*, *at* Chartley. *Your Aſſured Good Friend,*

MARY REGINA.

Anthony Babington's *Letter to the* Scottiſh *Queen.*

'MOST mighty, moſt excellent, my dread
'Sovereign Lady and Queen, unto whom
'I owe all Fidelity and Obedience; it may pleaſe
'your gracious Majeſty to admit Excuſe of my
'long Silence, and Diſcontinuance from thoſe
'dutiful Offices, intercepted upon the Remove
'of your Royal Perſon from the antient place of
'your abode, to the cuſtody of a wicked Puritan,
'and meer *Leiceſtrian*, a mortal Enemy both by
'Faith and Faction to your Majeſty and to the
'Catholick Eſtate: I held the hope of our Coun-
'try's Weal depending (next under God) upon the
'Life of your Majeſty, to be deſperate, and there-
'upon reſolved to depart the Realm, determining
'to ſpend the remnant of my Life in ſuch ſolitary
'ſort, as the miſerable and wretched Eſtate of
'my Country doth require; only expecting, ac-
'cording to the juſt Judgment of God, the pre-
'ſent Confuſion thereof; which God, for his
'Mercy ſake, prevent. The which my purpoſe
'being in execution, and ſtanding upon my de-
'parture, there was addreſſed unto me, from the
'Parts beyond the Seas, one *Ballard*, a Man of
'Virtue and Learning, and of ſingular Zeal to the
'Catholick Cauſe, and your Majeſty's Service.
'The Man informed me of great Preparations by

'the

'the Chriſtian Princes, your Majeſty's Allies, for 'the Deliverance of our Country from the ex- 'treme and miſerable Eſtate wherein for a long 'time it hath remained. Which when I under- 'ſtood, my eſpecial Deſire was, to adviſe by 'what means I might, with the hazard of my 'Life, and all my Friends in general, do your 'ſacred Majeſty one day's good Service. Where- 'upon, moſt dread Sovereign, according to the 'great care which thoſe Princes have of the Pre- 'ſervation and ſafe Deliverance of your Majeſty's 'ſacred Perſon, I adviſed of Means, and conſi- 'der'd of Circumſtances accordingly, to and with 'ſo many of the wiſeſt and moſt truſty, as with 'ſafety I might commend the Secrecy thereof 'unto: I do find, by the Aſſiſtance of the Lord 'Jeſus, aſſurance of good Effect, and deſired Fruit 'of our Travel. Theſe things are firſt to be ad- 'viſed in this great and honourable Action; upon 'iſſue of which dependeth, not only the Life of 'your moſt excellent Majeſty, which God long 'preſerve, to our ineſtimable Comfort, and to 'the Salvation of *Engliſh* Souls, and the Lives of 'all us Actors therein; but alſo the Honour and 'Weal of our Country, far more dear than our 'Lives unto us, and the laſt hope ever to recover 'the Faith of our Forefathers, and to redeem our 'ſelves from the Servitude and Bondage which 'hereby heretofore hath been impoſed upon us 'with the loſs of many thouſand Souls. Firſt, in 'the aſſuring of Invaſions, ſufficient ſtrength on 'the Invaders parts to arrive are appointed, with 'a ſtrong Party at every place, to join with them, 'and warrant their landing, the Deliverance of 'your Majeſty, the Diſpatch of the uſurping Com- 'petitor. For the effecting of all, may it pleaſe 'your Majeſty to rely upon my Service, I proteſt 'before the Almighty, who hath long miraculouſly 'preſerved your royal Perſon, no doubt, to 'ſome univerſal Good, that what I have ſaid 'ſhall be performed, or all our Lives happily loſt 'in the Execution thereof. Which Vow all the 'chief Actors have taken ſolemnly; and are upon 'Aſſurance, by your Majeſty's to me, to receive 'the bleſſed Sacrament thereupon, either to pre- 'vail in the Church's behalf, and your Majeſty's, 'or fortunately to die for ſo honourable a Cauſe. 'Now, foraſmuch as delays are extreme dange- 'rous, it might pleaſe your moſt excellent Majeſty, 'by your Wiſdom to direct us, and by your 'Princely Authority to enable us, and ſuch as may 'advance the Affairs: Foreſeeing there is not 'any of the Nobility, at liberty, aſſured to your 'Majeſty in this deſperate Service, except un- 'known unto us; and ſeeing that it is very ne- 'ceſſary that ſome there ſhould be to become 'Heads to lead the Multitude, who are diſpoſed 'by Nature, in this Land, to follow Nobility: 'Conſidering withal, it doth not only make the 'Commons and Country to follow without Con- 'tradiction or Contention, which is ever found 'in equality, but alſo doth add great Courage to 'the Leaders. For which neceſſary Regards, I 'would recommend ſome to your Majeſty as are 'fitteſt, in my knowledge, to be your Lieute- 'nants, in the Weſt Parts, in the North Parts, '*South-Wales* and *North-Wales*, the Countries of '*Lancaſter*, *Derby* and *Stafford*. In all which 'Countries, Parties being already made, and Fi- 'delity taken in your Majeſty's Name, I hold 'them as moſt aſſured, and of undoubted Fidelity. 'My ſelf, with ten Gentlemen of Quality, and 'an hundred Followers, will undertake the deli- 'very of your Perſon from the hands of your Ene- 'mies: And for the Diſpatch of the Uſurper, 'from Obedience of whom, by the Excommuni- 'cation of her, we are made free, there be ſix noble 'Gentlemen, all my private Friends, who, for 'the Zeal they bear to the Catholick Cauſe, and 'your Majeſty's Service, will undertake the Tra- 'gical Execution. It reſteth, that according to 'their infinite Deſerts, and your Majeſty's Boun- 'ty, their Heroical Attempts may be honourably 'rewarded in them, if they eſcape with Life, 'or in their Poſterity; and that ſo much, by your 'Majeſty's Authority, I may be able to aſſure 'them. Now it remaineth only in your Majeſty's 'Wiſdom, that it be reduced into Method, that 'your happy Deliverance be firſt, for that there- 'upon dependeth the only Good, and that the 'other Circumſtances concur; that the untimely 'end of the one do not overthrow the reſt. All 'which your Majeſty's wonderful Experience and 'Wiſdom will diſpoſe in ſo good manner, as I doubt 'not, through God's good Aſſiſtance, ſhall take 'deſerved effect: for the obtaining of which, every 'one of us ſhall think his Life moſt happily ſpent. 'Upon the twelfth day of this month I will be at '*Litchfield*, expecting your Majeſty's Anſwers and 'Letters, to execute what by them ſhall be com- 'manded.

Your Majeſty's

Faithful Subject, and

Sworn Servant,

Anthony Babington.

The Anſwer of the Scottiſh *Queen to a Letter written by* Anthony Babington, 12 July, 1586.

'TRUSTY and Well-beloved, according 'to the Zeal and intire Affection which I 'have known in you towards the common Cauſe 'of Religion, and mine, having always made ac- 'count of you as a principal and right worthy 'Member to be imployed both in the one, and 'in the other; it hath been no leſs Conſolation 'unto me to know your Eſtate, as I have done by 'your laſt Letter, and to have further means to 'renew my Intelligence with you, than I have 'felt Griefs all this while paſt, to be without the 'ſame. I pray you therefore to write unto me 'hereafter, ſo often as you can, of all Concurrants, 'which you may judge in any ſort importunate to 'the good of mine Affairs, wherein I ſhall not fail 'to correſpond with all the Care and Diligence 'that ſhall be by poſſibility: For divers great and 'importunate Conſiderations, which were here 'too long to be deducted, I cannot but greatly 'praiſe and commend your common deſire to pre- 'vent, in time, the Deſignment of our Enemies, 'for the Extirpation of our Religion out of this 'Realm, with the Ruin of us all; for I have long 'ago ſhewed to the Foreign Catholick Princes, 'what they have done againſt the King of *Spain*, 'and in the time the Catholicks here remaining, 'expoſed to all Perſecutions and Cruelty, do daily 'diminiſh in Number, Forces, Means and Power, 'ſo as if Remedy be not thereunto ſpeedily pro- 'vided, I fear not a little but that they ſhall be- 'come altogether unable for ever to ariſe again to 'receive any Aid at all whenſoever it is offered. 'Then for my own part, I pray you aſſure our

'principal

' principal Friends, that albeit I had no particular ' Intereſt in this Caſe, that all that I may pretend ' unto, being of no Conſideration to me in reſpect ' of the publick Good of the State, I ſhall be al- ' ways ready, and moſt willing to imploy therein ' my Life, and all that I have, or may look for in ' this World. Now to ground ſubſtantially this ' Enterprize, and to bring it to good Succeſs, you ' muſt examine duly,

' *Firſt*, What Forces, as well on Foot as on ' Horſe, you may raiſe among you all; and what ' Captains you ſhall appoint for them in every ' Shire, in caſe a General cannot be had.

' *Secondly*, Which Towns, Ports and Havens you ' may aſſure your ſelves, as well on the *North*, ' *Weſt* and *South*, to receive Succours, as well ' from the *Low-Countries*, *Spain* and *France*, as from ' other Parts.

' *Thirdly*, What place you eſteem fitteſt, and of ' moſt advantage to aſſemble the principal Compa- ' ny of your Forces at the ſame time, which ' would be compaſſed conform to the proportion ' of your own.

' *Fourthly*, For how long Pay and Munition, ' and Ports fitteſt for their Landing in this Realm, ' from the foreſaid three foreign Countries.

' *Fifthly*, What Proviſion of Monies and Ar- ' mour, in caſe you ſhould want, you would ask.

' *Sixthly*, By what means do the ſix Gentlemen ' deliberate to proceed.

' *Seventhly*, The manner of my getting forth ' of this Hold.

' Which Points having taken amongſt you who ' are the principal Actors, and alſo as few in number ' as you can; the beſt Reſolution in my Device is, ' That you impart the ſame with all diligence to ' *Bernardin de Mendoza*, Ambaſſador Lieger for the ' King of *Spain* in *France*, who beſides the Experi- ' ence he hath of the Eſtate on this ſide, I may aſ- ' ſure you, will imploy himſelf moſt willing: I ſhall ' not fail to write to him of the matter, with all the ' Recommendations I can, as alſo I ſhall do in any ' wiſe what ſhall be needful. But you muſt take ' choice Men for the managing of the Affairs with ' the ſaid *Mendoza*, and others out of the Realm, of ' ſome Faithful and very Secret, both in Wiſdom ' and Perſonage, unto whom only you muſt com- ' mit your ſelves; to the end things may be kept ' the more ſecret, which for your own Security I ' commend to your ſelf. If your Meſſenger bring ' you back again ſure promiſe, and ſufficient aſſu- ' rance of the Succours which you demand, then ' thereafter (but not ſooner, for that it were in ' vain) take diligent Order, that all thoſe on your ' part make, ſecretly as they can, proviſion of Ar- ' mour, fit Horſes, and ready Mony, wherewith ' to hold themſelves in a readineſs to march ' ſo ſoon as it ſhall be ſignified unto you by the ' Chief and Principal of every Shire: And for the ' better colouring of the matter, reſerving to the ' Principals the knowledge of the Ground of the ' Enterprize, it ſhall be enough at the beginning ' to give it out to the reſt, that the ſaid Proviſi- ' ons are made only for the fortifying of your ſelves ' in caſe of need, againſt the *Puritans* of this ' Realm, the principal whereof having the chief ' Forces thereof in the *Low-Countries*, as you ' may let the bruit go diſguiſed, do ſeek the Ruin ' and Overthrow at their return home of the ' Catholicks, and to uſurp the Crown, not only ' againſt me and all other lawful Pretenders there- ' to, but againſt their own Queen that now is, if ' ſhe will not altogether ſubmit her ſelf to their ' Government. Theſe pretexts may ſerve to found ' and eſtabliſh among all, Aſſociations or Confe- ' derations general, as done only for your Preſer- ' vation and Defence, as well in Religion as ' Lands, Lives and Goods, againſt the Oppreſ- ' ſion and Attempts of the ſaid *Puritans*; without ' directly writing, or giving out any thing againſt ' the Queen, but rather ſhewing your ſelves wil- ' ling to maintain her and her lawful Heirs after ' her, not naming me. The Affairs being thus ' prepared, and Forces in readineſs, both without ' and within the Realm, then ſhall it be time to ' ſet the ſix Gentlemen on work, taking good order ' upon the accompliſhment of their Diſcharges: ' I may be ſuddenly tranſported out of this Place, ' and meet without tarrying for the arrival of the ' foreign Aid, which then muſt be haſtened with ' all Diligence. Now for that there can be no ' certain Day appointed for the accompliſhment ' of the ſaid Gentlemen's deſignment, to the end ' others may be in a readineſs to take me from ' hence, I would that the ſaid Gentlemen had al- ' ways about them, or at leaſt at Court, divers and ' ſundry Scoutmen, furniſhed with good and ſpeedy ' Horſes, ſo ſoon as the deſign ſhall be executed, ' to come with all diligence to advertiſe me there- ' of, and theſe that ſhall be appointed for my ' tranſporting; to the end, that immediately ' after they may be at the place of mine abode, ' before my Keeper can have advertiſement of the ' execution of the ſaid deſignment, or at the leaſt ' before he can fortify himſelf within the Houſe, ' or carry me out of the ſame. It were neceſſary ' to diſpatch two or three of the ſaid Advertiſers ' by divers ways, to the end, if one be ſtaid, the ' other may come through: At the ſame inſtant ' it were needful alſo to aſſay to cut off the Poſts ' ordinary ways. This is the Plot that I think ' beſt for this Enterprize, and the order whereby ' we ſhall conduct the ſame for our common Secu- ' rity: for ſtirring on this ſide before you be ſure ' of ſufficient foreign Forces, that were for no- ' thing but to put our ſelves in danger of follow- ' ing the miſerable Fortune of ſuch as have here- ' tofore travelled in the like Actions; and if you ' take me out of this Place, be well aſſured to ſet ' me in the midſt of a good Army, or ſome very ' good Strength, where I may ſafely ſtay till the ' Aſſembly of your Forces, and Arrival of the ſaid ' foreign Succours. It were ſufficient cauſe gi- ' ven to the Queen, in catching me again, to ' incloſe me in ſome hold, out of the which I ' ſhould never eſcape, if ſhe did uſe me no worſe; ' and to purſue with all extremity thoſe that aſſiſt- ' ed me, which would grieve me more than all ' the unhappineſs might fall upon my ſelf. Ear- ' neſtly as you can, look and take heed moſt care- ' fully and vigilantly to compaſs and aſſure all ſo ' well, that ſhall be neceſſary for the effecting of ' the ſaid Enterprize, as with the Grace of God ' you may bring the ſame to happy End; remit- ' ting to the judgment of your principal Friends ' on this ſide, with whom you have to deal, therein ' to ordain and conclude upon theſe Points, which ' may ſerve you for an Overture of ſuch Propoſi- ' tions as you ſhall amongſt you find beſt: and to ' your ſelf in particular, I refer the Genttlemen a- ' forement ion'd, to be aſſured of all that ſhould be ' requiſite for the intire execution of their Good- ' Wills. I leave their common Reſolution to Ad- ' vice; in caſe the deſign do not take hold, as ' may happen whether they will or no, do not ' purſue my Tranſport, and the Execution of the ' reſt

'reſt of the Enterprize. But if the miſhap ſhould 'fall out, that you might not come by me, being ſet 'in the *Tower* of *London*, or in any other Strength, 'with ſtrong Guard; yet notwithſtanding, 'leave not for God's ſake to proceed in the Enter-'prize: for I ſhall at any time die moſt conten-'tedly, underſtanding of your delivery out of the 'ſervitude wherein you are holden as Slaves. I 'ſhall aſſay, that at the ſame time that the work 'ſhall be in hand, at that preſent to make the Ca-'tholicks of *Scotland* to ariſe, and put my Son into 'their hands, to the effect, that from thence our 'Enemies here may not prevail by any Succour: 'I would alſo that ſome ſtirring were in *Ireland*, 'and that it were laboured to begin ſome time be-'fore any thing be done here, and then that the 'Alarm might begin thereby on the flat contrary 'ſide: that the ſtroke may come from your deſigns, 'to have ſome General, or chief Head, are very 'pertinent; and therefore were it good to ſend 'obſcurely for the purpoſe to the Earl of *Arundel*, 'or ſome of his Brethren, and likewiſe to ſeek to 'the young Earl of *Northumberland*, if he be at 'liberty from over the Sea; the Earl of *Weſt-'moreland* may be had, whoſe Hand and Name, 'you know may do much in the *North* Parts; alſo 'the Lord *Paget*, of good Ability in ſome Shires 'thereabouts: both the one and the other may be 'had, amongſt whom ſecretly ſome more princi-'pal baniſhed, may return, if the enterprize be 'once reſolute. The ſaid Lord *Paget* is now in '*Spain*, and may treat of all that, by his Brother '*Charles*, directly by himſelf, you will commit un-'to him touching the Affairs. Beware that none 'of your Meſſengers, that you ſend forth of the 'Realm, carry any Letters upon themſelves, but 'make their Diſpatches, and ſend them either af-'ter or before them by ſome others. Take heed 'of Spies and falſe Brethren that are amongſt you, 'eſpecially of ſome Prieſts, already practiſed upon 'by your Enemies for your diſcovery; and in any 'caſe keep never a Paper about you, that may in 'any ſort do harm: for from like Errors have 'come the Condemnation of all ſuch as have ſuf-'fered heretofore, againſt whom otherwiſe no-'thing could juſtly have been proved. Diſcover 'as little as you can, your Names and Intentions 'to the *French* Ambaſſador, now Leiger at *Lon-'don*; for although, as I underſtand, he is a very 'honeſt Gentleman, yet I fear his Maſter entertain-'eth a Courſe far contrary to our deſignment, which 'may move him to diſcover us, if he had any par-'ticular knowledge thereof. All this while I 'have ſued to change and remove from this Houſe; 'and for anſwer, the Caſtle of *Dudley* only hath 'been named to ſerve the turn; ſo as by appear-'ance about the end of this Summer, I may go thi-'ther: therefore adviſe ſo ſoon as I ſhall be there, 'what Proviſion may be had about that part, for 'my eſcape from thence. If I ſtay here, there is 'but one of theſe three ways or means to be 'looked for.

'The *Firſt*, That at a certain Day appointed 'for my walking abroad on horſeback on the 'Mores, between this and *Stafford*, where ordi-'narily, you know, but few People do paſs, let 'fifty or threeſcore Horſemen, well mounted and 'armed, come to take me away, as they may ea-'ſily; my Keeper having with him but eighteen 'or twenty Horſes, with only Dogs.

'The *Second* means, To come at Midnight, or 'ſoon after, and ſet fire on the Barns and Stables, 'which you know are near the Houſe; and whilſt 'my Guardian Servants ſhall come forth to the 'Fire, your Company having duly on a Mark, 'whereby they may be known one from another, 'ſome of you may ſurprize the Houſe, where I 'hope, with the few Servants I have about me, 'I ſhall be able to give you correſpondent Aid.

'And the *Third* is, Some there be that bring 'Carts hither early in the Morning, three Carts 'may be ſo prepared, that being in the midſt 'of the great Gate, the Carts might fall down, 'or overthrow; that thereupon you might come 'ſuddenly, and make your ſelves Maſters of the 'Houſe, and carry me ſuddenly away: ſo you 'might eaſily do before any number of Soldiers, 'who lodg in ſundry Places forth of this Place, 'ſome half a Mile, and ſome a whole Mile, 'could come to relieve. Whatſoever Iſſue the 'matter taketh, I do, and ſhall think my ſelf ob-'liged, ſo long as I live, towards you, for 'the offers you make to hazard your ſelf as you 'do for my Deliverance; and by any means that 'ever I may have, I ſhall do my endeavour to re-'cognize by Effects your Deſerts: therein I have 'commanded a more ample Alphabet to be made 'for you, which herewith you ſhall receive. God 'Almighty have you in his Protection.

Your aſſured Friend for ever,

Mary Regina.

Fail not to burn this privately and quickly.

The Contents of a Letter written by the Scottiſh *Queen to* Bernardine de Mendoza, *May 20, 1586. after the Pope's Calendar.*

'I FIND my ſelf greatly troubled what 'Courſe to take anew, for the Affairs on this 'ſide the Sea: *Charles Paget* hath a Charge from 'me to impart unto you certain Overtures in my 'behalf; whereupon I pray you deliver him freely, 'what you think may be obtained thereof from the 'King your Maſter.

'There is another point depending thereof, 'which I have reſerved to write to your own ſelf, 'for to be by you ſent unto the King your Maſter 'on my behalf, no Man elſe, if it be poſſible, be-'ing privy thereunto; that is, that conſidering 'my Son's great Obſtinacy in Hereſy, and fore-'ſeeing hereupon the imminent danger and harm 'like to enſue to the Catholick Church, he com-'ing to the Succeſſion of this Realm, I have re-'ſolved with my ſelf, in caſe my ſaid Son do not 'reduce himſelf before my Death to the Catholick 'Religion, (as I muſt tell you plainly, I have ſmall 'hope ſo long as he ſhall remain in *Scotland*) to 'give and grant my Right to the ſaid King your 'Maſter, in the Succeſſion of this Crown, by my 'laſt Will and Teſtament; praying him in Con-'ſideration hereof from this time forward to take 'me wholly into his Protection, likewiſe the State 'and Affairs of this Country: the which for diſ-'charge of my Conſcience, I cannot think I can 'put into the hands of a Prince more zealous of 'our Religion, and able in all reſpects to re-eſta-'bliſh the ſame on this ſide, as it imports all the 'reſt of Chriſtendom. Let this be kept ſecret, 'foraſmuch as if it come to be revealed, it ſhould 'be in *France* the loſs of my Dower, in *Scotland* a 'clear Breach with my Son, and in this Country 'my total Ruin and Deſtruction.

'Thank

'Thank on my behalf the ſaid King your Maſter, for the Favour and Liberality extended to the Lord *Paget* and his Brother, which I pray him moſt earneſtly to continue, and to gratify for my ſake with ſome Penſion poor *Morgan*, who hath ſo much endured not only for me, but for the common Cauſe.

'I recommend likewiſe unto you *Fulſambe* (whom you know) to help him to ſome Supply, above the Entertainment that I have allotted him, according to the ſmall means I have.

Queen Elizabeth's *Letter directed to Sir* Amias Powlet *Kt. Keeper of the Queen of* Scots, *at the Caſtle of* Fotheringay; *viz.*

'AMIAS, my moſt faithful Servant, God reward thee treeble-fold in the double of thy moſt troubleſome Charge, ſo well diſcharged: if you knew, my *Amias*, how kindly, beſides dutifully, my grateful Heart accepts your double Labours, and faithful Actions, your wiſe Orders, and ſafe Regards, performed in ſo dangerous a Charge; it would eaſe your Travel, and rejoice your Heart, in that I cannot ballance, in any weight of my Judgment, the value that I prize you at, and ſuppoſe no Treaſure to countervail ſuch Faith; and ſhall condemn my ſelf, in that thought I never committed, if I reward not ſuch deſerts; yea, let me lack, when I moſt need, if I acknowledge not ſuch a Merit with a Reward, not *omnibus datum*: but let your wicked Murtheress know, how with hearty ſorrow her vile deſerts compel theſe Orders; and bid her, from me, ask God forgiveneſs for her treacherous dealing againſt my Life many Years, to the intolerable Peril of her own; and yet not content with ſo many Forgiveneſſes, but muſt fall again ſo horribly, far paſſing a Woman's Thought, much leſs a Prince's; inſtead of excuſing whereof, not one can ſerve it, being ſo plainly confeſſed by the Author of my guiltleſs Death. Let Repentance take place, and let not the Fiend poſſeſs her, ſo that the better part be loſt, which I pray, with hands lifted up to him that can both ſave and ſpill, with my moſt loving Adieu, and Prayer for thy long Life,

Your aſſured and loving, Sovereign,
as Heart, by good Deſert, indureth,
Elizabeth Regina.

The Commiſſion for executing the Queen of Scots:

'ELIZABETH, by the Grace of God, Queen of *England*, *France* and *Ireland*, &c. To our truſty and well-beloved Couſins, *George* Earl of *Shrewsbury*, Earl Marſhal of *England*; *Henry* Earl of *Kent*; *Henry* Earl of *Derby*; *George* Earl of *Cumberland*; and *Henry* Earl of *Pembrook*, Greeting, *&c.* Whereas ſithence the Sentence given by you, and others of our Council, Nobility and Judges, againſt the Queen of *Scots*, by the name of *Mary*, the Daughter of *James* V. late King of *Scots*, commonly called the Queen of *Scots*, and Dowager of *France*, as to you is well known; All the States in the laſt Parliament aſſembled, did not only deliberately, by great Advice, allow and approve the ſame Sentence as juſt and honourable, but alſo with all humbleneſs, and earneſtneſs poſſible, at ſundry times require, ſollicit, and preſs us to direct ſuch further Execution againſt her Perſon, as they did adjudge her to have daily deſerved; adding thereunto, that the forbearing thereof was, and would be daily certain and undoubted Danger, not only unto our own Life, but alſo unto themſelves, their Poſterity, and the publick Eſtate of this Realm, as well for the Cauſe of the Goſpel, and true Religion of Chriſt, as for the Peace of the whole Realm: whereupon we did, although the ſame were with ſome delay of time, publiſh the ſame Sentence by our Proclamation, yet hitherto have forborn to give Direction for the further Satisfaction of the aforeſaid moſt earneſt Requeſts, made by our ſaid States of our Parliament, whereby we do daily underſtand, by all ſorts of our loving Subjects, both of our Nobility and Council, and alſo of the wiſeſt, greateſt, and beſt devoted of all Subjects of interior Degrees, how greatly, and deeply from the bottom of their Hearts, they are grieved and afflicted with daily, yea hourly Fears of our Life, and thereby conſequently with a dreadful Doubt and Expectation of the Ruin of the preſent happy and godly Eſtate of this Realm, if we ſhould forbear the further final Execution, as it is deſerved, and neglect their general and continual Requeſts, Prayers, Counſels and Advices. And thereupon contrary to our natural Diſpoſition in ſuch Caſe, being overcome with the evident weight of their Counſels, and their daily Interceſſions, importing ſuch a neceſſity, as appeareth, directly tending to the Safety not only of our ſelf, but alſo to the Weal of our whole Realm. We have condeſcended to ſuffer Juſtice to take place; and for the Execution thereof, upon the ſpecial truſty Experience and Confidence which we have of your Loyalties, Faithfulneſs and Love, both toward our Perſon and the Safety thereof, and alſo to your native Countries, whereof you are moſt noble and principal Members, we do will, and by Warrant hereof do authorize you, as ſoon as you ſhall have time convenient, to repair to our Caſtle of *Fotheringay*, where the ſaid Queen of *Scots* is in Cuſtody of our right Truſty and Faithful Servant and Counſellor, Sir *Amias Powlet* Kt. and then taking her into your Charge, to cauſe by your Commandment Execution to be done upon her Perſon, in the preſence of your ſelves, and the aforeſaid Sir *Amias Powlet*, and of ſuch other Officers of Juſtice as you ſhall command to attend upon you for that purpoſe; and the ſame to be done in ſuch manner and form, and at ſuch time and place, and by ſuch Perſons, as to five, four or three of you, ſhall be thought by your Diſcretions convenient, notwithſtanding any Law, Statute or Ordinance to the contrary. And theſe our Letters Patents, ſealed with our great Seal of *England*, ſhall be to you, and every of you and to all Perſons that ſhall be preſent, or that ſhall be, by you, commanded to do any thing appertaining to the aforeſaid Execution, a full ſufficient Warrant, and Diſcharge for ever. And further, we are alſo pleaſed and contented, and hereby we do will, command, and authorize our Chancellor of *England*, at the Requeſts of you all, and every of you, the Duplicate of our Letters Patents, to be to all purpoſes made, dated and ſealed with our great Seal of *England*, as theſe Preſents now are. In witneſs whereof, we have cauſed theſe our Letters to be made Patents. Yeoven at our Mannor of *Greenwich*, the 1ſt Day of *February*, in the 29th Year of our Reign.

The Tryal of PHILIP HOWARD, *Earl of* Arundel, *the* 18*th day of* April, 1589. *and in the* 31*ſt Year of the Reign of Queen* Elizabeth.

FROM the outward Bar in the *King's Bench*, was there a Court made of 30 Foot ſquare, within which was a Table of 12 Foot ſquare, covered with green Cloth; and in the ſame Court were Benches to ſit upon, covered with green Say. In the midſt of the ſame Court, at the upper end, was placed a Cloth of State, with a Chair and Cuſhion for the Lord Steward: from the midſt of the ſame Court, to the midſt of the Hall, was built a Gallery for the Priſoner to come upon to the Court, in length 110 Foot, and in breadth 15 Foot, and in height from the ground 8 Foot, railed round about, and going down with ſeven Steps.

Between eight and nine of the Clock in the morning, the Earl of *Derby*, Lord Steward his Grace, enter'd the Hall, attended by divers Noblemen and Officers, four Serjeants at Arms, with their Maces waiting before him; next before his Grace, the Earl of *Oxford*, Lord Great Chamberlain of *England*. My Lord of *Derby*'s Grace being ſeated in his Chair of State, every Nobleman was placed in his degree, by Garter King of *Heraults*.

At his Grace's feet did ſit Mr. *Winckefield*, one of her Majeſty's Gentlemen-Uſhers, holding a long white Wand in his Hand, being accompany'd with Mr. *Norris*, Serjeant of the Garter.

Before them did ſit Mr. *Sandes*, Clerk of the Crown of the *King*'s-*Bench*.

Oppoſite againſt my Lord's Grace did ſit the Queen's Majeſty's Learned Council, *viz.*

1. Serjeant *Puckering*.
2. Serjeant *Shettleworth*.
3. Mr. *Popham*, the Queen's Attorney-General.
4. Mr. *Edgerton*, the Queen's Sollicitor.

The Names of the Commiſſioners on the Right Hand, ſitting upon a lower Bench, under the Lords of the Jury.

1. Sir *Francis Knowles* Kt. Treaſurer of the Houſhold.
2. Sir *James a Croſts* Kt. Comptroler of the Houſhold.
3. Sir *John Parrat*, one of her Majeſty's moſt Honourable Privy-Council.
4. Mr. *Wolley*, Secretary of the *Latin* Tongue, of the Privy-Council.
5. *John Forteſcue*, Maſter of the Wardrobe, and of the Privy-Council.
6. Dr. *Dale*, one of the Maſters of Requeſt to her Majeſty.
7. *William Fleetwood*, Serjeant at Law, and Recorder of *London*.
8. Mr. *Rockby*, Maſter of Requeſts, and Maſter of St. *Katherines*.

The Names of the Commiſſioners on the Left Hand.

9. The Lord Chief Juſtice of *England*, Sir *Chriſtopher Wray*.
10. The Maſter of the Rolls, Sir *Gilbert Gerrard*.
11. The Lord Chief Juſtice of the Common-Pleas, *Edmund Anderſon*.
12. The Lord Chief Baron of the Exchequer, *Roger Manwood*.
13. Juſtice of the Common-Pleas, *William Periam*.
14. Juſtice *Gandy*, of the King's-Bench.

The Serjeant at Arms, uſually Attendant on the Lord Chancellor, nam'd *Roger Wood*, was commanded to make an *O Yes* three times.

Then Mr. *Sandes*, Clerk of the Crown, read the Commiſſion.

And Sir *Francis Knowles* Kt. gave up the Verdict of the great Aſſize.

Then was called *Matthew Spencer*, Serjeant at Arms, to return his Precept; which was returned and read.

After that, the Noblemen and Peers of the Jury, for his Tryal, were ſeverally called by their Names, as followeth:

1. *William* Lord *Burleigh*, Lord Treaſurer of *England*.
2. *Edward* Earl of *Oxford*, Lord Great Chamberlain of *England*.
3. *William* Lord Marqueſs of *Winchester*.
4. *Henry* Earl of *Kent*.
5. *Henry* Earl of *Suſſex*.
6. *Henry* Earl of *Pembroke*.
7. *Edward* Earl of *Hertford*.
8. *Henry* Earl of *Lincoln*.
9. *Henry* Lord *Hunſdon*, Lord Chamberlain of her Majeſty's Houſhold.
10. *Peregrine* Lord *Willoughby* of *Eresby*.
11. Lord *Morley*.
12. Lord *Cobham*.
13. *Arthur* Lord *Grey*.
14. Lord *Darcy*, of the North.
15. Lord *Sandes*.
16. Lord *Wentworth*.
17. Lord *Willoughby* of *Parham*.
18. Lord *North*.
19. Lord *Rich*.
20. Lord *St. John* of *Bletſho*.
21. Lord *Buckhurſt*.
22. Lord *De la Ware*.
23. Lord *Norris*.

Then the Lieutenant of the Tower was called to return his Precept, and to bring forth his Priſoner, *Philip* Earl of *Arundel*. The Earl came into the Hall, being in a wrought Velvet Gown, furred about with Martins, laid about with Gold Lace,

Lace, and button'd with Gold Buttons, a black Sattin Doublet, a pair of Velvet Hose, and a long high black Hat on his Head; a very tall Man, looking somewhat Swarth-colour'd.

Then was the Earl brought to the Bar, with the Ax carried before him by Mr. *Shelton*, Gent. Porter of the Tower, being accompanied with Sir *Owen Hopton* Kt. Lieutenant of the Tower, Sir *Drew Drewry*, Constable of the Tower for the time, Mr. *Henry Bronkard*, and others.

At my Lord of *Arundel's* coming to the Bar, he made two Obeysances to the State, and to the Nobles, and others there present.

Then did Mr. *Sandes*, Clerk of the Crown, say, he was indicted of several Treasons, and said unto him,

Philip Howard, Earl of *Arundel*, late of *Arundel* in the County of *Sussex*, hold up thy Hand.

He held up his Hand very high, saying, Here is as true a Man's Heart and Hand, as ever came into this Hall.

Mr. *Sandes* then read the Indictment.

That whereas divers traitorous Persons, in the Parts beyond the Seas, being natural *English*-men, *viz.* Dr. *Allen*, *Parsons*, *Champion*, *Mott*, and divers others, have heretofore, divers and sundry times, with sundry Persons, as well *English*-men as of other Countries, practised to accomplish and bring to pass several dangerous and unnatural Treasons against the Queen's Majesty, her Royal Person, Crown and Dignity, *viz.* to subvert the State, invade the Realm, to set up Catholick Religion, to raise Insurrections, *&c.* amongst which number of unnatural Traitors, the Earl of *Arundel* was well acquainted with that notorious Traitor Dr. *Allen*, by means of *Bridges*, *Weston*, *Ithill*, and other Popish Priests, with whom, divers times, sithence the 20th Year of her Majesty's Reign, he hath had private and secret Conference, and Communication of several Treasons; insomuch, that the Earl of *Arundel* did presently dispatch his several Letters by *Bridges* aforesaid, to Dr. *Allen*, to wish him at any hand to do something concerning the Cause Catholick; wherein he promised to perform any thing that Dr. *Allen* should think fit for him to do. And whereas, the 24th day of *April*, in the 27th Year of the Queen's Reign, he was flying by Sea to Dr. *Allen*, that Arch-Traitor; and that the Bishop of *Rome*, and the King of *Spain*, were thereupon sollicited by *Allen* aforesaid, to raise War against this Realm: And whereas also the Earl of *Arundel* had understanding of a Bull, that *Sixtus* the Fifth Pope of that Name, had sent into *England* for the Excommunication of her Majesty, and for the invading of the Realm, *&c.* And that at the Tower, the 21st of *July*, in the 30th Year of her Majesty's Reign, he did imagine, with other traitorous Persons, that the Queen was an Heretick, and not worthy to govern the Realm; and that he did move and procure one *William Bennet*, a Seminary Priest, to say Mass for the happy Success of the *Spanish* Fleet; whereupon he had Mass, and did help to say Mass himself, to that purpose: And having news of the Conflict at Sea, betwixt the *Spanish* Fleet and the *English*, he procured Sir *Thomas Gerrard*, and divers others, then Prisoners in the Tower, to say Mass with him for the fortunate Success of *Spain*; and that he made a Prayer specially for that purpose, to be daily used and exercised amongst them.

Hereupon Mr. *Sandes* asked the Earl of *Arundel*, if he were Guilty, or Not Guilty of the several Treasons comprised in the said Indictment?

To this the Earl answered, He would fain know, whether the several Points in the Indictment contained, were but one Indictment, yea or no?

The Judges satisfied him, it was but one Indictment, and a matter he need not stand upon.

My Lord vouched a Case in *Edw.* 3. and in the end said, Not Guilty; and was well contented to be tried by his Peers, and liked the Tryal well, that he should be tried by such good Noblemen there present, that knew his Life: He said, he had been Prisoner four years, and twenty-five weeks close Prisoner, and that he had been sick and weak, whereby his Memory might fail him; and therefore humbly desired my Lord Steward's Grace, making three several Obeysances on both Knees, that he might be heard to make answer to every particular Point.

My Lord Steward answered, That there was no other Meaning nor Intent, and that he should be heard deliberately.

Then did Mr. Serjeant *Puckering* deliver to the Lords of the Jury, the Effect of the Indictment, and other Evidence at large, as followeth:

First, that my Lord had private and secret Conference with *Bridges* aforesaid, and divers other Traitors and Seminary Priests; and that he had written his Letters to Dr. *Allen*, to find which way he might further the Cause Catholick.

That he did fast twenty-four hours, and prayed for the happy Success of the *Spanish* Fleet.

That *Allen* and others, being arrant Traitors, had taken order, that in the 22d Year of her Majesty's Reign, there should be 50 Men in privy Coats, and Pocket-Daggers, to kill the Queen; and that one *Pain*, and one *Elliot*, were put in trust to perform the same.

That my Lord was a Catholick, and favoured their Proceedings.

My Lord answered, he was no Catholick in the 22d Year of the Queen's Reign.

That he secretly was flying out of the Realm to Dr. *Allen*, being an Arch-Traitor; which doth argue my Lord to be no good Subject.

That *Throckmorton* practising his Treasons by sounding the Ports, he did set down in his Catalogue, that a South-west Wind would serve from *Spain* to *Arundel*-Castle in *Sussex*, and an Easterly Wind from the *Low-Countries*.

That in *Throckmorton's* Catalogue of all the Names of all the Noblemen and Gentlemen of every Shire that affecteth the Catholicks; he began in *Sussex*, and set down the Earl of *Arundel's* Name the first.

That further, one *Mott* a Priest informed *Throckmorton*, that he was come over to sound the Intents of the Earls of *Arundel* and *Northumberland*, and others.

My Lord answered, when *Mott* was in *Sussex*, he never came there, but always attended at Court.

Mr. *Puckering* said, The Traitors have a good Conceit of my Lord of *Arundel*, in knowing him to be affected to the Catholick Cause.

It was defined, that the Catholick Cause was meer Treason.

Petro Paulo Roſſetto came over to ſound Noblemen and Gentlemen in *England*.

Then ſaid my Lord, How prove you me to be a Traitor in theſe Points?

Becauſe, ſaid Mr. *Popham*, you have confederated with Traitors, by deſiring Dr. *Allen* in your Letters to employ you any way that concerned the Cauſe Catholick; becauſe you have been reconciled to the Pope; and there was a Law made in the 22d Year of this Queen, That whoſoever was reconciled to the Pope from the Obedience of the Queen's Majeſty, was in caſe of Treaſon.

My Lord confeſſed, that *Bridges* did confeſs him, but not reconcile him in any ſuch ſort, but only for Abſolution of his Sins

Mr. *Popham* charged him, that he did once ſubmit himſelf, but ſithence fell from his Submiſſion, and therefore practiſed new Treaſons.

He confeſſed he was acquainted with the Prieſts, and by two of them had been abſolved and confeſſed.

Sithence which time, ſaid Mr. *Popham*, he came to the Church, and fell to the Catholick Cauſe again, which he cannot do by their Order, unleſs he be reconciled.

My Lord denied that ever he came to the Church after that time.

There was a Letter ſent to the Queen of *Scots* by *Morgan* of *France*, in Commendation of two Prieſts, wherein he ſaith, one of them had reconciled the Earl of *Arundel*.

Edmonds a Prieſt, upon Examination, ſaid, that Reconciliation was odious.

My Lord ſaid, Theſe be but Allegations and Circumſtances, and that they ought to be proved by two Witneſſes.

It was juſtified, he ſaid, once in the Star-Chamber amongſt the Lords there aſſembled, concerning a Libel there in queſtion, That whoſoever was a Prieſt or Papiſt was an arrant Traitor.

Mr. *Popham* ſaid, it was a Diſcontentment made my Lord a Catholick, and not Religion; and that he did diſguiſe himſelf in ſhadow of Religion.

There was a Picture ſhewed that was found in my Lord's Trunk, wherein was painted a *Hand bitten with a Serpent*, ſhaking the Serpent into the Fire, about which was written this Poeſie, *Quis contra nos?* On the other ſide was painted a *Lion Rampant*, with his *Forces* all bloody, with this Poeſie, *Tamen Leo*. My Lord ſaid, one *Wilgrave*'s Man gave him the ſame, with a pair of *Hangers*, for a New-year's Gift.

One *Jonas Meredith* being examin'd, *&c.* by way of Communication with a Towns-man, who commended my Lord of *Arundel* for his Forwardneſs, in that he had often obſerved my Lord at *Paul's Croſs*:

This *Jonas* anſwered, That he knew he had often been at *Paul's Croſs* in the Forenoon, and hath heard a Maſs with him at the *Charter-houſe*, in the Afternoon.

To this my Lord ſaid nothing, but ſeemed to deny it.

My Lord being examin'd in the Tower, of his ſudden going away to Sea, he anſwered, To ſerve the Prince of *Parma*, or whither Dr. *Allen* ſhould direct him for the Cauſe-Catholick.

My Lord ſaid alſo, he was going away for fear of ſome Statute ſhould be made in the 22d of this Queen's Reign againſt the Catholicks in that Parliament; and that Dr. *Allen* adviſed him that he ſhould not come over if he could tarry here in any ſafety, becauſe he might be the better able to make a Party in *England* when they came.

Before my Lord's going to Sea, he writ a Letter to be given to the Queen after he was gone, wherein he found fault with her hard dealing in giving countenance to his Adverſaries, and in diſgracing him; and that he was diſcontented with the Injuſtice of the Realm towards his Great Grandfather, his Grandfather, and his Father.

My Lord ſaid, *Hollinſhead* was faulty, for ſetting forth in his Chronicle, that his Grandfather was attainted by Act of Parliament, but ſhewed no cauſe wherefore.

He ſaid, in his Letter, his Grandfather was condemned for ſuch Trifles, that the People ſtanding by were amazed at it; he found fault alſo with the Proceedings againſt his Father.

Whereby 'tis apparent, ſaid Mr. *Popham*, 'twas Diſcontentment moved my Lord, and not Religion: and fearing leſt his Friends ſhould think amiſs of him, he left a Copy of his Letter with *Bridges* a Traitor to be diſperſed, to make the Catholicks to think well of him; for, ſaid Mr. *Popham*, being diſcontented, he became a Catholick, and being ſo great a Man, he became a Captain of the Catholicks, which is as much as to be a Captain over Traitors.

A counterfeit Letter was made twenty-two days before his going to Sea, directed to one *Baker* at *Lynn*, there being no ſuch Man abiding; wherein was ſignified that my Lord was very hardly dealt withal by ſome of the Council, and that he was gone into *Suſſex*, and a farther Voyage, and that he would come home by *Norfolk*.

This was a counterfeit Letter, ſaid Mr. Attorney, appointed by my Lord to be diſperſed, to make it known he was diſcontented.

Alſo *Allen* ſent a Letter to the Queen of *Scots* in Cyphers, ſhewing a great Party in *England*.

Allen ſent my Lord word, if he did come over, he muſt take a greater Title than that of Earl upon him, and therefore addreſt my Lord in this Stile, To *Philip* Duke of *Norfolk*, Earl of *Arundel*.

Babington in his Examination ſaid, the Queen of *Scots* ſent him word that the Earl of *Arundel* was a fit Man to be a chief Head for the Catholicks.

Allen ſent word to *Rome*, that the Bull which was laſt ſent over into *England*, was at the Interceſſion of a great Man in *England*.

My Lord (ſaid Mr. *Popham*) was one of the principalleſt, and acquainted thus far with *Allen*; *Ergo*, my Lord of *Arundel*, that great Man.

Dr. *Allen* made a moſt villanous and ſlanderous Book, which was very hard to be got, in which was contained, That the Earl of *Arundel* was a Procurer of the laſt Bull, and the Procurer of the Invaſion alſo; the Bull it ſelf was ſome part read, and the Book was part read alſo.

My Lord being charged on his Confeſſion, being examined why he would be ruled thus by Dr. *Allen*, he excuſed it by ſaying, That he ſaid he would be ruled by *Allen* in all things, ſaving in that did concern her Majeſty and the State; and thereupon appealed to my Lord Chancellor, and Sir *Walter Mildmay*, who were not preſent.

The Book aforeſaid intended, that my Lord was a Practiſer with *Allen* about the Invaſion.

Then ſaid my Lord, he would ſerve the Queen againſt all Princes, Pope or Potentates whatſoever.

The Queen's Sollicitor ſtood upon theſe Points; and becauſe it was proved, that the Earl of *Arundel* would

would be ruled by *Allen* in any thing that ſhould concern the Catholick Cauſe.

And for that Dr. *Allen* hath ſince that time practiſed divers monſtrous Treaſons, and continually hath built upon the help of ſome chief Man in *England*, there is none yet known of his degree, that hath any thing to do with *Allen*; and therefore my Lord muſt needs be culpable of all the Treaſons *Allen* hath practiſed and procured, in flying to *Allen* to ſerve the Prince of *Parma*, *ut antea*.

My Lord was charged with relieving of divers Traitors as Prieſts; and that he did converſe, and was confederate, with divers and ſundry Traitors attainted, indicted and ſuſpected, being Priſoners in the Tower, and that he had Maſs in the Tower; and that if the *Spaniards* ſhould ſurprize the Tower, Sir *Owen Hopton* ſhould be put to the Rack-houſe.

He was alſo charged, That divers Papiſts, Seminaries, and ſuch-like, being Priſoners in *Newgate*, and other Priſons, reported, that they hoped to ſee the Earl of *Arundel* King of *England*, and that Cardinal *Allen* ſhould direct the Crown of *England*.

Before the coming of the *Spaniards* Fleet, when our Commiſſioners were in the *Low-Countries*, news was brought to the Tower, that we ſhould have Peace betwixt *Spain* and *England*; then would my Lord of *Arundel* be penſive.

When the *Spaniſh* Fleet was upon our Coaſt, and news was brought to the Tower, that the *Spaniards* ſped well, then the Earl would be merry.

Then when news came, the *Engliſh* Fleet ſped well, the Earl would be ſorry.

When news came, the *Spaniſh* Fleet was come upon the Coaſt of *Kent*, my Lord ſaid, It is a great Wood, and a puiſſant Fleet, we ſhall have luſty Play ſhortly, I hope we ſhall plague them that have plagued us.

My Lord ſaid, He would not fight againſt any that came to fight for the Catholick Faith.

He ſaid, when the *Spaniſh* Fleet was at Sea, he would have three Maſſes a-day for the happy Succeſs of *Spain*.

He ſaid alſo, He would have continual Prayer without ceaſing for a time, for the good Succeſs of *Spain*, *viz.* he would have, every twenty-four hours, five Prieſts to pray two hours a-piece for the defect of Lay-men, and fourteen Lay-men to pray every one an hour a-piece for the happy and fortunate Succeſs of *Spain*.

He made himſelf a ſpecial Prayer for that purpoſe, and cauſed Copies thereof in haſte to be made.

Mr. *Shelley*, then Priſoner in the Tower, told my Lord, That to exerciſe that Prayer were dangerous, and wiſhed my Lord to let it alone: Therefore my Lord called for the Copy of the Prayer again, and would not have it copied.

He was charged, That he did conjure Sir *Thomas Gerrard* Kt. to keep Counſel in all theſe Matters before ſet down, who promiſed him, he would.

Bennet alſo promiſed to keep his Counſel, and divers others.

Then were Sir *Thomas Gerrard*, Mr. *Shelley*, *Bennet* the Prieſt, and divers others, removed from the Tower to ſeveral other Priſons, and upon Examination, confeſſed all as aforeſaid.

My Lord hearing all theſe Matters, laid hard againſt him by Mr. *Sollicitor*, grew into ſome Agony, and called for his Accuſers face to face; which the learned Counſel did not yet yield unto.

He was likewiſe charged, That he came once merrily to *Bennet* the Prieſt in the Tower, ſaying, *Come, Mr.* Bennet, *let us go pray that the* Spaniards *may beat down* London-Bridge; and promiſed to give him a Damask Gown ſhortly, and that he hoped to make him Dean of *Pauls* e'er it were long: that the time of their Delivery was at hand, and willed them in any wiſe to be ſecret, for if he ſhould reveal theſe things, he would deny them to his Face.

When news came to the Tower, that the *Spaniſh* Fleet was driven away, my Lord ſaid, *We are all undone*; there is no hope for us this Year, and the King of *Spain* cannot provide ſuch a Power again theſe five or ſix Years, ſome of us may be dead and rotten e'er that time.

There were then brought into the Court, *vivâ voce*, upon their ſeveral Oaths, *Anthony Hall*, and *Richard Young*, a Juſtice of the Peace, who aimed ſomething by hearſay to the Proof of the former Matters.

Alſo Sir *Thomas Gerrard*, *William Bennet*, *Tuchnon*, *Snoden*, and *Ithel*, and divers others, were cloſely kept in a place over the *King's-Bench*, cloſed in with Arras, and were thereupon ſeverally called into the Court, *vivâ voce*, upon their ſeveral Oaths, to affirm that which is ſpecified before; ſithence Mr. *Sollicitor* began to ſpeak, as this *Mark Bennet* the Prieſt was charged with a Letter written to my Lord, wherein he ſhould be ſorry for the opening of theſe Matters as aforeſaid againſt my Lord.

One *Randal* had writ this Letter in *Bennet's* Name, by advice of my Lord of *Arundel*, to blind his Practices. *Bennet* openly denied the writing of that Letter; whereupon my Lord *Grey* and my Lord *Norris*, asked *Bennet*, if he knew of the Letter, yea, or no? For their better Evidence, *Bennet* confeſſed, he had been moved to ſuch a Matter, but he did it not.

Againſt Sir *Thomas Gerrard*, my Lord ſtood very ſtoutly in denial of what he witneſſed, willing him to look him in the Face, and charging him as he would anſwer before God, in whoſe Preſence he ſpoke, to tell nothing of him but Truth. In anſwer whereof, Sir *Thomas* referred himſelf to his Depoſitions before read, to which he ſaid he was ſworn; yea, twice ſworn.

There were called into the Court two Witneſſes more, *viz.* one *Walton*, and one *Church*, who juſtified Letters were brought from *England* to *Rehnes*, where they both were; which Letters were ſent by one *Hill*, one of my Lord's Faction, that the Earl of *Arundel* ſhould be General of the Catholicks, when the Tower ſhould be ſurprized.

To *Walton*, my Lord took exception, affirming, that he was a naughty leud Fellow, who had ſold that little Land he had to three ſeveral Men: and of the other Witneſſes he ſaid, that ſome were attainted, ſome indicted, bad Men and Priſoners, and that their Words were worth little Credit.

Then ſaid Mr. *Popham*, They were never tortured, but confeſſed all this willingly, and they are ſuch as you have accompanied.

Here ended every Man's Speech, and the Noblemen and Peers of the Jury went together.

My Lord humbly having ſubmitted himſelf to the Conſideration of his Peers, with Proteſtation of Loyalty; the Lieutenant brought him from the Bar unto a Seat near unto the Court of *Common-Pleas*, where the Warders attended upon him.

My Lord Steward likewiſe withdrew himſelf a little while, as it ſeemed, to take ſome Refection; having all the day, for the time of his Buſineſs, forborn to eat any thing; and preſently returned to his Seat of State.

Within

Within one hour after, the Noblemen of the Jury came every one back, and were again placed by Garter King of Heraulds.

Then Mr. *Sandes* asked every Man of the Jury, severally, beginning at my Lord *Norris*, the youngeſt Baron, and proceeding to my Lord Treaſurer, the Foreman, whether the Priſoner were Guilty, yea, or no?

Which every one of them, laying their Hands upon their Hearts, did proteſt in their Conſciences, and upon their Honours, that he was Guilty.

Then was the Lieutenant called to bring his Priſoner to the Bar, who was brought accordingly, attended as before.

Then ſaid Mr. *Sandes* unto him, That he had been indicted of ſeveral Treaſons, and that he had put himſelf upon the Tryal of his Peers, who had found him Guilty; and therefore asked, why Judgment ſhould not be given againſt him.

Whereupon my Lord making three very low Obeyſances upon his knees, did humbly ſubmit himſelf to my Lord Steward's Grace, and the Favours of the reſt of the Nobles and Peers there preſent, and beſought them to be Mediators for him, that he might obtain at her Majeſty's hands, to have order taken for his Debts, and to have Conference with his Officers, and to talk with his Wife, and to ſee his Infant, born after his Impriſonment, whom he had never ſeen.

Then my Lord's Grace pronounced Judgment, *viz.* That he ſhould be conveyed to the Place from whence he came, and from thence to the place of Execution, and there to be hanged until he were half dead, his Members to be cut off, his Bowels to be caſt into the Fire, his Head to be cut off, his Quarters to be divided into four ſeveral parts, and to be beſtowed in four ſeveral Places: and ſo (ſaid my Lord Steward) the Lord have Mercy on thy Soul.

To this the Earl of *Arundel* ſaid, as it were ſoftly to himſelf, *Fiat voluntas Dei.* And ſo having made a low Obeyſance to the State, the Lieutenant took him away; Mr. *Shelton* going before him with the Edge of the Ax towards him.

Then there was an O Yes made by the Serjeant at Arms, and the Court, together with my Lord Steward's Commiſſion diſſolved; which done, my Lord of *Derby* took the white Wand out of Mr. *Winkfield*'s Hand, and broke the ſame in pieces, and every Man cried, *God ſave the Queen.*

The Tryal of Mr. John Udall, 31 Eliz. 1589.

ON Tueſday the 13th of *January*, 1589. I appeared at my Lord *Cobham*'s Houſe in the *Blackfryers*; before my Lord *Cobham*, my Lord *Buckhurſt*, my Lord *Anderſon*, the Biſhop of *Rocheſter*, Mr. *Forteſcue*, Mr. *Egerton* the Queen's Sollicitor, Dr. *Aubery*, Dr. *Lewen*. Then was I called in before them, whereupon my Lord *Anderſon* ſaid unto me.

Anderſon. How long have you been at *Newcaſtle?*

Udall. About a Year, if it pleaſe your Lordſhip.

Ander. Why went you from *Kingſton* upon *Thames?*

Udall. Becauſe I was ſilenced there, and was called to *Newcaſtle.*

Rocheſter. What calling had you thither?

Udall. The People made means to my Lord of *Huntingdon*, who ſent me thither.

Roch. Had you the allowance of the Biſhop of that Dioceſe?

Udall. There was none at that time.

Roch. Then you ſhould have gone to the Archbiſhop.

Udall. There was no Archbiſhop at *York* neither.

Ander. You are called hither to anſwer concerning certain Books, which are thought to be of your making.

Udall. If it be for any of *Martin*'s Books (according as my Lord Chamberlain's Letters, that fetched me, import) I have already anſwered, and am ready ſo to do again.

Ander. Where have you anſwered, and in what manner?

Udall. At *Lambeth*, a Year and a half ago, I cleared my ſelf not to be the Author, nor to know who he was.

Ander. Is this true, Mr. *Beadle?*

Beadle. I have heard that there was ſuch a thing, but I was not there at it, if it pleaſe your Lordſhip.

Aubery, Lewen. There was ſuch a thing, as my Lord's Grace told us.

Udall. I am the hardlier dealt withal, to be fetched up ſo far at this time of the Year. I have had a Journey, I would not wiſh unto my Enemy.

Roch. You may thank your own dealing in matters that you ſhould not have meddled withal.

Ander. It is more than I heard, that ever you were called to anſwer; but you are to anſwer concerning other Books.

Udall. I hope your Lordſhips will not urge me to any others, ſeeing I was ſent for about thoſe.

Ander. You muſt anſwer to others alſo: What ſay you to thoſe Books? A *Demonſtration* or a *Dialogue*, &c. did not you make them?

Udall. I cannot anſwer thereunto.

Ander. Why would you clear your ſelf of *Martin*, and not of theſe, but that you are guilty herein?

Udall. Not ſo my Lord, I have reaſon to anſwer in the one, but not in the other.

Ander. I pray you let us hear what Reaſon, for I cannot conceive of it, ſeeing they are all written concerning one matter.

Udall. This is the matter, my Lord; I hold the matter propos'd in them all to be one, but I would not be thought to handle it in that manner, which the former Books do; and becauſe I think otherwiſe of the latter, I care not tho they ſhould be fathered upon me.

Buck. But I pray you tell me, know you not *Penry?*

Udall.

Udall. Yes my Lord, that I do.

Buck. And do you not know him to be *Martin?*

Udall. No ſurely, neither do I think him to be *Martin.*

Buck. What is your Reaſon?

Udall. This my Lord; when firſt it came out, he (underſtanding that ſome gave out that he was thought to be the Author) wrote a Letter to a Friend in *London*, wherein he did deny it, with ſuch Terms as declare him to be ignorant and clear in it.

Buck. Where is that Letter?

Udall. Indeed I cannot now ſhew you, for I have forgotten unto whom it was written.

Buck. You will not tell where it is.

Udall. Why my Lord, it tendeth to the clearing of one, and the accuſing of none.

Buck. Can you tell where *Penry* is?

Udall. No ſurely my Lord.

Buck. When did you ſee him?

Udall. About a quarter of a Year ago.

Buck. Where did you ſee him?

Udall. He called at my Door, and ſaluted me.

Buck. Nay, he remained belike with you?

Udall. No indeed, he neither came in my Houſe, neither did he ſo much as drink with me.

Buck. How came you acquainted with him?

Udall. I think at *Cambridge*, but I have been often in his Company.

Buck. Where?

Udall. At divers places, and namely in mine own Houſe whilſt I dwelt at *Kingſton.*

Buck. What cauſe had you to be ſo often in his Company?

Udall. He being a Scholar and Student in Divinity, and one whom I always thought to be an honeſt Man, your Lordſhip may eaſily conceive the Cauſe. Here was much to this ſame effect ſpoken about Mr. *Penry*, and my being at Mrs. *Crane's* Houſe at *Moulſley*, and with her, *&c.* which I always anſwered, as in the like Caſe concerning Mr. *Horton* of *Richmond* before the Archbiſhop.

Then Dr. *Lewen* reading my Anſwers to thoſe Queſtions, that had been by the Archbiſhop propounded unto me concerning my Papers in my Study, and namely the Notes of my ſeveral Conferences with the Biſhops and their Officers; I was asked, as I remember, by Mr. *Forteſcue.*

Forteſcue. Why did you pen ſuch things and keep them?

Roch. Becauſe he and ſuch like might apiſhly imitate the Martyrs of former times, and account themſelves perſecuted by us, as thoſe were by the Popiſh Biſhops.

Udall. The Cauſe is this, for that in the quickneſs of Wit, and readineſs of Memory in Youth, thoſe things may be ſpoken, that in Age will be more eaſily made uſe of in Writing than otherwiſe, the Memory of Man not being infinite.

Ander. What ſay you, did you make theſe Books, or know you who made them?

Udall. I cannot anſwer to that Queſtion, my Lord.

Ander. You had as good ſay you were the Author.

Udall. That will not follow; but if you think ſo, I cannot do withal.

Cob. Mr. *Udall*, if you be not the Author, ſay ſo, and if you be, confeſs it: you may find Favour.

Udall. My Lord, I think the Author, for any thing I know, did well, and I know that he is enquired after to be puniſhed; and therefore I think it my Duty to hinder the finding of him out, which I cannot do better than thus.

Ander. And why ſo, I pray you?

Udall. Becauſe if every one that is ſuſpected do deny it, the Author at the length muſt needs be found out.

Ander. Why dare you not confeſs it, if you be the Author of it? Dare you not ſtand to your own doings?

Udall. I profeſſed before that I lik'd of the Books, and the Matter handled in them: but whether I made them or no, I will not anſwer; neither of any other Book of that Argument, whatſoever goeth without Name, if you ſhould ask me, for the Reaſon alledged before: beſides that if I were the Author, I think that by Law I need not anſwer.

Ander. That is true, if it concerned the Loſs of your Life.

Udall. I pray your Lordſhip, doth not the Law ſay generally, No Man ſhall be put to anſwer without preſentment before Juſtices, or things of Record, or by due Proceſs or Writ Original, *&c. Anno* 42. *Edw.* 3. *cap.* 5.

Ander. That is Law, and it is not Law.

Udall. I underſtand you not, my Lord; it is a Statute which is in force, if it be not repealed.

Ander. I tell you, by Law you ought to anſwer in this Caſe.

Udall. Good my Lord, ſhew me this favour, to tell me in what Book of the Law I ſhall find it; for I profeſs to underſtand the *Latin*, *French* and *Engliſh* Tongues, wherein all the Laws be written.

Forteſ. You are very cunning in the Law; I pray you by what Law did you preach at *Newcaſtle*, being forbidden at *Kingſton?*

Udall. I know no Law againſt it, ſeeing it was the Official Dr. *Hone*, who did ſilence me; whoſe Authority reacheth not out of his Arch deaconry.

Forteſ. What was the Cauſe for which you were ſilenced?

Udall. Surely I cannot tell, nor yet imagine, ſaving the ſecret Suggeſtions of Mr. *Harvie.*

Forteſ. To be ignorant of that, is *craſſa & ſupina ignorantia.*

Udall. No Sir, the Action was *craſſa & ſupina injuria.*

Ander. Well, what ſay you to thoſe Books; who made them, and where were they printed?

Udall. Tho I could tell your Lordſhip, yet dare I not, for the Reaſons before alledged.

Roch. I pray you let me ask you a queſtion or two concerning your Book.

Udall. It is not yet proved to be mine; but I will anſwer to any thing concerning the matter of the Book, ſo far as I know.

Roch. You call it a Demonſtration, I pray you what is a Demonſtration? I believe you know not what it is.

Udall. If you had asked me that queſtion when I was a Boy in *Cambridge* of a Year's ſtanding, it had been a note of ignorance in me, to have been unable to anſwer you.

Roch. Surely it ſeemeth by the frame of the Syllogiſmes and Reaſons in it, that you know it not, if you be the Author of that Book: I read none of it late, but in the Parliament-time, ſitting in a Morning in the Houſe, I read ſome of it; and it ſeemed to me in many things, not to conclude probably, much leſs demonſtratively.

Udall. I will ſhew you as I take it, why the Author called it a *Demonſtration*; becauſe the Reaſon which is uſually brought to prove the Concluſions,

ſions, is commonly drawn from a place of Scripture, which hath more force in it to manifeſt the Concluſion ἀποδεικτικῶς, than any of *Ariſtotle*'s Proofs drawn as they ſay, *ex primis, veris, neceſſariis & immediatis cauſis*.

Roch. Indeed that which is proved by the Scriptures, is proved moſt demonſtratively; but the proofs in that Book are far from any ſuch.

Udall. Let that be the queſtion, and try it in ſome one.

Ander. My Lord of *Rocheſter*, I pray you let us make ſhort work with him, offer him a Book; will you ſwear to anſwer to ſuch things as ſhall be demanded of you in the behalf of our Sovereign Lady the Queen?

Udall. I will take an Oath of Allegiance to her Majeſty, wherein I will acknowledge her Supremacy according to Statute, and promiſe my Obedience as becometh a Subject; but to ſwear to accuſe my ſelf or others, I think you have no Law for it.

Ander. Mr. Sollicitor, I pray you tell him the Law in this point.

Then Mr. Sollicitor (who had ſitten all the while very ſoberly) noting what paſſed (and if a Man's Mind may be known by his Countenance, ſeeming to miſlike the Courſe holden againſt me) upon my Lord *Anderſon*'s Commandment, ſtood up, and putting off his Hat unto me, ſaid:

Eger. Mr. *Udall*, I am ſorry that you will not anſwer, nor take an Oath, which by Law you ought to do: I can aſſure you, your Anſwers are like the Seminary Prieſts Anſwers; for they ſay, there is no Law to compel them to take an Oath to accuſe themſelves.

Udall. Sir, if it be a Liberty by Law, there is no reaſon why they ſhould not challenge it, for (tho they be very bad ones) they are Subjects, and until they be condemned by Law, may require all the benefits of Subjects; neither is that any Reaſon, that their anſwering ſo, ſhould make the claim of leſs value for me, ſeeing that herein we are Subjects alike, tho otherwiſe of a moſt contrary Diſpoſition.

Buck. My Lord, it is no ſtanding with him thus: what ſayſt thou, wilt thou take the Oath?

Udall. My Lord, I have ſaid as much thereunto as I can.

Then they commanded me to go forth, and they conſulted a little ſpace, and called me again, at which time almoſt every one of them uſed many words to perſuade me to confeſs a Truth; ſaying the Queen was merciful, and that otherwiſe it would go hardly with me: to whom I ſaid, My Lords, I know not that I have offended her Majeſty; when it is proved that I have, I hope her Mercy will not then be too late: howſoever it be, I dare not take this Oath.

Aubery, Lewen. You have heretofore taken it, and why will you not take it now?

Udall. Indeed you call to remembrance a good Reaſon to refuſe it; I was called to anſwer to certain Articles upon mine Oath heretofore, which I voluntarily did, and freely confeſſed that againſt my ſelf, concerning my Judgment and Preaching of the Points of Diſcipline, which could never have been proved; and when my Friends laboured to have me reſtored to my Place, the Archbiſhop anſwered, that there was ſufficient matter againſt me, by mine own Confeſſion, why I ſhould not be reſtored: whereupon I covenanted with mine own Heart, never to be mine own Tormentor in that ſort again.

Ander. Whatſoever be the Iſſue of it, you muſt do your Duty, and deal plainly with the Magiſtrate.

Udall. I take my Duty to be in this Caſe, not to anſwer, nor the Magiſtrate's to require it of me; ſeeing the Apoſtle ſaith, *Receive not an Accuſation againſt an Elder, under two or three Witneſſes:* which *Semanca*, the *Spaniſh* Inquiſitor, alledgeth to the ſame purpoſe.

Buck. What, you are an Elder, are you?

Udall. My Lord, howſoever the word Elder be taken, whether ſo largely as I and my Brethren that deſire the Diſcipline do take it, or only for a Miniſter of the Word, as our Adverſaries underſtand it, I am an Elder.

Roch. It is true, my Lord, that an Elder in that place containeth all ſuch as he is, but none elſe.

Buck. Yea, but they would have other Elders to govern the Church; which Deſire of theirs, when it cometh to paſs, I will give over my Barony, and become an Elder.

Udall. If your Lordſhip underſtood what great Pains, and ſmall worldly Recompence belongeth to that Office, you would never ſay ſo.

Roch. The Day is paſt, and we muſt make an end: will you take the Oath?

Udall. I dare not take it.

Roch. Then you muſt go to Priſon, and it will go hard with you, for you muſt remain there until you be glad to take it.

Udall. God's Will be done, I had rather go to Priſon with a good Conſcience, than to be at Liberty with an ill one.

Roch. Your Sentence for this time is, to go to the *Gate-houſe* cloſe Priſoner, and you are beholden to my Lords here, that they have heard you ſo long.

Udall. I acknowledge it, and do humbly thank their Honours for it.

And when they were all gone, my Lord *Cobham* ſtayed me to ſpeak to me; who told me, that it might be he and others wiſhed things to be amended as well as I, but the time ſerved not, and therefore he wiſhed me not to ſtand in it: and I praying his Lordſhip's good Favour, he promiſed to do for me what he could; for which I humbly thanked him, and ſo was carried to the *Gatehouſe* by a Meſſenger, who delivered me with a Warrant to be kept cloſe Priſoner, and not be ſuffered to have Pen, Ink, or Paper, or any body to ſpeak with me. Thus I remained there half a Year, in all which time my Wife could not get leave to come unto me; ſaving only that in the hearing of the Keeper ſhe might ſpeak to me, and I to her, of ſuch things as he ſhould think meet, notwithſtanding that ſhe made ſuit to the Commiſſioners, yea unto the Body of the Council, for ſome more Liberty: all which time my Chamber-fellows were Seminary Prieſts, Traytors, and profeſſed Papiſts. At the end of half a Year, I was removed to the *White-Lyon* in *Southwark*, and ſo carried to the Aſſizes at *Croydon*, where what was done, I will not mention, ſeeing there were preſent ſuch as were both able, and I think willing to ſet down; unto whoſe Report I refer thoſe that would know the ſame.

At the Aſſizes at Croydon, *the 24th* July, 1590.

Mr. *Udall* was called, and commanded to hold up his Hand at the Bar; who held up his Hand accordingly. Then was his Indictment read, being thus: *John Udall*, late of *London* Clerk, thou art

art indicted, *&c.* The form of which Indictment was as againſt Murderers: namely, that he not having the Fear of God before his Eyes, but being ſtirred up by the inſtigation and motion of the Devil, did maliciouſly publiſh a ſlanderous and infamous Libel againſt the Queen's Majeſty, her Crown and Dignity: And being asked whether he were Guilty, or not Guilty, he anſwered thus:

Udall. My Lords, may it pleaſe you to hear me a word or two.

Jud. Cla. Anſwer firſt to the Indictment, and then you ſhall be heard.

Udall. My Lords, I beſeech you hear me firſt a word or twaine.

Jud. Say on.

Udall. My Caſe is rare, and ſuch as hath not been heard of heretofore, and conſiſteth upon divers points of Law; I humbly crave of your Lordſhips to grant me to anſwer by Counſel if it may be.

Jud. Cla. You cannot have it, and therefore anſwer to your Indictment.

Udall. Then I anſwer (my Lords) that I am not Guilty.

Jud. Cla. How wilt thou be tried?

Udall. I do deſire to be tried by an Inqueſt of learned Men; but ſeeing I ſhall not, I am contented to be tried by the ordinary Courſe, as theſe Men before me are, that is (as you uſe to ſay) by God and the Country.

Then the Clerk of the Aſſizes ſaid to the Parties arraigned, (after he had read the names of the Jury before them) Theſe Men whoſe Names you have heard, are to go upon your Lives and your Deaths; look upon them when they are called to be ſworn, and if you know any Cauſe, take exception againſt them. Then the reſt of the Felons having nothing to ſay, Mr. *Udall* ſaid, My Lords, I am ignorant of the Law in this Point; I pray you therefore ſhew me the manner of challenging the Jury; how many I may challenge, and whether I may render a Reaſon of the ſame.

Jud. I think you will know a Cauſe in your Conſcience, before you challenge any of them.

Udall. Then I pray you my Lord, how many am I by Law permitted to challenge?

Jud. Nay, I am not to tell you that, I ſit to judge, and not to give you counſel.

Then Mr. *Udall* keeping ſilence, Proclamation was made according to the manner; that if any Man could give in Evidence againſt *John Udall*, Priſoner at the Bar, that they ſhould come into the Court and be heard. Then Mr. *Daulton* ſtood up: And in the mean while Mr. *Udall* ſaid to the Judges thus; My Lords, I beſeech you anſwer me to one queſtion before Mr. *Daulton* begin to ſpeak.

Jud. Say on.

Udall. Is it permitted me by Law to anſwer to thoſe things in particular, which are brought to prove this Indictment?

Jud. It is permitted.

Udall. Then I humbly crave of your Lordſhips to grant me two Petitions, which I think will greatly further both him in ſpeaking, me in anſwering, and alſo be a more ready help to the memory of the Jury, that they may be able to bear the matter away.

Jud. What are your Petitions?

Udall. The firſt is, that when Mr. *Daulton* hath ſpoken to one Point what he can; I may anſwer to that before he proceed any further, leſt my Memory being overwhelmed with multitude of matter, I ſhould forget to anſwer to ſome Points of Importance, and the Jury made leſs able to diſcern of the Particulars. The ſecond is, that it might pleaſe you to grant me to anſwer without Interruption.

Jud. You ſhall have them both granted.

Daul. Then Mr. *Daulton* ſaid, Mr. *Udall*, you have theſe Petitions granted you, I deſire the ſame of you. And then he deſiring leave of the Judges, before he ſhould prove the Indictment, to ſay ſomething touching this, that this Man, and ſuch as he is, do maintain, *&c.* after leave given him, he uſed a very long Speech, to the great diſgrace and ſlander of the Cauſe, and thoſe Men that profeſſed the ſame, eſpecially of Mr. *Udall*: and making mention in the ſame his Speech, of five ſeveral Books of Common-Prayer, made by ſuch as deſire Reformation; he affirmed, that in one of the ſaid Books there was horrible Blaſphemy, in theſe words of the Conſecration of the Lord's Supper, *Take eat, this my Body; drink, this is my Blood.* Then he cried out, ſaying, *Oh horrible Blaſphemy!* And taking occaſion upon the variety of theſe Books, he affirmed that there was no conſtancy in theſe Men: And whereas one of the Books doth allow, that over every Congregation there ſhould be a faithful Paſtor; that is quoth he, a Shepherd, whereby they may take the Government out of her Majeſty's hand, and ſo bring her Majeſty to be one of their Sheep; no quoth he, her Majeſty is no Sheep under any Shepherd in the World, except Chriſt: and for the Government that theſe Men do ſeek for, I am aſſured there is none ſuch to be found in the Word of God.

Udall. Mr. *Daulton* hath uſed a very large Speech, which doth nothing concern to prove the Indictment, or me in particular; and therefore ſeeing I am not called hither to diſpute (and if I would, I ſhould not be permitted) I will not anſwer it; only thus much will I ſay (if it pleaſe your Lordſhips) that ſeeing Mr. *Daulton* is by Profeſſion a Lawyer, and the Cauſe is yet in queſtion amongſt the learned Divines, methinks it had been more modeſty for Mr. *Daulton* to have ſuſpended his Judgment until the Controverſy had been determined amongſt them, to whoſe Profeſſion it belongeth: eſpecially ſeeing Mr. *Daulton* knoweth in his Conſcience, that he hath heretofore carried ſome ſhew of liking to the Cauſe, which now he ſpeaketh againſt.

Judge. Sirrah, Sirrah, anſwer to the matter that Mr. *Daulton* hath againſt you; Mr. *Daulton*, proceed to the proof of the points of the Indictment.

Daul. My Maſters, you of the Jury, *&c.* I will prove, Firſt, That he had a malicious Intent in making of this Book: Secondly, that he is the Author of it: And Thirdly, That theſe matters contained in the Indictment are Felony, by the Statute, *Eliz.* 23. *cap.* 2.

Then was Mr. *Beadle* the Regiſter called, who was ſworne, that theſe Examinations following were as the Parties themſelves confeſſed the ſame: And to prove the firſt, the Clerk of the Aſſizes cauſed *Stephen Chatfield* to be called into the Court, to give in Evidence againſt *John Udall*, but he appeared not at all, for which the Judges were offended; and Serjeant *Puckering* ſaid, there was a Warrant ſent for him: whereupon ſome ſtanding by affirmed, that the Warrant came after his departure from home. Then Mr. *Daulton* ſaid, that he went out of the way of purpoſe; and Judge *Clarke* ſaid, Mr. *Udall*, you are glad of that. Mr. *Udall* anſwered;

Udall. My Lords, I wiſh heartily he had been here; for as I am ſure he never could ſay any thing againſt me to prove this point, ſo I have heard and am able to prove it to be true, that he is very ſorry that ever he made any complaint againſt me, confeſſing he did it in his Anger, when *Martin* came firſt out; and by their Suggeſtions, whom he hath proved ſince by Experience to be very bad Men.

Dault. It is no great matter whether he be here or no, for we have his Articles againſt you, and your own Confeſſion, to prove this point ſufficiently.

Then were Mr. *Chatfield*'s Articles (that he brought to the Archbiſhop againſt Mr. *Udall*) read by the Clerk, containing a Report of certain written Papers; tending, as he ſuppoſed, to the making of ſuch a Book as this is: and thereupon asked Mr. *Udall* whoſe writing they were; who anſwered, they are a Friend's of mine: whereunto *Chatfield* replied, wiſhing him to take heed of them, and to rid his hands of them, and to return them to his Friend from whom he had them, for he doubted they concerned the State. Theſe Papers he ſaw in Mr. *Udall*'s Study at *Kingſton*. Alſo he further ſaith, that at another time, he having conferred with Mr. *Udall* in a certain Field by *Kingſton*, called *Little-field*, about this putting to ſilence; he ſaith, that the ſaid Mr. *Udall* uttered theſe words, That if they put him to ſilence, he would give the Biſhops ſuch a Blow, as they never had.

Udall. May it pleaſe your Lordſhips that I may anſwer to theſe things in particular.

Judg. Say on, let us hear your anſwer.

Udall. I was accuſed this time two Years upon the words of *Chatfield*, that theſe Papers that he did ſee in my Study, ſhould be the matter of *Martin Mar-Prelate*; and becauſe I cleared my ſelf of that, it is now brought to prove another matter: but it proveth nothing, unleſs it were ſet down in particular what they were.

Daul. It proveth this, that you had a purpoſe to write this Book, and thoſe things were Collections from your Friends, and Preparations thereunto.

Udall. Let the Jury conſider how that Point is prov'd by it. Beſides it may be prov'd, that this Book was extant in Mens hands before the Conference between *Chatfield* and me; therefore how can it be prov'd that this is the Book that ſhould give them ſuch a Blow?

Dault. But you cannot deny the ſecond Point, that you had a pretended Malice, for it is extant in your own Confeſſion: Read his Anſwer to thoſe Articles of Mr. *Chatfield*. Then the Clerk read his Anſwer to this effect, That if the Biſhops put him to ſilence, they would give him Occaſion and Leiſure to be imployed in writing againſt them. Then ſaid Mr. *Daulton*, is not this moſt evident, what can be plainer than it is?

Udall. I pray your Lordſhips to give me leave to explain theſe things.

Judg. Say on, and be brief.

Udall. Mr. *Chatfield* told me, that he was commanded to come to *Kingſton* and be reſident there, of purpoſe that I might be put to ſilence, and that there might not appear any want of a Preacher, I being put down; whereupon I ſaid, in effect, as is above rehearſed: But I pray you hear in what ſenſe theſe words were uttered.

Judg. The Matter is clear, and we ſee what you can ſay to it well enough; proceed, Mr. *Daulton*, to the Proof of the ſecond Point.

Dault. And that you be the Author of this ſlanderous and infamous Libel, it ſhall be proved clearly to the Jury before your face. Then ſaid he to the Clerk, read the Anſwer of *Nicholas Thompkins*, which was made upon his Oath before her Majeſty's High Commiſſioners. Then was read to this effect, that *Thompkins* knew that Mr. *Udall* was the Author of that Book call'd *The Demonſtration*, for he ſaid that Mr. *Udall* himſelf told him ſo. Alſo that he ſaw either in Mr. *Udall*'s Houſe, or in ſome other Place in *Kingſton*, a Catalogue of all the Books that Mr. *Udall* had made, amongſt which the *Demonſtration* was one.

Judg. You ſee here that this is clear, and a ſufficient Teſtimony.

Udall. It carrieth ſome ſhew, but it is nothing.

Judg. Do you call the Teſtimony of one being an honeſt Man, and upon his Oath, before the High Commiſſioners, to be nothing, can you anſwer it?

Udall. My Lords, I anſwer it thus, denying it to be his Teſtimony; for if it be, why is he not preſent to verify it face to face, according to the Law?

Jud. Puck. It is verified to be his true Anſwer, under the hands of Dr. *Auberie* and Dr. *Lewen*, the latter whereof confirmed it before me upon his corporal Oath.

Dault. You can take no Exceptions againſt that, and will you ſay he is not an honeſt Man?

Udall. I am perſuaded he was amazed, and anſwered he knew not what; for he hath reported it ſo diverſly, that it ſeemeth he remembreth not what he ſaid.

Judg. But the Oath of *Thompkins* is to be preferred before his bare Report.

Udall. My Lords, I anſwer; I proteſt unto you, (and will verify it upon my Oath, if it pleaſe you) that he told me the day before I was committed, at his Maſter's Houſe, that he could not ſay, neither would he for a thouſand Pounds affirm any more than this, that he heard me ſay I would not doubt but ſet my Name to that Book if I might have indifferent Judges. And further (if it pleaſe you my Lords) here are ſome Witneſſes that upon their Oaths will teſtify, how diverſly he hath reported of his Confeſſion to this thing, if it pleaſe your Lordſhips to accept them. And the Witneſſes offering themſelves to be heard, were anſwered, that becauſe their Witneſs was againſt the Queen's Majeſty, they could not be heard. And after other Speeches paſſing, Mr. *Udall* ſaid;

Udall. My Lords, the Speech of the Catalogue is moſt vain, and hath no Senſe in it; for can I have made ſo many Books, as that I need make a Catalogue of them? It may be, my Lords, he ſaw a Catalogue of the Books in my Study, wherein if that were one, it is rather an Argument that I made it not; for Men uſe not to put their own Works in the Catalogue of thoſe that they have in their Study.

Dault. You of the Jury conſider this, that *Thompkins* was Mrs. *Crane*'s Man, and one that was privy to all the Printing that was at her Houſe, and Mr. *Udall* uſed to go often thither.

Udall. All that is nothing to me, what if I uſed to go thither, ſhe is of my Acquaintance, I know her to be an honeſt Gentlewoman, what can you gather by any of theſe things? Why is not *Thompkins* here to declare his Teſtimony, and to ſay what he can?

Dault.

Dault. He is beyond the Seas about Merchandizes, ſent away by Mr. *Gore*, who married Mrs. *Crane*'s Daughter.

Udall. How doth that appear? he is no Merchant, but a Serving-Man; and if he were, what is that to me? But it cannot be proved that Mr. *Gore* did ſend him, ſo that here is nothing but bare Papers to ſhew for Evidence againſt me.

Then there was much ſaid, to prove that the Teſtimony of a Man abſent was ſufficient, if it were proved to be his upon the Oaths of others. And then the Judge ſaid,

Judg. What ſay you? Did you make the Book *Udall*, yea or no? What ſay you to it, will you be ſworn? Will you take your Oath that you made it not? We will offer you that Favour which never any indicted of Felony had before; take your Oath, and ſwear you did it not, and it ſhall ſuffice.

Udall. My Lords, I pray you hear me to this: If I would have done ſo before the Lords of her Majeſty's Privy Council that committed me, I had not come hither; but I neither then might, nor may do ſo now, whereof I pray you let me ſhew a Reaſon to the Jury. I and many more do think the Book to be good, for any thing we can find in it, and to be written in defence of a Cauſe which we take to be moſt true. Now the Author is ſought for, that he may be puniſh'd for ſome Speeches that may be wreſted in the Book; therefore leſt he ſhould be found (if one after another that are ſuſpected do deny it) it is thought beſt every one neither to confeſs nor to deny, yea tho we ſuffer ſome Puniſhment, rather than the Author, being found out, ſhould ſuffer Extremity.

Judg. Nay this is but a ſhift, I will go further with you: Will you but ſay upon your Honeſty that you made it not, and you ſhall ſee what ſhall be ſaid unto you?

Udall. My Lords, it is all one, I make a Conſcience of my Word as of my Oath, for I muſt give account for both. This is no direct Courſe in this Place.

Judg. You of the Jury conſider this. This argueth, that if he were not guilty, he would clear himſelf, and conſider well of it. And then ſpeaking to Mr. *Udall*, he ſaid, do not ſtand in it, but confeſs it, and ſubmit your ſelf to the Queen's Mercy, before the Jury find you guilty.

Udall. My Lord, I anſwer that according to my Indictment I am not guilty, every Point whereof muſt be proved, or elſe the whole is falſe. And I beſeech your Lordſhips give me leave, and I will be very brief: My Conſcience doth not accuſe me that I have ſo much as offended her Majeſty, her Council, or the meaneſt of her People in any thing I have done concerning this Cauſe; for if I ſhould, of all other I deſerved the leaſt Favour, being one that profeſſed to teach others Loyalty to her Majeſty, and Love to one another: and would you have me to confeſs a Fault where there is none? No, I cannot do it, neither will I: wherefore proceed in your Courſe begun.

Dault. We have yet more Proof than this, tho yet this were ſufficient of it ſelf; wherefore read the other Examinations. Then was read the Confeſſion of *Henry Sharpe* of *Northampton*, who upon his Oath, before my Lord Chancellor, had ſaid, that he heard Mr. *Penry* ſay, that Mr. *Udall* was the Author of the *Demonſtration*.

Udall. Sharpe and I were never above once in Company together (to my remembrance) neither knew he ever any of my Dealings. This is nothing to prove me the Author of the Book: Reports be uncertain; and if Reports be true, the Archbiſhop himſelf told me, that Mr. *Penry* made it; which is more forcible for me than any of *Sharpe*'s Reports can be againſt me.

Dault. You miſtake the Matter, the force of the Point reſteth in Mr. *Penry*'s Report, who was one of your great Acquaintance and Familiars; and you, and *Waldgrave*, and he, were at Mrs. *Crane*'s Houſe.

Udall. Here is one Man's ſaying that another ſaid ſo, let the Jury conſider of what force this Proof is; if you have any more, let it appear.

Judg Clark. You of the Jury have not to enquire whether he be guilty of the Felony, but whether he be the Author of the Book; for it is already ſet down by the Judgment of all the Judges in the Land, that whoſoever was Author of that Book, was guilty by the Statute of Felony, and this is declared above half a year agone.

Udall. Tho it be ſo determined already, yet I pray your Lordſhips give me leave to ſhew that which I have to ſay, and I will be very brief; and it is to prove, that tho I were found to be the Author, yet it cannot be within the Compaſs of that Statute, *Anno* 23 *Eliz. cap.* 2. whereupon the Indictment is framed.

Judg. You ſhall be heard to ſay for your ſelf what you can, therefore ſay on.

Udall. Tho I be not by Profeſſion a Lawyer, yet I think I can ſhew it clearly by theſe Reaſons following: (1.) The Intent of the Law-makers, (which always is to be regarded in theſe Caſes) is to be conſidered, which appeareth in the Preface of the Statute in theſe words, *To fruſtrate the Malice of thoſe that be evil-affected to her Highneſs.* Now I pray you conſider this how can it be? or how is it poſſible that a Preacher, of the ſame Religion which her Majeſty profeſſeth and maintaineth, who is known continually to pray unto God for her Highneſs's Proſperity and Happineſs, both of Soul and Body; how is it poſſible, I ſay, that ſuch a one ſhould be maliciouſly affected towards her? Therefore it is evident that the Statute was made againſt the Papiſts, who uſe to ſlander her Highneſs with the Terms of Heretick, *&c.* and no way againſt us; for I dare boldly ſay of my ſelf, and in the name of all my Brethren, Curſed is he of God, and he deſerveth doubtleſs to be hated of Men, that doth imagine the leaſt hurt againſt her Highneſs. (2.) The Matter that maketh a Man a Felon by that Statute, muſt proceed from a malicious Intent againſt her Highneſs, which I or any ſuch as I am can no way juſtly be charged with; partly for that which is ſaid before, and partly for that my Courſe of teaching and living in this Country theſe nine years (ſaving this laſt Year, wherein I have been abſent) is known to have tended to no other end, than the provoking and perſuading of the People to like of and yield Obedience unto her Majeſty, and the Religion receiv'd in her Dominions: for the Proof whereof, I refer my ſelf to the Conſciences of all Men in the Country that have known me. And further, is it likely, that I who have been trained up in the Univerſities under her Majeſty's Protection, and have always bended my Studies to the Advancement of the Sincerity of the Goſpel; ſo that thoſe ſmall Crumbs of Learning which I have gather'd, I do acknowledge to have received by her Majeſty's means: Theſe things conſidered, how can it be that I ſhould be evil-affected towards her Highneſs, whom I proteſt I unfeignedly reverence? And therefore the worſt that the

Author

Author can be charg'd withal, is his Overheat and too much Vehemency, by reaſon of his Zeal againſt the Abuſes, and not any Malice againſt her Majeſty, or the meaneſt of her Subjects. Again, the Matter to bring it within the Compaſs of the Statute muſt be falſe: But this Book is written in the behalf of a moſt true Cauſe. Laſtly, The End of it muſt be either to the Defamation of the Queen's Majeſty, or ſtirring up of Inſurrection, Sedition, or Rebellion: For the former, I truſt that the whole Courſe of our Behaviour, both in our Miniſtry and Converſation, declareth it ſelf to be ſo far from ſeeking to defame her Highneſs, as it tendeth to the uttermoſt of our Powers, to the Advancement of her Honour. For I am perſuaded that there is none of us that would refuſe to undergo any Pain, whereby her Majeſty might any way be the better honour'd; yea we would not refuſe, if need ſo requir'd, to lay down our Lives for redeeming of the leaſt aking of her Majeſty's little Finger, wherewith ſhe might be griev'd. Now for the ſecond end, which is the moving or ſtirring up of Rebellion, *&c.* I pray your Lordſhips, and you of the Jury to conſider this: There have been, ſince the firſt day of her Majeſty's Reign, learned Men, that have deſir'd the Advancement of this Cauſe, and many of the People that affected it, and yet hath it never appeared, that by Occaſion hereof, there hath, in all this time, been any in any Place that have raiſed any Inſurrection or Sedition: yea this Book, which is now in queſtion, hath been extant theſe two years; yet I truſt neither your Lordſhips, nor any here preſent, can ſhew that any People in any Corner of the Land, nay it cannot be juſtly proved that any one Perſon hath taken any occaſion hereby to enterprize any ſuch matter: and therefore the making of this Book cannot be Felony. Beſides all this, if there had been any ſuch thing meant by the Author, or received by the People, as the Indictment chargeth me withal (which is the Defamation of her Highneſs's Government) yet, as I take it, it ſhould not be Felony by that Statute; for the whole Courſe of it declareth, that it is only meant of them that defame her Highneſs's Perſon, and not her Government, as it is manifeſt by the laſt Proviſo; wherein it is ſhewed, that the whole Statute doth determine and end with her Majeſty's Life. And we may not think their Wiſdoms that made the Law to be ſo unadviſed, as to make a Law for the Preſervation of the Prince's Government, which is continual, to laſt no longer than the Life of one Prince, which is temporary: therefore it ſeemeth that the Statute hath no further regard than this, that her Highneſs's Perſon might be preſerved in that Honour and Dignity, which becometh her Royal Dignity and Eſtate. And I do beſeech your Lordſhips to anſwer me, for I appeal to your Conſciences, as you will anſwer to God for my Life, and I pray you tell the Jury, whether you do think the Intent of the Statute were in any ſort meant againſt us, and not rather againſt the Papiſts.

Judg Puck. Judge *Puckering* ſaid, You do not well to charge us ſo with our Conſciences, which God only is to know. I anſwer you, the Intent of the Statute is againſt all, for ſo the words are.

Udall. The words, my Lord, I confeſs are ſo; but is the principal Intent ſo?

Judg. Yea, it is ſo.

Judg Clarke. We have heard you ſpeak for your ſelf to this Point at large, which is nothing to excuſe you; for you cannot excuſe your ſelf to have done it with a malicious Intent againſt the Biſhops, and that exerciſing their Government which the Queen hath appointed them, and ſo it is by conſequence againſt the Queen.

Udall. My Lords, I am perſuaded that the Author did it not of any Malice againſt them; and for my ſelf, I proteſt I wiſh them as much good as I do to my own Soul, and will pray to God to give them Repentance. But the Cauſe why the Author did ſo earneſtly inveigh againſt them was this, as it ſeemeth, becauſe he perceived them not only to execute an Authority which he taketh to be unlawful by the Word of God, but alſo for that they do not the tenth part of that good (even in thoſe corrupt Callings) which by Law they might do; and I am perſuaded that your Lordſhips know in your own Conſciences, that they do not the tenth part of that they are bound to do.

Judg Clarke. That is true, they do not the good that they might do; but yet that doth not excuſe you: for it is plain in your Book, that you writ not againſt them only, but you writ againſt the State; for is it not againſt the State, when you ſay, that it is more eaſier to live in *England* a Papiſt, an Anabaptiſt, of the Family of Love, and what not? yea, you ſay, I could live ſo in a Biſhop's Houſe, it may be theſe twenty years, and never be much moleſted for it. What is this but a plain ſlandering of the State? and mark the words, for you ſay, you could live ſo in *England*; And doth her Majeſty's Laws allow of Papiſts? This maketh evidently againſt you, and it is ſo plain, that you cannot deny it.

Udall. My Lords, if it might pleaſe you to hear me a word or two, I will ſhew the meaning of the Author of the Book, I beſeech you to hear me, and I will be very brief: I know the Laws of *England* do not allow of any ſuch as are mentioned in the Book, for there are godly Laws made for the puniſhing of them, if they were put in execution. But this I take to be the Author's Meaning, that it is not ſpoken in reſpect of her Majeſty's Government and Laws, but in reſpect of the Biſhops, whom your Lordſhips know to be wholly imployed in finding us out, and puniſhing of us, not regarding (in a manner) the puniſhing any Sin elſe.

Judg. What, Sirrah, will you not confeſs any Fault to be in the Book? you ſeek to excuſe all.

Udall. My Lords, I do acknowledge that there was never any Work of Man ſo perfect, but there have been Imperfections in the ſame; and therefore there may be ſome fault in the Manner, but ſurely none in the Matter: for the Biſhops themſelves will confeſs that they may fail in their Actions, and be partial (as they are Men) in the manner of handling any thing. So alſo the Author of this Book, being aſſured that the Matter is without reproof, may err in the Manner, in being over-zealous in the handling of it; and this fault I will eaſily confeſs to be in the Book, my Lords: but I am ſure the Author never had any malicious Intent againſt her Highneſs, or any of her Subjects.

Judg Clarke. This Book hath made you to come within the Compaſs of the Statute, tho your Intent were not ſo: for I am ſure there was Mr. *Stubbs*, well known to divers here, to be a good Subject and an honeſt Man; yet taking upon him to write a Book againſt her Majeſty touching *Monſeir*, he thereby came within the Compaſs of Law, which he intended not in making of the Book; and

and I am perſuaded, that he did it of a good Affection towards her Majeſty; and yet if this Law had been made then, which was made ſince, he had died for it: So you, tho you intended not to come within the compaſs of the Statute, yet the Law reacheth to your Fact, as that did to his.

Udall. My Lords, his Caſe and mine is not alike, for his Book concerned her Highneſs's Perſon; but the Author of this Book toucheth only the Corruptions of the Biſhops, and therefore not the Perſon of her Majeſty.

Judg. But I will prove this Book to be againſt her Majeſty's Perſon; for her Majeſty being the ſupreme Governor of all Perſons and Cauſes in theſe her Dominions, hath eſtabliſhed this kind of Government in the hands of the Biſhops, which thou and thy Fellows ſo ſtrive againſt; and they being ſet in Authority for the exerciſing of this Government by her Majeſty, thou doſt not ſtrive againſt them, but her Majeſty's Perſon, ſeeing they cannot alter the Government which the Queen hath laid upon them.

Udall. My Lords, we are not ignorant of this, that her Majeſty hath a care that all things might be well; and in that reſpect hath given them often in charge, (upon the Conſiderations of theſe Controverſies) to ſee to it that nothing be amiſs; and becauſe ſhe hath a good Opinion of them for their Gravity and Learning, ſhe believeth them when they ſay all is well and in good caſe: whereas, if they had the grace to look into theſe things, and to make them known as they be, indeed her Majeſty and the State, I doubt not, would quickly redreſs them; and therefore was it that the Author did ſo charge them.

Then the Judge proceeding farther in the Book to prove him to have offended, he took occaſion by the ſame to ſpeak againſt railing againſt Magiſtrates; and ſpeaking to Mr. *Udall*, he ſaid in effect thus:

Judge Clarke. Sirrah, you that ſhould have been a Teacher of her Majeſty's People, you ſhould have taught your ſelf not to have rail'd upon the Rulers of the People; for do you not know what is written in the 23d of *Exodus*, *Thou ſhalt not rail upon the Ruler of the People, for whoſoever doth ſo ſhall die the death.* And do you not know what is written in the 23d of *Acts*, where the Apoſtle *Paul* being before the High Prieſt, called him a *painted Wall*; and being ſmitten by one of the High Prieſt's Servants, it was ſaid unto him, *Revileſt thou the Lord's High Prieſt?* To which *Paul* anſwered, *I knew not, Brethren, that he was the High Prieſt.* Lo! thus did he acknowledge his Fault: Do you know theſe things, Sirrah?

Udall. My Lord, you know that we hold it not lawful for a Miniſter to be a Civil Magiſtrate, and there are at leaſt 500 in this Land, amongſt whom I am the moſt unworthy, that are of the ſame Judgment in this Point.

Judg. But how if the Queen doth give it them?

Udall. They ought not to take it. And my Lord (if it pleaſe you) I will anſwer to your Proofs, tho I came not hither to diſpute. But in my anſwering, my purpoſe is not to give any liberty to any Man to rail upon any that are in Authority. Now to your Proofs, I ſay my Lords, that the place out of *Exod.* 23. doth rather concern your Lordſhips, and ſuch as are under her Majeſty for Judges, than any way to concern the Biſhops: And touching the ſecond place out of *Acts* 23. where the Apoſtle ſaith, *Brethren, I wiſt not that it was the High Prieſt*; the meaning of that place is, as if he ſhould ſay, I thought there had not been any High Prieſt now, ſeeing Chriſt being come, the High Prieſthood was to ceaſe: ſo that the Apoſtle doth not acknowledge any Fault in that his Speech, for there was no lawful High Prieſt of that time; neither did he acknowledge any, ſeeing they did end in Chriſt. And thus do the beſt Divines expound the place.

Then, after ſome farther Speeches of this Expoſition, the Judge returned to the matter of the Book again, ſaying, That the Book did concern the State, and ſaid:

Judg. But, Sirrah, thou canſt not ſo excuſe thy ſelf, as though it touched not the Queen and the State; for it is not written in thy Book, that this Saying will not ſerve their turns, the Queen and Council will have it ſo: whereby it is plain, that thou didſt ſpeak againſt the Queen and the State.

Udall. My Lord, the Author only meaneth this, That when we are called before the Biſhops, they were often driven to uſe this Argument (when they had nothing elſe to ſay for themſelves) that they could be content many things were amended; but it muſt be ſo, for the Queen and Council will have it ſo: And ſurely herein methinks they ſlander her Highneſs; and we tell them, that however they bear it out here before Men, yet before God that Excuſe will not ſerve their turn.

Judg. Thou canſt not carry it away ſo: Doſt not thou plainly ſay, That they are not ſafe, tho they have human Authority on their ſide; but he that is on our ſide is mightier than they? Whereby thou both abaſeſt her Majeſty, and alſo doſt threaten them with ſome Force and Violence.

Udall. It is true, that whoſoever doth unjuſtly is not ſafe in it, tho all the Princes in the world ſhould defend him in it; and that is the Meaning of the Author: But to ſay, that Force and Violence is threatned them, is fartheſt doubtleſs from this Meaning; for it is known to all the World, that we deſire, by all good means, to commend this holy Cauſe of Reformation to her Majeſty and the State, and do not look for neither, that ever it ſhould by any force prevail, but that it would pleaſe God to honour her Highneſs with the advancement of the ſame.

Judg. No, no, theſe are but Excuſes, theſe malicious Speeches proceeded from thee, and were the Ground-work of all theſe Libels that have been diſperſed ſince, and thou art known to be the Ring-leader of this Faction.

Udall. There is no reaſon to charge me with other Mens doings, every Man muſt anſwer for himſelf; but as for me (alas) I am no body: there are five hundred Miniſters in this Land of my judgment in theſe things, the meaneſt of which I acknowledge to be far better learned than I am. But by the way, my Lords, I pray your Lordſhips give me leave to ſay one thing, which I being about to ſpeak of before, was interrupted; and therefore ſeeing now it cometh into my Memory, I pray you to hear me, tho it be out of time, concerning the Felony whereof I am accuſed; it maketh greatly for me.

Judg. What is it? Let us hear what you can ſay.

Udall. When I was before the Lords of her Majeſty's Council at the time of my Commitment, amongſt other things that I alledged againſt the taking of an Oath to accuſe my ſelf, I ſaid, that the thing was accounted criminal, and therefore by Law I was not to anſwer: My Lord *Anderſon* ſaid, that I ſaid true, if the caſe had concerned either the

the loſs of Life or Limb; whereby it is manifeſt, that then my Caſe was not eſteemed Felony.

Judg. Though the Judges had not then concluded it, yet it was Law before, or elſe it could not ſo be determined after; the violent courſe of others ſince, hath cauſed your Caſe to be more narrowly ſifted.

Then the Judge (having ſpoken to the like effect alſo) ſaid to the Jury, That they ſhould not need to trouble themſelves to find him Guilty of the Felony, but only it was ſufficient if they found him Guilty to be the Author of the Book; for, quoth he, it is already determined by all the Judges of the Land, that the Author of that Book was in the compaſs of the Statute of Felony; and this, quoth he, was concluded before we came hither: Therefore you being ignorant of the Law, and we being ſworn, as well as you are, you are to hear us, and to take our Expoſition of the Law. And after many other Speeches, the Judges ſaid, Go thy way, we will hear thee no longer; get thee hence; and ſhaking his Hand, he called for the other Felons to hear their Cauſes.

Then the Jury ſaid, What can we find?

Judg. Find him Author of the Book, and leave the Felony to us.

And after ſome other Speeches, Mr. *Fuller* ſaid to the Jury, You are to find him Author of the Book, and alſo Guilty of a malicious Intent in making it.

Whereat Mr. *Daulton* ſaid, What have you to do with the matter, Mr. *Fuller*, to ſpeak to the Jury?

Then there being ſome Noiſe at the Bar, Mr. *Udall* could not any more be heard: Yet as he was ready to depart, he ſaid to the Jury, You of the Jury conſider this, that you have not to conſult about the Life of a Seminary and Popiſh Prieſt, but of a Miniſter of the Goſpel.

Then Judge *Clarke* ſhewed the Reaſons to the Jury, why they muſt find him Guilty; ſaying, The Evidences are manifeſt for the firſt Point, that he is the Author of the Book; and the ſecond is a Point in Law agreed upon by all the Judges, as I have ſaid.

So the Jury, after they had heard the Evidences of the other Felons at the Bar, departed to conſult about them; in which time of their Conſultation, there came two ſeveral Meſſages, exhorting him to ſubmit himſelf, and to yield unto the Judges before the Jury had given up their Verdict.

Unto whom Mr. *Udall* replied, willing them not to trouble him with any ſuch matter; for he was clear in his Conſcience, and therefore he was not to accuſe himſelf. In which time alſo the Jury, divers times ſent and received Meſſages from the Judges; and at laſt, the Foreman of the Jury went himſelf unto them. Thus having debated of the Evidences of the reſt of the Felons with Mr. *Udall*, after the Judges had dined, the Jury brought in their Verdict that he was guilty of Felony.

After that Baron *Clarke* had finiſhed all other matters of Law, and that the Juries had given their Verdicts on the Felons, finding ſome Guilty, and ſome Not Guilty, the Judge commanded all the Priſoners to ſtand forth and to anſwer to their Names: who did ſo. And firſt, Mr. *Udall* was called, who ſtood forth at the Bar; but the Judge commanded him for that time to ſtand aſide, ſaying, That he would deal with him anon. Then ſome of the Priſoners which were ſaved by their Books, were burnt in their Hands; and for that Night there was nothing more done. Then the Judge commanding the Jailor to bring the Priſoners betimes in the Morning, commanded them to depart: And ſo for that time every Man departed to his place.

The next morning, being the 25th of *July*, about four of the Clock, the Priſoners were brought to the Bar, who ſtay'd till the coming of the Judges; who came thither by ſix of the Clock, or thereabouts, and called the Priſoners by their Names to receive Sentence of Death: And firſt, they began with Mr. *Udall*; who, after he was called, was commanded to ſtand aſide till anon. And then were ſeven Felons that received Sentence of Death; who being taken aſide, Mr. *Udall* was called the ſecond time; and the Clerk of the Aſſizes ſaid, *John Udall*, hold up thy Hand, what canſt thou alledge for thy ſelf, why thou ſhouldſt not receive Judgement to die?

Udall. My Lords, notwithſtanding my earneſt pleading and proteſting of mine Innocency yeſterday, which I could and would have done more clearly, but that I was ſo much interrupted; yet it hath pleaſed the Jury, upon their Conſciences, to find me Guilty of that which, I thank God, never enter'd into my heart: Now therefore muſt I plead another Plea, and therefore I crave of your Lordſhips to grant me the Benefit of the Pardon granted the laſt Parliament.

Judg. I think you can have no Benefit by it, for I am deceived if it be not excepted. Then ſaid he to the Clerk, or ſome other, Reach me the Statute-Book: And whilſt he looked in the ſame,

Mr. *Udall* ſaid, I pray your Lordſhips conſider the Ground of my Plea, albeit indeed it ſeems to be excepted: Your Lordſhips confeſſed yeſterday, and I ſhewed it by my Lord *Anderſon*'s Speeches to me, that it was not thought Felony till of late; and therefore the things that be excepted, be ſuch as be inquirable and puniſhable in the Eccleſiaſtical Courts.

Judg. That is nothing; for if the leſſer be excepted, much rather is the greater.

Udall. My Lords, I refer it to your Conſciences and favourable Conſiderations: The Words are theſe in the Pardon, which he repeated: And they finding it to be as he had ſaid, the Judge ſaid, Here is no help for you: And after other Speeches between them of the Meaning of the Words of the Pardon, the Judge ſaid, Mr. *Udall*, your Counſel hath deceived you.

Udall. My Lords, I have not received any Counſel herein, for I have been cloſe Priſoner this half year, and therefore could not attain to have any Counſel; but thus much have I gathered, which is my Judgment, out of the Book.

Judg. What can you alledge more for your ſelf? for this helpeth you not.

Udall. Nothingbut mine own Innocency, but that your Lordſhips may proceed.

Judg. What ſay you? are you contented to ſubmit yourſelf to the Queen?

Udall. Yea, or elſe I were not worthy to live in her Highneſs's Dominions.

Judge. But will you acknowledge your ſelf to have offended her Majeſty in making this Book? She is gracious and full of Mercy; it may be, that we, reporting your Submiſſion unto her Majeſty, may procure her Pardon for you.

Udall. May it pleaſe your Lordſhips to hear me; The Cauſe for which I am called in queſtion, I cannot forſake in any ſort, for I hold it to be the undoubted Truth of God; but, *&c.* And then he was interrupted by Judge *Puckering*, who ſaid:

Judg.

Judg. Nay, ſtay there, you cannot go away with that Speech unanſwered, to buz into the Peoples ears ſuch a Conceit, that it is an undoubted Truth that you hold; for I hold it to be an undoubted Falſhood. And then he proceeded further in a large ſet Speech, the effect whereof was, That this Land having been governed by ſundry Nations, hath yet kept her antient Laws, which (he affirmed) would be overthrown, if this Government that theſe Men ſeek for, ſhould be eſtabliſhed: And then he further ſhewed, What Inconveniences (as he thought) would come by the ſame, *viz.* That we having Laws and Judges appointed to decide all Controverſies, this Presbytery which theſe Men ſeek for, would overthrow all, and bring to their Cenſure and Government all Mens Cauſes, or elſe they would excommunicate them from their Churches; yea, and they are ſo hot for this Government, that they will not ſtay for the Magiſtrate; and if the Magiſtrate will not, they will reform themſelves: and one of them writing in a Letter to a Friend of his, ſaith, Let us number our hot Brethren, that we may know who will ſtand to it, for it is high time. So that it is plain, that if they cannot have it with her Majeſty's Conſent, they will have it, tho it make our Hearts to ake, as you ſay in your Book. And whereas her Majeſty hath Revenue belonging to her Crown out of the Church-Livings, and Cathedral Churches, theſe Men would have her Majeſty give unto them thoſe Revenues, for the Maintenance of their Presbytery, and they would allow her a Stipend at their Diſcretions; ſo that they would bring the Queen and the Crown under their Girdles.

And ſome of theſe Men have gone ſo far, that they ſay plainly we have no Church, no Sacrament, no Miniſters, nor any Worſhip of God amongſt us. If theſe things be not look'd unto in time, what Confuſion ſhall we have in this Land ſhortly? Many other things he ſpake againſt the Cauſe of Reformation, which I cannot particularly lay down: but this is in effect the Subſtance of it, concluding, he ſaid, Thus much, Mr. *Udall*, have your Speeches enforced me to ſpeak, leſt the People here preſent (being deceived) ſhould be carried away by it. To which Mr. *Udall* anſwered briefly.

Udall. My Lords, it is bootleſs for me to enter Diſputation with you in this place touching this matter; only this I could wiſh you, to leave it to be firſt decided by the learned Divines, to whoſe Calling it belongeth. And although ſome weak Men wanting judgment have been headily carried in ſeeking the Furtherance of this Cauſe, and ſo for want of this Government have run into ſome Errors; yet it is no reaſon to charge us with them, for your Lordſhips know, that we have been the Men that have taken the greateſt pains to reclaim them to the joining of themſelves with the Church, from which they have ſeparated themſelves.

Judg. Clarke. You are deceived, it is not a matter of Divinity only, but it is a matter of State, and within the compaſs of our Profeſſion; and it is not ſo greatly in controverſy, as you would have us to believe it is.

Udall. It is diverſly debated (my Lords) and the greateſt number of learned Men in Chriſtendom do maintain the ſame.

Judg. How do you know that? have you been beyond the Seas to know the greateſt number of learned Men to be of this Judgment?

Udall. Your Lordſhips know, that all the Churches of *France*, the *Low-Countries*, and of *Scotland*, do maintain the ſame, beſides many hundred of learned Men in this Land.

Judg. Have you been in all theſe Churches, that you can tell ſo much?

Udall. I know it to be true (my Lords) for their Practice doth ſhew them to be of this Judgement.

Judg. Well, if you can alledge no more, neither will ſubmit your ſelf to the Queen's Mercy, then hear your Judgment.

Udall. My Lords, I was beginning to ſpeak, but you interrupted me; I pray you hear me what I will ſay, and then do as God ſhall move you.

Judg. Let us hear what you will ſay.

Udall. As I ſaid before, ſo I ſay now, I believe the Cauſe to be the undoubted Truth of God; and therefore in the Matter, I cannot by any means yield: yet ſeeing, by your order of Law, I am found to be guilty, neither can I (for the Reverence I bear to her Majeſty's Laws) take any Exceptions againſt you nor the Jury; but that which you have done, I acknowledge to be done in all Equity and Right. Seeing, I ſay, you have found me to be guilty, whereby I cannot live without her Majeſty's gracious and ſpecial Favour, I acknowledge, that whatſoever I have done to the advancement of the Cauſe, I may offend in the Manner; in which reſpect (if I have offended) ſeeing it hath pleaſed your Lordſhips and the Jury to find me guilty, I do willingly ſubmit my ſelf, and heartily crave her Majeſty's Pardon.

Judg. But are you ſorry that you have offended the Queen's Majeſty?

Udall. I am ſorry, that the Courſe of the Law hath found me to have offended.

Judg. So is every Thief that is condemned ſorry, that his Offence is found out, but not for the Fact. This is a plain Fallacy.

Udall. My Lord, indeed if it were ſo as your Lordſhip doth underſtand it, it were a plain Fallacy; but I ſay farther, if in the Mnner of handling ſo good a Cauſe, there be found in me any Offence againſt her Majeſty's Laws, I acknowledge, that in the Manner of handling it, her Majeſty may be juſtly offended, for which I am ſorry. And I proteſt that I have never gone about to advance it by any other means, than by manifeſting it to all Men, and tendering it to them in Authority; and that by ſuch means as might not be contrary to the Laws of this Land, that ſo it might be received by her Majeſty and the State: and this is the Care of us all, howſoever we be charged with Factions.

Judg. You ſay, If there be found any Offence; whereby you call in queſtion the Equity of dealing in this Court againſt you.

Udall. My Lords, I do not, neither will I; let it be looked into by you and the reſt whom it concerneth, I hope you would not deal otherwiſe than lawfully againſt me.

Judge Puck. You ſay, you ſeek no unlawful Means: What can be meant but unlawful Means in the words of your Book? *If it come in by that Means that will make all your Hearts to ake, blame your ſelves.* What good Means can be meant by theſe Words?

Udall. My Lords, yeſterday I ſhewed you what I took to be the meaning of the Author in ſome places of the Book alledged againſt me in the Indictment; and then I would have ſpoken un-

to all, but you cut me off; I pray you therefore let me ſhew you the Meaning of the Author in thoſe Words now.

Judge. Let us hear you how you expound it.

Udall. My Lords, your Lordſhips muſt underſtand, that the Author taketh it for granted, that the Cauſe is God's and muſt prevail: and therefore, ſeeing God hath uſed all the means of his Mercy to bring it in, in giving us a gracious Prince, long Peace, and Abundance, and of ſtirring up ſome to exhibit Supplications to the Parliament; theſe things not prevailing in his Mercy, he will bring it in by ſome Judgment, as Plague or Famine, or ſome ſuch-like Puniſhment: and this is always the manner of God's dealing.

Judge. You cannot expound it ſo; for the Words import another thing.

Udall. My Lord, the Author himſelf expoundeth it ſo in the Words following; where he ſaith, *That it muſt prevail, for ſuch a Judgement will overtake this Land, as ſhall make the ears of all that hear thereof to tingle:* So that he meaneth nothing but this, That God will bring it in by his own Hand, by Judgement, if by Mercy he cannot prevail.

Judge. No, no, your Meaning was, That it ſhould be brought in by Force and Violence.

Udall. God forbid! far be it from us to conceive any ſuch Imagination. The Author of that Book doth plainly ſhew, that he meant no ſuch thing; and the Words following, in the end of the Epiſtle, do declare the ſame; for there he ſheweth by whom it is to be brought in, namely, by her Majeſty and her honourable Counſellors, that they may ſee it, and eſtabliſh the ſame.

Judge. Nay, the meaning is, That if the Queen will not, yet you ſay, it ſhall come in; for ſo the Words are, *That it muſt prevail, maugre the Heads of all that ſtand againſt it.*

Udall. Nay my Lords, the Words are, *Maugre the Malice of all that ſtand againſt it.* For there are many Heads that are not maliciouſly bent againſt it: There is great difference between Malice and Heads; for ſome are againſt the Cauſe, through Ignorance.

Judge. It is all one in effect.

Udall. Nay, my Lords, there is great difference.

Judge Puck. Well, Mr. *Udall*, you were beſt to ſubmit your ſelf to the Queen's Mercy, and leave theſe Courſes; for I tell you, that your Book is moſt ſeditious and ſlanderous againſt her Majeſty and the State; and yet I aſſure you, that your Book had been paſſed over, if there had not come forth preſently after it ſuch a number of ſlanderous Libels; as *Martin Mar-Prelate*, *Martin's Epitome*, *Martin Jun.* or *Theſes Martinianæ*, *Martin Sen.* and others ſuch-like; of which your Book was judged to be the Ring-leader.

Udall. My Lords, thoſe that are learned, and do maintain this Cauſe, do judge this Book to be written very indifferently, howſoever it be hardly conſtrued. But for *Martin*, and the reſt of thoſe Books that you have named, they were never approved by the Godly Learned: And I am fully perſuaded, that thoſe Books were not done by any Miniſter; and I think there is never a Miniſter in this Land, that doth know who *Martin* is. And I, for my part, have been inquiſitive, but I could never learn who he is.

Judge Clarke. You will not acknowledge your ſelf faulty in any thing, and therefore it is in vain to ſtand any longer with you.

Udall. I will eaſily confeſs, that in Manner the Author hath offended; for no Man can handle a Cauſe ſo well, but there will fault appear in it, as appeareth by *Job*, who having a good Cauſe, handled it weakly: It is eaſier to handle an ill Cauſe cunningly, than a good one well.

Judge. Nay, but you have maliciouſly offended in publiſhing this Book, which tendeth to the overthrowing of the State, and the moving of Rebellion.

Udall. My Lords, that be far from me, for we teach that in reforming things amiſs, if the Prince will not conſent, the Weapons that Subjects are to fight withal, are Repentance and Prayers, Patience and Tears.

Judge. Yea, you had done well if you had uſed theſe Weapons, rather than to have made this Book.

Udall. God forbid but that we ſhould give unto her Majeſty that Honour which juſtly is due unto her, for we have not taught the People to reform the State without the Prince, and our practice hath proved the ſame; for we never taught any of her Subjects to go before her, but to leave that Honour as belongeth to her Majeſty.

Judge. Well, will you ſubmit your ſelf or not? for elſe I muſt proceed to Judgment, and I have no Authority to favour you, neither will I ſtay Sentence of Death according to my Office: what my Brother hath I know not, and therefore ſhortly ſubmit your ſelf, or elſe I am to pronounce Sentence of Death.

Udall. And I am ready to receive it: For I proteſt before God (not knowing that I am to live an Hour) that the Cauſe is good, and I am contented to receive Sentence, ſo that I may leave it to Poſterity how I have ſuffered for the Cauſe. But my Lords, the Cauſe excepted, I will ſubmit my ſelf in any thing.

Judge. Let the Cauſe alone, and tell us no more of it, but acknowledge your ſelf to have offended the Queen's Majeſty.

Udall. I may not in any caſe yield in the Cauſe; I have almoſt ever ſince I was a Preacher of the Goſpel profeſſed it, and therefore I cannot be at this time changed.

Judge. Let (I ſay) the Cauſe alone, and ſay what you will do.

Udall. I muſt needs profeſs it and mention it, leſt it ſhould be thought that I have ſtarted from it; but for any thing that I have done in the Manner againſt Law, I am heartily ſorry for it: more than this I cannot ſay, do with me what you will.

Judge. But are you ſorry for offending her Majeſty and her Laws, and be you contented to amend, and to live in Obedience as becometh a good Subject?

Udall. I am content to ſeek the advancement of this Cauſe by no other means, than that which may ſtand with the Laws of this Land, and the Duty of a good Subject.

Judge. I come not here to intreat you to ſubmit your ſelf, but you ſhall do it willingly upon your Knees, and crave her Majeſty's Mercy.

Udall. Then Mr. *Udall* kneeling down, ſaid, I refuſe not any kind of Submiſſion to her Majeſty: And I intreat your Lordſhips to be a means to her Majeſty for me. And if I were worthy that my poor Papers might come unto her Majeſty, or to her honourable Council, I would write thus much unto them.

Judge. Nay, will you write thus much unto us, that we may firſt ſee it and commend it to her Majeſty?

Udall.

Udall. I willingly do it.

Thus they diſmiſſed him.

And this is the Sum of that which I with the help of others could remember, having not any intent to leave out or enlarge any thing further than the meaning of the Speakers did intend; notwithſtanding many more things were ſaid on both ſides, eſpecially the ſet Speeches of both the Judges, and of Mr. *Daulton*, to the diſgrace of the deſired Reformation, which could not well be expreſſed in particular, and therefore I have left them. Alſo many other things Mr. *Udall* purpoſed and begun to ſay, which they ſtopped, ſo that they could not be perceived.

The Aſſizes being thus ended, Mr. *Udall* was returned to the Priſon of the *White-Lion* again, where he continued till the Seſſions in *Southwark*, beginning the 18th Day of *February*, 1590. during which time he wrote a Supplication or Submiſſion to the Queen's Majeſty, as followeth:

To the Queen's moſt Excellent Majeſty.

MOST gracious and dread Sovereign, the preſent lamentable Eſtate wherein I ſtand, being found guilty by Verdict, to be Author of a Book intituled, *A Demonſtration of Diſcipline*, and being without your gracious Pardon, to die for the ſame; I humbly proſtrate my ſelf at your Majeſty's Feet, ſubmitting my ſelf in moſt humble manner as becometh a dutiful Subject, to ſuch Order as it ſhall pleaſe your Highneſs to appoint, to whom God hath given ſo high and ſovereign a Power, as is able both to kill and to quicken, to bring to the Gates of Death, and to cauſe to return to the Comfort of Life again: Before whom ſtanding thus convict, I am not to plead my Innocency; yet I moſt humbly deſire it may not offend your excellent Majeſty, that I proteſt (of the Truth whereof I call God to witneſs, who knoweth all Secrets, and will judge both the quick and the dead) that I had never any thought or imagination to publiſh, write, or do any thing maliciouſly, or tending to the diſhonour or ſlander of your Majeſty's Royal Perſon or Princely Eſtate, under whoſe gracious Government I have attained to ſo many Benefits and Bleſſings; amongſt which I moſt highly eſteem the true Knowledge and Fear of God; in regard whereof, I have been always ready even to adventure my Life, for the preſervation of your moſt Royal Perſon and defence of your Princely Eſtate, and the ſame have alſo taught unto others, as a thing ſpecially commanded by God: notwithſtanding, fearing the Severity of Juſtice unto Death, I fly for Life unto your Majeſty's moſt gracious Mercy, moſt humbly deſiring your Highneſs of your merciful Compaſſion, for relief of my poor and miſerable Eſtate, to grant me your gracious and comfortable Pardon, whereby I may be diſcharged, both of the Offence and Puniſhment, which the Law hath laid upon me. Other hope than this have I none, but the Truſt I have in God, (according to his Promiſes) that your Majeſty by a ſpecial Gift of God is gracious and merciful, and have vouchſafed to ſhew Mercy even unto ſuch as were not only by imputation of Law, but indeed malicious and mortal Enemies to your Highneſs; and therefore I hope that the ſame Goodneſs of ſo Princely a Nature may be moved, and will ſhew forth it ſelf in like gracious Compaſſion on my behalf. Which gracious Pardon on my Knees I moſt humbly crave your excellent Majeſty to grant unto me, by which ſpecial Favour being raiſed as it were from the dead, I promiſe and vow to lead the reſt of my Life in all humble and dutiful Obedience unto your Majeſty; praying continually for the preſervation of your Highneſs's precious Life and happy Government, to the Honour of Almighty God, and the Comfort of all obedient and dutiful Subjects.

The Proceedings againſt Mr. Udall, *at the Aſſizes in* Southwark, February 18, 19, 20. 1590.

BEING called the firſt Day of the Aſſizes in the Afternoon, Serjeant *Puckering* ſaid:

Puck. We do not mean now to deal with you, only I muſt put you in mind that you have made a Petition, wherein you promiſe to ſubmit your ſelf to ſuch Order as her Majeſty ſhall appoint; conſider of it, and look that you do it, for I can tell you, it is looked for at your hands.

Udall. I know not my Lord what you mean, I made a Petition to her Majeſty, and will willingly perform any thing promiſed therein.

Puck. Well, adviſe well with your ſelf, and look that you do it, I tell you aforehand.

Udall. Unleſs you mean that, I know not your meaning.

Juſtice *Fenner* dwelling in *Surrey*, ſat on the Bench, and ſaid; Mr. *Udall*, I muſt needs ſay ſomething unto you, I have heard much good of you, and that you are Learned, it were pity you ſhould do otherwiſe than well, I pray you take heed that thoſe good things which are in you be not marred for want of Humility: I tell you Humility is a ſpecial Vertue in a Man of your Calling, the want whereof marreth all in them that want it; I pray you ſtand not in your own Opinion too much: I have heard that you have done much good, let not Humility be wanting, *&c.*

Udall. My Lord, I acknowledge that Humility is a Vertue generally required in Men of my Calling, without which all other Gifts are nothing; for *God reſiſteth the Proud, and giveth Wiſdom to the Simple*: and I deſire that the ſame Vertue may be found in me: but I truſt your meaning is not thereby to perſuade me to deny the Truth, which I truſt the Lord will keep me from, whatſoever befall me.

Fen. I ſpeak to you of good-will, I would not have you ſtiff in your own Conceit.

Puck. Remember what I ſaid unto you.

And ſo I was carried into a Chamber to be conferred with by ſome of the Bench, *&c.* And when that Promiſe which the Judge ſo much ſpake of came to be examined, it was nothing but a Sentence in my Submiſſion to her Highneſs, the meaning whereof is (as the words going before it, and immediately following it do declare) that I profeſſed my ſelf willing to live or die, according as

that Power which God hath given to her Majeſty, ſhall appoint.

I having been dealt withal to this effect the firſt Day of the Aſſizes (by certain of the Bench in private) as alſo the ſecond Day by ſome of them to this effect, that I would make ſuch a Submiſſion as would condemn the Book in queſtion, and juſtify the Hierarchy; and perceiving that I was not to be heard till the laſt Day, I intreated Sir *William Moore* and Mr. *Bowyer* to be a mean to the Judges for me; that, foraſmuch, as my Caſe was rare, and I had (as I was perſuaded) ſufficient to alledg, why (notwithſtanding the Verdict againſt me) Judgment ought to be ſtayed, I might be heard over Night, that ſo (according to that good Counſel given by them unto me, to adviſe with myſelf, and to conſider what I would do) alſo they might have a Night to think of what I had to ſay, and the next Day to do with me as God ſhould move them.

Hereupon I was fetch'd forth before the Judges in private, immediately after Dinner; who uſing many Perſuaſions to draw me to relent (which being in private, I will not expreſs) told me that they ſent for me, for that they underſtood I deſired to be heard over Night, which they were willing then and there to do. I anſwered, My Lords, my meaning was not to deſire private, but publick hearing, ſeeing I have nothing to ſay, but ſuch as would prevent my ſelf, and diſappoint my publick Speech, if I ſhould utter it in private: yet becauſe they told me their other Affairs would not permit them to have any time with me till the latter end of the Aſſizes, I was rather willing that I ſhould be prevented, than they ſhould be conſtrained to determine on a ſudden upon ſo weighty a matter: whereupon I did draw out a Paper for each of them, containing theſe Reaſons following.

I humbly pray your Lordſhips to conſider, whether theſe Reaſons ought not in Conſcience to move you to ſtay the Sentence notwithſtanding the Verdict againſt me, and to be means of my releaſe.

1. It ſeemeth that my Caſe is not eſteemed Felony by the Judges of the Land, ſeeing they do uſually ſit in the High-Commiſſion Court, where the printing and diſperſing of the ſame, and ſuch like Books, are uſually enquired after as Tranſgreſſions of another nature.

2. No Judgment in Law ought to be given in caſe of Felony, but upon a Party firſt found Guilty thereof by a Verdict of twelve Men; but I am not ſo: for proof whereof, I pray you it may be remembred, that your Lordſhip gave the Jury in Iſſue only for the Tryal of the Fact, whether I were Author of ſuch a Book, and freed them from enquiring the Intent, without which there is no Felony.

3. I humbly pray you call to mind by what means the Jury was drawn to give that Verdict they did, whether they were left wholly to their own Conſciences, or were wrought unto it partly by Promiſe, aſſuring it ſhould be no further Danger unto me, but tend to my good; and partly by Fear, as appeareth in that it hath been an occaſion of great Grief unto ſome of them ever ſince. And then I pray you to conſider, whether upon ſuch a Verdict ſo drawn from twelve ſimple Men, Chriſtian Judges, in a good Conſcience, may proceed to Sentence of Death?

4. In caſe the Verdict were never ſo free, yet your Lordſhips being Men of Wiſdom and Knowledge, are to conſider, whether the Statute whereupon I am indicted, do agree to my Caſe in the truth and meaning of it, there being nothing in that Book ſpoken of her Majeſty's Perſon, but in Duty and Honour; and whether the drawing of it from her Majeſty to the Biſhops (as being a part of her Body Politick) be not a violent depraving and wreſting of the Statute? which if it be, you being Chriſtian Judges, cannot in a good Conſcience upon ſuch a ground proceed to Sentence, contrary to your own Knowledge.

5. But if the Statute be to be taken ſo as it is urged, it ought to be conſidered that without a malicious Intent againſt her Majeſty's Perſon, the Statute it ſelf maketh no Act forbidden by it to be felonious; wherein I appeal firſt to God, and then to all Men that have ſeen the whole Courſe of my Life, and to your Lordſhips own Conſciences, wherein I pray you to examine your ſelves in the ſight of God, Whether either by your ſelves, or the juſt Report of any other, you can find me guilty of any Act in all my Life, that ſavoured of any Malice or malicious Intent againſt her Majeſty, or of any other Behaviour than ſtandeth with the Allegiance and Duty of a moſt Dutiful and Chriſtian Subject. Of which Malice or malicious Intent againſt her Majeſty, if your Conſciences clear me before God, the Act wherewith I am charged being not Felony without ſuch an Intent; I hope you will conſider that you cannot with a good Conſcience proceed to Judgment.

6. Yet if the Statute and Intent were ſuch as it is ſaid, in caſe of Life the Evidences ought to be pregnant, and full living Witneſſes (I am ſure by the Word of God, and I truſt alſo by the Laws of this Land) were to have been produced Face to Face to charge me. But I have none ſuch againſt me, neither any other thing, ſaving only Papers and Reports of Depoſitions taken by Eccleſiaſtical Commiſſioners and others; which kind of Proof the Judges of the Land caſt away in caſe of Lands, and by no means allow to be ſufficient, and therefore are much leſs to be allowed in a Caſe of Life: which being ſo, your Lordſhips ought to have a Conſcience, that upon ſo weak Evidences, Sentence of Death be not pronounced.

7. But if the ſame that hath been given in for Evidence in Writing, had been teſtified by Men living, ſtanding out in the preſence of the Court, and of me the Accuſed; I truſt your Lordſhips will conſider that no one of the Evidences do directly prove me to be the Author of the Book in queſtion; which as it was, hath little Force in it, as appeareth by this, that the Author of the chiefeſt Teſtimony is ſo grieved, that he is aſhamed to come where he is known. Whereupon howſoever the Jury have not diſcerned thereof, yet you being Men of Skill and Underſtanding, are to have regard of it, and not upon ſo weak and impertinent Proofs, to proceed to Judgment of Death.

8. If all theſe things were ſuch as they ought to be, yet your Lordſhips are to conſider (ſuppoſing me to be the Author of the Book in queſtion) that the ſaid Book for the Subſtance of it, containeth nothing but that which is taught and believed to be a part of the Goſpel of Chriſt, by all the beſt reformed Churches in *Europe*; wherein nothing being diverſe from them, I cannot be condemned without condemning in me all ſuch Nations and Churches as hold the ſame Doctrine. In which (if there be no Error in them) the Offence commonly being in Form, Circumſtance and Manner of Writing, which ſome Men may think worthy an Admonition, ſome more ſevere worthy Correction and Amercement, the ſharpeſt cannot judge it to deſerve more than ſome ſhort time of Impriſonment.

But Death for an Error of ſuch a kind, in terms and words not altogether dutiful of certain Biſhops, cannot be but extreme Cruelty: Which ſeeing it ought to be far from any Chriſtian Man that hath the Bowels of Chriſt in him, ſurely Chriſtian Judges profeſſing the Goſpel, for a Service of the Goſpel (ſaving ſome overſight in words and terms) ought not to proceed againſt me (that hath endeavoured to ſhew himſelf a dutiful Subject and faithful Miniſter of the Goſpel) to give Sentence of Death.

9. My Offence not being aggravated, but remaining as it was the laſt Aſſizes when my Submiſſion was accepted, and Judgment thereupon ſtaid; I truſt your Favour will be the ſame towards me, now alſo, ſeeing I am ready to do the like.

If all this prevail not, yet my Redeemer liveth, to whom I commend my ſelf, and ſay as ſometime *Jeremy* ſaid in a Caſe not much unlike; *Behold I am in your hands, do with me what ſeemeth good unto you: but know you this, that if you put me to death, you ſhall bring innocent Blood upon your own Heads, and upon the Land.* As the Blood of *Abel*, ſo the Blood of *Udall* will cry to God with a loud Voice, and the righteous Judge of the World will require it at the hands of all thoſe that ſhall be guilty of it.

This is the Sum of that which I deliver'd to the Judges.

The Aſſizes being almoſt finiſhed, and the other Priſoners, that were called to the Bar to have Sentence of Death, ſtanding forth to hear the ſame; I was at the laſt called, and demanded what I could ſay for my ſelf why I ſhould not have Judgment to die. Hereupon I humbly craving Audience, began to this effect:

Udall. My Lords, I do acknowledge that I have been hitherto proceeded againſt by due Courſe of Law, and that a Verdict was given in againſt me the laſt Aſſizes as guilty of Felony, *&c.* But I do not only (as heretofore) proteſt mine Innocence, but alſo think that I have ſufficient to alledge why (notwithſtanding the Verdict) Judgment ought not to be given; wherefore I intreat to be heard.

Judge Puck. I pray you ſtay, you ſeem in the beginning to ſpeak Contraries; for firſt you acknowledge the Courſe of Law to be due, and afterwards ſtand upon it that you are innocent. How can a due Courſe of Law condemn the Innocent?

Udall. Theſe things agree well enough, as I will ſhew, if it ſhall pleaſe you to give me leave: It is by due Courſe of Law that I have been indicted, arraigned, have had a Jury impannelled upon me, been accuſed, heard ſpeak for my ſelf, and Teſtimony produced againſt me: But in that the Proof by Witneſs was inſufficient, and the Jury either in Judgment or Affection miſled; thereupon it hath come to paſs, that (notwithſtanding the due Courſe of Law) Guiltineſs is laid upon a guiltleſs Perſon. But I pray you let me proceed to the Reaſons that I have to alledge for my ſelf.

Then I left the firſt Reaſon of purpoſe, ſeeing I did rather wiſh that they only ſhould underſtand it (which they did by my Papers over-night) than to blaze it to the World; ſo that I did begin to ſpeak according to the ſecond Reaſon mentioned before: whereupon Serjeant *Puckering* prayed Baron *Clarke* to ſpeak, ſeeing it did moſt concern him.

Judge Clarke. I muſt needs tell you, you do us and the Seat of Juſtice great wrong; indeed I told the Jury, what was the Law in the Opinion of all the Judges of the Land; for it was not my private Opinion, as I ſaid alſo at that time.

Udall. It is not material, my Lord, in this Caſe, what the Judges think; for tho all the Judges in the World thought ſo, our Laws thought no Man a Felon, or capable of Sentence as a Felon, till he be convicted by the Verdict of twelve Men.

Clarke. You are ſo convicted, as the Record will teſtify.

Udall. I acknowledge the Record againſt me, but I appeal to your Lordſhip's Conſcience, whether you delivered not unto them Speeches to this effect: 'As for the Felony you are not ſo much to 'enquire, but only whether he made the Book, 'leaving the Felony to us.'

Clarke. You do me great wrong, I only told them the Law.

Udall. Well, I leave it to your Lordſhip's favourable Conſideration, you perceive my Reaſon.

Then I ſpake to the third Reaſon, whereupon it was ſaid:

Puck. All that you ſay tendeth to the diſgracing of the Court of Juſtice holden againſt you heretofore; the Jury were left to their own Conſciences, and did as they ſaw meet to do.

Udall. No, my Lords, I ſpeak not any thing to diſgrace the Court of Juſtice; for I acknowledge both this Courſe, and all others of the like nature, to be God's holy Ordinance, which I ought to reverence; neither do I ſpeak to defame the Jury, but only to give your Lordſhips occaſion why you may not proceed to Sentence thereupon: for if the Jury did well, why ſhould it grieve any of them? If they did ill, your Lordſhips may not proceed to Sentence thereupon.

Puck. We cannot remember the particular Circumſtances that then paſſed, neither are we to call in queſtion the Verdict, but it is our Office to give Sentence according to it.

Udall. I pray your Lordſhips tell me one thing, muſt the Judges always give Sentence according to the Verdict, or may there not be cauſe to ſtay it?

Clarke. Yes, there may be Cauſe to ſtay the Verdict, ſuch may the Caſe be.

Udall. And I deſire no other, but that my Reaſons may be well weighed, whether my Caſe be ſuch or no.

Then I prayed, for ſo much as they had the Subſtance of that in Writing aforehand which I meant to ſay, it would pleaſe them to give me leave to ſay at once what I could, leſt my Memory (being ſo much weakned and dulled by Impriſonment) ſhould fail me, and ſo I leave ſome material thing unſpoken. Then I ſpake according to the fourth and fifth Reaſons, whereunto little was replyed, ſaving ſuch things as were mentioned at my Arraignment: Only Baron *Clarke* uſed a very long Speech, wherein he compared Mr. *Stubb's* Cauſe and mine together; and after the end of his Speech, Judge *Puckering* ſaid,

Puck. Who taught you ſuch Law? I tell you, you are much deceived and abuſed in it; one may be within the Compaſs of Felony, tho he do not directly mean any ſuch thing.

Udall. Your Lordſhip knoweth I pleaded theſe Points the laſt Aſſizes, when I came from cloſe Impriſonment to the Bar: I underſtand *Engliſh*, which is the Language wherein the Statute was written, and I profeſs my ſelf a Scholar; and therefore to have (thro God's Mercy) ſome Underſtanding of the Senſe of that I read. It ſeemeth to me moſt direct,

direct, and no otherwiſe to be taken than I underſtand it.

Then I ſpake according to the ſixth and ſeventh Reaſons, whereunto it was replyed thus:

Puck. You are deceived, in that you think the Witneſſes againſt you the leſs lawful, becauſe the Parties were not preſent. It is an ordinary thing to have Witneſſes examined in the Chancery, and other ſuch like Courts, which do remain thereof as ſufficient Credit for ever, as they were when the Party's Oath was taken upon the ſame.

Udall. Then would I have anſwered that the Caſe was not alike, ſeeing the High-Commiſſion is no Court of Record; but I was not then ſuffered to ſpeak, for that it was ſaid by the other Judge,

Clarke. Where do you find that there muſt needs (by the Word of God) be two Witneſſes face to face?

Udall. It is ſo clear, as the Witneſſes were alſo to have the firſt hand in executing the Puniſhment upon the Party offending.

Puck. That was according to *Moſes*'s Law, which we are not ty'd unto.

Udall. It is the Word of God, which hath a perpetual Equity in it; for the Life of Man is ſo precious in the ſight of God, as he would not have it taken away without moſt evident and manifeſt Proof, ſuch as in his Law is ſet down.

Clarke. We are not now to call in queſtion the Proofs; ſeeing the Jury did think them ſufficient: This Speech of yours tendeth to prove the Jury perjured.

Udall. Not ſo, my Lord; I think of them, that they did according to their Conſciences: but being Men unlearned, and the Caſe being ſtrange unto them, they may have done their beſt, and yet you being Men of more Knowledg and Judgment, are to look further into the matter,

Puck. Whereas you ſay that none of the Witneſſes did directly prove you the Author of the Fact, that was not neceſſary; for if all laid together, and the Circumſtances conſider'd, do prove it, it is as good a Proof as if every Witneſs were direct.

Udall. But the Law of God, from which I truſt our Laws diſagree not, would that every Proof be direct.

Puck. And do you think indeed, that the Laws of this Land are agreeable to the Word of God?

Udall. I do not profeſs to know them; but ſurely I have ſo reverent an Opinion of them, that I truſt the Grounds of them are according to the Word of God, however in ſome Particulars the Proceedings may miſs thereof.

Puck. Then the Government by Arch-Biſhops, and Lord Biſhops, is according to the Word of God, ſeeing the Laws of the Land do allow them.

Udall. I pray you, my Lord, take me not ſo general; for that will not follow upon my Speeches.

Puck. Well, you may not now diſgrace the Witneſſes, you ſhould have done it at your Arraignment.

Udall. I neither meant then, nor purpoſe now to diſgrace the Witneſſes, but to ſhew the Inſufficiency of their Teſtimony in this caſe, that your Lordſhips may thereby ſee ſome reaſon to ſtay the Sentence.

The firſt Teſtimony that was alledged, was that of Mr. *Chatfield*, who affirmeth, that it was not given in againſt me upon his Oath; but only in his anger he ſet his hand to, but is now ſorry for it.

Puck. You ſhould have alledged this before; it is now too late.

Udall. It is alledged too late, to prevent the Verdict; but if there be any Force in it, it ought to be conſider'd to ſtay the Sentence: I could alledge it no ſooner, becauſe I knew it not till after the Verdict.

Puck. We may not ſuffer you to proceed ſo, to diſgrace that which is paſſed already: if you have any other thing to ſay, ſpeak on; otherwiſe we muſt do our Office.

Udall. It is not my Meaning, howſoever you take it, to diſgrace any thing paſſed heretofore; only I pray you further to conſider, that *Tompkins*, whoſe Teſtimony only carried ſome ſhew, proteſted before my Commitment, that he would not for all the World affirm me to be the Author of the Book.

Puck. Why did not you plead theſe things to the Jury?

Udall. I did ſo, and offer'd to produce ſufficient Proof for it; but your Lordſhips anſwer'd, that no Witneſſes might be heard in my behalf, ſeeing it was againſt the Queen: which ſeemeth ſtrange to me; for methinks it ſhould be for the Queen, to hear all things on both ſides; eſpecially when the Life of any of her Subjects is in queſtion.

Puck. The Witneſſes were then thought by the Jury ſufficient to prove the Matter, which we may not now call in doubt; therefore ſay on if you have any more.

Udall. Then I ſpake according to the eighth Reaſon; whereupon it was ſaid,

Clarke. I tell you, you are not called into queſtion for the Cauſe (as you call it) nor for the Body of the Book; but only for ſlanderous things in the Preface, againſt her Majeſty's Government, and therefore you may let the Cauſe alone.

Udall. But it is for the Hatred borne to the Cauſe, that I am thus entreated; for had not it been handled in the Book, ſuch matter as is now made of the Preface, had never been objected againſt me, or any other.

Puck. Well, it is beſt for you to leave off all other Pleas, and ſubmit your ſelf to the Queen's Majeſty's Mercy.

Udall. I will do ſo with all my heart.

Puck. But will you do it as you did the laſt Aſſizes?

Udall. Yea, that I will: And ſo I ſpake according to the laſt Reaſon; whereupon it was ſaid,

Puck. You confeſſed that you were juſtly condemned.

Udall. I am not yet condemned.

Puck. I mean convicted by the Jury. Then you acknowledged that you had offended her Majeſty; that you were ſorry for it, and promiſed that you would never do the like again.

Udall. My Lord, it is not for me to oppoſe my Word and Credit (which is nothing) againſt yours; I refer it to them that heard it: only, I pray you give me leave to ſpeak of it, as I take it that it was. Firſt, I did avow (and ſo I do now, and will do whilſt I live) that the Cauſe handled in that Book, is an undoubted Truth.

Clarke. How often ſhall we bid you leave the Cauſe, and tell you, that you are not troubled for it?

Udall. But it is the Cauſe that is ſought to be defac'd in my Perſon, and therefore I muſt and will ſtill profeſs it, and juſtify it, whatſoever Diſgrace I receive by it unto my ſelf. I pray you let me proceed. Secondly, I did proteſt that I never had any

any purpoſe to deface, but ever to ſeek to honour her Majeſty and her Government. Thirdly, I profeſſed that the Courſe of Law againſt me was due; whereby what I have meant, you have heard. Fourthly, I ſaid, that I never had any purpoſe to do any thing to the Advancement of this Cauſe, but keeping my ſelf (to the uttermoſt of my power) within the compaſs of the Law. Laſtly, I never confeſs'd my ſelf to be Author of the Book. Then my Submiſſion was this, That if I had done any thing to the Advancement of ſo holy a Cauſe, which had brought me within compaſs of the Law, or might juſtly offend her Majeſty, I was heartily ſorry for it: If this be not it, let me have any other drawn, wherein the former Points are juſtify'd, and I will ſet my hand unto it.

Puck. But all this is nothing to your Book in particular; what ſay you to it?

Udall. I ſay this, That tho I hold the Matter in it to be a moſt manifeſt Truth; yet I confeſs the Manner of handling in ſome part, to be ſuch as might juſtly provoke her Majeſty's Indignation.

Puck. Becauſe you ſtand ſo much upon the Cauſe, as you call it, you provoke me ſo, as I muſt needs ſay ſomewhat of it, leſt the Audience ſhould think ſome Matter in it, more than is.

Udall. My Lord, you underſtand my Judgment therein: I beſeech you ſpeak not againſt it, unleſs you will give me leave to reply unto you.

Puck. I may not do ſo, you provoke me to it; your Diſcipline that you ſtand upon, whereupon is it grounded? Forſooth upon the Saying of Chriſt, *Tell the Church*; which never was expounded theſe fifteen hundred years, as you do within theſe few years.

Udall. My Lord, he did abuſe you that told you ſo: *Chryſoſtom* expounded it thus, *Tell the Church*, that is, the Governours of the Church.

Puck. He meant the Governours of the *Jewiſh* Synagogue.

Udall. How can that be, when he lived above four hundred years after Chriſt?

Puck. Was there never any that could find it out before now, if it were a Truth?

Udall. Yes, it hath Teſtimony ſufficient, if it might be receiv'd.

Puck. And leſt Men ſhould think that your Matter were as good as you pretend, I will tell you what I know; it is written in one of your Books, that without an Elderſhip there is no Salvation.

Udall. I am perſuaded that cannot be ſhew'd.

Puck. Yes, it is in *Theſes Martinianæ.* One writ that it is time to number our hot Brethren; another (Mr. *Snape* of *Northampton* by name) wrote that the Biſhops ſhould be put down all in one day.

Theſe things he did diſcourſe of at large, in an invective Speech, moſt bitter, tending to perſuade the People that we meant to rebel, and ſet up the Diſcipline, and pull down the Biſhops by ſtrong hand; and went about to impair the Queen's Prerogative and Patrimony. After which, with much ado, I got audience to this effect.

Udall. My Lord, I proteſt in the preſence of God, and hearing of all this People, that neither I, nor any of my Brethren, that ever I was acquainted with, to my knowledg, did ſo much as ever purpoſe, or ſpeak of any ſuch means as your Lordſhip mentioneth to bring in the Diſcipline; but only by Prayer to God, Supplication to her Majeſty, and ſuch other peaceable Means: This is my Anſwer to your large Invective. And whereas, my Lord, you ſeem to be ſo hardly carried againſt the Cauſe, I would not doubt, but if I might privately confer with you, with the Bleſſing of God, to perſuade you to be a Friend unto it.

And after ſome other Speeches of other Books, and the aforeſaid Speeches in the Books mention'd already, Judg *Puckering* ſaid,

Puck. Nay, I tell you there are as foul things in your own Book: For, do you not ſay, that the Church is committed to the Miſtreſs of the Stewes, and ruled by the Laws of a Brothel-houſe?

Udall. It is ſpoken of the Popiſh Canon-Law; which is as unfit to rule the Church of Chriſt, as the Laws of a Brothel-Houſe to govern an honeſt Woman.

Puck. And thoſe Laws are eſtabliſh'd by her Majeſty's Laws.

Udall. It would trouble the learneſt Lawyer in *England* to prove that.

Then Baron *Clarke* began a Voice, tending again to compare my Caſe to that of Mr. *Stubs*, and to perſuade me to ſubmit my ſelf, telling me what Good I might do; but becauſe he ſpake low, and I ſaid I did not well hear him, he gave over, and pray'd the other to ſpeak, who told me his Meaning: And then ſaid,

Puck. We ſhall make ſhort work with you: Will you here acknowledge all the Laws Eccleſiaſtical and Temporal of this Land, to be agreeable to the Word of God?

Udall. My Lord, I have Diſgrace enough upon me already; you may eaſily perceive what I think of the preſent Eccleſiaſtical Government. I pray you preſs me not with theſe things, I can yield no further than you have heard.

Puck. Then we muſt do our Office, and pronounce Sentence on you.

Udall. God's Will be done.

Puck. Yea, God's Will be done on you indeed.

Then he gave Sentence upon me and the reſt. After which I did purpoſe to ſpeak according to the laſt Sentence, after the Reaſons; but the Clamours of the other Priſoners, calling to the Judges to be good unto them, diſappointed me thereof. Thus was I returned to Priſon; what will be the Iſſue, I know not. *The Lord turn it to his Glory, the Good of his Church, and Shame of his Foes; and then welcome Life or* Death.

I being reprieved (as the Sheriff ſaid, by her Majeſty's own Commandment) Dr. *Bond*, one of the Queen's Chaplains, came to me as from the Queen her ſelf, and from the Council, with the Submiſſion that was tender'd unto me; to confer with me in general, but eſpecially to perſuade me to yield thereunto, or to take the Reaſons of my Refuſal. After two days conference, we agreed upon a Form of Submiſſion, as followeth.

The Form of that Submiſſion which was offer'd unto me, and I refus'd.

I *John Udall*, have been hitherto, by due Courſe of Law, convicted of Felony, for penning and ſetting forth a certain Book, call'd, *A Demonſtration of Diſcipline*; wherein falſe, ſlanderous, and ſeditious Matters are contain'd, againſt her Majeſty's Prerogative-Royal, her Crown and Dignity, and againſt the Laws and Government Eccleſiaſtical and Temporal, eſtabliſhed by Law under her Highneſs, and tending to the erecting of a new Form of Government, contrary to her ſaid Laws: All which Points I do now, by the Grace of God, perceive

perceive to be very dangerous to the Peace of this Realm and Church, ſeditious in the Commonwealth, and juſtly offenſive to the Queen's moſt excellent Majeſty; ſo as thereby I now ſeeing the Grievouſneſs of this my Offence, do moſt humbly on my knees, before God and this Preſence, ſubmit my ſelf to the Mercy of her Highneſs; being moſt ſorry, that ſo deeply and worthily I have incurred her Majeſty's Indignation againſt me: promiſing, if it ſhall pleaſe God to move her Royal Heart to have compaſſion on me, a moſt ſorrowful convicted Perſon, that I will for ever hereafter forſake all ſuch undutiful and dangerous Courſes, and demean my ſelf dutifully and peaceably to all Authorities both Civil and Eccleſiaſtical, eſtabliſhed in this Realm; for I do acknowledg them to be both lawful and godly, and to be obey'd of every faithful Subject.

The Form of that Submiſſion whereunto I did conſent, and ſet my Hand.

With theſe three Proteſtations I do ſubmit my ſelf in manner as followeth:

I. I hold the Cauſe of Diſcipline debated in that Book, to be an undoubted Truth.

II. I never imagin'd any Evil againſt her Majeſty's Perſon or Eſtate; but have ſought to honour them both.

III. I never propoſed to do or perſuade any thing, whereby the Diſcipline might be advanc'd, but by peaceable means; endeavouring to keep within the compaſs of Law.

I *John Udall* have been, by due Courſe of Law, convicted and condemned of Felony, for penning and publiſhing a certain Book, called *The Demonſtration of Diſcipline*; in the Preface whereof, ſome Matter, as alſo the Manner of writing, I confeſs to be in ſome part ſo bitter and undutiful, as deſerveth juſtly to be cenſur'd and puniſh'd, and juſtly offenſive to the Queen's moſt excellent Majeſty: Wherefore the Tryal of the Law imputing unto me all ſuch Defaults as are in that Book, and laying the Puniſhment of the ſame, in moſt grievous manner, upon me; and I ſeeing the Grievouſneſs of this Offence, do moſt humbly on my knees, as in the preſence of God, ſubmit my ſelf to the Mercy of her Highneſs, being moſt ſorry that ſo deep and juſt Occaſions ſhould be given to procure her Majeſty's Diſpleaſure againſt me; promiſing that if it ſhall pleaſe God to move her Royal Heart to have compaſſion on me, a moſt ſorrowful condemned Perſon, that I will for ever hereafter forſake all undutiful and dangerous Courſes, and demean my ſelf dutifully and peaceably, as becometh a Miniſter of the Goſpel, and as a loyal Subject to the Queen's moſt Excellent Majeſty.

At the ſame time that Dr. *Bond* was with me, I receiv'd a Letter from a Friend of mine, that did ſollicite Sir *Walter Rawleigh* for me; wherein were theſe words:

SIR *Walter Rawleigh* willed me to let you underſtand, that her Majeſty is inform'd of you, that you hold that the Church of *England* is no Church, and the Sacraments of the ſame no Sacraments, and that all her Eccleſiaſtical Laws are againſt the Word of God, and ſo her Government; and that all Eccleſiaſtical Matters ought to be governed by a Presbytery, and ſhe her ſelf to be ſubject to the Cenſures thereof. And that for theſe things, and ſuch like, you are not worthy to live: but if you will write half a dozen Lines under your hand, unto Sir *Walter*, concerning theſe Opinions, that he may ſhew it to her Majeſty, he hopeth to obtain your Life. I know it is an eaſy thing for you to anſwer all theſe things, and therefore do it with ſpeed, and in your writing to Sir *Walter*, take knowledg that he hath ſent you ſuch Word.

Hereupon I wrote a Letter to Sir *Walter Rawleigh*, and what I hold in theſe Points, as followeth.

To the Right Honourable Sir Walter Rawleigh, *Kt. Lord Warden of the Stannary.*

MY Duty being remembred unto your Lordſhip, I humbly thank your Honour for your great and honourable Care over me, and for my Good; whereof I truſt you ſhall never be aſham'd: moſt humbly beſeeching your good Lordſhip to be a means to appeaſe her Majeſty's Indignation conceiv'd againſt me, by means of ſome Accuſations untruly ſuggeſted. For, God is my Witneſs, I have never had any earthly thing in ſo precious account, as to honour her Highneſs; and to draw her Subjects to acknowledg with all Thankfulneſs, the exceeding Bleſſings that God beſtoweth upon them by her Majeſty's happy Government, whereof I truſt mine Adverſaries will be Witneſſes, when I am dead. I have ſent unto your Lordſhip (as in perplexity I could upon the ſudden) what I hold concerning certain Points declared unto me, as from your Lordſhip; praying that it would pleaſe you to make known the Truth thereof unto her Highneſs: And if neither my Submiſſion, heretofore deliver'd, nor theſe things now ſet down, will be accepted to draw her Highneſs, of her gracious compaſſion, to pardon me, that yet it would pleaſe her Majeſty (that the Land may not be charged with my Blood) to change my Puniſhment from Death to Baniſhment. Thus truſting your Lordſhip will vouchſafe me this Favour, and that it will pleaſe her Majeſty thereupon graciouſly to conſider of me, I humbly take my leave, from the *White-Lion*, *Feb.* 22. 1590.

Your Lordſhip's to command,

John Udall, Priſoner.

1. I do believe, and have often preach'd, that the Church of *England* is a Part of the true viſible Church of Chriſt; and that the Preaching of the Word and Adminiſtration of the Sacraments therein, are the holy Ordinances of God, profitable and comfortable to every one that rightly partakes thereof: In which regard I have been, and do yet deſire to be, a Preacher in the ſame Church; and have communicated in the Sacraments and Prayers therein, for the ſpace of 7 years at *Kingſton*, and about a year at *Newcaſtle* upon *Tine*, immediately before mine Impriſonment: and therefore I do from my Heart utterly renounce the Schiſm whereinto the *Browniſts* have fallen, in condemning the Churches of *England*, and ſeparating themſelves from communicating in the publick Miniſtry thereof.

2. I know no other, but that the Statute-Laws of this Land do maintain the holy Miniſtry of the Word and Sacraments in ſuch manner, as any Chriſtian may, with a ſafe Conſcience, both adminiſter therein, and communicate therewithal: Alſo that the Law which requireth a Subſcription to the Articles of Religion, ſo far as they contain the Doctrine

Doctrine of Faith and Sacraments, is agreeable to the Word of God.

3. I do believe, that by the Word of God, her Majesty hath, and ought to have a supreme Authority over all Persons, in all Causes, both Ecclesiastical and Civil, to inforce every Man to do his Duty, and to be obedient in every thing that is not contrary to the Word of God. And if the Prince should command any thing contrary to God's Word, it is not lawful for the Subjects to rebel or resist, no not so much as in Thought, but with Patience and Humility to bear all the Punishments laid upon them; seeking only by Prayer to God, and Supplication to Authority, and such like peaceable means, to have faults amended.

4. I do believe that by the Word of God, the Churches rightly reformed ought to be governed Ecclesiastically by the Ministers, assisted with Elders; and this is not my private Judgment, but such as I have learned out of the Word of God, been confirmed in by the Writings of the most learned and godly Men of antient and latter Times, and have seen practised with much Peace and Comfort in the best reformed Churches in *Europe*, and even by those Exiles which her Majesty to her great Honour hath hitherto protected.

5. I do believe that the Censures of the Church ought merely to concern the Soul, and may not impeach any Subject, much less any Prince, in the Liberty of Body, Dominion, Goods, or any earthly Privilege whatsoever; and that therefore the Papal Excommunication that deposeth Princes, and freeth their Subjects from their Allegiance, or any part of Christian Obedience to Civil Authority, is blasphemous against God, injurious to all Men, and directly contrary to God's Word: neither do I believe that a Christian Prince ought otherwise to be subject to the Censures of the Church, than our gracious Queen professeth her self to be unto the Preaching of the Word, and Administration of the Sacraments, according to the Doctrine of our Church, in Mr. *Nowell*'s Catechism, and the Homilies of the right Use of the Church, at this Day appointed publickly to be read.

If I understand of any other thing that I am charged to hold as a strange and private Opinion, I would be willing to shew my Mind freely in it; for my desire is, that her Highness might truly be informed of every thing that I hold: so should I be sure to obtain her gracious Favour, without which I do not desire to live.

These things thus passed, I remained as before, without any great hope of Liberty, or fear of Extremity, until the next Assizes drew near: at last there came Mr. *Nowell* Dean of *Pauls*, and Mr. Dr. *Andrews* with a new Submission, yet containing nothing (one Clause excepted) which was not in the former, which I condescended unto; notwithstanding I refused presently to set my hand unto it (tho they promised in the name of the Council, that in yielding to it I should obtain Pardon and Liberty) because I would do nothing without good Advice and Consideration.

The Copy of the Submission given me by Mr. Dean of Pauls, *with his name to it, as followeth.*

I *John Udall*, have been heretofore by due course of Law, convicted and condemned of Felony, for penning and publishing a certain Book, called, *The Demonstration of Discipline*; in the Preface whereof, some Matter, as also the Manner of handling of it, I confess in some part to be so bitter and undutiful, as deserveth justly to be censured and punished according to the Laws of this Realm, established under her Highness, and justly offensive to the Queen's most excellent Majesty: wherefore I now seeing the Grievousness of this Offence, do most humbly on my Knees, and in the presence of God submit my self to the Mercy of her Highness, being most sorry that so deep and just occasion should be given to procure her Majesty's Displeasure against me; promising that if it shall please God to move her Majesty's Royal Heart to have Compassion on me, a most sorrowful condemned Person, I will ever hereafter forsake all undutiful, seditious and dangerous Courses, and demean my self dutifully and peaceably, as becometh a Minister of the Gospel, and a loyal Subject of the Queen's most excellent Majesty.

This is the true Copy of the Submission sent unto me from her Majesty's most Honourable Privy Council.

Alexander Nowell.

When I had weighed with my self, that the Clause which is added may admit a good Interpretation, and the omitting of that which is left out of my former Submission, causeth no ill Sense of that which is set down, I condescended (being also advised thereunto by my good and godly Friends) to set my Hand unto it; and thereupon wrote a Letter unto Mr. *Nowell* as followeth.

Right Worshipful Mr. Dean,

'I Praise God with all my Heart, that Authority hath so good remembrance of my lamentable Estate, and yet more that by the same I am for my Form of Submission to deal with a Man of that Piety and Wisdom, that you have been worthily in the Church long agone esteemed to be of, and so have continued to this reverend Age that you are come unto. It may please you, Sir, to understand, that I have considered of the Form of Submission, that your Worship brought unto me, and find nothing in it, but that in a good Conscience I can yield unto; for it requireth not of me any denial or disallowance of the Cause of Discipline debated in the Book, for which I am in question; the substance of which Doctrine I believe to be the undoubted Truth of God, and therefore ought never to deny or disallow it: notwithstanding with my persuasion I take God to witness, that I never purposed to do or persuade any thing, whereby it might be advanced, but by peaceable means, endeavouring to keep within the compass of Law. Further also the said Form of Submission chargeth me not with any Malice against her Majesty, from which likewise I acknowledge as in the presence of our Saviour Christ, that is ready to come to judge the quick and the dead, that I have been always free, and have carried a christian, loving and dutiful Affection to her Majesty's Royal Person and Estate, as I know by the Word of God I ought to do; which being so, I have resolved to satisfy the Authority from which you brought me the said Form of Submission, and at your Good-pleasure without further Limitation simply to subscribe it.

'Good Mr. *Dean*, in the Bowels of Christ have Compassion of my Estate, more ways lamenta-

'ble than I can in a few or many words expreſs, 'or (as I think) any other but only the Spirit that 'is taught to pray with groans that cannot be ut-'tered: and in ſuch Chriſtian Compaſſion, by your 'favourable and earneſt mediation to the Autho-'rity that may relieve me, procure my Pardon 'and free Diſcharge, of the Dangers and Troubles 'wherein I am; that I may ſay with the Prophet, '*I ſhall not die, but live, and declare the Works of the* 'Lord.

'So ſhall not only my poor Wife and Children, 'but I hope many others praiſe God for you in 'that reſpect, and my ſelf as beholden unto you 'in a caſe of Life, continually pray for your good 'Eſtate to the Lord of Life bleſſed for ever. '*Amen.*

After I had thus ſet my Hand hereunto, I adviſed alſo to write unto certain of the Council, and other honourable Perſons beſides; partly to let them underſtand in what Senſe I had yielded hereunto, and partly to intreat their Favour, and furthermore for my Liberty: the Copy of which Letter (for it was the ſame word for word to every one, the Title of their ſeveral Eſtates excepted) here enſueth.

Right Honourable,

'MY preſent lamentable Condition enforceth 'me, in moſt humble manner, to crave ſo 'much leiſure of your Lordſhips from the weighty 'Affairs of the State, as to conſider of theſe few 'Lines. The Reverend Mr. *Nowell* Dean of *Pauls*, 'and Mr. Dr. *Andrews*, a few days ago brought 'me a Form of Submiſſion (as they ſaid) from Au-'thority, with hope of Favour for my Life, if I 'would yield unto it. Whereof having conſidered, 'and finding nothing in it, but which I had here-'toforе yielded unto, when Mr. Doctor *Bond* was 'with me, one Clauſe excepted, to wit, That the 'faults do deſerve to be puniſhed according to the 'Laws of the Land; which yet hath no ſuch 'words, but may bear ſo good a Senſe, as I think 'I may in ſuch Form ſubmit my ſelf, without ei-'ther condemning the Suit for a further Reforma-'tion, or my ſelf as juſtly deſerving by the Laws 'to die: I cannot diſcern ſufficient Cauſe to re-'fuſe it, for by the hardeſt word that I have by 'due Courſe of Law been convicted and condemn-'ed; I underſtand the Form of Proceeding by In-'dictment, Arraignment, Jury, Witneſſes and ſuch 'like, as alſo by that Clauſe, That the manner of 'writing is in ſome part ſuch, as deſerveth juſtly 'to be cenſured and puniſhed by the Laws of this 'Land; I mean of ſuch Cenſures as the good 'Laws of this Land, adminiſtred with Juſtice, do 'ordain for puniſhing of ſuch Offences in the man-'ner of Writing; which cannot be of Death, 'without Malice againſt her Majeſty: from 'which (I take Almighty God to witneſs) I have 'been always free. In regard whereof, I feared 'leſt I might be thought to ſtand too contentiouſly 'and undutifully with Authority, and to be too 'careleſs of mine own Eſtate, if I ſhould not yield 'to ſuch a Form of Submiſſion as they brought 'unto me. Wherein having yielded, as far as in 'Conſcience I may, and as Authority by their 'means requireth of me; my moſt humble Suit 'to your Lordſhips is, that in your Chriſtian and 'Honourable Compaſſion of my moſt lamentable 'Eſtate, that it may pleaſe your Lordſhip, by 'your favourable mediation to her excellent Ma-'jeſty, to further my moſt humble Suit, for my 'Pardon and free Diſcharge of theſe my grievous 'Troubles. So ſhall I be bound yet more heartily 'to praiſe God for your Honour, and to pray unto 'God for your proſperous Eſtate long to endure, 'to the Glory of Almighty God, and to your own 'everlaſting Comfort.

Within four or five days after, Mr. Doctor *Andrews* returned unto me, ſignifying that all that was done was miſtaken, for that was not the Submiſſion that was meant of me, but another. Which when I had peruſed, I found it the ſame (only the laſt Clauſe left out) which was offered me by the Judges at the Aſſizes: And he ſaid, the Clerk to whom the making of the Letter to Mr. *Nowell* put in one for another. And becauſe I utterly refuſed to conſult of it, as having yielded before to ſo much as I might, he prayed me to underſtand what I took Exceptions againſt, and for what Reaſons. So we entred into many Diſcourſes; as firſt, how the Diſcipline could be ſaid to be againſt the Queen's Prerogative Royal, ſeeing it was (as I ſaid I did believe) expreſſed in the Scriptures, whereby all lawful Privileges of Princes are warranted. Then we debated whether the Supremacy of a Chriſtian Prince be the ſame with an Heathen, or diverſe from it. After that, whether the Authority of Princes in making Church-Laws, be *de jure*, or *de facto* only: and laſtly, of the moſt Points of Diſcipline. Thus we continued 5 or 6 hours, and at laſt he would have no anſwer of me then, but he prayed me to adviſe of it, for he would come again. I anſwered, that the oftner he came, the welcomer he ſhould be, but I told him I would not accept of it; yet he came twice after, and took my Reaſons of my refuſal to yield thereunto; and promiſing me all the favour he could procure me, he departed.

After this the Aſſizes approaching, and the general Report being that it would go hard with me; I being deſirous to uſe any good means, did not only ſollicit the Earl of *Eſſex*, and Sir *Walter Raleigh*, who had heretofore dealt for me; but alſo I was adviſed to write again unto Mr. *Nowell*, earneſtly charging him to take my Caſe to heart, ſeeing he had promiſed to procure me Favour: whereupon I wrote unto him this Letter following.

Right Worſhipful Mr. Nowell,

'AS I did rejoice when I perceived that you 'were imployed to deal with me about my 'Submiſſion, becauſe of that reverend Eſtimation 'that you have been ſo long of, among the Worthies 'in the Church of God; hoping, that I ſhould have 'found thereby, ſome comfortable means of Me-'diation unto Authority for my releaſe: ſo I am 'now occaſioned to fear that all that Credit 'which you are of, ſhall be uſed as an Inſtrument 'to further and haſten Extremity upon me. For 'ſo much time being paſſed ſince I voluntarily 'yielded to that Submiſſion which you brought un-'to me, and no Liberty appearing from any place, 'but rather that being given out, that my Submiſ-'ſion ſhall be a ſpecial means to haſten my Death, 'and no way to procure my Liberty; I am con-'ſtrained to write unto you, to let you underſtand, 'that as I look for that end the next Week at the 'Aſſizes at *Kingſton* (where I have been a Preacher) 'which hath ſo long been threatned, but (to the 'doubling of my Torments) deferred; whereunto 'I doubt not the Lord will ſtrengthen me, as gra-

'ciouſly

'ciously he hath hitherto done. So I pray you, as 'you will answer unto God for my Blood, which 'I am persuaded your Credit being imployed to 'the uttermost (as in the Word and Faith of a 'Christian you promised) might have preserved, 'that you would so take my Case to heart, as it 'may inforce you to leave no Stone unturn'd which 'may either further my Liberty, or at least clear 'your Conscience from being any way accessary 'to my Death. For it will one day be an hea-'vy thing to your Heart, to think that you should 'be set on work, and the account that is worthily 'made of you, imployed under pretence; yea, 'and as it were with assurance of Life and Liberty 'to draw that from a Preacher and Professor of the 'Gospel, which afterward shall be used to hasten 'his End: and you will say it had been better 'that you had never been of any reckoning, than 'to be made an Instrument to further such an Ac-'on. This I write unto you, not in any troubled 'affection with the fear of Death, for I thank 'God I am willing to end my days, and (if it 'please the Lord) even in this manner; and hope 'that my Death shall further the Cause for which 'I suffer, more than my Life. But lest I should 'neglect any means which might seem to be a fur-'therance to prevent the same, or leave that Duty 'unperformed unto you, which I take my self in 'Conscience bound to discharge; the Lord make 'us willing and able to discharge every good Duty, 'that he enjoineth us to his Glory, the Good of 'his Church, and our own Comfort, whether by 'Life or Death.

About the same time came a Letter from the King of *Scotland* to a *Scottish* Merchant, one Mr. *Johnson*, lying in *London*, to be delivered to her Majesty (as was said) being written in my behalf, as he had done once before when I was close Prisoner; this Letter did the Merchant deliver to her Majesty, and the Dean of *Paul's* upon my Letter went to the Council, whereby whatsoever was wrought, as soon as the Judges heard that I was brought to *Kingston*, where the Assizes were then kept, I was immediately returned unto the *White-Lion* in the Evening, before the first Day thereof. Afterward Mr. *Johnson* had the Copy of the King's Letter sent unto him, which then appeared to be written not for me alone, but also for the rest of my Brethren the Ministers in Prison for the same Cause of Discipline; the Tenor of which Letter here followeth.

'RIGHT Excellent, High and Mighty Prin-'cess, our dearest Sister and Cousin, in our 'heartiest manner we recommend us unto you: 'Hearing of the Apprehension of Mr. *Udall*, and 'Mr. *Cartwright*, and certain other Ministers of 'the Evangel within your Realm, of whose good 'Erudition and fruitful Travels in the Church, we 'hear a very credible Commendation; howsoever 'that their diversity from the Bishops and others 'of your Clergy, in matters touching them in 'Conscience, hath been a mean by their dilation 'to work them your misliking; at this present we 'cannot (weighing the Duty which we owe to 'such as are afflicted for their Conscience in that 'Profession) but by our most effectuous and ear-'nest Letter interpone us at your hands, to any 'harder usage of them for that Cause: request-'ing you most earnestly, that for our Cause and 'Intercession it may please you to let them be re-'lieved of their present strait, and whatsoever 'further accusation or pursuit depending on that 'ground, respecting both their former Merit, in 'setting forth of the Evangel, the Simplicity of 'their Conscience in this Defence, which cannot 'well be their lett by Compulsion, and the great 'slander which could not fail to fall out upon 'their further straiting for any such occasion: 'which we assure us your Zeal to Religion, be-'sides the Expectation we have of your Good-'will to pleasure us, will willingly accord to our 'Request, having such proofs from time to time 'of our like Disposition to you, in any matters 'which you recommend unto us. And thus, right 'Excellent, right High and Mighty Princess, our 'dear Sister and Cousin, we commit you to God's 'good Protection. From *Edinburgh* the 12th Day 'of *June*, 1591.

The just Copy of the King's Letter sent to her Majesty.

Presently upon these things fell out that wretched matter of that lewd fellow *Hacket*, whereby the Adversary did take occasion so to slander the Truth, and to disgrace the Professors of the same unto her Majesty, that I thought it bootless to sue. And so I did little till the Lord Chancellor was dead, and forgotten by such as were sorry for it; so that about *Easter* Term following, I sued for Liberty to go to Church, which was denied me, being a condemned Man; but by the Lord Treasurer's means, I got a Copy of my Indictment, which before I could not obtain.

Hereupon I getting a Pardon framed according to the Indictment, sent it with a Petition by my Wife to the Council, who referred me to the Archbishop, unto whom I both sent divers Petitions, and dutiful Letters, and also got many of my Friends, both honourable Personages and others, to sue to him, yet could not his Good-will be gotten. At last the *Turkey* Merchants having my Consent to go for a time into *Guinea* to teach their People that abide in that place, if they could procure my Liberty, sent unto him for his Consent, who promised his Good-will, so that they would be bound that I should go indeed, when I had my Liberty. But when two of the Antients of the Company went unto him for his Hand thereunto, he would not yield it, unless they would be bound not only that I should go (which they were willing unto) but also that I should tarry there, till I had her Majesty's Licence to come thence.

This Condition they could not yield unto, for that I denied to go upon any such Ground, so was their Suit, and my Hope of Liberty, at an end; saving that one Mr. *Cavell*, who had been the first beginner of it, and being to go into *Turkey* did most affect it, moved the Dean of *Paul's* in it: who thereupon wrote to my Lord Keeper, persuading him of the Conveniency of that Journey for me, and my Fitness thereunto. Which Letter when he received, he did so deal with the Archbishop, as they both promis'd at their next meeting at Court to deal with her Majesty to sign my Pardon, that so I might have Liberty to go the Voyage.

The Tryal of ROBERT *Earl of* Eſſex, *and* HENRY *Earl of* Southampton, *at* Weſtminſter *the 19th of* February, 1600. *and in the 43d Year of the Reign of Queen* Elizabeth.

A SPACIOUS Court was made in *Weſtminſter-Hall*, where the Lord Treaſurer *Buckhurſt* ſat as High-Steward of *England*, under a Canopy of State; where ſat alſo about the Table, the Earls, Barons, and Judges of the Land, according to their Degrees.

The Judges were theſe;

The Lord Chief Juſtice *Popham*, and the Lord Chief Juſtice *Anderſon*.

The Lord Chief Baron, Sir *William Perian*.	Juſtice *Walmeſley*.
Juſtice *Gawdie*.	Juſtice *Warburton*.
Juſtice *Fenner*.	Juſtice *Kingſmill*.
	Mr. Baron *Clarke*.

Theſe ſat all in the Court next the Bar, before the High Steward. Seven Serjeants at Arms came in with Maces before the High Steward, and laid them down before him in the Court. The King at Arms ſtood on the one ſide of the High Steward by his Chair of Eſtate, and one of her Majeſty's Gentlemen Uſhers with his white Rod in his Hand on the other ſide. The Clerk of the Crown and his Aſſiſtant ſat before him to read the common Indictments and Examinations. The Captain of the Guard (Sir *Walter Rawleigh*) and forty of the Queen's Guard were there to attend the Service. Then the Serjeant at Arms made three O Yes! and Proclamation, That the Lord High Steward of *England* commanded Silence, and to hear the Commiſſion read, upon pain of Impriſonment. Then the Clerk of the Crown read the Commiſſion, whereunto the Earl of *Eſſex* was very attentive.

Another Proclamation was made, That the Lord High Steward of *England* commanded all Juſtices to whom any Writs had been directed for this Service, to bring them in, and certify the ſame.

Another Proclamation was made by a Serjeant at Arms, That the Lieutenant of the Tower of *London* ſhould return his Precept, and bring forth his Priſoners, *Robert* Earl of *Eſſex*, and *Henry* Earl of *Southampton*.

Then the Lord High Conſtable of the *Tower*, the Lieutenant of the *Tower*, and the Gentleman Porter, who carried the Ax before the Priſoners, came firſt in, and the Priſoners followed and made their appearance at the Bar, the Gentleman Porter with the Ax ſtanding before them, with the Ax's Edge from them; and ſo the Lieutenant delivered his Precept into the Court.

The two Earls (which were Priſoners) kiſſed one another's Hands, and embraced each other.

Another Proclamation was made, That the Serjeant at Arms to the Queen's Majeſty do return his Precept of the Names of all the Peers of *Robert* Earl of *Eſſex*, and *Henry* Earl of *Southampton*, the which he delivered into the Court accordingly.

Another Proclamation was made, That all Earls, Viſcounts, and Barons of the Realm of *England*, which were Peers of *Robert* Earl of *Eſſex*, and *Henry* Earl of *Southampton*, and ſummoned to appear this Day, do make anſwer to their Names, upon pain and peril that will fall thereon.

Then the Lords were called, and anſwered and appeared as followeth:

Edward Earl of *Oxford*.	*Henry* Lord *Cobham*.
Gilbert Earl of *Shrewſbury*.	*Henry* Lord *Stafford*.
William Earl of *Derby*.	*Thomas* Lord *Grey*.
Edward Earl of *Worceſter*.	*Thomas* Lord *Lumley*.
George Earl of *Cumberland*.	*Henry* Lord *Windſor*.
Robert Earl of *Suſſex*.	*William* Lord *Chandois*.
Edward Earl of *Hertford*.	*Robert* Lord *Rich*.
Henry Earl of *Lincoln*.	*Thomas* Lord *Darcy*.
Charles Earl of *Nottingham*.	*George* Lord *Hunſdon*.
Thomas Viſcount *Bindon*.	*Oliver* Lord *St. John* of *Bletſo*.
Thomas Lord *De la Ware*.	*Thomas* Lord *Burleigh*.
Edward Lord *Morley*.	*William* Lord *Compton*.
	Thomas Lord *Howard*, Baron of *Walden*.

Then the Earl of *Eſſex* deſired to know of my Lord Chief Juſtice, whether he might challenge any of the Peers or no; whereunto the Lord Chief Juſtice anſwered, No: and Mr. Attorney General alledged a Caſe in *Henry* VIII's Time, of my Lord *Darcy*. Whereupon the Earl bad them go on.

[When the Lord *Grey* was called, the Earl of *Eſſex* laughed upon the Earl of *Southampton*, and jogged him by his Sleeve.]

Then they were called to hold up their Hands at the Bar, which they did. And then the Clerk of the Crown read the Indictments. That being done, they were bid to hold up their Hands again, which they did, and another Indictment was read, whereunto the Earl of *Eſſex* was attentive. After which, the Clerk of the Crown asked them, whether they were Guilty, or not Guilty: they pleaded not Guilty; and for their Tryals they put themſelves upon God and their Peers. They ſpake this ſeverally.

Then my Lord High Steward in a few words gave the Peers a Charge, requiring them to have a due regard of their Conſciences.

Serjeant Yelverton's *Speech.*

Firſt he began to open the Evidence, and ſhewed the Effect of the Indictment, and held it in his Hand, and ſaid as followeth:

May it pleaſe your Grace (ſpeaking to the High Steward) about the 8th of *February* laſt, my Lord of

of *Eſſex* (there Priſoner at the Bar) went about with armed Men very rebelliouſly to diſinherit the Queen of her Crown and Dignity, which when it came to her Majeſty's Ear, ſhe of her abounding Mercy, ſent to ſee if it were poſſible to ſtop the Rebellion: and who did ſhe ſend? She ſent (my Lord) no worſe Perſons than my Lord Keeper, my Lord Chief Juſtice of *England*, the Earl of *Worceſter*, and Sir *William Knowles*, all which went in her Majeſty's Name, and commanded the Earls and their Adherents very ſtrictly to diſſolve their Aſſemblies, and to lay down their Arms. But he knowing it, very treacherouſly impriſoned the ſaid Lords and Counſellors by her Majeſty ſo ſent, and altogether refuſed her Majeſty's Authority: and divers of their Confederates cry'd out, Kill them, kill them! thereby putting her Majeſty's Council in fear of their Lives; and withal, left them with Sir *Jo. Davis* to keep ſafe, leſt they themſelves ſhould miſcarry in the City. But, my Lord, I muſt tell you this by the way, that my Lord of *Eſſex* can no way excuſe nor ſhadow this his rebellious Purpoſes, nor turn his Actions to any other intent: for the ſending of *Temple* his Secretary into *London* the Night before, manifeſteth his determination, without Scruple or Queſtion; for by that means he was in hopes to have had the help of the Citizens, her Majeſty's moſt loyal and loving Subjects: and he uſed not only his beſt endeavours to ſtrengthen himſelf abroad, but alſo fortified his Houſe at home with ſtrong Defence and Ammunition; all which were Tokens of his Inclinations to a ſudden and unexpected Rebellion, and were confirmed in the opinion of all the World, when he withſtood divers of her Majeſty's Subjects ſtanding in her Highneſs's Right, and Defence of her Peace, againſt him and his Confederates. Good my Lord, I beſeech your Grace, and you my Lords that are the Peers, to underſtand, That if any Man do but intend the Death of the King, it is death by the Law: for he is the Head of the Commonwealth, and all his Subjects as Members ought to obey and ſtand with him. But as for this Rebellion, being duly conſidered, it contains in it many Branches of Treaſon, which are and will be directly proved: which being found to be ſo, my Lords, who are their Peers, are to find them Guilty. Hereof need to be made no doubt, for it is more manifeſt than the Sedition of *Catiline* to the City of *Rome*, and conſequently *England* is in no leſs danger; for as *Catiline* entertained the moſt ſeditious Perſons about all *Rome* to join with him in his Conſpiracy, ſo the Earl of *Eſſex* had none but Papiſts, Recuſants, and Atheiſts for his Adjutors and Abettors in their capital Rebellion againſt the whole Eſtate of *England*. My Lord, I much wonder that his Heart could forget all the Princely Advancements given him by her Majeſty, and be ſo ſuddenly beſlinted, as to turn them all to rebellious Ends; but it ſeems this overweighing a Man's own Conceit, and an aſpiring Mind to wiſhed Honour, is like the Crocodile, which is ever growing as long as he liveth. Your Lordſhips know in what ſort they went into the City, with Armour and Weapons, and how they returned to *Eſſex-Houſe* again, as you my Lord Admiral, and my Lord of *Cumberland*, with others of their honourable Peers do know; which makes me wonder they do not bluſh to be ſo forward to ſtand upon their Tryals without Confeſſion, when their intended Treaſons are in all Mens Judgments palpable. For my part, my Lord, I can conjecture nothing hereby; and it will not eaſily out of my own conceit, but that there is ſome further Matter in it than as yet appears; but my hope is, that God of his Mercy, that hath revealed their Treaſons, will not ſuffer the reſt of his or any others to the hurt of the State, or prejudice to her Majeſty's moſt Royal Perſon, whom I pray God long to preſerve from the hands of our Enemies. *Amen*, cry'd the Earl of *Eſſex* and the Earl of *Southampton*, and God confound their Souls that ever wiſhed otherwiſe to her ſacred Perſon.

* *Attorney Gen.* May it pleaſe your Grace, the Lords Chief Judges, * *Sir Ed. Coke.* which are the Fathers of the Law, do know, that the Thought of Treaſon to the Prince, by the Law is Death; and he that is guilty of Rebellion, is guilty of an Intent (by the Laws of the Land) to ſeek the Deſtruction of the Prince, and ſo adjudged Treaſon: and I will prove this unto your Lordſhips by two ſeveral Caſes. Firſt, he raiſeth Power and Strength in a ſettled Government, the Law will not ſuffer it, but it is conſtrued as in caſe of High Treaſon; he that doth uſurp upon it, the Law doth intend that he hath purpoſed the Deſtruction of the Prince; he that doth aſſemble Power, if the King doth command him upon his Allegiance to diſſolve his Company, and he continue it, without any queſtion it is High Treaſon: he that doth levy Forces to take any Town in the Prince's Dominions, it is ſo likewiſe. But my Lord of *Eſſex* hath levied Power to take the Tower of *London*, and to ſurprize the Queen's own Court; then this muſt needs be higher than the higheſt; and he that doth fortify himſelf againſt the Prince's Power, muſt needs be within the compaſs of Treaſon. And by your favour, my Lord of *Eſſex*, I will now ſpeak a word unto you, for I know you can ſpeak as well as any Man; That whereas you ſay the Law of Nature compelled you to do this, which in judgement you have, tho moſt treacherouſly attempted, I will in a word diſprove your own Judgment, admitting you muſt make that freely your Argument. Firſt, I will open the Quality of your Rebellion; Secondly, the Manner of it; Thirdly, I will touch the Circumſtances; and, Laſtly, I will obſerve the Perſon. The Quality hath High Treaſon; for which I think I ſhall not need to ſay any more. For the Manner of it, I hold it an unnatural Act for a natural Subject to commit Treaſon againſt his natural Sovereign; and methinks it cannot be by any probability denied, but that this High Treaſon is, and muſt be, both againſt the Law of God, Nature and Reaſon. And under your Grace's favour, my Lord, the Manner of it being of ſo high a Nature as it is, muſt needs be High Treaſon, which was not only carried in their Hearts, but, for a continual Remembrance, kept in a black Purſe, which my Lord of *Eſſex* wore on his Breaſt next to his Skin. Let me note unto you, my good Lord, that they being both born under the Government of this Princeſs, and ſo highly advanced by her Majeſty's Favour, ſhould have trembled once to think of ſuch Rebellion as they have enterprized. Doth not my Lord of *Eſſex* now enjoy his Earldom of *Eſſex* by the Gift of *Henry* VIII. to his Father? Was not he made Maſter of her Majeſty's Horſe at twenty-two Years of Age? One of her Majeſty's Council? to be Earl Marſhal of *England*? General of her Majeſty's Forces in *Ireland*? And laſtly, hath he not received divers Gifts and Sums of Money, to his own uſe, of her Majeſty's Gracious and Princely Bounty, to the

the value of thirty thouſand Pounds? Yet all theſe were as cleverly forgotten, as if they had never been. Now ſhall I ſhew you the Perſon whom this concerns, even her Majeſty's ſacred Perſon, againſt whom their Attempts have been, only for the undertaking of God's Cauſe, and exerciſing of Juſtice with admirable Mercy; and tho I cannot ſpeak without reverent Commendations of her Majeſty's moſt honourable Juſtice, yet I think her overmuch Clemency to ſome, turneth to overmuch Cruelty for her ſelf: for tho the rebellious Attempts were ſo exceeding heinous, yet out of her Princely Mercy, no Man was racked, tortured, or preſſed to ſpeak any thing farther, than of their own accord, and willing minds, for diſcharge of their Conſciences they uttered; and then, to ſee the Mercy of God that will have the Truth known, it is admirable beyond the Conceit of Man's Capacity: For they being ſeverally examined, notwithſtanding, all agreed directly, without varying. But when her Majeſty ſent a Counſellor of State to have the Earl come before her, when ſhe heard of his Rebellion, for no other end or purpoſe but for his Admoniſhment, he refuſed to come; and having a guilty Conſcience, and ſuſpecting his Treaſons were laid open, took conſultation to ſurprize the Court and the Tower of *London*, all at one inſtant: and for this purpoſe, had appointed *Blunt* the cuſtody of the Gates, Sir *Jo. Davis* of the Hall, Sir *Charles Danvers* of the Preſence, and himſelf of her Majeſty's Perſon. Whereupon *Blunt* ſaid, Ah! in what Humours ſhall we find them in at the Court? This was not all, for the Earl he muſt call a Parliament, and he would decide matters, not making for his purpoſe: but now in God's moſt juſt Judgment, he of his Earldom ſhall be *Robert* the laſt, that of a Kingdom thought to be *Robert* the firſt. And my Lord did not any whit amuſe himſelf to give order, that if he and his Complices ſhould miſcarry in *London*, then the Counſellors which he cauſed to be impriſoned in his Houſe, ſhould be ſlain. It was plain Treaſon in him to ſtand out, being by them charged to diſſolve his Company upon his Allegiance. What ſhall I need to ſtand upon further Proofs? it is ſo evident, and my Lord himſelf will not deny, but that he had a Schedule, containing in it divers of his Friend's Names; which, as I conjecture, muſt needs contain ſome other matter, for he durſt not let it come to light, but burnt it: and as for *Owen*, *Salisbury*, *Davis* and *Treſham*, they muſt have the guard of the Lords of the Council, to uſe them at their pleaſure.

Eſſex. Will your Lordſhips give us our turns to ſpeak, for he playeth the Orator, and abuſeth your Lordſhips ears and us with Slanders; but they are but faſhions of Orators in corrupt States. Conſidering ſome Privileges which we might challenge, equal Anſwers and equal Hearing were indifferent; for unleſs it will pleaſe your Lordſhips that we might anſwer to every Particular, we ſhall ſoon confound our own Memories, and give Liberty and Advantage to our Enemies, whereupon to lay hold, for lack of preciſe Anſwer to each particular Objection. And ſeeing now, my Lord, you have undertaken the place of a Judge, I beſeech you, as you prove againſt, we for our ſelves may anſwer what may fall out to be fit.

Here the Lord of *Eſſex* was interrupted, and not allowed to ſpeak until *Henry Witherington's* Examination was read, which imported thus much:

Witherington's *Examination.*

That upon the Sunday morning, he was ſent for to *Eſſex-Houſe*, where he found the place guarded with many Gentlemen in Arms, who told his Uncle that came in his Company, that he feared they were come into an ill Action; my Lord of *Eſſex* bade him very wery welcome, and intreated him to go with him, for he feared hurt of ſome private Enemies. And when Mr. *Witherington* perceived the Council were ſtayed, he feared danger to them; for he heard ſome bid, *Stab them*; and others, *Let us make an end of them, we ſhall have the fewer to deal withal.* And he proves further, that order was left, That if the Earl ſhould miſcarry in *London*, then the Lord Keeper and the Lord Chief Juſtice ſhould be killed; and alſo when the Council had commanded him, upon his Allegiance, to diſſolve his Forces, he anſwered nothing: he likewiſe ſaw my Lord of *Bedford* brought in that morning; and Mr. *Witherington*, fearing he might be drawn on to his Deſtruction, prayed him only to follow him, for when opportunity ſerved in *London*, they would leave the Troop; and that they followed the Earl into *London*, and on a ſudden loſt him.

Eſſex. I will not (I proteſt to God) ſpeak to ſave my Life; for thoſe that proſecute it againſt me, ſhall do me a good turn to rid me of my Miſery, and themſelves out of Fear. As for Mr. *Witherington*, he does much diſparage himſelf if he ſaith ſo, for I proteſt to God upon my Salvation, I never heard ſuch words as, *Kill him, kill him*; and Mr. *Witherington* came voluntarily to my Houſe, unſent for, and in the forenoon did come into our Company, and took to heart as much as we did whatever we went about: and theſe are but Reports, for he that is the Witneſs, is now ſent into the Country about ſome Employments. But if it had been a Secret, Mr. *Witherington* being privy thereto, might have been a good Witneſs; but being ſo openly ſpoken, (as you ſay) a hundred more might have teſtified it, yet none ſpake it beſides. And as for locking up the Council, I proteſt to God it was done in Charity, and without Diſloyalty, but intending only to ſave them, leſt they ſhould take hurt; conſidering the People abroad in the Streets, with a great and ſudden Out-cry, ſaid, *We ſhall be ſlain.* At which time we thought our Enemies had been come to beſet the Houſe, for my intent was no otherwiſe than Loyal to her Majeſty and them.

Earl of Worceſt. They proved in Court upon their Honours, that they heard the words, *Kill them, kill them*; but they would not charge my Lord of *Eſſex* that they were ſpoken either by his Privity or Command.

Attorn. Gen. Yea, my Lord, you had three hundred Men in Arms in your Houſe; why did you not diſſolve them, being commanded upon your Allegiance from the Queen to do it?

Eſſex. They hearing rumours of Men about my Houſe againſt them, put them into ſuch a Fear and Extaſy, that it was not in my Power ſuddenly to diſſolve them, or to quench their Paſſions; and the rather for that Sir *Walter Raleigh* deſired Sir *Ferdinando Gorges* to leave their Company, or elſe they would be all loſt; ſo that they ſtood amazed, and knew not what to do.

Southampton. Mr. Attorney, you ſpeak all this as if it were as true as the Goſpel.

Eſſex. Good my Lord, let me intreat you to mark the Circumſtances: Word was brought that Men were ſent for into the Country, to take us in our own

own Houſes; then we conceiving the thirſty Appetite of our private Enemies, took our ſelves to our Arms, and were glad to ſtand upon our guard for our own Defence. But as for the Lords of the Council that came to my Houſe, we being before advertiſed that we ſhould be beſet, thought it the ſecureſt way for thoſe of the Council to keep them there, not knowing what Miſchief would enſue.

Attorn. Gen. My Lord, your Grace ſees that this is without Colour or Queſtion; for my Lord Chief Juſtice hath proved it plain, that they would not diſſolve their Company that was up in Arms, being charged upon their Allegiance ſo to do.

Eſſex. Good my Lord, know whether it were in my Lord of *Southampton's* power or in mine to withhold their Purpoſes ſo ſuddenly: For, not long before Sir *Walter Raleigh* had ſent to my Houſe to have Sir *Ferdinando Gorges* to come to him to *Durham-Houſe*; and we fearing him to be a private Enemy, would not ſuffer Sir *Ferdinando* to go thither, but returned anſwer, that he would meet him on the Water upon equal Terms: where Sir *Walter Raleigh* uſed the former Speeches to Sir *Ferdinando Gorges*, wiſhing him to leave our Company, or elſe he would be undone. And whereas we are charged to have dealt with Papiſts, I aſſure your Lordſhip, and it is moſt true, that Papiſts have been hired and ſuborned to witneſs againſt me; as by the means of one *Sudall*, who was a Seminary Prieſt, and ſent into *Ireland* to deal with Sir *Chriſtopher Blunt*, whom he thought to be inward with me, to touch my Honour and Reputation. Then *Bales*, the Scrivener in the *Old-Baily*, hath confeſſed under his hand to forge and counterfeit my hand in at leaſt two Letters; and theſe two honeſt Gentlemen can witneſs it.

Attorn. Gen. Ay, by my troth this is true, but it was by the Procurement of one of your own Men.

Eſſex. Thou ſweareſt it, but it is not on a Book; that Man thou ſayeſt I procured to do it, his name is *John Daniel*, an arrant Thief, one that broke a Standard of mine, and ſtole a Casket of my Wife's, and many other things. It is very probable that I ſhould truſt him ſo far, that had before betrayed me, is it not? But it is well known who ſet him at work to attempt againſt me ſo much as he hath done, to procure my hand to be counterfeited; and yet this Man, by your Judgment, muſt be a Practiſer in ſuch Matters by my own Conſent. Well, Mr. *Attorney*, I thank God you are not my Judge this day, you are ſo uncharitable.

Attorn. Gen. Well, my Lord, we ſhall prove you anon what you are, which your Pride of Heart, and aſpiring Mind, hath brought you unto.

Eſſex. Ah! Mr. *Attorney*, lay your Hand upon your Heart, and pray to God to forgive us both.

Raleigh. That Sir *Ferdinando Gorges* told me upon the Water, that my Lord of *Eſſex* had put himſelf into a ſtrong Guard at *Eſſex-Houſe*, and this is like to be the bloodieſt day's work that ever was, wiſhing him to go to Court with ſpeed for prevention thereof: Then Sir *Walter* wiſhed Sir *Ferdinando Gorges* to refuſe their Company, elſe he would be undone. To this Sir *Walter* was ſworn.

Eſſex. Whatſoever Sir *Walter Raleigh* hath ſaid, differeth altogether from that which Sir *Ferdinando* told us at *Eſſex-Houſe*, upon his return from the Water.

Attorn. Gen. Well, my Lord, what can you deviſe to ſay for Sir *John Davis*, another of your Adherents, that Papiſt? for he hath confeſſed that he is a Papiſt and a Catholick, and drawn in by Sir *Chriſtopher Blunt*, one of your chiefeſt Counſel, and that he called for a Seminary Prieſt upon his Convertment to abſolve him.

Eſſex. If Sir *John Davis* were ſuch a Man, it cannot be but ſtrange to me to hear it; although I cannot ſearch into the Secrets of his Heart to accuſe him inwardly, yet I have ſeen him dutifully come to Prayers, and to the Service of God in my own Houſe with me, and behaved himſelf very godlily; and of this I can be witneſs. And as for *Blunt* (God is my witneſs) I have been ſo far from Popery, as I have ſo earneſtly dealt with him to reform himſelf, inſomuch that he hath told me, I have been very paſſionate. But whereas you ſay, we have committed Treaſon, firſt prove that true.

Serjeant Yelvert. Why, my Lord, if you deny the raiſing the Power, why ſhould ſo many Men come to your Houſe that day?

Southampt. By your favour, Mr. Serjeant *Yelverton*, a word I hope; for my coming thither, it was not ſtrange news, and when I came that ſame morning to *Eſſex-Houſe*, I proteſt I had not above ten or twelve Men attending me, which was but my uſual Company, therefore far from purpoſing to raiſe a Tumult.

Attorn. Gen. Why, the reaſon of that was, for that you thought all *London* would have riſen with you; but good my Lord, I beſeech your Grace to hear the Oath of Sir *Ferdinando Gorges*: whoſe Evidence was read, and himſelf there in perſon did juſtify the ſame.

Sir Ferdinando Gorges *his Confeſſion.*

He depoſeth, That in *January* laſt the Earl of *Eſſex* wrote to him a Letter, wherein he complained grievouſly of his Misfortunes, and the miſerable Eſtate he ſtood in, whereof he purpoſed ſhortly to free himſelf, and therefore prayed Sir *Ferdinando Gorges* to come up to *London* to him: who coming accordingly, the Earl told him how mightily he was croſſed and diſcredited by his private Enemies, which he could not endure; for, ſaith he, I have 120 Earls, Barons, and Gentlemen, that participate in my diſcontented Humour, and will join with me, and I deſire your Help and Counſel therein. One ſpecial Friend I have in the Court, whereby I have Intelligence from time to time: And I hold our ſelves indifferently affected by the Citizens of *London*, and hope to have a good Party in *Wales*. He confeſſed alſo, that they had two ſeveral Meetings at *Drury-Houſe*, to conſult of theſe Matters; and the Projects were, Whether it were better firſt to ſurprize the Court, or to take the Tower of *London*, or to ſtir in the City. But moſt agreed, firſt to ſurprize the Court. And then and there Sir *John Davis* took Pen, Ink, and Paper, and ſet down, That ſome ſhould keep the Hall, ſome the Court-Gates, ſome the Guard-Chamber, and ſome the Preſence-Chamber; ſaying, many of the Guard had been the Earl of *Eſſex*'s Servants, and were preferred to the Queen by him, and will be more indifferent to deal with than others; and ſo my Lord ſhall have a way through his own Guards to come to the Privy-Chamber, and the Preſence of the Queen. And Sir *Ferdinando Gorges* ſaid to the Earl of *Eſſex*, Alas! my Lord, what is ſo ſmall a number of Men able to do in ſo worthy an Action? and ſo diſſuaded the Earl from ſurprizing the Court, and rather bade him ſubmit himſelf to the Queen's Mercy, than proceed any further. And that the Earl of *Southampton* ſaid at *Eſſex-Houſe*, Is it not three months ſince this Plot began, and ſhall we reſolve on nothing?

Then

Then upon a ſudden they all agreed, firſt to ſtir in *London*, where they aſſured themſelves of great Favour: And after the Council was ſock'd up, this Deponent followed the Troops into *London*; and after ſome advice the Earl of *Eſſex* ſent him back again with a Token to deliver to the Lord Chief Juſtice only, by colour of which Token he ſet at liberty the Lord Keeper and the reſt. Laſtly, he confirmed, that he told Sir *Walter Raleigh* firſt, upon the *Thames*, of my Lord of *Eſſex*'s making his Houſe a Guard, and putting his Friends into Arms, as it is delivered by Sir *Walter Raleigh*.

Queen's Counſel. They deſired, that the Examination of Sir *Charles Danvers* might be read, which being produced, was then read to this effect:

Sir Charles Danvers's *Examination.*

He confeſſeth, That before *Chriſtmas* laſt the Earl of *Eſſex* entred into Conſideration, how he might ſecure himſelf to have acceſs to the Queen's Preſence without Reſiſtance; and that the Reſolution was agreeable to certain Articles written with the Earl of *Eſſex*'s own Hand, and ſent to the Earl of *Southampton* to ſurprize the Court; and that there were divers Conſultations about it, and the Points were theſe: Firſt, to take the Tower, for it would command *London*, then to ſurprize the Court; and after, the Court being taken and poſſeſſed, to have aſſembled the reſt of their Friends, and to have preſented themſelves to the Queen: and that being done, and the Guards ſecured, Sir *Chriſtoper Blunt* ſhould keep the outward Gates of the Court, Sir *John Davis* the Hall and Water-gate, Sir *Charles Danvers* (this Deponent) ſhould keep the Preſence and Guard-Chamber, and ſeize upon the Halberts and Penſioners Battle-Axes. The Intent was to ſurprize the Captain of the Guard at the Court, or at his own Houſe, and ſome others; and then to ſurprize the Tower of *London*. And that the Earl of *Eſſex* reſolved (theſe things being accompliſhed) immediately to have called a Parliament to reform Diſorders and private Grievances. That this Deponent utterly diſliked of theſe Courſes; and after the Alarm was given at Court, he perſuaded the Earl rather to flee into *Wales*, or other parts beyond the Seas for his Security, and avoiding the imminent Danger he was fallen into, than to truſt to the City. And laſtly, he proteſted, for his own part, what he had done in the buſineſs, was merely for the Love he bore to the Earl of *Southampton*, and not for any Malice or private Diſcontent otherwiſe.

When this was read, Mr. *Attorney General* produced the Examination of Sir *John Davis*, which contained in effect as follows:

Sir John Davis's *Examination.*

He ſaith, That the Earl's Purpoſe was, to poſſeſs himſelf of the Court, and to take the Tower of *London*; and that they had ſeveral Meetings of Conſultation, together with the Earl of *Southampton*, Sir *Ferdinando Gorges*, *Jo. Littleton*, Sir *Chriſtopher Blunt*, Sir *Charles Danvers*, and this Deponent. And theſe Matters (he confeſſeth) the Earl of *Eſſex* ſet down all with his own Hand, *viz.* Sir *Chriſtopher Blunt* to keep the outward Gate of the Court himſelf, this Deponent the Hall and Water-gate, and Sir *Charles Danvers* the Preſence and Guard-Chamber; then my Lord of *Eſſex* and his Forces would have come by Land, and ſo have poſſeſſed the Preſence of the Queen. The queſtion was asked the Earl of *Eſſex* (as this Deponent ſaith) how he would deal with Offenders, and ſuch as reſiſted him, after he ſhould be poſſeſſed of theſe things? He reſolved them by way of Anſwer, That he meant to admit them all to an honourable Tryal.

Counſel. There is another Examination of Sir *Chriſtopher Blunt*'s, I pray let that be read.

Sir Chriſtopher Blunt's *Examination.*

He ſaith, That four or five days before the Inſurrection in *London*, the Earl of *Eſſex* ſet down divers Articles with his own Hand, with Petitions to the Earl of *Southampton*, Sir *Charles Danvers*, Sir *John Davis*, Sir *Ferdinando Gorges*, *Jo. Littleton*, and this Deponent; which were to the effect before remembred. And further this Deponent remembreth, That the Earl of *Eſſex*'s Purpoſe was (after theſe things ſhould be over-paſſed and ſettled) to alter the State of Government: And further this Deponent confeſſeth himſelf to be reconciled to the Pope: And moreover ſaith, that the Earl of *Eſſex* ſaid, He looked not that any ſhould be troubled for Religion, and Liberty of Conſcience; that he received Letters from the Earl of *Eſſex* the 20th of *January*, to come to *London*; whereupon he came.

The Earl of Rutland's *Examination.*

He ſaith, That being in *London*, with the Earl of *Eſſex*, he heard him cry out in the Streets, *England* is bought and ſold to the *Spaniard*; and confeſſeth, when they had been poſſeſſed of *London*, their Purpoſe was to have taken the Lord Keeper with them to the Court, with the Earl of *Eſſex*'s Company; and that the Earl of *Southampton* and Sir *John Davis* were in ſpecial Confederacy and Truſt with the Earl of *Eſſex* in theſe Cauſes. Laſtly, That the Earl of *Eſſex* ſaid, he was ſure of Sheriff *Smith*: and this Deponent ſpecially noted, the Earl of *Southampton* was very much diſcontented.

Lord Cromwel's *Examination.*

He ſaith, He never heard of the Matter till the ſame Sunday-morning, when the Earl of *Eſſex*, coming through *Fleet-ſtreet*, where this Deponent lay, and being ſent for by a Man of my Lord's, he came into the Street to him; where my Lord and divers of his Followers took him by the Hand, and bade him welcome, praying him to go along with him; and the Earl of *Eſſex* cry'd, It is for the Good of the Queen, and of you all, my Maſters. Firſt, he went to the Mayor's Houſe, and then to Sheriff *Smith*'s Houſe; and being in *Gracechurch-ſtreet*, and hearing of the Proclamation, the Earl of *Eſſex* ſaid, Where is the Sheriff? let him bring Muskets and Piſtols; for I am credibly informed out of *Ireland*, that the Kingdom of *England* is ſold to the *Spaniard*. And ſo upon the Proclamation the Deponent left him and his Company.

Lord Sandes's *Examination.*

He ſaith, He was ſent for on Sunday-morning, the ſame day, by the Earl of *Eſſex*; and coming to *Eſſex-Houſe*, he found then but a few there; but in a ſhort time after, came the Earl of *Southampton* with the reſt. This Deponent agreeth in divers other Circumſtances with former Examinations: He confeſſeth, he went with the Earl into *London*, and came back with him to *Ludgate*, and there being repuls'd,

repulſed, he heard my Lord of *Eſſex* cry, Charge, charge! and call for his Horſe. And he ſaith, that Sheriff *Smith* was as far in the Matter as the the beſt of them.

Mr. Attorney. Here Mr. Attorney urged, that there was a Combination; and one *Paſhell* affirm'd the burning of a black Purſe by the Earl of *Eſſex*, which my Lord confeſſeth; but ſaith, that there was nothing in it, but a Key of an Iron-Cheſt, which he took out, and burnt a Paper in the ſame Purſe, which did not contain above five or ſix Lines of ſecret Matter: and, for that he would not have ſo much as their Names drawn into queſtion, which were altogether ignorant of theſe Occurrents, did throw the Purſe and Paper into the Fire. And alſo *Paſhell* confeſſeth further, that when the Earl of *Eſſex* came out of *London* to his Houſe, he told them, that he was beloved in the City.

Lord Monteagle's *Examination.*

He ſaith, He had no Fore-knowledge of theſe Matters; but confeſſeth, he follow'd the Earl of *Eſſex* down *Fleetſtreet*, intending to go to the Mayor, and ſo to his Houſe in *Seething-Lane*. And this Deponent being with the Earl of *Eſſex* in *Grace-Church-Street*, confeſſeth he did hear the Earl (when the Lord *Burleigh* came with the Herald of Arms) command ſome of his Followers to bid the Herald ſtay, for he would not hear him abuſe the Queen's Name. He ſaith alſo, he went back with the Earl to *Ludgate*, and they were repulſed.

Mr. Attorney. Now, my Lord, I beſeech your Grace, and you, my Lords, that be the Peers, let the due Conſideration of theſe ſeveral Examinations and Depoſitions enter into your Hearts; and do but note, they have all agreed and jumped together in each particular point, notwithſtanding they were all ſeverally examined: but I muſt needs think it the juſt Judgment of God, in his mere Mercy towards our Sovereign, to have the Truth ſo marvellouſly reveal'd; coming from them of their own accords, without Rack or Torture to any of them.

Eſſex. Mr. Attorney, I anſwer then this for that point; The ſelf-ſame Fear, and the ſelf-ſame Examiner, may make theſe ſeveral Examinations agree all in one, were they never ſo far diſtant; but good my Lord, let me intreat your Lordſhip to conſider who they be that teſtify this againſt me: My Lord, they are Men within the Danger of the Law, and ſuch as ſpeak with a deſire to live; but I think they have much to anſwer for between God and their Souls, and me. I ſee they charge me with the ſurprizing of the Tower; but upon what ground do they ſpeak? They had only ſome particular Notes of my Friends Names, but ever very ſcornfully daſhed at me: for when my Friends perſuaded me to any courſe, this was my purpoſe, to have come with eight or nine honourable Perſons, who had juſt Cauſe of Diſcontentment (tho not equal with mine) unto her Majeſty, and ſo by petition, proſtrating our ſelves at her Majeſty's feet, to have put our ſelves unto her Mercy. And the Effect of our Deſires ſhould have been, that ſhe would have been pleaſed to have ſever'd ſome from her Majeſty, who, by reaſon of their Potency with her, abus'd her Majeſty's Ears with falſe Informations; and they were *Cobham*, *Cecil* and *Raleigh*: For we thought my Lord *Cobham* carry'd himſelf in ſuch factious and dangerous Courſes, as he told her Majeſty many Untruths; which was a principal Cauſe (as I think) of withdrawing her Favour from us. And to that intent, to remove ſuch from her Highneſs (I confeſs) was the only Deſire we had to preſent our ſelves in all Humility before her Majeſty, but without any purpoſe of Hurt to her Highneſs: for, I proteſt before God, I do carry as reverent and loyal Duty to her Majeſty, as any Man in the World. But now, my Lord, ſeeing that I have heard the Teſtimony of Sir *Ferdinando Gorges*, and himſelf here in Court to teſtify it, I will ſay no more, but that if it pleaſe her Majeſty to be merciful unto him, I will be glad, and pray for it; yet whatſoever he hath ſaid, let my Life and his Dealing teſtify the Truth: and Sir *Ferdinando*, ſpeak nothing to touch thy ſelf, and ſpeak what thou wilt to me; for I ſee thou deſireſt to live, yet ſpeak like a Man.

Lord Admiral. I deſire, for the better Satisfaction of my ſelf and Fellow-Peers, that *Gorges* might unfold openly what other Secrets have paſs'd between him and my Lord of *Eſſex*, touching the State.

Eſſex. Ah! my Lord Admiral, aſſure your ſelf, in faith, no Treaſon: But yet, I pray thee, good Sir *Ferdinando*, ſpeak openly, whatſoever thou doſt remember; and with all my heart I deſire thee to ſpeak freely.

Gorges. All that I can remember, I have deliver'd in my Examination; and further I cannot ſay.

Eſſex. Yes, *Ferdinando*, if ever you knew any other Matter, which contain'd any Thought of Treaſon or Diſloyalty, ſpeak it; for they are things not to be forgotten.

Southampton. Good Sir *Ferdinando*, ſatisfy the Court what was intended among all our Conferences, and Talk of our Enemies, and Diſcontentments, and Conſultations, and what was our beſt Courſe for our Defence againſt them?

Gorges. Some deliver'd their Minds one way, ſome another; but, by the Oath I have taken, I did never know or hear any Thought or Purpoſe of Hurt or Diſloyalty intended to her Majeſty's Perſon by my Lord of *Eſſex*.

Lord Admiral. I deſire to know, for the better Satisfaction of my Conſcience, whether my Lord of *Eſſex* did at any time deliver out any Articles in writing under his hand; therein laying open the Projects of his Purpoſe for ſurprizing the Court and Tower.

Southampton. It was a fooliſh Action, I muſt needs confeſs, the going through the Town, and that was ſuddenly paſſed over: But my Lord's purpoſe to have Men planted at the Court, was in regard he feared hindrance by private Enemies, that would have ſtopped his Paſſage to the Queen; which, I proteſt, he intended to no other end, but to proſtrate himſelf at her Majeſty's feet, and ſubmit to her Mercy; as ye have formerly heard.

Cobham. My Lord of *Eſſex*, (quoth the Lord *Cobham*, ſtanding up) let me know, I intreat you, why you lay ſuch Imputations upon me, as you have deliver'd.

Eſſex. My Lord, I have forgiven all the World, and therefore you ſhall not need to inſiſt upon theſe Circumſtances; for I lay not my Cauſe upon ought that ſhall do your Lordſhip any harm for my ſake: For, I proteſt, my Heart bears you no Malice, but what I ſpake was freely, and in God's preſence, hoping her Majeſty would have heard us, and our Complaints being but true. And I do further aſſure your Lordſhip, that I never ſpake it out of fear of Death, or deſire of Life.

Bacon. My Lord, may it pleaſe your Grace, whatſoever my Lord of *Eſſex* hath here deny'd, in my conceit

conceit it ſeemeth to be ſmall. I ſpeak not to any ordinary Jury, but to prudent, grave and wiſe Peers: And this I muſt needs ſay, It is evident that you, my Lord of *Eſſex*, had planted a Pretence in your Heart againſt the Government; and now, under colour of excuſe, you muſt lay the Cauſe upon particular Enemies. You put me in remembrance of one *Piſiſtratus*, that was come into a City, and doting upon the Affections of the Citizens unto him (he having a purpoſe to procure the Subverſion of a Kingdom, and wanting Aid for the accompliſhing his Humour) thought it the ſureſt means for the winning of the Hearts of the Citizens unto him, and ſo in that hope enter'd the City, and cut his Body over-thwart, to the end they might conjecture he had been in danger: and ſo by this means held the ſame Conceit as you and your Complices did; entring the City of *London*, perſuading your ſelves, if they had undertaken your Cauſe, all would have gone well on your ſide. And now, my Lord, all you have ſaid, or can ſay, in anſwer to theſe Matters, are but Shadows; and therefore, methinks, it were your beſt courſe to confeſs, and not to juſtify.

Eſſex. May it pleaſe your Lordſhip, I muſt plead Mr. *Bacon* for a Witneſs; for when the Courſe of private Perſecution was in hand, and moſt aſſail'd me, then Mr. *Bacon* was the Man that proffer'd me Means to the Queen, and drew a Letter in my name, and in his Brother Sir *Nicholas Bacon*'s name, which Letter he purpoſed to ſhew the Queen, and *Goſnal* was the Man that brought them unto me: wherein I did ſee Mr. *Bacon*'s Hand pleaded as orderly, and appointed them out that were my Enemies, as directly as might be: Which Letters I know Mr. Secretary *Cecil* hath ſeen, and by him it will appear what Conceit he held of me, and no otherwiſe than he here coloureth and pleadeth the contrary.

Bacon. My Lord, I ſpent more hours to make you a good Subject, than upon any Man in the World beſides; but ſince you have ſtirred up this Point, my Lord, I dare warrant you this Letter will not bluſh: for I did but perform the part of an honeſt Man, and ever labour'd to have done you good, if it might have been, and to no other end; for what I intended for your Good, was wiſhed from the Heart, without Toueh of any Man's Honour.

Eſſex. Well, my Lord, I do here proteſt before the living God, that an honourable, grave, and wiſe Counſellor hath lamented and grieved at the Courſes he hath ſeen taken, and therewith hath wiſhed himſelf often dead; and this I ſpeak upon credible and honourable Information: But I can prove thus much from Sir *Robert Cecil*'s own Mouth; that he, ſpeaking to one of his Fellow-Counſellors, ſhould ſay, that none in the World but the Infanta of *Spain* had Right to the Crown of *England*.

Here Sir *Robert Cecil* ſtepped forth into the Court (having kept himſelf private till then) and humbly deſired leave to ſpeak to *Eſſex*.

Sir *R. Cecil.* The Difference between you and me is great; for I ſpeak in the Perſon of an honeſt Man, and you, my Lord, in the Perſon of a Traitor: for well I know, you have Wit at Will. The Preheminence hath been yours, but I have Innocence, Truth of Conſcience, and Honeſty, to defend me againſt the Scandal of ſlanderous Tongues, and aſpiring Hearts; and I proteſt before God, I have loved your Perſon, and juſtify'd your Virtues: and I appeal to God and the Queen, that I told her Majeſty, your Afflictions would make you a fit Servant for her. And had not I ſeen your ambitious Affections inclined to Uſurpation, I could have gone on my Knees to her Majeſty to have done you good; but you have a Sheep's Garment in ſhow, and in appearance are humble and religious; but God be thanked, we know you: for indeed your Religion appears by *Blunt*, *Davies* and *Treſham*, your chiefeſt Counſellors for the preſent; and by promiſing Liberty of Conſcience hereafter. I ſtand for Loyalty, which I never loſt; you ſtand for Treachery, wherewith your Heart is poſſeſs'd: and you charge me with high things, wherein I defy you to the uttermoſt. You, my good Lords, Counſellors of State, have many Conferences, and I do confeſs I have ſaid the King of *Scots* is a Competitor, and the King of *Spain* a Competitor, and you I have ſaid are a Competitor: you would depoſe the Queen, you would be King of *England*, and call a Parliament. Ah, my Lord, were it but your own Caſe, the Loſs had been the leſs; but you have drawn a number of noble Perſons and Gentlemen of Birth and Quality into your Net of Rebellion, and their Bloods will cry vengeance againſt you. For my part, I vow to God, I wiſh my Soul was in Heaven, and my Body at reſt, ſo this had never been.

Eſſex. Ah, Mr. Secretary, I thank God for my Humbling; that you, in the Ruff of your Bravery, came to make your Oration againſt me here this day.

Cecil. My Lord, I humbly thank God that you did not take me for a fit Companion for you and your Humours; for if you had, you would have drawn me to betray my Sovereign, as you have done: but I would have you name the Counſellor you ſpeak of; name him, name him, name him if you dare, if you dare, I defy you; name him if you dare.

Eſſex. Here ſtands an honourable Perſon (meaning the Earl of *Southampton*) that knows I ſpeak no Fables; he heard it as well as I.

Cecil. Then my Lord of *Southampton*, I adjure you by the Duty you owe to God, Loyalty and Allegiance you owe to your Sovereign, by all Tokens of true Chriſtianity, and by the antient Friendſhip and Acquaintance once between us, that you name the Counſellor.

Southampt. Mr. Secretary, if you will needs have me name the Counſellor, it was Mr. Comptroller.

Whereupon the Secretary falling down upon his knees, ſaid, I thank God for this day; and upon his knee deſired the Lord High Steward, that a Gentleman of the Privy Chamber (or one that might have acceſs to the Queen) might go, and humbly intreat her Highneſs to command Mr. Comptroller to come before his Grace.

Hereupon the Lord High Steward calling Mr. *Knevet* (a Gentleman of her Majeſty's Privy Chamber) ſaid unto him, go Mr. *Knevet* unto her Majeſty, and let her underſtand Mr. Secretary's Demand.

Cecil. Mr. *Knevet*, you ſhall have free acceſs unto her Majeſty; tell her, that I vow before the God of Heaven, that if ſhe refuſe to ſend Mr. Comptroller, whereby I may clear my ſelf of theſe opeu Scandals, I will rather die at her foot, (as her Subject and Vaſſal) than live to do her any more Service in this honourable degree, wherein her Highneſs employs me. And withal, let me adjure you, Mr. *Knevet*, that you do not acquaint Mr. Comptroller with the Cauſe why you come for him. Mr. *Knevet* went, and not long after return'd with

Mr.

Mr. Comptroller, to whom the Lord High Steward repeated the Cauſe why he was ſent for, and deſir'd him to ſatisfy the Lords, whether Mr. Secretary did uſe any ſuch Speech in his Hearing, or to his Knowledge.

Mr. Comptroller. I remember that once in Mr. Secretary's Company, there was a Book read, that treated of ſuch matters; but I never did hear Mr. Secretary uſe any ſuch words, or to that effect.

Whereupon Mr. Secretary thanked God, that though the Earl ſtood there as a Traytor, yet he was found an honeſt Man, and a faithful Subject; withal ſaying, I beſeech God to forgive you for this open wrong done unto me, as I do openly pronounce I forgive you from the bottom of my Heart.

Eſſex. And I, Mr. Secretary, do clearly and freely forgive you with all my Soul; becauſe I mean to die in Charity.

Bacon. My Lord, you may now perceive that my Lord of *Eſſex* went about to procure matter, and to give over on the inſtant.

Southamp. Well, I beſeech your Lordſhip, let me ſatisfy your Lordſhip and the reſt thus much, that for my own part, I did never know the Laws. Now to ſhew the Cauſes that made me adventure ſo far as I did: The firſt occaſion that made me adventure into theſe Courſes, was the Affinity betwixt my Lord of *Eſſex* and me, I being of his Blood, and marrying his Kinſwoman; ſo that for his ſake I ſhould have hazarded my Life: But what I have by my forwardneſs offended in Act, I am altogether ignorant, but in Thought I am aſſured never. And if through my Ignorance in the Law I have offended, yet I humbly ſubmit my ſelf to her Majeſty, and from the bottom of my Heart do beg her gracious Pardon if it pleaſe her; and I hope that neither your Lordſhip nor any of the Peers will hold any of the former Reſolutions ſpoken of by theſe Orators for any certainty, which depends no otherwiſe than one upon another. For if any fooliſh Speeches have paſſed, I proteſt, as I ſhall be ſaved, that they were never purpoſed by me, nor underſtood to be ſo purpoſed by me, to the hurt of her Majeſty's Perſon

Eſſex. I beſeech your Lordſhip to underſtand me, and aſſure your ſelf, that what I now ſpeak, is not with any deſire (I proteſt) to ſpare one drop of my Blood; and becauſe ſome Honourable Perſons are intereſted in the Cauſe, I would (under favour) ſignify, becauſe the Point hath been ſo much urged by Mr. Attorney, that at our being in *London* when we were paſt *Pauls*, word was brought me, that the Chain was drawn at *Ludgate*, and that my Lord of *Cumberland* was there: which when I heard, I was right glad; for if there had been cauſe, I would have been glad to have put my ſelf into ſo Honourable a Perſon's hands as his: but it was a falſe Report, for my Lord was not then come thither. After which I went to Sheriff *Smith*'s Houſe, and after my coming thither, I ſent the Sheriff and Mr. Alderman *Watts* to my Lord Mayor, deſiring him to come to us; if he would not, to ſend four of his Aldermen to ſee if we demeaned our ſelves loyally, with intent to put our ſelves into their hands to uſe us as they would, or to put us into any Priſon; yet in regard of our private Enemies, and the fear of their Treachery, we deſired them to ſhut their Gates: and this was the end for which we went into the City.

Attorn. My Lord, if you had no other Purpoſe, why did you go into *Grace-Church-ſtreet* and *Fen-Church-ſtreet*, crying out all the way you went, *England* is bought and ſold to the *Spaniard!*

Southamp. Mr. Attorney, I proteſt (as I hope to have Mercy in Heaven) I never heard my Lord ſpeak any ſuch Word, neither did I hear of the Proclamation you ſpeak of, made by my Lord *Burleigh* and the Herald at Arms; neither did I ſee them: and I deny (my Soul and Conſcience bearing me Witneſs) that I ever knew of any Intent and Meaning, or did ever mean or intend any Treaſon, Rebellion, or other Action againſt my Sovereign or the State; but only what I did, was to aſſiſt my Lord of *Eſſex*, in his private Quarrel; and therefore, Mr. Attorney, you have urged the matter very far, and you wrong me therein, my Blood be upon your Head. As for my Lord of *Rutland*, whereas he inferreth againſt me to be a perſuader and inviter of my Lord of *Eſſex* to theſe Actions, he wrongeth me exceedingly; for he was never the Man that ſaw me once diſcontented, and therefore had ſmall ground or reaſon ſo to ſay. And you Mr. Attorney, whereas you charge me for a Papiſt, I proteſt moſt unfeignedly, I was never converſant with any of that ſort; I only knew one *White* a Prieſt that went up and down the Town, yet did I never converſe with him in all my Life.

Eſſex. My Lord, and you that be our Peers, I beſeech you give me hearing thus far, not that I will ſpeak it for the ſafeguard of my Life, but with this my deſire, I charge the Souls of all them that be our Cenſurers or Tryers; becauſe out of a Form and Cuſtom of ſpeaking, theſe Orators would make them more odious that come to the Bar, that I may not be thought to have done this upon Revenge: for within theſe few days I purpoſed to have received the Communion, to be a Teſtimony that I was far from bearing of Malice to any, not ſo much as to my private Enemies. But the falling out between the Earl of *Southampton* and the Lord *Grey*, happening on a Sunday, hindered my Intent; for ſo ſoon as I knew of it, I found my Affections to ſtir on it exceedingly: yet I have ſince that time laboured, and by my Prayers to God earneſtly deſired, that I might be armed with Patience to endure all Afflictions. And here I proteſt before the ever-living God, as he may have Mercy on me, That my Conſcience is clear from any diſloyal Thought or Harm to her Majeſty; and my deſire ever hath been to be free from Bloodſhed, as Mr. *Dove* can witneſs. But if in all my Thoughts and Purpoſes I did not ever deſire the good Eſtate of my Sovereign and Country, as of my own Soul; I beſeech the Lord then ſhew ſome Mark upon me and my Soul in this place, for a juſt Vengeance of my Untruths to all the World. And God which knoweth the Secrets of all Hearts, knoweth that I never ſought the Crown of *England*, nor ever wiſhed to be a higher degree than a Subject. I greatly endeavoured to have brought my Conſcience to peace, only by ſeeking to ſecure my Acceſs to the Preſence of the Queen, that I might ſpeedily have unfolded my Griefs unto her Majeſty againſt my private Enemies; but not to have ſhed one drop of their Blood: And this, my Lord, I ſpeak, to the end I might put off all imputation of being an Hypocrite or an Atheiſt; for I was never Papiſt, neither did I ever favour any Sectary (as my Lord of *Canterbury* knoweth, and can teſtify:) for my Religion, it is ſound, and as I live, I mean to die in it.

Bacon. Well my Lord, may it pleaſe your Grace, you may ſee how weakly he hath ſhadowed his Purpoſe, and how ſlenderly he hath anſwered the Objections againſt him. But my Lord, doubting that too much variety of Matter may miniſter occaſion of Forgetfulneſs; I will only trouble your Lordſhip's remembrance with this only Point, rightly comparing this Rebellion of my Lord of *Eſſex* to the Duke of *Guiſe*'s, that came upon the Barricadoes at *Paris* in his Doublet and Hoſe, attended upon with 8 Men; but his Confidence in the City was ſuch (even as my Lord's was) that when he had delivered himſelf ſo far, and that the ſhallowneſs of his own Conceit could not accompliſh what he expected, the King for his defence taking Arms againſt him, he was glad to yield himſelf, thinking to colour his Pretexts, turned his Practices, and alledged the occaſion thereof to be a private Quarrel.

Eſſex. My Lord, I muſt confeſs it was my fault to ſtand out, and to maintain my Houſe with defence and reſiſting; but I will not deny but that my Lord of *Southampton* and Sir *Charles Danvers* did perſuade me to parley with my Lord General: which I hope your Lordſhip will remember I did yield upon ſome indifferent Terms and Conditions; which were,

Firſt, That I might have an Honourable Tryal.

Secondly, That I might deliver my Griefs my ſelf to the Queen.

Thirdly, That I might go in Safety.

Fourthly, That I might have my Miniſter with me. And,

Laſtly, (Which I chiefly beg of her Majeſty,) That ſhe would be pleaſed to redeem ſome that were with me in the Houſe, and guiltleſs, for Knowledge, Intent or Action, of what was by me purpoſed. All which I thought good to remember, and ſo humbly ſubmit the ſame to her Majeſty's gracious Pleaſure.

Serjeant at Arms. Then Proclamation was made, Lieutenant of the *Tower*, withdraw your Priſoners from the Bar. They being removed, the Lords and Peers went together into a private place made of purpoſe, behind the Canopy and Chair of Eſtate; then the two Chief Judges, and the Lord Chief Baron were ſent for in to them, to deliver their Opinions in Law. After half an Hour they came all out again, and each Man took his place; which being done, the Serjeant at Arms begun at the puny Lord, and called *Thomas* Lord *Howard*, who ſtood up bare-headed; then ſaid the Lord High Steward,

L. *Steward.* My Lord *Thomas Howard*, Whether is *Robert* Earl of *Eſſex* guilty of this Treaſon whereupon he hath been indicted, as you take it upon your Honour, or no?

L. *Tho. Howard.* Whereupon the Lord *Thomas Howard* made anſwer, bending his Body, and laying his left Hand upon his right Side, ſaid, Guilty, my Lord, of High Treaſon. After which manner all the Peers found him guilty one after another, from the puny to the higheſt, and ſo delivered in like ſort upon their Honours. Being called over anew, they found *Henry* Earl of *Southampton* guilty of High Treaſon alſo.

Serjeant at Arms. Then the Serjeant at Arms commanded the Lieutenant of the *Tower* to bring his Priſoners to the Bar again.

Clerk of the Crown. Then the Clerk of the Crown ſpeaking firſt to the Earl of *Eſſex*, ſaid; *Robert* Earl of *Eſſex*, you have been arraigned and indicted of High Treaſon, you have pleaded not Guilty, and for your Tryal you have put your ſelf upon God and your Peers; the Peers here (who have heard the Evidence, and your Anſwer in your Defence) have found you Guilty: Now what can you ſay for your ſelf, why you ſhould not have Judgment of Death?

Eſſex. I only ſay this, That ſince I have committed that which hath brought me within the compaſs of the Law, I may be counted the Law's Traytor in offending the Law, for which I am willing to die, and will as willingly go thereto as ever did any: But I beſeech your Lordſhip, and the reſt of the Lords here, to have Conſideration of what I have formerly ſpoken, and do me the right as to think me a Chriſtian, and that I have a Soul to ſave, and that I know it is no time to jeſt: Lying and Counterfeiting, my Soul abhorreth; for I am not deſperate nor void of Grace, now to ſpeak falſely. I do not ſpeak to ſave my Life, for that I ſee were vain: I owe God a death, which ſhall be welcome, how ſoon ſoever it pleaſeth her Majeſty. And to ſatisfy the opinion of the World, that my Conſcience is free from Atheiſm and Popery, howſoever I have been in this Action miſled to tranſgreſs the Points of the Law, in the Courſe and Defence of private Matters, and whatſoever through the Weakneſs of my Wit, and Dulneſs of Memory, or through violent Courſes, (if there be any violent that ſeek either Life or Death;) or if I have omitted or may have uttered any thing otherwiſe; yet I will live and die in the Faith and true Religion which here I have profeſſed.

Clerk of the Crown. Then the Clerk of the Crown demanded of *Henry* Earl of *Southampton*, What he could ſay for himſelf, why Judgment of Death ſhould not be pronounced againſt him?

Southampton. My Lords, I muſt ſay for my part as I have ſaid before, That ſince the Ignorance of the Law hath made me incur the Danger of the Law, I humbly ſubmit my ſelf to her Majeſty's Mercy; and therefore my Lord High Steward, and my Lord Admiral, I beſeech you both, that ſeeing you are Witneſſes I am condemned by the Letter of the Law, it would pleaſe you to let the Queen know that I crave her Mercy. I know I have offended her, yet if it pleaſe her to be merciful unto me, I may live, and by my Service deſerve my Life. I have been brought up under her Majeſty, I have ſpent the beſt part of my Patrimony in her Majeſty's Service with danger of my Life, as your Lordſhips know; if there were any that could challenge me, that I have ever heretofore committed or intended Treaſon, or any other thing prejudicial to her Majeſty or Eſtate, God let me never inherit his Kingdom, neither would I deſire Mercy: but ſince the Law hath caſt me, I do ſubmit my ſelf to Death, and yet I will not deſpair of her Majeſty's Mercy; for that I know ſhe is merciful, and if ſhe pleaſe to extend it, I ſhall with all humility receive it.

L. *Steward.* My Lord of *Eſſex*, the Queen's Majeſty hath beſtowed many Favours on your Predeceſſors and your ſelf; I would wiſh therefore that you likewiſe would ſubmit your ſelf to her Majeſty's Mercy, acknowledging your Offences, and reconciling your ſelf inwardly to her Majeſty, by laying open all Matters that were intended to prejudice her Majeſty, and the Actors thereof; and thereby no doubt you ſhall find her Majeſty merciful.

Eſſex.

Eſſex. My Lord, you have made an honourable Motion; do but ſend to me at the time of my Death, and you ſhall ſee how penitent and humble I will be towards her Majeſty, both in acknowledging her exceeding Favours to my Anceſtors, and to my ſelf: whereby I doubt not but the penitent ſuffering of my Death, and ſprinkling of my Blood, will quench the evil-conceited Thoughts of her Majeſty againſt me. And I do moſt humbly deſire her Majeſty, that my Death may put a period to my Offences committed, and be no more remembred by her Highneſs. If I had ever perceived any of my Followers to have harboured an evil thought againſt her Majeſty, I would have been the firſt that ſhould have puniſhed the ſame, in being his Executioner; and therefore I beſeech you, my good Lord, miſtake me not, nor think me ſo proud, that I will not crave her Majeſty's Mercy, for I proteſt (kneeling upon the very Knee of my Heart) I do crave her Majeſty's Mercy with all Humility: yet I had rather die than live in Miſery.

Then the Lord High Steward, after a few Exhortations unto the Earls to prepare themſelves for God, told them, ſeeing the Law had found them Guilty, it followed of courſe that he muſt proceed to Judgment.

The Earl of *Eſſex* replied very cheerfully, and ſaid; Yea, my Lord, with a very good Will, I pray you go on.

Then the Lord High Steward gave Judgment as followeth:

You muſt go to the place from whence you came, and there remain during her Majeſty's Pleaſure; from thence to be drawn on a Hurdle through *London* Streets, and ſo to the place of Execution, where you ſhall be hanged, bowelled, and quartered; your Head and Quarters to be diſpoſed of at her Majeſty's Pleaſure, and ſo God have Mercy on your Souls.

Eſſex. My Lord, I am not a whit diſmayed to receive this Sentence, for I proteſt Death is as welcome to me as Life; and I ſhall die as cheerful a Death upon ſuch a Teſtimony, as ever did Man. And I think it fit my poor Quarters that have done her Majeſty true Service in divers parts of the World, ſhould be ſacrificed and diſpoſed of at her Majeſty's Pleaſure; whereunto with all willingneſs of Heart I have ſubmitted my ſelf. But one thing I beg of you, my Lords, that have free acceſs to her Majeſty's Perſon, humbly to beſeech her Majeſty to grant me, that (during the ſhort time I ſhall live) I may have the ſame Preacher to comfort me, that hath been with me ſince my Troubles began: for as he that hath been long ſick, is moſt deſirous of the Phyſician which hath been, and is beſt acquainted with the Conſtitution of his Body; ſo do I moſt wiſh to have the Comfort and ſpiritual Phyſick from the Preacher which hath been and is acquainted with the inward Griefs, and ſecret Affections of my Soul. And my laſt Requeſt ſhall be only this; that it will pleaſe her Highneſs that my Lord *Thomas Howard*, and the Lieutenant of the *Tower* may be partakers with me in receiving the Sacrament, and be a witneſs of it, in token of what I have proteſted to be true in this Life, for my Loyalty, Religion, and Peace of Conſcience: and then whenſoever it ſhall pleaſe her Majeſty to call me, I ſhall be ready to ſeal the ſame with my Blood.

The Lords promiſed they would move the Queen for his Requeſts.

Eſſex. I humbly thank your Lordſhips.

Then the Serjeant at Arms ſtood up with the Mace on his Shoulder, and after Proclamation was made, ſaid thus: All Peers that were ſummoned to be here this Day, may now take their Eaſe; and all other Perſons attending here this Service, may depart in her Majeſty's Peace, for my Lord High Steward is pleaſed to diſſolve this Commiſſion.

As the Lords were riſing, the Earl of *Eſſex* ſaid,

My Lord *De la Ware*, and my Lord *Morley*, I beſeech your Lordſhips to pardon me for your two Sons that are in Trouble for my ſake: I proteſt upon my Soul they knew not of any thing that was or ſhould have been done, but came to me in the Morning, and I deſired them to ſtay, and they knew not wherefore. And ſo farewel, my Lords.

The Tryal of Sir WALTER RALEIGH *Kt. at* Winton, *on Thurſday the 17th of* November, Anno Dom. 1603. *in the firſt Year of King* James *the Firſt:*

Before the Right Honourable *Henry Howard*, Earl of *Suffolk*, Lord Chamberlain.
Charles Blunt, Earl of *Devon*.
Lord *Henry Howard*, afterward Earl of *Northampton*.
Robert Cecil, Earl of *Salisbury*.
Edward Lord *Wotton* of *Morley*.
Sir *John Stanhope*, Vice-Chamberlain.
Lord Chief Juſtice of *England*, *Popham*.
Lord Chief Juſtice of the Common-Pleas, *Anderſon*.
Mr. Juſtice *Gaudie*.
Juſtice *Warburton*, and Sir *William Wade*, Commiſſioners.

FIRST the Commiſſion of *Oyer* and *Terminer* was read by the Clerk of the Crown-Office; and the Priſoner bid hold up his Hand.

And then preſently the Indictment was in effect as followeth:

THAT he did conſpire, and go about to deprive the King of his Government, to raiſe up Sedition within the Realm; to alter Religion, to bring in the Roman Superſtition, and to procure foreign Enemies to invade the Kingdoms. That the Lord *Cobham*, the 9th of *June* laſt, did meet with the ſaid Sir *Walter Raleigh* in *Durham-Houſe*, in the Pariſh of *St. Martins in the Fields*, and then and there had Conference with him, how to advance *Arabella Stuart* to the Crown and Royal Throne of this Kingdom; and that then and there it was agreed, that *Cobham* ſhould treat with *Aremberg*, Embaſſador from the Archduke of *Auſtria*, to obtain of him 600000 Crowns, to bring to paſs their intended Treaſons. It was agreed that *Cobham* ſhould go to the Archduke *Albert*, to procure him to advance the pretended Title of *Arabella*: from thence knowing that *Albert* had not ſufficient means to maintain his own Army in the *Low-Countries*, *Cobham* ſhould go to *Spain* to procure the King to aſſiſt and further her pretended Title.

It was agreed, the better to effect all this Conſpiracy, that *Arabella* ſhould write three Letters, one to the Archduke, another to the King of *Spain*, and a third to the Duke of *Savoy*; and promiſe three things:

Firſt, To eſtabliſh a firm Peace between *England* and *Spain*.

Secondly, To tolerate the Popiſh and Roman Superſtition.

Thirdly, To be ruled by them in contracting of her Marriage.

And for the effecting theſe traitorous Purpoſes, *Cobham* ſhould return by the Iſle of *Jerſey*, and ſhould find Sir *Walter Raleigh* Captain of the ſaid Iſle there, and take Counſel of *Raleigh* for the diſtributing of the aforeſaid Crowns, as the Occaſion or Diſcontentment of the Subjects ſhould give eauſe and way.

And further, That *Cobham* and his Brother *Brook* met on the 9th of *June* laſt, and *Cobham* told *Brook* all theſe Treaſons: To the which Treaſons *Brook* gave his Aſſent, and did join himſelf to all theſe. And after, on the Thurſday following, *Cobham* and *Brook* did ſpeak theſe words; *That there would never be a good World in* England, *till the King* (meaning our Sovereign Lord) *and his Cubs* (meaning his Royal Iſſue) *were taken away.*

And the more to diſable and deprive the King of his Crown, and to confirm the ſaid *Cobham* in his Intents, *Raleigh* did publiſh a Book, falſly written againſt the moſt Juſt and Royal Title of the King, knowing the ſaid Book to be written againſt the juſt Title of the King; which Book *Cobham* after that received of him. Further, for the better effecting theſe traitorous Purpoſes, and to eſtabliſh the ſaid *Brook* in his Intent, the ſaid *Cobham* did deliver the ſaid Book unto him the 14th of *June*. And further, the ſaid *Cobham*, on the 16th of *June*, for accompliſhment of the ſaid Conference, and by the traitorous Inſtigation of *Raleigh*, did move *Brook* to incite *Arabella* to write to the three forenamed Princes, to procure them to advance her Title; and that ſhe, after ſhe had obtained the Crown, ſhould promiſe to perform three things, *viz.* 1. Peace between *England* and *Spain*. 2. To tolerate with Impunity the Popiſh and Roman Superſtitions. 3. To be ruled by them three in the contracting of her Marriage.

To theſe Motions the ſaid *Brook* gave his Aſſent. And for the better effecting of the ſaid Treaſons, *Cobham* on the 17th of *June*, by the Inſtigation of *Raleigh*, did write Letters to Count *Aremberg*, and did deliver the ſaid Letters to one *Matthew de Lawrency*, to be delivered to the ſaid Count, which he did deliver, for the obtaining of the 600000 Crowns; which Mony by other Letters Count *Aremberg* did promiſe to perform the Payment of: and this Letter *Cobham* received the 18th of *June*. And then did *Cobham* promiſe to *Raleigh*, that when he had received the ſaid Mony, he would deliver 8000 Crowns to him, to which motion he did conſent; and afterwards *Cobham* offered *Brook*, that after he ſhould receive the ſaid Crowns, he would give to him 10000 thereof: to which Motion, *Brook* did aſſent.

To the Indictment, Sir *Walter Raleigh* pleaded Not Guilty.

The

The JURY.

Sir *Ralph Conisby*, Sir *Thomas Fowler*, Sir *Edward Peacock*, Sir *William Rowe*,	Knights.
Henry Goodyer, *Roger Wood*, *Thomas Walker*, *Thomas Whitby*,	Esquires.
Thomas Highgate, *Robert Kempthon*, *John Chawkey*, *Robert Bromley*,	Gentlemen.

Sir *Walter Raleigh*, Prisoner, was asked, Whether he would take exceptions to any of the Jury?

Raleigh. I know none of them; they are all Christians, and honest Gentlemen, I except against none.

E. *Suffolk.* You Gentlemen of the King's Learned Counsel, follow the same course as you did the other day.

Raleigh. My Lord, I pray you I may answer the Points particularly as they are delivered, by reason of the Weakness of my Memory and Sickness.

L. C. Just. Popham. After the King's Learned Counsel have delivered all the Evidence, Sir *Walter*, you may answer particularly to what you will.

Heale, the King's Serjeant at Law. You have heard of *Raleigh*'s bloody Attempts to kill the King and his Royal Progeny, and in place thereof, to advance one *Arabella Stuart*. The Particulars of the Indictment are these: First, That *Raleigh* met with *Cobham* the 9th of *June*, and had Conference of an Invasion, of a Rebellion, and an Insurrection, to be made by the King's Subjects, to depose the King, and to kill his Children, poor Babes that never gave Offence. Here is Blood, here is a new King and Governor. In our King consists all our Happiness, and the true Use of the Gospel; a thing which we all wished to be settled, after the Death of the Queen. Here must be Money to do this, for Money is the Sinew of War. Where should that be had? Count *Aremberg* must procure it of *Philip* King of *Spain*, five or six hundred thousand Crowns; and out of this Sum *Raleigh* must have eight thousand. But what is that Count *Aremberg*? Though I am no good *Frenchman*, yet it is as much as to say in *English*, Earl of *Aremberg*. Then there must be Friends to effect this: *Cobham* must go to *Albert* Archduke of *Austria*, for whom *Aremberg* was Embassador at that time in *England*. And what then? He must persuade the Duke to assist the pretended Title of *Arabella*. From thence *Cobham* must go to the King of *Spain*, and persuade him to assist the said Title. Since the Conquest, there was never the like Treason. But out of whose Head came it? Out of *Raleigh*'s, who must also advise *Cobham* to use his Brother *Brook* to incite the Lady *Arabella* to write three several Letters, as aforesaid in the Indictment: all this was on the 9th of *June*. Then three days after, *Brook* was acquainted with it. After this, *Cobham* said to *Brook*, It will never be well in *England*, till the King and his Cubs are taken away. Afterwards, *Raleigh* delivered a Book to *Cobham*, treacherously written against the Title of the King. It appears that *Cobham* took *Raleigh* to be either a God, or an Idol. *Cobham* endeavours to set up a new King, or Governor: God forbid mine Eyes should ever see so unhappy a Change. As for the Lady *Arabella*, she, upon my Conscience, hath no more Title to the Crown than I have; which before God I utterly renounce. *Cobham*, a Man bred in *England*, hath no Experience abroad: but *Raleigh*, a Man of great Wit, Military, and a Sword-man. Now whether these things were bred in a hollow Tree, I leave to them to speak of, who can speak far better than my self. *And so sate him down again.*

Sir Ed. Coke, the King's Attorney. I must first, my Lords, before I come to the Cause, give one Caution, because we shall often mention Persons of eminent Places, some of them great Monarchs: Whatever we say of them, we shall but repeat what others have said of them; I mean, the Capital Offenders in their Confessions. We professing Law, must speak reverently of Kings and Potentates. I perceive these honourable Lords, and the rest of this great Assembly, are come to hear what hath been scattered upon the Wrack of Report. We carry a just Mind, to condemn no Man, but upon plain Evidence. Here is Mischief, Mischief *in summo gradu*, exorbitant Mischief. My Speech shall chiefly touch these three Points; *Imitation*, *Supportation*, and *Defence*.

The Imitation of Evil ever exceeds the Precedent; as on the contrary, Imitation of Good ever comes short. Mischief cannot be supported but by Mischief; yea, it will so multiply, that it will bring all to Confusion. Mischief is ever underprop'd by Falshood of foul Practices: and because all these things did concur in this Treason, you shall understand the Main, as before you did the Bye.

The Treason of the Bye consisteth in these Points: First, That the Lord *Grey*, *Brook*, *Markham*, and the rest, intended by Force in the Night to surprize the King's Court; which was a Rebellion in the Heart of the Realm, yea, in the Heart of the Heart, in the Court. They intended to take him that is a Sovereign, to make him subject to their Power, purposing to open the Doors with Muskets and Calievers, and to take also the Prince and Council: then under the King's Authority to carry the King to the Tower; and to make a Stale of the Admiral. When they had the King there, to extort three things from him: First, A Pardon for all their Treasons: Secondly, A Toleration of the *Roman* Superstition; which their Eyes shall sooner fall out, than they shall ever see; for the King hath spoken these Words in the hearing of many, *I will lose the Crown and my Life, before ever I will alter Religion.* And, thirdly, To remove Counsellors. In the room of the Lord Chancellor, they would have placed one *Watson* a Priest, absurd in Humanity, and ignorant in Divinity. *Brook*, of whom I will speak nothing, Lord Treasurer. The great Secretary must be *Markham*; *Oculus Patriæ*. A Hole must be found in my Lord Chief Justice's Coat. *Grey* must be Earl-Marshal, and Master of the Horse, because he would have a Table in the Court; marry, he would advance the Earl of *Worcester* to a higher Place. All this cannot be done without a Multitude: Therefore *Watson* the Priest tells a resolute Man, that the King was in danger of *Puritans* and *Jesuits*; so to bring him in blindfold into the Action, saying, That the King is no King till he be crown'd; therefore every Man might right his own Wrongs: But he is *Rex natus*, his Dignity descends as well as yours, my Lords. Then *Watson* imposeth a blasphemous Oath, That they should

ſhould ſwear to defend the King's Perſon; to keep ſecret what was given them in charge, and ſeek all Ways and Means to advance the Catholick Religion. Then they intend to ſend for the Lord Mayor and the Aldermen, in the King's Name, to the Tower, leſt they ſhould make any Reſiſtance, and then to take Hoſtages of them; and to enjoin them to provide for them Victuals and Munition. *Grey*, becauſe the King remov'd before *Midſummer*, had a further Reach, to get a Company of Swordmen to aſſiſt the Action: Therefore he would ſtay till he had obtained a Regiment from *Oſtend* or *Auſtria*. So you ſee theſe Treaſons were like *Sampſon*'s Foxes, which were joined in their Tails, tho their Heads were ſever'd.

Raleigh. You Gentlemen of the Jury, I pray remember, I am not charged with the Bye, being the Treaſon of the Prieſt.

Attorney. You are not. My Lords, you ſhall obſerve three things in the Treaſons: Firſt, They had a Watch-word, (the King's Safety); their Pretence was *Bonum in ſe*; their Intent was *Malum in ſe*: Secondly, They avouched Scripture; both the Prieſts had *Scriptum eſt*; perverting and ignorantly miſtaking the Scriptures: Thirdly, They avouched the Common Law, to prove that he was no King till he was crowned; alledging a Statute of 13 *Eliz.* This, by way of Imitation, hath been the courſe of all Traitors.

In the 20th of *Edward* II. *Iſabella* the Queen, and the Lord *Mortimer*, gave out, that the King's Perſon was not ſafe, for the good of the Church and Commonwealth.

The Biſhop of *Carliſle* did preach on this Text, *My Head is grieved*, meaning by the Head, the King; that when the Head began to be negligent, the People might reform what is amiſs.

In the 3d of *Henry* IV. Sir *Roger Claringdon*, accompany'd with two Prieſts, gave out, That *Richard* II. was alive, when he was dead.

Edward III. cauſed *Mortimer*'s Head to be cut off, for giving counſel to murder the King.

The 3d of *Henry* VII. Sir *Henry Stanley* found the Crown in the Duſt, and ſet it on the King's Head; when *Fitzwater* and *Garret* told him, that *Edward* V. was alive, he ſaid, *If I be alive, I will aſſiſt him.* But this coſt him his Head.

Edmund de la Pole, Duke of *Suffolk*, killed a Man in the Reign of King *Henry* VII. for which the King would have him hold up his Hand at the Bar, and then pardoned him: Yet he took ſuch an Offence thereat, that he ſent to the Noblemen to help to reform the Commonwealth; and then ſaid, he would go to *France*, and get Power there. Sir *Roger Compton* knew all the Treaſon, and diſcovered *Windon* and others, that were attainted.

He ſaid, There was another thing that would be ſtood upon, namely, that they had but one Witneſs. Then he vouched one *Appleyard*'s Caſe, a Traitor in *Norfolk*, who ſaid, a Man muſt have two Accuſers. *Helms* was the Man that accuſed him; but Mr. Juſtice *Catlin* ſaid, That that Statute was not in force at that day. His Words were, *Thruſt her into the Ditch.*

Then he went on ſpeaking of Acccuſers, and made this difference: An Accuſer is a Speaker by Report, when a Witneſs is he that upon his Oath ſhall ſpeak his Knowledge of any Man.

A third ſort of Evidence there is likewiſe, and this is held more forcible than either of the other two; and that is, when a Man, by his Accuſation of another, ſhall, by the ſame Accuſation, alſo condemn himſelf, and make himſelf liable to the ſame Fault and Puniſhment: This is more forcible than many Witneſſes. So then ſo much by way of Imitation. Then he defined Treaſon: There is Treaſon in the Heart, in the Hand, in the Mouth, in Conſummation: comparing that *in Corde* to the Root of a Tree; *in Ore*, to the Bud; *in Manu*, to the Bloſſom; and that which is *in Conſummatione*, to the Fruit.

Now I come to your Charge, you of the Jury: The Greatneſs of Treaſon is to be conſidered in theſe two things, *Determinatione finis*, and *Electione mediorum*. This Treaſon excelleth in both, for that it was to deſtroy the King and his Progeny. Theſe Treaſons are ſaid to be *Crimen læſæ Majeſtatis*; this goeth further, and may be term'd, *Crimen extirpandæ Regiæ Majeſtatis, & totius Progeniei ſuæ.* I ſhall not need, my Lords, to ſpeak any thing concerning the King, nor of the Bounty and Sweetneſs of his Nature, whoſe Thoughts are innocent, whoſe Words are full of Wiſdom and Learning, and whoſe Works are full of Honour; although it be a true Saying, *Nunquam nimis quod nunquam ſatis.* But to whom do you bear Malice? to the Children?

Raleigh. To whom ſpeak you this? You tell me News I never heard of.

Attorney. Oh Sir, do I? I will prove you the notorioueſt Traitor that ever came to the Bar. After you have taken away the King, you would alter Religion: as you, Sir *Walter Raleigh*, have followed them of the Bye in Imitation; for I will charge you with the Words.

Raleigh. Your Words cannot condemn me; my Innocency is my Defence. Prove one of theſe things wherewith you have charg'd me, and I will confeſs the whole Indictment, and that I am the horribleſt Traitor that ever lived, and worthy to be crucified with a thouſand thouſand Torments.

Attorney. Nay, I will prove all: Thou art a Monſter; thou haſt an *Engliſh* Face, but a *Spaniſh* Heart. Now you muſt have Money: *Aremberg* was no ſooner in *England* (I charge thee *Raleigh*) but thou inciteſt *Cobham* to go unto him, and to deal with him for Money, to beſtow on diſcontented Perſons, to raiſe Rebellion on the Kingdom.

Raleigh. Let me anſwer for my ſelf.

Attorney. Thou ſhalt not.

Raleigh. It concerneth my Life.

Ld. Ch. Juſt. Sir *Walter Raleigh*, Mr. Attorney is but yet in the General, but when the King's Counſel have given the Evidence wholly, you ſhall anſwer every Particular.

Attorney. Oh! do I touch you?

Lord Cecil. Mr. Attorney, when you have done with this General Charge, do you not mean to let him anſwer every Particular?

Attorney. Yes, when we deliver the Proofs to be read. *Raleigh* procured *Cobham* to go to *Aremberg*; which he did by his Inſtigation: *Raleigh* ſupped with *Cobham* before he went to *Aremberg*; after Supper, *Raleigh* conducted him to *Durham-Houſe*; from whence *Cobham* went with *Lawrency*, a Servant of *Aremberg*'s, unto him, and went in by a Back-way. *Cobham* could never be quiet until he had entertained this Motion, for he had four Letters from *Raleigh*. *Aremberg* anſwer'd, The Money ſhould be performed, but knew not to whom it ſhould be diſtributed. Then *Cobham* and *Lawrency* came back to *Durham-Houſe*, where they found *Raleigh*. *Cobham* and *Raleigh* went up, and left *Lawrency* below, where they had ſecret Conference in a Gallery; and after, *Cobham* and *Lawrency*

rency departed from *Raleigh*. Your Jargon was Peace: What is that? *Spaniſh* Invaſion, *Scottiſh* Subverſion. And again, you are not a fit Man to take ſo much Money for procuring of a lawful Peace, for Peace procured by Money is diſhonourable. Then *Cobham* muſt go to *Spain*, and return by *Jerſey*, where you were Captain: And then, becauſe *Cobham* had not ſo much Policy, or at leaſt Wickedneſs, as you, he muſt have your Advice for the diſtribution of the Money. Would you have depoſed ſo good a King, lineally deſcended of *Elizabeth*, eldeſt Daughter of *Edward* IV? Why then muſt you ſet up another? I think you meant to make *Arabella* a Titular Queen, of whoſe Title I will ſpeak nothing; but ſure you meant to make her a Stale. Ah! good Lady, you could mean her no Good.

Raleigh. You tell me News, Mr. *Attorney*.

Attorney. Oh Sir! I am the more large, becauſe I know with whom I deal: For we have to deal to-day with a Man of Wit.

Raleigh. Did I ever ſpeak with this Lady?

Attorney. I will track you out before I have done. *Engliſhmen* will not be led by perſuaſion of Words, but they muſt have Books to perſuade.

Raleigh. The Book was written by a Man of your Profeſſion, Mr. *Attorney*.

Attorney. I would not have you impatient.

Raleigh. Methinks you fall out with your ſelf; I ſay nothing.

Attorney. By this Book you would perſuade Men, that he is not the lawful King. Now let us conſider ſome Circumſtances: My Lords, you know my Lord *Cobham* (for whom we all lament and rejoice; lament in that his Houſe, which hath ſtood ſo long unſpotted, is now ruinated; rejoice, in that his Treaſons are reveal'd:) he is neither Politician nor Sword-man; *Raleigh* was both, united in the Cauſe with him, and therefore Cauſe of his Deſtruction. Another Circumſtance is, the ſecret Contriving of it. *Humphry Stafford* claimed Sanctuary for Treaſon. *Raleigh*, in his *Machivilian* Policy, hath made a Sanctuary for Treaſon: He muſt talk with none but *Cobham*; becauſe, ſaith he, one Witneſs can never condemn me. For *Brook* ſaid unto Sir *Griffith Markham*, *Take heed how you do make my Lord* Cobham *acquainted; for whatſoever he knoweth*, Raleigh *the Witch will get it out of him.* As ſoon as *Raleigh* was examined on one point of Treaſon concerning my Lord *Cobham*, he wrote to him thus; *I have been examined of you, and confeſſed nothing.* Further, you ſent to him by your truſty *Francis Kemiſh*, that one Witneſs could not condemn; and therefore bade his Lordſhip be of good Courage. Came this out of *Cobham*'s Quiver? No: but out of *Raleigh*'s *Machivilian* and deviliſh Policy. Yea, but *Cobham* did retract it; why then did ye urge it? Now then ſee the moſt horrible Practices that ever came out of the bottomleſs Pit of the loweſt Hell. After that *Raleigh* had Intelligence that *Cobham* had accuſed him, he endeavour'd to have Intelligence from *Cobham*, which he had gotten by young Sir *John Payton*: But I think it was the Error of his Youth.

Raleigh. The Lords told it me, or elſe I had not been ſent to the Tower.

Attorney. Thus *Cobham*, by the Inſtigation of *Raleigh*, enter'd into theſe Actions: So that the queſtion will be, Whether you are not the principal Traitor, and he would nevertheleſs have enter'd into it? Why did *Cobham* retract all that ſame? Firſt, Becauſe *Raleigh* was ſo odious, he thought he ſhould fare the worſe for his ſake. Secondly, He thought thus with himſelf, If he be free, I ſhall clear my ſelf the better. After this, *Cobham* asked for a Preacher to confer with, pretending to have Dr. *Andrews*; but indeed he meant not to have him, but Mr. *Galloway*; a worthy and reverend Preacher, who can do more with the King (as he ſaid) than any other; that he, ſeeing his conſtant Denial, might inform the King thereof. Here he plays with the Preacher. If *Raleigh* could perſuade the Lords, that *Cobham* had no intent to travel, then he thought all ſhould be well. Here is Forgery! In the Tower *Cobham* muſt write to Sir *Thomas Vane*, a worthy Man, that he meant not to go into *Spain*: which Letter *Raleigh* deviſed in *Cobham*'s Name.

Raleigh. I will waſh my hands of the Indictment, and die a true Man to the King.

Attorney. You are the abſoluteſt Traitor that ever was.

Raleigh. Your Phraſes will not prove it, Mr. *Attorney*.

Attorney. *Cobham* writeth a Letter to my Lord *Cecil*, and doth will *Mellis*'s Man to lay it in a *Spaniſh* Bible, and to make as though he found it by chance. This was after he had Intelligence with this Viper, that he was falſe.

Lord Cecil. You mean a Letter intended to me; I never had it.

Attorney. No, my Lord, you had it not. You, my Maſters of the Jury, reſpect not the Wickedneſs and Hatred of the Man, reſpect his Cauſe: if he be guilty, I know you will have care of it, for the Preſervation of the King, the Continuance of the Goſpel authorized, and the Good of us all.

Raleigh. I do not hear yet, that you have ſpoken one word againſt me; here is no Treaſon of mine done: If my Lord *Cobham* be a Traitor, what is that to me?

Attorney. All that he did was by thy Inſtigation, thou Viper; for I *thou* thee, thou Traitor.

Raleigh. It becometh not a Man of Quality and Virtue, to call me ſo: But I take comfort in it, it is all you can do.

Attorney. Have I anger'd you?

Raleigh. I am in no caſe to be angry.

Popham. Sir *Walter Raleigh*, Mr. Attorney ſpeaketh out of the Zeal of his Duty, for the Service of the King, and you for your Life; be valiant on both ſides.

Now they proceed to the Reading the Proofs.

The Lord Cobham's *Examination read.*

He confeſſeth, he had a Paſs-port to go into *Spain*, intending to go to the Archduke, to confer with him about theſe Practices; and becauſe he knew the Archduke had not Money to pay his own Army, from thence he meant to go to *Spain*, to deal with the King for the 600000 Crowns, and to return by *Jerſey*; and that nothing ſhould be done, until he had ſpoken with Sir *Walter Raleigh* for diſtribution of the Money to them which were diſcontented in *England*. At the firſt beginning, he breathed out Oaths and Exclamations againſt *Raleigh*, calling him Villain and Traitor; ſaying, he had never entred into theſe Courſes, but by his Inſtigation, and that he would never let him alone.

Here Mr. Attorney willed the Clerk of the Crown-Office to read over theſe laſt Words again (*He would never let him alone.*)

The Lord Cobham's *Examination.*

Beſides he ſpake of Plots and Invaſions; of the Particulars whereof he could give no Account, tho *Raleigh* and he had conferred of them. Further he ſaid, He was afraid of *Raleigh*, that when he ſhould return by *Jerſey*, that he would have him and the Mony to the King. Being examined of Sir *Arthur Gorge*, he freed him, ſaying, They never durſt truſt him; but Sir *Arthur Savage* they intended to uſe, becauſe they thought him a fit Man.

Raleigh. Let me ſee the Accuſation; This is abſolutely all the Evidence can be brought againſt me; poor Shifts! You Gentlemen of the Jury, I pray you underſtand this. This is that which muſt either condemn, or give me Life; which muſt free me, or ſend my Wife and Children to beg their Bread about the Streets: This is that muſt prove me a notorious Traitor, or a true Subject to the King. Let me ſee my Accuſation, that I may make my Anſwer.

Clerk of the Council. I did read it, and ſhew you all the Examinations.

Raleigh. At my firſt Examination at *Windſor*, my Lords asked me, what I knew of *Cobham's* Practice with *Aremberg*; I anſwer'd negatively: And as concerning *Arabella*, I proteſt before God, I never heard one word of it. If that be proved, let me be guilty of ten thouſand Treaſons. It is a ſtrange thing you will impute that to me, when I never heard ſo much as the Name of *Arabella Stuart*, but only the Name of *Arabella*.

After being examin'd, I told my Lords, that I thought my Lord *Cobham* had conference with *Aremberg*; I ſuſpected his viſiting of him: for after he departed from me at *Durham*-Houſe, I ſaw him paſs by his own Stairs, and paſſed over to *St. Mary Saviours*, where I knew *Lawrency* a Merchant, and a Follower of *Aremberg*, lay, and therefore likely to go unto him. My Lord *Cecil* asked my Opinion concerning *Lawrency*; I ſaid, that if you do not apprehend *Lawrency*, it is dangerous, he will fly: if you do apprehend him, you ſhall give my Lord *Cobham* notice thereof. I was asked who was the greateſt Man with my Lord *Cobham*; I anſwer'd, I knew no Man ſo great with him, as young *Wyat* of *Kent*.

As ſoon as *Cobham* ſaw my Letter to have diſcover'd his Dealing with *Aremberg*, in his Fury he accus'd me; but before he came to the Stair-foot he repented, and ſaid he had done me wrong. When he came to the end of his Accuſation, he added, that if he had brought this Mony to *Jerſey*, he fear'd that I would have deliver'd him and the Mony to the King. Mr. Attorney, you ſaid this never came out of *Cobham's* Quiver; he is a ſimple Man. Is he ſo ſimple? no; he hath a Diſpoſition of his own, he will not eaſily be guided by others; but when he has once taken head in a Matter, he is not eaſily drawn from it: he is no Babe. But it is ſtrange for me to deviſe with *Cobham*, that he ſhould go to *Spain*, to perſuade the King to diſburſe ſo much Mony, he being a Man of no Love in *England*, and I having reſigned my room of chiefeſt Command, the Wardenſhip of the *Stannaries*. Is it not ſtrange for me to make my ſelf *Robin Hood*, or a *Kett*, or a *Cade*? I knowing *England* to be in better Eſtate to defend it ſelf than ever it was. I knew *Scotland* united; *Ireland* quieted, wherein of late our Forces were diſperſed; *Denmark* aſſured, which before was ſuſpected. I knew, that having a Lady whom Time had ſurpriz'd, we had now an active King, a lawful Succeſſor, who would himſelf be preſent in all his Affairs. The State of *Spain* was not unknown to me: I had written a Diſcourſe, which I had intended to preſent unto the King, againſt Peace with *Spain*. I knew the *Spaniards* had ſix Repulſes; three in *Ireland*, and three at Sea, and once in 1588, at *Cales*, by my Lord Admiral. I knew he was diſcourag'd and diſhonour'd. I knew the King of *Spain* to be the proudeſt Prince in Chriſtendom; but now he cometh creeping to the King my Maſter for Peace. I knew, whereas before he had in his Port ſix or ſeven ſcore Sail of Ships, he hath now but ſix or ſeven. I knew of twenty five Millions he had from his *Indies*, he hath ſcarce one left. I knew him to be ſo poor, that the Jeſuits in *Spain*, who were wont to have ſuch large Allowance, were fain to beg at the Church-Door. Was it ever read or heard, that any Prince ſhould diſburſe ſo much Mony without a ſufficient Pawn? I knew her own Subjects, the Citizens of *London*, would not lend her Majeſty Mony, without Lands in Mortgage. I knew the Queen did not lend the States Mony, without *Fluſhing*, *Brill*, and other Towns for a Pawn. And can it be thought, that he would let *Cobham* have ſo great a Sum?

I never came to the Lord *Cobham's*, but about Matters of his Profit; as, the ordering of his Houſe, paying of his Servants Board-Wages, *&c.* I had of his, when I was examined, four thouſand Pounds worth of Jewels for a Purchaſe; a Pearl of three thouſand Pound; and a Ring worth five hundred Pound. If he had had a fancy to run away, he would not have left ſo much to have purchas'd a Leaſe in Fee-Farm. I ſaw him buy three hundred Pounds worth of Books to ſend to his Library at *Canterbury*, and a Cabinet of thirty Pound, to give to Mr. Attorney, for drawing the Conveyances: and God in Heaven knoweth, not I, whether he intended to travel or no. But for that Practice with *Arabella*, or Letters to *Aremberg* framed, or any Diſcourſe with him, or in what Language he ſpake unto him; if I knew any of theſe things, I would abſolutely confeſs the Indictment, and acknowledg my ſelf worthy ten thouſand Deaths.

Cobham's *ſecond Examination read.*

The Lord *Cobham* being requir'd to ſubſcribe to an Examination, there was ſhewed a Note under Sir *Wal. Raleigh's* hand; the which when he had perus'd, he paus'd, and after brake forth into theſe Speeches: Oh Villain! Oh Traitor! I will now tell you all the Truth; and then ſaid, His Purpoſe was to go into *Flanders*, and into *Spain*, for the obtaining the aforeſaid Mony, and that *Raleigh* had appointed to meet him in *Jerſey* as he return'd home, to be adviſed of him about the Diſtribution of the Mony.

L. C. J. Popham. When *Cobham* anſwer'd to the Interrogatories, he made ſcruple to ſubſcribe; and being urged to it, he ſaid, if he might hear me affirm, that a Perſon of his Degree ought to ſet his hand, he would: I lying then at *Richmond* for fear of the Plague, was ſent for, and I told he ought to ſubſcribe; otherwiſe it were a Contempt of a high nature: then he ſubſcrib'd. The Lords queſtion'd with him further, and he ſhewed them a Letter, as I thought written to me, but it was indeed written to my Lord *Cecil*: he deſired to ſee the Letter again, and then ſaid, Oh Wretch! Oh Traitor! whereby I perceiv'd you had not perform'd that Truſt he had repoſed in you.

Raleigh. He is as paſſionate a Man as lives; for he hath not ſpared the beſt Friends he hath in *England* in his Paſſion. My Lords, I take it, he that has

has been examined, has ever been asked at the time of his Examination, if it be according to his meaning, and then to subscribe. Methinks, my Lords, when he accuses a Man, he should give some Account and Reason of it: It is not sufficient to say, we talked of it. If I had been the Plotter, would not I have given *Cobham* some Arguments, whereby to persuade the King of *Spain*, and answer his Objections? I knew *Westmoreland* and *Bothwell*, Men of other Understandings than *Cobham*, were ready to beg their Bread.

Sir Tho. Fowler, *one of the Jury*. Did Sir *Walter Raleigh* write a Letter to my Lord before he was examined concerning him, or not?

Attorney. Yes.

Lord Cecil. I am in great dispute with my self to speak in the Case of this Gentleman: A former Dearness between me and him, ty'd so firm a Knot of my Conceit of his Virtues, now broken by a Discovery of his Imperfections. I protest, did I serve a King that I knew would be displeased with me for speaking, in this Case I would speak, whatever came of it; but seeing he is compacted of Piety and Justice, and one that will not mislike of any Man for speaking a Truth, I will answer your Question.

Sir *Walter Raleigh* was staid by me at *Windsor*, upon the first News of *Copley*, that the King's Person should be surprized by my Lord *Grey*, and Mr. *George Brook*; when I found *Brook* was in, I suspected *Cobham*, then I doubted *Raleigh* to be a Partaker. I speak not this, that it should be thought I had greater Judgment than the rest of my Lords, in making this haste to have them examined. *Raleigh* following to *Windsor*, I met with him upon the Terras, and willed him, as from the King, to stay; saying, the Lords had something to say to him: then he was examined, but not concerning my Lord *Cobham*, but of the surprizing Treason. My Lord *Grey* was apprehended, and likewise *Brook*; by *Brook* we found, that he had given notice to *Cobham* of the surprizing Treason, as he deliver'd it to us; but with as much sparingness of a Brother, as he might. We sent for my Lord *Cobham* to *Richmond*, where he stood upon his Justification, and his Quality; sometimes being forward, he said he was not bound to subscribe, wherewith we made the King acquainted. *Cobham* said, if my Lord Chief Justice would say it were a Contempt, he would subscribe; whereof being resolv'd, he subscrib'd. There was a Light given to *Aremberg*, that *Lawrency* was examined; but that *Raleigh* knew that *Cobham* was examined, is more than I know.

Raleigh. If my Lord *Cobham* had trusted me in the Main, was not I as fit a Man to be trusted in the Bye?

Lord Cecil. *Raleigh* did by his Letters acquaint us, that my Lord *Cobham* had sent *Lawrency* to *Aremberg*, when he knew not he had any Dealings with him.

Lord Hen. Howard. It made for you, if *Lawrency* had been only acquainted with *Cobham*, and not with you. But you knew his whole Estate, and were acquainted with *Cobham*'s Practice with *Lawrency*; and it was known to you before, that *Lawrency* depended on *Aremberg*.

Attorney. 1. *Raleigh* protested against the surprizing Treason. 2. That he knew not of the Matter touching *Arabella*. I would not charge you, Sir *Walter*, with a Matter of Falshood: You say you suspected the Intelligence that *Cobham* had with *Aremberg*, by *Lawrency*.

Raleigh. I thought it had been no other Intelligence, but such as might be warranted.

Attorney. Then it was but lawful Suspicion. But to that whereas you said, that *Cobham* had accused you in Passion, I answer three ways: 1. I observed when *Cobham* said, Let me see the Letter again, he paus'd; and when he did see that Count *Aremberg* was touched, he cry'd out, Oh Traitor! Oh Villain! now will I confess the whole Truth. 2. The Accusation of a Man on hear-say, is nothing: Would he accuse himself on Passion, and ruinate his Cause and Posterity, out of malice to accuse you? 3. Could this be out of Passion? Mark the Manner of it; *Cobham* had told this at least two Months before to his Brother *Brook*, *You are Fools, you are on the Bye*, Raleigh *and I are on the Main; we mean to take away the King and his Cubs*: this he deliver'd two months before. So mark the Manner and the Matter; he would not turn the Weapon against his own Bosom, and accuse himself to accuse you.

Raleigh. Hath *Cobham* confessed that?

Ld. Ch. Just. This is spoken by Mr. Attorney, to prove that *Cobham*'s Speech came not out of Passion.

Raleigh. Let it be proved that *Cobham* said so.

Attorney. *Cobham* saith, he was a long time doubtful of *Raleigh*, that he would send him and the Mony to the King. Did *Cobham* fear lest you would betray him in *Jersey*? then of necessity there must be Trust between you. No Man can betray a Man, but he that is trusted, in my understanding. This is the greatest Argument to prove that he was acquainted with *Cobham*'s Proceedings. *Raleigh* has a deeper reach, than to make himself, as he said, *Robin Hood*, a *Kett*, or *Cade*, yet I never heard that *Robin Hood* was a Traitor; they say he was an Outlaw. And whereas he saith that our King is not only more wealthy and potent than his Predecessors, but also more politick and wise, so that he could have no hope to prevail; I answer, There is no King so potent, wise and active, but he may be overtaken thro Treason. Whereas you say *Spain* is so poor, discoursing so largely thereof; it had been better for you to have kept in *Guiana*, than to have been so well acquainted with the State of *Spain*. Besides, if you could have brought *Spain* and *Scotland* to have joined, you might have hoped to prevail a great deal the better. For his six Overthrows, I answer, he hath the more Malice, because Repulses breed Desire of Revenge. Then you say, you never talked with *Cobham*, but about Leases, and letting Lands, and ordering his House; I never knew you Clerk of the Kitchen, &c. If you had fallen on your knees at first, and confessed the Treason, it had been better for you. You say, he meant to have given me a Cabinet of thirty Pound; perhaps he thought by those means to have anticipated me therewith. But you say all these are Circumstances: I answer, all this Accusation in Circumstance is true. Here now I might appeal to my Lords, that you take hold of this, that he subscribed not to the Accusation.

Lord Hen. Howard. *Cobham* was not then pressed to subscribe.

Attorney. His Accusation being testify'd by the Lords, is of as great force, as if he had subscrib'd. *Raleigh* saith again, if the Accuser be alive, he must be brought face to face to speak; and alledges 25 *Edward* III. that there must be two sufficient Witnesses, that must be brought face to face before the Accused; and alledgeth 10 and 13 *Elizabeth*.

Raleigh. You try me by the *Spaniſh* Inquiſition, if you proceed only by the Circumſtances, without two Witneſſes.

Attorney. This is a treaſonable Speech.

Raleigh. Evertere Hominem juſtum in Cauſa ſua injuſtum eſt. Good my Lords, let it be proved, either by the Laws of the Land, or the Laws of God, that there ought not to be two Witneſſes appointed; yet I will not ſtand to defend this Point in Law, if the King will have it ſo: It is no rare thing for a Man to be falſly accuſed. A Judge condemn'd a Woman in *Sarum* for killing her Husband, on the Teſtimony of one Witneſs; afterwards his Man confeſſed the Murder, when ſhe was executed: who after being touch'd in Conſcience for the Judgment, was uſed to ſay, *Quod nunquam de hoc facto animam in vita ſua purgaret.* It is alſo commanded by the Scripture; *Allocutus eſt Jehova Moſen, In Ore duorum aut trium Teſtium, &c.*

If Chriſt requireth it, as it appeareth, *Mat.* 18. if by the Canon, Civil Law, and God's Word, it be required, that there muſt be two Witneſſes at the leaſt; bear with me if I deſire one.

I would not deſire to live, if I were privy to *Cobham*'s Proceedings. I had been a Slave, a Villain, a Fool, if I had endeavour'd to ſet up *Arabella*, and refus'd ſo gracious a Lord and Sovereign. But urge your Proofs.

Ld. Ch. Juſt. You have offer'd Queſtions on diverſe Statutes, all which mention two Accuſers in caſe of Indictments: you have deceiv'd your ſelf, for the Laws of 25 *Edward* III. and 5 *Edward* VI. are repeal'd. It ſufficeth now if there be Proofs made either under Hand, or by Teſtimony of Witneſſes, or by Oaths; it needs not the Subſcription of the Party, ſo there be Hands of credible Men to teſtify the Examination.

Raleigh. It may be an Error in me; and if thoſe Laws be repeal'd, yet I hope the Equity of them remains ſtill: but if you affirm it, it muſt be a Law to Poſterity. The Proof of the Common Law is by Witneſs and Jury; let *Cobham* be here, let him ſpeak it. Call my Accuſer before my Face, and I have done.

Attorney. Scientia Sceleris eſt mera Ignorantia. You have read the Letter of the Law, but underſtand it not. Here was your Anchor-hold, and your Rendezvouz: you truſt to *Cobham*, either *Cobham* muſt accuſe you, or no body; if he did, then it would not hurt you, becauſe he is but one Witneſs; if he did not, then you are ſafe.

Raleigh. If ever I read a Word of the Law or Statute, before I was Priſoner in the Tower, God confound me.

Attorney. Now I come to prove the Circumſtances of the Accuſation to be true. *Cobham* confeſſed he had a Paſs-port to travel, hereby intending to preſent Overtures to the Arch-Duke, and from thence to go to *Spain*, and there to have conference with the King for Mony: You ſay he promiſed to come home by *Jerſey*, to make merry with you and your Wife.

Raleigh. I ſaid, in his Return from *France*, not *Spain*.

Attorney. Further, in his Examination he ſaith, nothing could be ſet down for the Diſtribution of the Mony to the Diſcontented, without Conference with *Raleigh*. You ſaid it ſhould have been for Procurement of Peace, but it was for raiſing Rebellion. Further, *Cobham* ſaith, he would never have enter'd into theſe Courſes, but by your Inſtigation, and that you would never let him alone. Your Scholar was not apt enough to tell us all the Plots, that is enough for you to do, that are his Maſter. You intended to truſt Sir *Arthur Savage*, whom I take to be an honeſt and true Gentleman, but not Sir *Arthur Gorge*.

Raleigh. All this is but one Accuſation of *Cobham's*, I hear no other thing; to which Accuſation he never ſubſcribed nor avouched it. I beſeech you, my Lords, let *Cobham* be ſent for, charge him on his Soul, on his Allegiance to the King; if he affirm it, I am guilty.

Lord Cecil. It is the Accuſation of my Lord *Cobham*, it is the Evidence againſt you; muſt it not be of force without his Subſcription? I deſire to be reſolv'd by the Judges, whether by the Law it is not a forcible Argument of Evidence.

Judges. My Lord, it is.

Raleigh. The King at his Coronation is ſworn, *In omnibus Judiciis ſuis Æquitatem, non Rigorem Legis, obſervare.* By the Rigour and Cruelty of the Law it may be a forcible Evidence.

Ld. Ch. Juſt. That is not the Rigour of the Law, but the Juſtice of the Law; elſe when a Man hath made a plain Accuſation, by Practice he might be brought to retract it again.

Raleigh. Oh my Lord, you may uſe Equity.

Ld. Ch. Juſt. That is from the King; you are to have Juſtice from us.

Lord Anderſon. The Law is, if the Matter be proved to the Jury, they muſt find you guilty; for *Cobham*'s Accuſation is not only againſt you, there are other things ſufficient.

Lord Cecil. Now that Sir *Walter Raleigh* is ſatisfy'd, that *Cobham*'s Subſcription is not neceſſary, I pray you, Mr. Attorney, go on.

Raleigh. Good Mr. Attorney be patient, and give me leave.

Lord Cecil. An unneceſſary Patience is a Hindrance, let him go on with his Proofs, and then reſel them.

Raleigh. I would anſwer particularly.

Lord Cecil. If you would have a Table, and Pen and Ink, you ſhall.

Then Paper and Ink was given him.

Here the Clerk of the Crown read the Letter, which the Lord *Cobham* did write in *July*, which was to the effect of his former Examination; further ſaying, I have diſclos'd all: To accuſe any one falſly, were to burden my own Conſcience.

Attorney. Read *Copley*'s Confeſſion the 8th of *June*; he ſaith, He was offer'd 1000 Crowns to be in this Action.

Here *Watſon*'s Additions were read.

The great Maſs of Mony from the Count was impoſſible, ſaith *Brook*, &c.

Brook's Confeſſion read.

There have Letters paſſed, ſaith he, between *Cobham* and *Aremberg*, for a great Sum of Mony, to aſſiſt a ſecond Action, for the ſurprizing of his Majeſty.

Attorney. It is not poſſible it was of Paſſion; for it was in talk before three Men, being ſeverally examined, who agreed in the Sum to be beſtow'd on diſcontented Perſons; That *Grey* ſhould have 12000 Crowns, and *Raleigh* ſhould have 8000, or 10000 Crowns.

Cobham's Examination, *July* 18.

If the Mony might be procur'd (ſaith he) then a Man may give Penſions. Being asked if a Penſion ſhould not be given to his Brother *Brook*, he deny'd it not.

Law-

Lawrency's *Examination.*

Within five days after *Aremberg* arrived, *Cobham* reſorted unto him. That Night that *Cobham* went to *Aremberg* with *Lawrency*, *Raleigh* ſupped with him.

Attorn. Raleigh muſt have his part of the Mony, therefore now he is a Traytor. The Crown ſhall never ſtand one Year on the Head of the King (my Maſter) if a Traytor may not be condemned by Circumſtances: For if A. tells B. and B. tells C. and C. D. *&c.* you ſhall never prove Treaſon by two Witneſſes.

Raleigh's *Examination was read.*

He confeſſeth *Cobham* offered him 8000 Crowns, which he was to have for the furtherance of the Peace between *England* and *Spain*; and that he ſhould have it within three days. To which, he ſaid, he gave this anſwer; When I ſee the Mony, I will tell you more: for I had thought it had been one of his ordinary idle Conceits, and therefore made no account thereof.

Raleigh. The Attorney hath made a long Narration of *Copley*, and the Prieſts, which concerns me nothing, neither know I how *Cobham* was alter'd. For he told me, if I would agree to further the Peace, he would get me 8000 Crowns. I asked him, Who ſhall have the reſt of the Mony? He ſaid, I will offer ſuch a Nobleman (who was not named) ſome of the Mony. I ſaid, he will not be perſuaded by you, and he will extremely hate you for ſuch a Motion. Let me be pinched to death with hot Irons, if ever I knew there was any Intention to beſtow the Mony on diſcontented Perſons. I had made a Diſcourſe againſt the Peace, and would have printed it: If *Cobham* changed his mind, if the Prieſts, if *Brook* had any ſuch intent, what is that to me? They muſt anſwer for it. He offered me the Mony before *Aremberg* came, that is difference of time.

Serj. Philips. Raleigh confeſſeth the matter, but avoideth it by diſtinguiſhing of Times. You ſaid it was offer'd you before the coming of *Aremberg*, which is falſe. For you being examined whether you ſhould have ſuch Mony of *Cobham*, or not; you ſaid, yea, and that you ſhould have it within two or three days. *Nemo moriturus præſumitur mentiri.*

Ld Henry Howard. Alledge me any Ground or Cauſe, wherefore you gave ear to my Lord *Cobham* for receiving Penſions, in matters you had not to deal with.

Raleigh. Could I ſtop my Lord *Cobham*'s Mouth?

Ld Cecil. Sir *Walter Raleigh* preſſeth, that my Lord *Cobham* ſhould be brought Face to Face. If he ask things of Favour and Grace, they muſt come only from him that can give them. If we ſit here as Commiſſioners, how ſhall we be ſatisfied whether he ought to be brought, unleſs we hear the Judges ſpeak?

Ld. Ch. Juſt. This thing cannot be granted, for then a number of Treaſons ſhould flouriſh: The Accuſer may be drawn by Practice, whilſt he is in Perſon.

Judge Gawdy. The Statute you ſpeak of, concerning two Witneſſes in Caſe of Treaſon, is found to be inconvenient, therefore by another Law it was taken away.

Raleigh. The common Tryal of *England* is by Jury and Witneſſes.

Ld. Ch. Juſt. No, by Examination: If three conſpire a Treaſon, and they all confeſs it; here is never a Witneſs, yet they are condemned.

Judge Warburton. I marvel, Sir *Walter*, that you being of ſuch Experience and Wit, ſhould ſtand on this Point; for ſo many Horſe-ſtealers may eſcape, if they may not be condemned without Witneſſes. If one ſhould ruſh into the King's Privy-Chamber, whilſt he is alone, and kill the King (which God forbid) and this Man be met coming with his Sword drawn all bloody; ſhall not he be condemned to Death? My Lord *Cobham* hath, perhaps, been laboured withal; and to ſave you, his old Friend, it may be that he will deny all that which he hath ſaid.

Raleigh, I know not how you conceive the Law.

Ld. Ch. Juſt. Nay, we do not conceive the Law, but we know the Law.

Raleigh. The Wiſdom of the Law of God is abſolute and perfect, *Hæc fac, & vives, &c.* But now by the Wiſdom of the State, the Wiſdom of the Law is uncertain. Indeed where the Accuſer is not to be had conveniently, I agree with you; but here my Accuſer may, he is alive, and in the Houſe. *Suſanna* had been condemned, if *Daniel* had not cried out, *Will you condemn an innocent* Iſraelite, *without Examination or Knowledge of the Truth?* Remember, it is abſolutely the Commandment of God: If a falſe Witneſs riſe up, you ſhall cauſe him to be brought before the Judges; if he be found falſe, he ſhall have the Puniſhment which the Accuſed ſhould have had. It is very ſure for my Lord to accuſe me is my certain Danger, and it may be a means to excuſe himſelf.

Ld. Ch. Juſt. There muſt not ſuch a Gap be opened for the Deſtruction of the King, as would be if we ſhould grant this. You plead hard for your ſelf, but the Laws plead as hard for the King. I did never hear that Courſe to be taken in a Caſe of Treaſon, as to write one to another, or ſpeak one to another during the time of their Impriſonment. There hath been Intelligence between you; and what underhand Practices there may be, I know not. If the Circumſtances agree not with the Evidence, we will not condemn you.

Raleigh. The King deſires nothing but the knowledge of the Truth, and would have no advantage taken by Severity of the Law. If ever we had a gracious King, now we have; I hope, as he is, ſuch are his Miniſters. If there be but a Tryal of five Marks at common Law, a Witneſs muſt be depoſed. Good my Lords, let my Accuſer come Face to Face, and be depoſed.

Ld. Ch. Juſt. You have no Law for it: God forbid any Man ſhould accuſe himſelf upon his Oath.

Attorn. The Law preſumes, a Man will not accuſe himſelf to accuſe another. You are an odious Man: For *Cobham* thinks his Cauſe the worſe that you are in it. Now you ſhall hear of ſome Stirs to be raiſed in *Scotland.*

Part of Copley's *Examination.*

'Alſo *Watſon* told me, that a ſpecial Perſon 'told him, that *Aremberg* offer'd to him 1000 'Crowns to be in that Action; and that *Brook* 'ſaid, the Stirs in *Scotland* came out of *Raleigh*'s 'Head.

Raleigh. Brook hath been taught his Leſſon.

Ld Hen. Howard. This Examination was taken before me; did I teach him his Leſſon?

Raleigh. I proteſt before God, I meant it not by any Privy Counſellor; but becauſe Mony is ſcant, he will juggle on both ſides.

Raleigh's

Raleigh's *Examination.*

'The way to invade *England*, were to begin 'with Stirs in *Scotland.*

Raleigh. I think ſo ſtill: I have ſpoken it to divers of the Lords of the Council, by way of Diſcourſe and Opinion.

Attorn. Now let us come to thoſe words, of *deſtroying the King and his Cubs.*

Raleigh. O barbarous! if they, like unnatural Villains, ſhould uſe thoſe words, ſhall I be charged with them? I will not hear it, I was never any Plotter with them againſt my Country, I was never falſe to the Crown of *England.* I have ſpent 4000 Pounds of my own againſt the *Spaniſh* Faction, for the Good of my Country. Do you bring the words of theſe helliſh Spiders, *Clark*, *Watſon*, and others, againſt me?

Attorn. Thou haſt a *Spaniſh* Heart, and thy ſelf art a Spider of Hell; for thou confeſſeſt the King to be a moſt ſweet and gracious Prince, and yet haſt conſpired againſt him.

Watſon's *Examination read.*

'He ſaid, that *George Brook* told him twice, 'That his Brother, the Lord *Cobham*, ſaid to him, 'that you are but on the Bye, but *Raleigh* and I 'are on the Main.

Brook's *Examination* read.

'Being ask'd what was meant by this Jargon, the 'Bye and the Main? he ſaid, That the Lord '*Cobham* told him, that *Grey* and others were in 'the Bye, he and *Raleigh* were on the Main. Be-'ing ask'd what Expoſition his Brother made of 'theſe Words? he ſaid, he is loth to repeat it. 'And after ſaith, by the Main was meant the 'taking away of the King and his Iſſue; and 'thinks on his Conſcience, it was infuſed into 'his Brother's Head by *Raleigh.*

Cobham's *Examination read.*

'Being ask'd, if ever he had ſaid, *It will never 'be well in* England, *till the King and his Cubs were 'taken away*; he ſaid, he had anſwered before, 'and that he would anſwer no more to that Point.

Raleigh. I am not named in all this: There is a Law of two ſorts of Accuſers, one of his own Knowledge, another by Hear-ſay.

E. of Suffolk. See the Caſe of *Arnold.*

Ld. Ch. Juſt. It is the Caſe of Sir *Wil. Thomas*, and Sir *Nicholas Arnold.*

Raleigh. If this may be, you will have any Man's Life in a Week.

Attorn. Raleigh ſaith, that *Cobham* was in a Paſſion when he ſaid ſo. Would he tell his Brother any thing of Malice againſt *Raleigh*, whom he lov'd as his Life?

Raleigh. Brook never loved me; until his Brother had accuſed me, he ſaid nothing.

Ld Cecil. We have heard nothing that might lead us to think that *Brook* accuſed you, he was only in the ſurprizing Treaſon; for by accuſing you he ſhould accuſe his Brother.

Raleigh. He doth not care much for that.

Ld Cecil. I muſt judge the beſt. The Accuſation of his Brother was not voluntary; he pared every thing as much as he could, to ſave his Brother.

Cobham's *Examination read.*

'He ſaith he had a Book written againſt the 'Title of the King, which he had of *Raleigh*, and 'that he gave it to his Brother *Brook*: and *Raleigh* 'ſaid it was fooliſhly written.

Attorn. After the King came within twelve Miles of *London*, *Cobham* never came to ſee him; and intended to travel without ſeeing the Queen and the Prince. Now in this Diſcontentment you gave him the Book, and he gave it his Brother.

Raleigh. I never gave it him, he took it off my Table. For I well remember a little before that time I received a Challenge from Sir *Amias Preſton*, and for that I did intend to anſwer it, I reſolved to leave my Eſtate ſettled, therefore laid out all my looſe Papers, amongſt which was this Book.

Ld Howard. Where had you this Book?

Raleigh. In the old Lord Treaſurer's Study, after his Death.

Ld Cecil. Did you ever ſhew or make known the Book to me?

Raleigh. No, my Lord.

Ld Cecil. Was it one of the Books which was left to me or my Brother?

Raleigh. I took it out of the Study in my Lord Treaſurer's Houſe in the *Strand.*

Ld Cecil. After my Father's deceaſe, Sir *Walter Raleigh* deſired to ſearch for ſome Coſmographical Deſcriptions of the *Indies*, which he thought were in his Study, and were not to be had in Print, which I granted, and would have truſted Sir *Walter Raleigh* as ſoon as any Man; tho ſince for ſome Infirmities, the Bands of my Affection to him have been broken; and yet reſerving my Duty to the King my Maſter, which I can by no means diſpenſe with, by God I love him, and have a great Conflict within my ſelf: But I muſt needs ſay, Sir *Walter* uſed me a little unkindly, to take the Book away without my Knowledge; nevertheleſs, I need make no Apology in behalf of my Father, conſidering how uſeful and neceſſary it is for Privy Counſellors, and thoſe in his Place, to intercept and keep ſuch kind of Writings; for whoſoever ſhould then ſearch his Study, may in all likelihood find all the notorious Libels that were writ againſt the late Queen; and whoſoever ſhould rummage my Study, at leaſt my Cabinet, may find ſeveral againſt the King, our Sovereign Lord, ſince his Acceſſion to the Throne.

Raleigh. The Book was in Manuſcript, and the late Lord Treaſurer had wrote in the beginning of it with his own Hand, theſe Words, *This is the Book of* Robert Snagg. And I do own, as my Lord *Cecil* has ſaid, that I believe they may alſo find in my Houſe, almoſt all the Libels that have been writ againſt the late Queen.

Attorn. You were no Privy Counſellor, and I hope never ſhall be.

Ld Cecil. He was not a ſworn Counſellor of State, but he has been called to Conſultations.

Raleigh. I think it a very ſevere Interpretation of the Law, to bring me within Compaſs of Treaſon for this Book, writ ſo long ago, of which no body had read any more than the Heads of the Chapters, and which was burnt by *G. Brook* without my Privity; admitting I had delivered the ſame to the Lord *Cobham*, without allowing or approving, but diſcommending it, according to *Cobham*'s firſt Accuſation: and put the Caſe, I ſhould come to my Lord *Cecil*, as I have often done, and find a ſtronger with him, with a Packet of Libels, and my Lord ſhould let me have one or two of them to peruſe: This I hope is no Treaſon.

Attorn.

Attorn. I obſerve there was Intelligence between you and *Cobham* in the *Tower*; for after he ſaid, it was againſt the King's Title, he denied it again.

Sir Wil. Wade. Firſt my Lord *Cobham* confeſſeth it, and after he had ſubſcribed it, he revoked it again: To me he always ſaid, that the Drift of it was againſt the King's Title.

Raleigh. I proteſt before God, and all his Works, I gave him not the Book.

Nota, Sir *Robert Wroth* ſpeaketh, or whiſpereth ſomething ſecretly.

Attorn. My Lords, I muſt complain of Sir *Robert Wroth*, he ſays this Evidence is not material.

Sir Rob. Wroth. I never ſpake the words.

Attorn. Let Mr. Serjeant *Philips* teſtify, whether he heard him ſay the words or no.

Ld Cecil. I will give my Word for Sir *Robert Wroth.*

Sir Rob. Wroth. I will ſpeak as truly as you, Mr. Attorney, for by God I never ſpake it.

Ld Ch. Juſt. Wherefore ſhould this Book be burnt?

Raleigh. I burned it not.

Serj. Philips. You preſented your Friend with it, when he was diſcontented. If it had been before the Queen's Death, it had been a leſs matter; but you gave it him preſently when he came from the King, which was the time of his Diſcontentment.

Raleigh. Here is a Book ſuppoſed to be Treaſonable; I never read it, commended it, or delivered it, nor urged it.

Attorn. Why this is cunning.

Raleigh. Every thing that doth make for me is cunning, and every thing that maketh againſt me is probable.

Attorn. Lord *Cobham* ſaith, that *Kemiſh* came to him with a Letter torn, and did wiſh him not to be diſmay'd, for one Witneſs could not hurt him.

Raleigh. This poor Man hath been cloſe Priſoner theſe eighteen Weeks; he was offered the Rack to make him confeſs. I never ſent any ſuch Meſſage by him, I only writ to him, to tell him what I had done with Mr. Attorney; having of his at that time a great Pearl and a Diamond.

Ld H. Howard. No Circumſtance moveth me more than this. *Kemiſh* was never on the Rack, the King gave charge that no Rigour ſhould be uſed.

Commiſſioners. We proteſt before God, there was no ſuch matter intended to our knowledges.

Raleigh. Was not the Keeper of the Rack ſent for, and he threatned with it?

Sir W. Wade. When Mr. Sollicitor and my ſelf examined *Kemiſh*, we told him he deſerved the Rack, but did not threaten him with it.

Commiſ. It was more than we knew.

Cobham's *Examination read.*

He ſaith, *Kemiſh* brought him a Letter from *Raleigh*, and that part which was concerning the Lords of the Council was rent out; the Letter contained that he was examined, and cleared himſelf of all; and that the Lord *H. Howard* ſaid, becauſe he was diſcontent, he was fit to be in the Action. And further, that *Kemiſh* ſaid to him from *Raleigh*, that he ſhould be of good Comfort, for one Witneſs could not condemn a Man for Treaſon.

Ld Cecil. Cobham was ask'd, whether, and when he heard from you? he ſaid, every day.

Raleigh. Kemiſh added more, I never bade him ſpeak thoſe Words.

Note, Mr. Attorny here offered to interrupt him.

Ld Cecil. It is his laſt Diſcourſe. Give him leave, Mr. Attorney.

Raleigh. I am accuſed concerning *Arabella*, concerning Mony out of *Spain*. My Lord Chief Juſtice ſaith, a Man may be condemned with one Witneſs, yea, without any Witneſs. *Cobham* is guilty of many things, *Conſcientia mille Teſtes*; he hath accuſed himſelf, what can he hope for but Mercy? My Lords, vouchſafe me this Grace: Let him be brought, being alive, and in the Houſe; let him avouch any of theſe things, I will confeſs the whole Indictment, and renounce the King's Mercy.

Ld Cecil. Here hath been a touch of the Lady *Arabella Stuart*, a near Kinſwoman of the King's. Let us not ſcandal the innocent by Confuſion of Speech: She is as innocent of all theſe things as I, or any Man here; only ſhe received a Letter from my Lord *Cobham*, to prepare her; which ſhe laugh'd at, and immediately ſent it to the King. So far was ſhe from Diſcontentment, that ſhe laugh'd him to ſcorn. But you ſee how far the Count of *Aremberg* did conſent.

The Lord Admiral (*Nottingham*) being by in a Standing, with the Lady *Arabella*, ſpake to the Court.

The Lady doth here proteſt upon her Salvation, that ſhe never dealt in any of theſe things; and ſo ſhe willed me to tell the Court.

Ld Cecil. The Lord *Cobham* wrote to my Lady *Arabella*, to know if he might come to ſpeak with her, and gave her to underſtand, that there were ſome about the King, that laboured to diſgrace her; ſhe doubted it was but a Trick. But *Brook* ſaith, his Brother moved him to procure *Arabella* to write Letters to the King of *Spain*; but he ſaith, he never did it.

Raleigh. The Lord *Cobham* hath accuſed me, you ſee in what manner he hath forſworn it. Were it not for his Accuſation, all this were nothing. Let him be asked, if I knew of the Letter which *Lawrency* brought to him from *Aremberg*. Let me ſpeak for my Life, it can be no hurt for him to be brought; he dares not accuſe me. If you grant me not this Favour, I am ſtrangely uſed. *Campian* was not denied to have his Accuſers face to face.

Ld Ch. Juſt. Since he muſt needs have Juſtice, the acquitting of his old Friend may move him to ſpeak otherwiſe than the Truth.

Raleigh. If I had been the Infuſer of all theſe Treaſons into him; you Gentlemen of the Jury, mark this, he ſaid I have been the Cauſe of all his Miſeries, and the Deſtruction of his Houſe, and that all Evil hath happened unto him, by my wicked Counſel. If this be true, whom hath he cauſe to accuſe, and to be revenged on, but on me? And I know him to be as revengeful as any Man on Earth.

Attorn. He is a Party, and may not come; the Law is againſt it.

Raleigh. It is a Toy to tell me of Law; I defy ſuch Law, I ſtand on the Fact.

Ld Cecil. I am afraid my often ſpeaking (who am inferiour to my Lords here preſent) will make the

the World think I delight to hear my ſelf talk. My Affection to you, Sir *Walter Raleigh*, was not extinguiſhed, but ſlaked, in regard of your deſerts. You know the Law of the Realm (to which your Mind doth not conteſt) that my Lord *Cobham* cannot be brought.

Raleigh. He may be, my Lord.

Ld Cecil. But dare you challenge it?

Raleigh. No.

Ld. Cecil. You ſay that my Lord *Cobham*, your main Accuſer, muſt come to accuſe you. You ſay, he hath retracted: I ſay, many particulars are not retracted. What the Validity of all this is, is merely left to the Jury. Let me ask you this, If my Lord *Cobham* will ſay you were the only Inſtigator of him to proceed in the Treaſons, dare you put your ſelf on this?

Raleigh. If he will ſpeak it before God and the King, that ever I knew of *Arabella*'s Matter, or the Mony out of *Spain*, or of the ſurpriſing Treaſon; I put my ſelf on it, God's Will and the King's be done with me.

Ld H. Howard. How! if he ſpeak things equivalent to that you have ſaid?

Raleigh. Yes, in a main Point.

Ld Cecil. If he ſay, you have been the Inſtigator of him to deal with the *Spaniſh* King, had not the Council cauſe to draw you hither?

Raleigh. I put my ſelf on it.

Ld Cecil. Then Sir *Walter Raleigh*, call upon God, and prepare your ſelf; for I do verily believe my Lords will prove this. Excepting your faults (I call them no worſe) by God I am your Friend. The Heat and Paſſion in you, and the Attorney's Zeal in the King's Service makes me ſpeak this.

Raleigh. Whoſoever is the Workman, it is reaſon he ſhould give an account of his Work to the Workmaſter. But let it be proved that he acquainted me with any of his Conferences with *Aremberg*: he would ſurely have given me ſome account.

Ld Cecil. That follows not: If I ſet you on work, and you give me no account, am I therefore innocent?

Attorn. For the Lady *Arabella*, I ſaid ſhe was never acquainted with the matter. Now that *Raleigh* had Conference in all theſe Treaſons, it is manifeſt: The Jury hath heard the matter. There is one *Dyer*, a Pilot, that being in *Lisbon*, met with a *Portugal* Gentleman, who ask'd him if the King of *England* was crown'd yet? To whom he anſwered, *I think not yet, but he ſhall be ſhortly.* Nay, ſaith the *Portugal*, that ſhall never be, for his Throat will be cut by *Don Raleigh* and *Don Cobham* before he be crowned.

Dyer *was called and ſworn, and delivered this Evidence.*

Dyer. I came to a Merchant's Houſe in *Lisbon*, to ſee a Boy that I had there; there came a Gentleman into the Houſe, and enquiring what Countryman I was, I ſaid, an *Engliſhman.* Whereupon he asked me, if the King was crowned? And I anſwered, No, but that I hoped he ſhould be ſo ſhortly. Nay, ſaith he, he ſhall never be crowned; for *Don Raleigh* and *Don Cobham* will cut his Throat e'er that Day come.

Raleigh. What infer you upon this?

Attorn. That your Treaſon hath Wings.

Raleigh. If *Cobham* did practiſe with *Aremberg*, how could it not but be known in *Spain?* Why did they name the Duke of *Buckingham* with *Jack Straw*'s Treaſon, and the Duke of *York* with *Jack Cade*, but that it was to countenance his Treaſon?

Conſider you Gentlemen of the Jury, there is no Cauſe ſo doubtful which the King's Counſel cannot make good againſt the Law. Conſider my Diſability, and their Ability: They prove nothing againſt me, only they bring the Accuſation of my Lord *Cobham*, which he hath lamented and repented as heartily, as if it had been for an horrible Murder: for he knew that all this Sorrow which ſhould come to me, is by his means. Preſumptions muſt proceed from precedent or ſubſequent Facts. I have ſpent 40000 Crowns againſt the *Spaniard*. I had not purchaſed 40 Pound a Year. If I had died in *Guiana*, I had not left 300 Marks a Year to my Wife and Son. I that have always condemned the *Spaniſh* Faction, methinks it is a ſtrange thing that now I ſhould affect it! Remember what St. *Auſtin* ſays, *Sic judicate tanquam ab alio mox judicandi; unus judex, unum Tribunal.* If you would be contented on Preſumptions to be delivered up to be ſlaughtered, to have your Wives and Children turned into the Streets to beg their Bread; if you would be contented to be ſo judged, judge ſo of me.

Serj. Philips. I hope to make this ſo clear, as that the Wit of Man ſhall have no Colour to anſwer it. The Matter is Treaſon in the higheſt Degree, the End to deprive the King of his Crown. The particular Treaſons are theſe: Firſt, To raiſe up Rebellion, and to effect that, to procure Mony; to raiſe up Tumults in *Scotland*, by divulging a treaſonable Book againſt the King's Right to the Crown; the Purpoſe, to take away the Life of his Majeſty and his Iſſue. My Lord *Cobham* confeſſeth Sir *Walter Raleigh* to be guilty of all theſe Treaſons. The Queſtion is, Whether he be guilty as joining with him, or inſtigating of him? The Courſe to prove this, was by my Lord *Cobham*'s Accuſation. If that be true, he is guilty; if not, he is clear. So whether *Cobham* ſay true, or *Raleigh*, that is the Queſtion. *Raleigh* hath no Anſwer, but the Shadow of as much Wit, as the Wit of Man can deviſe. He uſeth his bare Denial; the Denial of a Defendant muſt not move the Jury. In the Star-Chamber, or in the Chancery, for matter of Title, if the Defendant be called in queſtion, his Denial on his Oath is no Evidence to the Court to clear him, he doth it *in propria cauſa*; therefore much leſs in Matters of Treaſon. *Cobham*'s Teſtification againſt him before then, and ſince, hath been largely diſcourſed.

Raleigh. If Truth be conſtant, and Conſtancy be in Truth, why hath he forſworn that that he hath ſaid? You have not proved any one thing againſt me by direct Proofs, but all by Circumſtances.

Attorn. Have you done? The King muſt have the laſt.

Raleigh. Nay, Mr. Attorney, he which ſpeaketh for his Life, muſt ſpeak laſt. Falſe Repetitions and Miſtakings muſt not mar my Cauſe. You ſhould ſpeak *ſecundum allegata & probata.* I appeal to God and the King in this Point, whether *Cobham*'s Accuſation be ſufficient to condemn me?

Attorn. The King's Safety and your Clearing cannot agree. I proteſt before God, I never knew a clearer Treaſon.

Raleigh. I never had Intelligence with *Cobham* ſince I came to the *Tower*.

Attorn. Go to, I will lay thee upon thy Back, for the confidenteſt Traytor that ever came at a Bar. Why ſhould you take 8000 Crowns for a Peace?

Ld.

Ld Cecil. Be not so impatient, good Mr. *Attorney*, give him leave to speak.

Attorney. If I may not be patiently heard, you will encourage Traitors, and discourage us. I am the King's sworn Servant, and must speak: If he be Guilty, he is a Traitor; if not, deliver him.

Nota, Here Mr. Attorney sat down in a Chafe, and would speak no more, until the Commissioners urged and intreated him. After much ado, he went on, and made a long Repetition of all the Evidence, for the Direction of the Jury; and at the repeating of some things, Sir *Walter Raleigh* interrupted him, and said, he did him wrong.

Attorney. Thou art the most vile and execrable Traitor that ever lived.

Raleigh. You speak indiscreetly, barbarously and uncivilly.

Attorney. I want Words sufficient to express thy viperous Treasons.

Raleigh. I think you want Words indeed, for you have spoken one thing half a dozen times.

Attorney. Thou art an odious Fellow, thy Name is hateful to all the Realm of *England* for thy Pride.

Raleigh. It will go near to prove a measuring Cast between you and me, Mr. *Attorney*.

Attorney. Well, I will now make it appear to the World, that there never lived a viler Viper upon the face of the Earth than thou. And therewithal he drew a Letter out of his Pocket, saying further, My Lords, you shall see, this is an Agent that hath writ a Treatise against the *Spaniard*, and hath ever so detested him; this is he that hath spent so much Money against him in Service; and yet you shall all see whether his Heart be not wholly *Spanish*. The Lord *Cobham*, who of his own Nature was a good and honourable Gentleman, till overtaken by this Wretch, now finding his Conscience heavily burdened with some Courses which the Subtilty of this Traitor had drawn him into; my Lords, he could be at no rest with himself, nor quiet in his thoughts, until he was eased of that heavy Weight: out of which Passion of his Mind, and Discharge of his Duty to his Prince, and his Conscience to God; taking it upon his Salvation that he wrote nothing but the Truth, with his own Hands he wrote this Letter. Now, Sir, you shall see whether you had Intelligence with *Cobham*, within four days before he came to the Tower. If he be wholly *Spanish*, that desired a Pension of 1500 *l.* a Year from *Spain*, that *Spain* by him might have Intelligence, then *Raleigh* is a Traitor: He hath taken an Apple, and pinned a Letter unto it, and threw it into my Lord *Cobham*'s Window; the Contents whereof were this, *It is doubtful, whether we shall be proceeded with or no, perhaps you shall not be tried.* This was to get a Retractation. Oh! it was *Adam*'s Apple, whereby the Devil did deceive him. Further, he wrote thus, *Do not as my Lord of* Essex *did; take heed of a Preacher; for by his Persuasion he confessed, and made himself guilty.* I doubt not but this day God shall have as great a Conquest by this Traitor, and the Son of God shall be as much glorified, as when it was said, *Vicisti Galilæe*; you know my Meaning. What though *Cobham* retracted, yet he could not rest nor sleep till he confirmed it again. If this be not enough to prove him a Traitor, the King my Master shall not live three years to an end.

Nota, Here Mr. Atorney produced the Lord *Cobham*'s Letter, and as he read it, inserted some Speeches.

'I Have thought fit to set down this to my 'Lords, wherein I protest on my Soul to write 'nothing but the Truth. I am now come near 'the period of my time, therefore I confess the 'whole Truth before God and his Angels. *Raleigh*, four days before I came from the Tower, caused an Apple (*Eve's Apple*) to be thrown 'in at my Chamber-Window; the effect of it was, 'to intreat me to right the Wrong that I had done 'him, in saying, *that I should have come home by* Jersey; which under my hand to him I have retracted. 'His first Letter I answered not, which was thrown 'in the same manner; wherein he prayed me to 'write him a Letter, which I did. He sent me 'word, that the Judges met at Mr. Attorney's 'House, and that there was good hope the Proceedings against us should be stayed: He sent 'me another time a little Tobacco. At *Aremberg*'s coming, *Raleigh* was to have procured a Pension 'of fifteen hundred Pounds a Year; for which he 'promised, that no Action should be against *Spain*, 'the *Low-Countries*, or the *Indies*, but he would 'give knowledge before-hand. He told me, the 'States had Audience with the King. (Attorney, *Ah! is not this a* Spanish *Heart in an* English *Body?*) 'He hath been the original Cause 'of my Ruin; for I had no dealing with *Aremberg*, 'but by his Instigation. He hath also been the 'cause of my Discontentment; he advised me, 'not to be overtaken with Preachers, as *Essex* 'was; and that the King would better allow of 'a constant Denial, than to accuse any.

Attorney. Oh damnable Atheist! He hath learned some Text of Scripture to serve his own purpose, but falsly alledg'd. He counsels him not to be counselled by Preachers, as *Essex* was: He died the Child of God, God honoured him at his Death; thou wast by when he died: *Et Lupus & turpes insiant morientibus Ursæ.* He died indeed for his Offence. The King himself spake these Words; *He that shall say,* Essex *died not for Treason, is punishable.*

Raleigh. You have heard a strange Tale of a strange Man. Now he thinks, he hath Matter enough to destroy me; but the King and all of you shall witness, by our Deaths, which of us was the Ruin of the other. I bid a poor Fellow throw in the Letter at his Window, written to this purpose; *You know you have undone me, now write three Lines to justify me.* In this I will die, that he hath done me wrong: Why did not he acquaint him with my Dispositions?

Ld Ch. Just. But what say you now of the Letter, and the Pension of 1500 *l. per annum?*

Raleigh. I say, that *Cobham* is a base, dishonourable, poor Soul.

Attorney. Is he base? I return it into thy Throat on his behalf: But for thee, he had been a good Subject.

Ld Ch. Just. I perceive you are not so clear a Man, as you have protested all this while; for you should have discovered these Matters to the King.

Nota, Here *Raleigh* pulled a Letter out of his Pocket, which the Lord *Cobham* had written to him, and desired my Lord *Cecil* to read it, be-

cauſe he only knew his Hand; the effect of it was as follows:

Cobham's *Letter of Juſtification to* Raleigh.

'Seeing my ſelf ſo near my End, for the diſ-
'charge of my own Conſcience, and freeing my
'ſelf from your Blood, which elſe will cry Ven-
'geance againſt me; I proteſt upon my Salvation,
'I never practiſed with *Spain* by your Procure-
'ment; God ſo comfort me in this my Affliction,
'as you are a true Subject, for any thing that I
'know. I will ſay as *Daniel*, *Purus ſum a ſanguine*
'*hujus*. So God have mercy upon my Soul, as I
'know no Treaſon by you.

Raleigh. Now I wonder how many Souls this Man hath! He damns one in this Letter, and another in that.

Here was much ado; Mr. Attorney alledged, that his laſt Letter was politickly and cunningly urged from the Lord *Cobham*, and that the firſt was ſimply the Truth; and that leſt it ſhould ſeem doubtful that the firſt Letter was drawn from my Lord *Cobham* by promiſe of Mercy, or hope of Favour, the Lord Chief Juſtice willed that the Jury might herein be ſatisfied.

Whereupon the Earl of *Devonſhire* delivered, that the ſame was meer voluntary, and not extracted from the Lord *Cobham* upon any Hopes or Promiſe of Pardon.

Nota, This was the laſt Evidence: whereupon a Marſhal was ſworn to keep the Jury private. The Jury departed, and ſtaid not a quarter of an hour, but returned, and gave their Verdict, Guilty.

Serj. Heale demanded Judgment againſt the Priſoner.

Clerk of the Crown. Sir *Walter Raleigh*, Thou haſt been indicted, arraigned, and pleaded, Not Guilty, for all theſe ſeveral Treaſons; and for Tryal thereof, haſt put thy ſelf upon thy Country; which Country are theſe, who have found thee Guilty. What canſt thou ſay for thy ſelf, why Judgment and Execution of Death ſhould not paſs againſt thee?

Raleigh. My Lords, the Jury have found me Guilty: They muſt do as they are directed. I can ſay nothing why Judgment ſhould not proceed. You ſee whereof *Cobham* hath accuſed me: You remember his Proteſtations, that I was never Guilty. I deſire the King ſhould know of the Wrongs done unto me ſince I came hither.

Ld Ch. Juſt. You have had no Wrong, Sir *Walter*.

Raleigh. Yes, of Mr. Attorney. I deſire my Lords to remember three things to the King: 1. I was accuſed to be a Practiſer with *Spain*: I never knew that my Lord *Cobham* meant to go thither; I will ask no Mercy at the King's hands, if he will affirm it. 2. I never knew of the Practice with *Arabella*. 3. I never knew of my Lord *Cobham*'s Practice with *Aremberg*, nor of the ſurprizing Treaſon.

Ld Ch. Juſt. In my Conſcience, I am perſuaded that *Cobham* hath accuſed you truly. You cannot deny, but that you were dealt with to have a Penſion to be a Spy for *Spain*; therefore you are not ſo true to the King as you have proteſted your ſelf to be.

Raleigh. I ſubmit my ſelf to the King's Mercy; I know his Mercy is greater than my Offence. I recommend my Wife, and Son of tender years, unbrought up, to his Compaſſion.

Ld Ch. Juſt. I thought I ſhould never have ſeen this Day, to have ſtood in this Place to give Sentence of Death againſt you; becauſe I thought it impoſſible, that one of ſo great Parts ſhould have fallen ſo grievouſly. God hath beſtowed on you many Benefits. You had been a Man fit and able to have ſerved the King in good Place. You had brought your ſelf into a good State of Living, if you had enter'd into a good Conſideration of your Eſtate, and not ſuffered your own Wit to have intrapped your ſelf, you might have lived in good Comfort. It is beſt for Man not to ſeek to climb too high, leſt he fall; nor yet to creep too low, leſt he be trodden on. It was the Poeſy of the wiſeſt and greateſt Counſellor of our time in *England*, *In medio ſpatio mediocria firma locantur*. You might have lived well with 3000 *l.* a Year, for ſo I have heard your Revenues to be. I know nothing might move you to be diſcontented; but if you had been down, you know Fortune's Wheel, when it is turned about, riſeth again. I never heard that the King took away any thing from you, but the Captainſhip of the Guard, which he did with very good reaſon, to have one of his own Knowledge, whom he might truſt, in that Place. You have been taken for a wiſe Man, and ſo have ſhewed Wit enough this day. Again, for Monopolies for Wine, *&c.* if the King had ſaid, It is a Matter that offends my People, ſhould I burden them for your private Good? I think you could not well take it hardly, that his Subjects were eaſed, tho by your private Hindrance. Two Vices have lodged chiefly in you; one is an eager Ambition, the other corrupt Covetouſneſs. Ambition, in deſiring to be advanced to equal Grace and Favour, as you have been before-time; that Grace you had then, you got not in a Day or Year. For your Covetouſneſs, I am ſorry to hear that a Gentleman of your Wealth ſhould become a baſe Spy for the Enemy, which is the vileſt of all other; wherein on my Conſcience *Cobham* hath ſaid true: by it you would have increaſed your Living 1500 *l.* a Year. This Covetouſneſs is like a Canker, that eats the Iron Place where it lives. Your Caſe being thus, let it not grieve you, if I ſpeak a little out of Zeal, and Love to your Good. You have been taxed by the World, with the Defence of the moſt heatheniſh and blaſphemous Opinions, which I liſt not to repeat, becauſe Chriſtian Ears cannot endure to hear them, nor the Authors and Maintainers of them ſuffered to live in any Chriſtian Commonwealth. You know what Men ſaid of *Harpool*. You ſhall do well, before you go out of the World, to give Satisfaction therein, and not to die with theſe Imputations on you. Let not any Devil perſuade you to think there is no Eternity in Heaven: for if you think thus, you ſhall find Eternity in Hell-Fire. In the firſt Accuſation of my Lord *Cobham*, I obſerved his Manner of ſpeaking; I proteſt before the Living God, I am perſuaded he ſpoke nothing but the Truth. You wrote, that he ſhould not in any caſe confeſs any thing to a Preacher, telling him an Example of my Lord of *Eſſex*, that noble Earl that is gone; who, if he had not been carried away with others, had lived in Honour to this day among us: He confeſſed his Offences, and obtained Mercy of the Lord, for I am verily perſuaded in my Heart, he died a worthy Servant of God. Your Conceit of not confeſſing any thing, is very inhuman and wicked. In this World is the time of confeſſing, that

that we may be abſolv'd at the Day of Judgment. You have ſhewed a fearful Sign of denying God, in adviſing a Man not to confeſs the Truth. It now comes in my mind, why you may not have your Accuſer come face to face: for ſuch an one is eaſily brought to retract, when he ſeeth there is no hope of his own Life. It is dangerous that any Traitors ſhould have Acceſs to, or Conference with one another; when they ſee themſelves muſt die, they will think it beſt to have their Fellow live, that he may commit the like Treaſon again, and ſo in ſome ſort ſeek Revenge.

Now it reſteth to pronounce the Judgment, which I wiſh you had not been this day to have received of me: For if the Fear of God in you had been anſwerable to your other great Parts, you might have lived to have been a ſingular good Subject. I never ſaw the like Tryal, and hope I ſhall never ſee the like again.

The Judgment.

But ſince you have been found guilty of theſe horrible Treaſons, the Judgment of this Court is, That you ſhall be had from hence to the Place whence you came, there to remain until the day of Execution; and from thence you ſhall be drawn upon a Hurdle through the open Streets to the Place of Execution, there to be hanged and cut down alive, and your Body ſhall be opened, your Heart and Bowels pluck'd out, and your Privy Members cut off, and thrown into the Fire before your Eyes; then your Head to be ſtrucken off from your Body, and your Body ſhall be divided into four Quarters, to be diſpoſed of at the King's Pleaſure: And God have Mercy upon your Soul.

Sir *Walter Raleigh* beſought the Earl of *Devonſhire*, and the Lords, to be Suiters on his behalf to the King; that in regard of Places of Eſtimation he did bear in his Majeſty's time, the Rigour of his Judgment might be qualified, and his Death be honourable, and not ignominious.

Wherein after they had promiſed him to do their utmoſt Endeavours, the Court roſe, and the Priſoner was carried up again to the Caſtle.

Fourteen Years Sir *Walter* had ſpent in the Tower, and being weary of a State wherein he could be only ſerviceable by his Pen, but not in a Capacity of ſerving and enriching his Country any other way, (of whom Prince *Henry* would ſay, that no King but his Father would keep ſuch a Bird in a Cage;) at length he fell upon an Enterprize of a Golden Mine in *Guiana* in the Southern Parts of *America*.

The Propoſition of this was preſented and recommended to his Majeſty by Sir *Ralph Winwood* the Secretary of State, as a Matter not in the Air, or Speculative, but Real, and of Certainty: for that Sir *Walter* had ſeen of the Ore of the Mine, and tried the Richneſs of it, having gotten a Pound from thence by the hands of Captain *Keymiſh*'s antient Servant.

Sir *Ralph Winwood*'s Recommendations of the Deſign, and the earneſt Sollicitations for his Enlargement by the Queen and Prince, and the *French* Leiger (with much affection to his Deſerts, not without ſome politick Deſigns on *Spain*) together with the Aſſeverations of Sir *Walter* of the Truth of the Mine, work'd upon his Majeſty, who thought himſelf in honour obliged, nay, in a manner ingaged (as the Declaration which he publiſhed after the Death of Sir *Walter* tells us) not to deny unto his People the Adventure and Hope of ſo great Riches to be ſought and atchieved at the Charge of Voluntiers, eſpecially ſince it ſtood ſo well with his Majeſty's Politick and Magnanimous Courſes in theſe his flouriſhing times of Peace, to nouriſh and encourage noble and generous Enterprizes for Plantations, Diſcoveries, and opening of a new Trade.

Count *Gondamor* (an active and ſubtle Inſtrument to ſerve his Maſter's ends) took alarm at this, and repreſented to his Majeſty the Enterprize of Sir *Walter* to be hoſtile and predatory, intending a breach of the Peace between the two Crowns. But notwithſtanding, Power at laſt is granted to Sir *Walter* to ſet forth Ships and Men for that Service. However, the King commanded him, upon pain of his Allegiance, to give him under his hand (promiſing, on the Word of a King, to keep it ſecret) the Number of his Men, the Burden and Strength of his Ships, together with the Country and River which he was to enter: Which being done accordingly by Sir *Walter*, that very original Paper was found in the *Spaniſh* Governor's Cloſet at *St. Thomas*'s. So active were the *Spaniſh* Miniſters, that advertiſement was ſent to *Spain*, and thence to the *Indies*, before the *Engliſh* Fleet got out of the *Thames*.

But as we have juſt Cauſe to admire the more than uſual Activity of the *Spaniſh* Agents, ſo may we wonder no leſs at the Miſcarriage of his Majeſty's preſent Miniſters, who, notwithſtanding he had paſs'd his Royal Word to the contrary, yet they did help Count *Gondamor* to that very Paper; ſo much both King and Court were at *Gondamor*'s Service.

A Commiſſion indeed is granted, but by *Gondamor*'s means is limited, That the Fleet ſhould commit no Outrages upon the King of *Spain*'s Subjects by Land, unleſs they began firſt.

With this Commiſſion, and the Company of ſeveral brave Captains, and other Knights and Gentlemen of great Blood and Worth, he ſet out in queſt of the Mine, with a compleat Fleet of twelve Sail; letting fall a Speech at his Departure, which was rather an Argument of his Wit than his Wiſdom; *That his whole Hiſtory of the World had not the like Precedent, Of a King's Priſoner to purchaſe Freedom, and his Boſom-Favourite to have the Halter; but in Scripture*, Mordecai *and* Haman: Meaning himſelf and the Earl of *Somerſet*. To which he was told, that the King replied, *He might die in that Deceit*. Which he did, for *Somerſet* was ſaved. Of whom was made good what Sir *Walter* uſed to ſay of Favourites, That Minions were not ſo happy as vulgar Judgments thought them, being frequently commanded to uncomely, and ſometimes to unnatural Employments.

On the 17th of *November*, he arriv'd at *Guiana*, having been much retarded by contrary Winds, and having loſt ſeveral of his Voluntiers in the Voyage, by a violent Calenture.

When Sir *Walter* was returned to *Plymouth*, Sir *Lewis Steukly*, Vice-Admiral of the County of *Devon*, ſeiz'd him, being commiſſion'd by his Majeſty to bring him to *London*; which could add no Terror to a Perſon who could expect nothing leſs.

When he was brought to *London*, he was permitted the confinement of his own Houſe: But finding the Court wholly guided by *Gondamor*, he could hope for little Mercy; therefore he wiſely contriv'd the deſign of an Eſcape into *France*; which Sir *Lewis Steukly* betrayed.

The Voyage proving unſucceſsful, King *James* was willing to ſacrifice the Life of Sir *Walter* to the Advancement of Peace with *Spain*, but not upon ſuch grounds as the Embaſſador had deſign'd: for he deſir'd a Judgment upon the pretended Breach of Peace, that by this Occaſion he might ſtily gain from the *Engliſh* an Acknowledgement of his Maſter's Right in thoſe Places, and hereafter both ſtop their Mouths, and quench their Heat and Valour.

Hence upon his old Condemnation (for having had Experience upon a former Tryal, they cared not to run the hazard of a ſecond) he was ſentenc'd; the old Judgment being only averred againſt him: and from *Weſtminſter-Hall* he was carried to the *Gate-houſe*; and from thence the next morning to the Parliament-Yard, where he had the favour of the Ax granted him.

But all Perſons have wonder'd how that old Sentence, that had lain dormant ſixteen years and upwards againſt Sir *Walter*, could have been made uſe of to take off his Head afterwards: Conſidering the then Lord Chancellor *Verulam* told him poſitively, (as Sir *Walter* was acquainting him with that Proffer of Sir *William St. Geon* for a Pecuniary Pardon, which might have been obtained for a leſs Sum than his *Guiana* Preparations amounted to) in theſe words: 'Sir, the Knee-'Timber of your Voyage is Money; ſpare your 'Purſe in this Particular, for upon my life you 'have a ſufficient Pardon for all that is paſſed al-'ready, the King having, under his Broad Seal, 'made you Admiral of your Fleet, and given you 'power of the Martial Law over the Officers 'and Soldiers.

It was the Opinion of moſt Lawyers, That he, who by his Majeſty's Patent had power of Life and Death over the King's Leige People, ſhould be eſteemed or judged *Rectus in Curia*, and free from all old Convictions

But Sir *Walter* hath made the beſt Defence for his *Guiana* Actions, in his Letter to his Majeſty, which I have here inſerted.

May it pleaſe your moſt excellent Majeſty,

'IN my Journey outward-bound, I had my 'Men murdered at the Iſland, and yet ſpared 'to take Revenge: If I did diſcharge ſome *Spaniſh* 'Barques taken, without Spoil; if I did forbear 'all parts of the *Spaniſh Indies*, wherein I might 'have taken twenty of their Towns on the Sea-'Coaſts, and did only follow the Enterprize I 'undertook for *Guiana*, where, without any Di-'rections from me, a *Spaniſh* Village was burnt, 'which was new ſet up within three Miles of the 'Mine; by your Majeſty's favour, I find no rea-'ſon why the *Spaniſh* Embaſſador ſhould complain 'of me. If it were lawful for the *Spaniards* to 'murder twenty-ſix *Engliſhmen*, binding them 'back to back, and then cutting their Throats, 'when they had traded with them a whole month, 'and came to them on the Land without ſo much 'as one Sword; and that it may not be lawful 'for your Majeſty's Subjects being charged firſt 'by them, to repel Force by Force; we may juſt-'ly ſay, O miſerable *Engliſh!* If *Parker* and *Me-'tham* took *Campeach* and other Places in the *Hon-'duraes*, ſeated in the Heart of the *Spaniſh Indies*, 'burn'd Towns, killed the *Spaniards*, and had 'nothing ſaid to them at their Return, and my 'ſelf forbore to look into the *Indies* becauſe I 'would not offend; I may juſtly ſay, O miſerable 'Sir *Walter Raleigh*! If I ſpent my poor Eſtate, 'loſt my Son, ſuffered by Sickneſs, and otherwiſe, 'a world of Miſeries; if I have reſiſted with the 'manifeſt hazard of my Life, the Robberies and 'Spoils which my Company would have made; 'if when I was poor, I might have made my ſelf 'rich; if when I had gotten my Liberty, which 'all Men, and Nature itſelf do ſo much prize, 'I voluntarily loſt it; if, when I was ſure of my 'Life, I render'd it again; if I might elſewhere 'have ſold my Ship and Goods, and put five or 'ſix thouſand Pounds in my Pocket, and yet have 'brought her into *England*: I beſeech your Ma-'jeſty to believe, that all this I have done, be-'cauſe it ſhould not be ſaid to your Majeſty, that 'your Majeſty had given Liberty and Truſt to a 'Man whoſe end was but the recovery of his 'Liberty, and who had betrayed your Majeſty's 'Truſt. My Mutineers told me, that if I return-'ed for *England* I ſhould be undone; but I be-'lieved in your Majeſty's Goodneſs, more than 'in all their Arguments. Sure I am, that I am 'the firſt that being free, and able to enrich my 'ſelf, have embraced Poverty and Peril: And as 'ſure I am, that my Example ſhall make me the 'laſt. But your Majeſty's Wiſdom and Good-'neſs I have made my Judge; who have ever been, 'and ſhall ever be,

Your Majeſty's moſt humble Vaſſal,

Walter Raleigh.

But this Apology, though never ſo perſuaſive, could not ſatisfy *Gondamor*'s Rage, who was reſolv'd to ſacrifice the only Favourite left of Queen *Elizabeth*, to the *Spaniſh* Intereſt: And who, as *Osburn* remarks, was the only Perſon of *Eſſex*'s Enemies that died lamented; and the only Man of Note left alive, that had help'd to beat the *Spaniard* in the Year 1588.

Upon Thurſday the 29th of *Octob.* 1618. Sir *Walter Raleigh* was conveyed by the Sheriffs of *London* to a Scaffold in the Old Palace-Yard at *Weſtminſter*, where he was executed about nine of the Clock in the morning of the ſame day.

The

The Tryal of the Conſpirators concern'd in the Gunpowder-Plot, on Monday the 27th of January, Anno 1605. *and in the third Year of King* James *the Firſt, in* Weſtminſter-Hall, *before the Lords Commiſſioners there;* Viz.

The Earl of *Nottingham.*
The Earl of *Suffolk.*
The Earl of *Worceſter.*
The Earl of *Devonſhire.*
The Earl of *Northampton.*
The Earl of *Salisbury.*

The Lord Chief Juſtice of *England*, Sir *John Popham.*
The Lord Chief Baron of the *Exchequer.*
Sir *Peter Warburton* Kt. one of the Juſtices of the *Common-Pleas.*

The Effect of the Indictment legal.

THAT whereas our Sovereign Lord the King had, by the Advice and Aſſent of his Council, for divers weighty and urgent Occaſions concerning his Majeſty, the State, and Defence of the Church and Kingdom of *England*, appointed a Parliament to be holden at his City of *Weſtminſter*; That *Henry Garnet*, Superior of the Jeſuits within the Realm of *England*, (called alſo by the ſeveral names of *Wally*, *Darcy*, *Roberts*, *Farmer*, and *Henry Philips*) *Oſwald Teſmond* Jeſuit, otherwiſe called *Oſwald Greenwell*, *John Gerrard* Jeſuit, (called alſo by the ſeveral names of *Lee* and *Brooke*) *Robert Winter*, *Thomas Winter*, Gentlemen, *Guy Fawkes* Gent. otherwiſe called *Guy Johnſon*, *Robert Keyes* Gent. and *Thomas Bates* Yeoman, late Servant to *Robert Catesby* Eſquire; together with the ſaid *Robert Catesby* and *Thomas Percy* Eſquires, *John Wright* and *Chriſtopher Wright* Gentlemen, in open Rebellion and Inſurrection againſt his Majeſty, lately ſlain, and *Francis Treſham* Eſq; lately dead; as falſe Traitors againſt our ſaid Sovereign Lord the King, did traitorouſly meet and aſſemble themſelves together; and being ſo met, the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, and other Jeſuits, did maliciouſly, falſly, and traitorouſly move and perſuade as well the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, That our ſaid Sovereign Lord the King, the Nobility, Clergy, and whole Commonalty of the Realm of *England*, (Papiſts excepted) were Hereticks; and that all Hereticks were accurſed and excommunicate; and that none Heretick could be a King; but that it was lawful and meritorious to kill our ſaid Sovereign Lord the King, and all other Hereticks within this Realm of *England*, for the Advancing and Enlargement of the pretended and uſurped Authority and Juriſdiction of the Biſhop of *Rome*, and for the reſtoring of the ſuperſtitious *Romiſh* Religion within this Realm of *England*. To which traitorous Perſuaſions, the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, *Thomas Bates*, *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, traitorouſly did yield their Aſſents: And that thereupon the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, and divers other Jeſuits; *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as alſo the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, traitorouſly amongſt themſelves did conclude and agree, with Gunpowder, as it were with one blaſt, ſuddenly, traitorouſly and barbarouſly to blow up and tear in pieces our ſaid Sovereign Lord the King, the excellent, virtuous, and gracious Queen *Anne*, his deareſt Wife, the moſt noble Prince *Henry*, their eldeſt Son, and future Hope and Joy of *England*; and the Lords Spiritual and Temporal, the Reverend Judges of the Realm, the Knights, Citizens and Burgeſſes of Parliament, and divers other faithful Subjects and Servants of the King in the ſaid Parliament, for the Cauſes aforeſaid, to be aſſembled in the Houſe of Parliament; and all them, without any reſpect of Majeſty, Dignity, Degree, Sex, Age or Place, moſt barbarouſly, and more than beaſtly, traitorouſly and ſuddenly to deſtroy and ſwallow up. And further did moſt traitorouſly conſpire and conclude among themſelves, That not only the whole Royal Iſſue-Male of our ſaid Sovereign Lord the King ſhould be deſtroyed and rooted out; but that the Perſons aforeſaid, together with divers other falſe Traitors, traitorouſly with them to be aſſembled, ſhould ſurprize the Perſons of the Noble Ladies *Elizabeth* and *Mary*, Daughters of our ſaid Sovereign Lord the King, and falſly and traitorouſly ſhould proclaim the ſaid Lady *Elizabeth* to be Queen of this Realm: And thereupon ſhould publiſh a certain traitorous Proclamation in the name of the ſaid Lady *Elizabeth*; wherein, as it was eſpecially agreed by and between the ſaid Conſpirators, That no mention ſhould be made at the firſt, of the alteration of Religion eſtabliſhed within this Realm of *England*; neither would the ſaid falſe Traitors therein acknowledge themſelves to be Authors, or Actors, or Deviſers of the aforeſaid moſt wicked and horrible Treaſons, until they had got ſufficient Power and Strength for the aſſured Execution and Accompliſhment of their

their ſaid Conſpiracy and Treaſon; and that then they would avow and juſtify the ſaid moſt wicked and horrible Treaſons, as Actions that were in the number of thoſe, *Quæ non laudantur, niſi peracta*, which be not to be commended before they be done: but by the ſaid feign'd and traitorous Proclamation they would publiſh, That all and ſingular Abuſes and Grievances within this Realm of *England*, ſhould, for ſatisfying of the People, be reform'd. And that as well for the better concealing, as for the more effectual accompliſhing of the ſaid horrible Treaſons, as well the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, by the traitorous Advice and Procurement of the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, and other Jeſuits, traitorouſly did further conclude and agree, that as well the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, thereupon ſeverally and traitorouſly ſhould receive ſeveral corporal Oaths upon the holy Evangeliſts, and the Sacrament of the Euchariſt, That they the Treaſons aforeſaid would traitorouſly conceal and keep ſecret, and would not reveal them, directly or indirectly, by Words nor Circumſtances, nor ever would deſiſt from the Execution and final Accompliſhment of the ſaid Treaſons, without the conſent of ſome three of the aforeſaid falſe Traitors firſt in that behalf traitorouſly had: And that thereupon as well the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſt. Wright*, and *Francis Treſham*, did traitorouſly take the ſaid ſeveral corporal Oaths ſeverally, and did receive the Sacrament of the Euchariſt aforeſaid, by the Hands of the ſaid *Henry Garnet*, *John Gerrard*, *Oſwald Teſmond*, and other Jeſuits. And further, that the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, together with the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, by the like traitorous Advice and Counſel of the ſaid *Henry Garnet*, *John Gerrard*, *Oſwald Teſmond*, and other Jeſuits, for the more effectual compaſſing and final execution of the ſaid Treaſons, did traitorouſly among themſelves conclude and agree to dig a certain Mine under the ſaid Houſe of Parliament, and there ſecretly, under the ſaid Houſe, to beſtow and place a great Quantity of Gunpowder; and that according to the ſaid traitorous Concluſion, the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, together with the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, and *Chriſtopher Wright*, afterwards ſecretly, not without great labour and difficulty, did dig and make the ſaid Mine unto the midſt of the Foundation of the Wall of the ſaid Houſe of Parliament, the ſaid Foundation being of the Thickneſs of three yards, with a traitorous Intent to beſtow and place a great Quantity of Gunpowder in the Mine aforeſaid, ſo as aforeſaid traitorouſly to be made for the traitorous accompliſhing of their traitorous Purpoſes aforeſaid. And that the ſaid *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, together with the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, and *Chriſtopher Wright*, finding and perceiving the ſaid Work to be of great difficulty, by reaſon of the Hardneſs and Thickneſs of the ſaid Wall; and underſtanding a certain Cellar under the ſaid Houſe of Parliament, and adjoining to a certain Houſe of the ſaid *Thomas Percy*, then to be letten to farm for a yearly Rent, the ſaid *Thomas Percy*, by the traitorous Procurement, as well of the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, and other Jeſuits, *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as of the ſaid *Robert Catesby*, *John Wright*, and *Chriſtopher Wright*, traitorouſly did hire the Cellar aforeſaid for a certain yearly Rent and Term: and then thoſe Traitors did remove twenty Barrels full of Gunpowder out of the ſaid Houſe of the ſaid *Thomas Percy*, and ſecretly and traitorouſly did beſtow and place them in the Cellar aforeſaid, under the ſaid Houſe of Parliament, for the traitorous effecting of the Treaſon, and traitorous Purpoſes aforeſaid. And that afterwards the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, and other Jeſuits, *Thomas Winter*, *Guy Fawkes*, *Robert Keyes* and *Thomas Bates*, together with the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright* and *Chriſtopher Wright*, traitorouſly did meet with *Robert Winter*, *John Grant*, and *Ambroſe Rookwood*, and *Francis Treſham*, Eſquires; and traitorouſly did impart to the ſaid *Robert Winter*, *John Grant*, *Ambroſe Rookwood*, and *Francis Treſham*, the Treaſons, traitorous Intentions and Purpoſes aforeſaid; and did require the ſaid *Robert Winter*, *John Grant*, *Ambroſe Rookwood*, and *Francis Treſham*, to join themſelves as well with the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as with the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, and *Chriſtopher Wright*, in the Treaſons, traitorous Intentions and Purpoſes aforeſaid; and traitorouſly to provide Horſe, Armour, and other Neceſſaries, for the better accompliſhment and effecting of the ſaid Treaſons. To which traitorous Motion and Requeſt, the ſaid *Robert Winter*, *John Grant*, *Ambroſe Rookwood*, and *Francis Treſham*, did traitorouſly yield their Aſſents, and as well with the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, *Robert Winter*, *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, and *Thomas Bates*, as with the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, in the ſaid Treaſons, traitorous Intentions and Purpoſes aforeſaid, traitorouſly did adhere and unite themſelves: And thereupon ſeveral corporal Oaths, in form aboveſaid, traitorouſly did take, and the Sacrament of the Euchariſt, by the hands of the ſaid Jeſuits did receive, to ſuch Intent and Purpoſe, as is aforeſaid; and Horſes, Armour, and other Neceſſaries, for the better effecting of the ſaid Treaſons, according to their traitorous Aſſents aforeſaid, traitorouſly did provide. And that afterwards all the ſaid falſe Traitors did traitorouſly provide, and bring into the Cellar aforeſaid, ten other Barrels full of Gunpowder, newly bought, fearing leſt the former Gunpowder, ſo as aforeſaid beſtow'd and placed there, was become dankiſh; and the ſaid ſeveral Quantities of Gunpowder aforeſaid, with Billets and Faggots, leſt they ſhould be ſpy'd, ſecretly and traitorouſly did cover. And that afterwards the ſaid falſe Traitors traitorouſly provided, and brought into the Cellar aforeſaid, four Hogſheads full of Gunpowder, and laid divers great Iron Bars and Stones upon the ſaid four Hogſheads, and the aforeſaid other Quantities of Gunpowder: And the ſaid Quantities of Gunpowder, Bars, and Stones, with Billets and Faggots, leſt they ſhould be eſpy'd, ſecretly and traitorouſly did likewiſe cover. And that the ſaid *Guy Fawkes*, afterwards, for a full and final Accompliſhment of the ſaid Treaſons, traitorous Intentions and Purpoſes aforeſaid, by the traitorous Procurement, as well of the ſaid

Henry

Henry Garnet, *Oſwald Teſmond*, *John Gerrard*, and other Jeſuits, *Robert Winter*, *Thomas Winter*, *Robert Keyes*, *Thomas Bates*, *John Grant*, and *Ambroſe Rookwood*, as of the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, and *Francis Treſham*, traitorouſly had prepared, and had upon his Perſon Touchwood and Match, therewith traitorouſly to give fire to the ſeveral Barrels, Hogſheads, and Quantities of Gunpowder aforeſaid, at the time appointed for the Execution of the ſaid horrible Treaſons. And further, that after the ſaid horrible Treaſons were, by the great Favour and Mercy of God, in a wonderful manner diſcover'd, not many hours before it ſhould have been executed, as well the ſaid *Henry Garnet*, *Oſwald Teſmond*, *John Gerrard*, *Robert Winter*, *Thomas Winter*, *Robert Keyes*, *Thomas Bates*, *John Grant*, and *Ambroſe Rookwood*, as the ſaid *Robert Catesby*, *Thomas Percy*, *John Wright*, and *Chriſtopher Wright*, traitorouſly did fly and withdraw themſelves, to the intent traitorouſly to ſtir up and procure ſuch Popiſh Perſons, as they could, to join with them in actual, publick, and open Rebellion againſt our ſaid Sovereign Lord the King; and to that end did publiſh divers feigned and falſe Rumours, that the Papiſts Throats ſhould have been cut: and that thereupon divers Papiſts were in Arms, and in open, publick, and actual Rebellion againſt our ſaid Sovereign Lord the King, in divers Parts of this Realm of *England*.

To this Indictment they all pleaded, Not guilty; and put themſelves upon God and the Country.

Then did Sir *Edward Philips*, Kt. his Majeſty's Serjeant at Law, open the Indictment to this effect, as followeth.

The Matter that is now to be offer'd to you my Lords the Commiſſioners, and to the Tryal of you the Knights and Gentlemen of the Jury, is Matter of Treaſon; but of ſuch Horror, and monſtrous Nature, that before now,

The Tongue of Man never deliver'd,
The Ear of Man never heard,
The Heart of Man never conceited,
Nor the Malice of helliſh or earthly Devil ever practiſed.

For, if it be abominable to murder the leaſt;
If to touch God's Anointed be to oppoſe themſelves againſt God;
If (by Blood) to ſubvert Princes, States and Kingdoms, be hateful to God and Man, as all true Chriſtians muſt acknowledg:
Then, how much more than too too monſtrous ſhall all Chriſtian Hearts judg the Horror of this Treaſon; to murder and ſubvert

Such a King,
Such a Queen,
Such a Prince,
Such a Progeny,
Such a State,
Such a Government,
So complete and abſolute,
That God approves,
The World admires,
All true *Engliſh* Hearts honour and reverence,
The Pope and his Diſciples only envies and maligns?

The Proceeding wherein, is properly to be divided into three general Heads.

Firſt, Matter of Declaration.
Secondly, Matter of Aggravation.
Thirdly, Matter of Probation.

My ſelf am limited to deal only with the Matter of Declaration, and that is contain'd within the Compaſs of the Indictment only.

For the other two I am to leave to him to whoſe Place it belongeth.

The Subſtance of which Declaration conſiſteth in four Parts.

Firſt, In the Perſons and Qualities of the Conſpirators.

Secondly, In the Matter conſpired.

Thirdly, In the Mean and Manner of the Proceeding and Execution of the Conſpiracy.

And Fourthly, Of the End and Purpoſe why it was ſo conſpired.

As concerning the firſt, being the Perſons; they were, *Garnet*, *Gerrard*, *Teſmond*, Jeſuits not then taken. *Thomas Winter*, *Guy Fawkes*, *Robert Keyes*, *Thomas Bates*, *Everard Digby*, *Ambroſe Rookwood*, *John Graunt*, *Robert Winter*, at the Bar. *Robert Catesby*, *Thomas Percy*, *John Wright*, *Chriſtopher Wright*, ſlain in Rebellion. *Francis Treſham*, lately dead. All grounded Romaniſts and corrupted Scholars of ſo irreligious and traitorous a School.

As concerning the ſecond, which is the Matter conſpired; it was,

Firſt, To deprive the King of his Crown.

Secondly, To murder the King, the Queen, and the Prince.

Thirdly, To ſtir Rebellion and Sedition in the Kingdom.

Fourthly, To bring a miſerable Deſtruction amongſt the Subjects.

Fifthly, To change, alter, and ſubvert the Religion here eſtabliſhed.

Sixthly, To ruinate the State of the Commonwealth, and to bring in Strangers to invade it.

As concerning the third, which is the Mean and Manner how to compaſs and execute the ſame; they did all conclude,

Firſt, That the King, and his People (the Papiſts excepted) were Hereticks.

Secondly, That they were all curſed, and excommunicate by the Pope.

Thirdly, That no Heretick could be King.

Fourthly, That it was lawful and meritorious to kill and deſtroy the King, and all the ſaid Hereticks.

The Mean to effect it, they concluded to be, that,

Firſt, The King, the Queen, the Prince, the Lords Spiritual and Temporal, the Knights and Burgeſſes of the Parliament, ſhould be blown up with Powder.

Secondly, That the whole Royal Iſſue Male ſhould be deſtroy'd.

Thirdly, That they would take into their Cuſtody *Elizabeth* and *Mary* the King's Daughters, and proclaim the Lady *Elizabeth* Queen.

Fourthly, That they ſhould feign a Proclamation in the name of *Elizabeth*, in which no mention ſhould be made of Alteration of Religion, nor that they were Parties to the Treaſon, until they had raiſed Power to perform the ſame; and then to proclaim, All Grievances in the Kingdom ſhould be reformed.

That they alſo took ſeveral Oaths, and receiv'd the Sacrament; Firſt, for Secrecy; Secondly, for Proſecution; except they were diſcharg'd thereof by three of them.

That after the Deſtruction of the King, the Queen, the Prince, the Royal Iſſue Male, the Lords Spiritual and Temporal, the Knights and Burgeſſes, they ſhould notify the ſame to foreign States;

States; and thereupon Sir *Edmund Baynam* an attainted Perſon of Treaſon, and ſtiling himſelf Prime of the damned Crew, ſhould be ſent and make the ſame known to the Pope, and crave his Aid: an Embaſſador fit both for the Meſſage and Perſons, to be ſent betwixt the Pope and the Devil.

That the Parliament being prorogued till the 7th of *February*, they in *December* made a Mine under the Houſe of Parliament, purpoſing to place their Powder there; but the Parliament being then further adjourned till the 3d of *October*, they in Lent following hired the Vault, and placed therein 20 Barrels of Powder.

That they took to them, *Robert Winter*, *Graunt* and *Rookwood*, giving them the Oaths and Sacrament as aforeſaid, as to provide Munition.

July 20. They laid in more ten Barrels of Powder, laying upon them divers great Bars of Iron, and pieces of Timber, and great maſſy Stones, and covered the ſame with Faggots, *&c.*

September 20. They laid in more, 4 Hogſheads of Powder, with other Stores and Bars of Iron thereupon.

November 4. (The Parliament being prorogued to the 5th) at 11 a Clock at Night, *Fawkes* had prepared (by the procurement of the reſt) Touchwood and Match, to give Fire to the Powder the next Day.

That the Treaſon being miraculouſly diſcovered, they put themſelves, and procured others to enter into open Rebellion; and gave out moſt untruly, It was for that the Papiſts Throats were to be cut.

The Effect of that which Sir *Edward Coke* Kt. his Majeſty's Attorney General, ſaid at the former Arraignment, ſo near to his own words as it could be taken.

It appeareth to your Lordſhips, and the reſt of this moſt honourable and grave Aſſembly, even by that which Mr. Serjeant hath already opened, that theſe are the greateſt Treaſons that ever were plotted in *England*, and concern the greateſt King that ever was of *England*. But when this Aſſembly ſhall further hear, and ſee diſcovered the Roots and Branches of the ſame, not hitherto publiſhed; they will ſay indeed, *Quis hæc poſteris ſic narrare poterit, ut facta non ficta eſſe videantur?* That when theſe things ſhall be related to Poſterity, they will be reputed matters feigned, not done. And therefore in this ſo great a Cauſe, upon the Carriage and Event whereof the Eye of all Chriſtendom is at this day bent; I ſhall deſire that I may with your Patience be ſomewhat more copious, and not ſo ſuccinct, as my uſual manner hath been; and yet will I be no longer than the very Matter it ſelf ſhall neceſſarily require. But before I enter into the particular Narration of this Cauſe, I hold it fit to give Satisfaction to ſome, and thoſe well affected amongſt us, who have not only marvelled, but grieved, that no ſpeedier Expedition hath been uſed in theſe Proceedings, conſidering the Monſtrouſneſs and continual Horror of this ſo deſperate a Cauſe.

1. It is, *Ordo Naturæ*, agreeable to the Order of Nature, that things of great weight and magnitude ſhould ſlowly proceed, according to that of the Poet, *Tarda ſolet magnis rebus adeſſe fides.* And ſurely of theſe things we may truly ſay, *Nunquam ante dies noſtros talia acciderunt*; neither hath the Eye of Man ſeen, nor the Ear of Man heard the like things to theſe.

2. *Veritas temporis filia*, Truth is the Daughter of Time; eſpecially in this Caſe, wherein by timely and often Examinations, *Firſt*, Matters of greateſt moment have been lately found out. *Secondly*, ſome known Offenders, and thoſe Capital, but lately apprehended. *Thirdly*, Sundry of the principal Arch-Traitors before unknown, now manifeſted, as the Jeſuits. *Fourthly*, Heretical, treaſonable and damnable Books lately found out; one of Equivocation, and another, *De officio Principis Chriſtiani*, of *Francis Treſham*'s.

3. There have been already twenty and three ſeveral days ſpent in Examinations.

4. We ſhould otherwiſe have hanged a Man unattainted, for *Guy Fawkes* paſſed for a time under the name of *John Johnſon*: So that if by that name greater Expedition had been made, and he hanged, though we had not miſſed of the Man, yet the Proceeding would not have been ſo orderly or juſtifiable.

5. The King out of his Wiſdom and great Moderation, was pleaſed to appoint this Tryal in time of Aſſembly in Parliament, for that it concerned eſpecially thoſe of the Parliament.

Now touching the Offences themſelves, they are ſo exorbitant and tranſcendent, and aggregated of ſo many bloody and fearful Crimes, as they cannot be aggravated by any Inference, Argument or Circumſtance whatſoever; and that in three reſpects:

Firſt, Becauſe this Offence is *Primæ impreſſionis*, and therefore *ſine Nomine*, without any name which might be *adæquatum* ſufficient to expreſs it, given by any Legiſt, that ever made or writ of any Laws. For the higheſt Treaſon that all they could imagine, they called it only *Crimen læſæ Majeſtatis*, the violating of the Majeſty of the Prince. But this Treaſon doth want an apt name, as tending not only to the Hurt, but to the Death of the King; and not the Death of the King only, but of his whole Kingdom, *Non Regis ſed Regni*, that is to the Deſtruction and Diſſolution of the Frame and Fabrick of this antient, famous, and ever-flouriſhing Monarchy; even the Deletion of our whole Name and Nation: *And therefore hold not thy Tongue, O God, keep not ſtill ſilence, refrain not thy ſelf, O God; for loe thine Enemies make a murmuring, and they that hate thee have lift up their Heads; They have ſaid come, and let us root them out, that they be no more a People, and that the Name of* Iſrael *may be no more in remembrance.* Pſal. 83. 1, 2, 3, 4, 5.

Secondly, It is, *Sine exemplo*, beyond all Examples, whether in Fact or Fiction, even of the tragick Poets, who did beat their Wits to repreſent the moſt fearful and horrible Murders.

Thirdly, It is, *Sine modo*, without all meaſure or ſtint of Iniquity; like a Mathematical Line, which is, *diviſibilis in ſemper diviſibilia*, infinitely diviſible.

It is Treaſon to imagine or intend the Death of the King, Queen, or Prince.

For Treaſon is like a Tree whoſe Root is full of Poiſon, and lieth ſecret and hid within the Earth, reſembling the Imagination of the Heart of Man, which is ſo ſecret as God only knoweth it. Now the Wiſdom of the Law provideth for the blaſting and nipping, both of the Leaves, Bloſſoms, and Buds which proceed from this Root of Treaſon; either by Words, which are like to Leaves, or by ſome overt Act, which may be reſembled to Buds or Bloſſoms, before it cometh to ſuch Fruit and Ripeneſs, as would bring utter Deſtruction and Deſolation upon the whole State.

It

It is likewiſe Treaſon to kill the Lord Chancellor, Lord Treaſurer, or any Juſtice of the one Bench or other; Juſtices of Aſſize, or any other Judge mentioned in the Statute of 25 *Edw.* III. ſitting in their judicial Places, and exerciſing their Offices. And the reaſon is, for that every Judge ſo ſitting by the King's Authority, repreſenteth the Majeſty and Perſon of the King; and therefore it is *Crimen læſæ Majeſtatis*, to kill him, the King being always in Judgment of Law preſent in Court. But in the high Court of Parliament, every Man by virtue of the King's Authority, by Writ under the Great Seal, hath a judicial Place; and ſo conſequently the killing of every of them had been a ſeveral Treaſon, and *Crimen læſæ Majeſtatis*. Beſides, that to their Treaſons were added open Rebellion, Burglary, Robbery, Horſeſtealing, *&c.* So that this Offence is ſuch, as no Man can expreſs it, no Example pattern it, no Meaſure contain it.

Concerning foreign Princes; there was here a Proteſtation made for the clearing of them from all Imputation and Aſperſion whatſoever.

Firſt, For that whilſt Kingdoms ſtood in Hoſtility, hoſtile Actions are holden Honourable and Juſt.

Secondly, It is not the King's Serjeant, Attorney, or Sollicitor, that in any ſort touch or mention them: For we know that great Princes and Perſonages are reverently and reſpectively to be ſpoken of; and that there is *Lex in ſermone tenenda*. But it is *Fawkes*, *Winter*, and the reſt of the Offenders, that have confeſſed ſo much as hath been ſaid: And therefore the King's Counſel Learned doth but repeat the Offender's Confeſſion, and charge or touch no other Perſon. They have alſo ſlander'd unjuſtly our great Maſter King *James*, which we only repeat, to ſhew the Wickedneſs and Malice of the Offenders.

Thirdly, So much as is ſaid concerning foreign Princes, is ſo woven into the matter of the Charge of theſe Offenders, as it cannot be ſever'd, or ſingled from the reſt of the matter; ſo as it is inevitable, and cannot be pretermitted.

Now as this Powder-Treaſon is in it ſelf prodigious and unnatural, ſo it is in the Conception and Birth moſt monſtrous, as ariſing out of the dead Aſhes of former Treaſons. For it had three Roots, all planted and watered by Jeſuits, and *Engliſh* Romiſh Catholicks: The firſt Root in *England*, in *December* and *March*; the ſecond in *Flanders*, in *June*; the third in *Spain*, in *July*. In *England* it had two Branches, one in *December* was twelve Months before the death of the late Queen of bleſſed Memory; another in *March* wherein ſhe died.

Firſt in *December*, *Anno Dom.* 1601. do *Henry Garnet* Superior of the Jeſuits in *England*, *Robert Teſmond* Jeſuit, *Robert Catesby* (who was *bono ſubacto & verſuto ingenio & profunda perfidia*) together with *Francis Treſham* and others, in the names, and for the behalf of all the *Engliſh* Romiſh Catholicks, imploy *Thomas Winter* into *Spain*, as for the general good of the Romiſh Catholick Cauſe; and by him doth *Garnet* write his Letters to Father *Creſwell*, Jeſuit reſiding in *Spain*, in that behalf. With *Thomas Winter* doth *Teſmond*, alias *Greeneway* the Jeſuit, go as an Aſſociate and Confederate in that Conſpiracy. The Meſſage (which was principally committed unto the ſaid *Winter*) was, that he ſhould make a Propoſition and Requeſt to the King of *Spain*, in the behalf and names of the *Engliſh* Catholicks, That the King would ſend an Army hither into *England*, and that the Forces of the Catholicks in *England* ſhould be prepared to join with him, and do him Service. And further, that he ſhould move the King of *Spain* to beſtow ſome Penſions here in *England*, upon ſundry Perſons Catholicks, and devoted to his Service: And moreover, to give Advertiſement, that the ſaid King of *Spain*, making uſe of the general Diſcontentment that young Gentlemen and Soldiers were in, might no doubt, by relieving their Neceſſities, have them all at his devotion.

And becauſe that in all Attempts upon *England*, the greateſt difficulty was ever found to be the Tranſportation of Horſes; the Catholicks in *England* would aſſure the King of *Spain* to have always in readineſs for his Uſe and Service, 1500 or 2000 Horſes, againſt any occaſion or enterprize. Now *Thomas Winter* undertaking this Negotiation, and with *Teſmond* the Jeſuit coming into *Spain*, by means of Father *Creſwell* the Legier Jeſuit there, as hath been ſaid, had readily Speech with *Don Pedro Franceſa* ſecond Secretary of State, to whom he imparted his Meſſage, as alſo to the Duke of *Lerma*; who aſſured him, that it would be an Office very grateful to his Maſter, and that it ſhould not want his beſt Furtherance.

Concerning the Place for landing of the King of *Spain*'s Army, which from the *Engliſh* Romiſh Catholicks he deſired might be ſent to invade the Land; it was reſolved, That if the Army were great, then *Eſſex* and *Kent* were judged fitteſt, (where note by the way, who was then Lord Warden of the Cinque Ports:) If the Army were ſmall, and truſted upon Succour in *England*, then *Milford-haven* was thought more convenient.

Now there being at that time Hoſtility betwixt both Kingdoms, the King of *Spain* willingly imbraced the Motion, ſaying, that he took the Meſſage from the Catholicks very kindly, and that in all things he would reſpect them with as great Care as his proper *Caſtilians*. But for his further anſwer and full diſpatch, *Thomas Winter* was appointed to attend the Progreſs. In the end whereof, being in Summer time, Count *Miranda* gave him this anſwer in the behalf of his Maſter, That the King would beſtow 100000 Crowns to that uſe, half to be paid that Year, and the reſt the next Spring following; and withal required that we ſhould be as good as our Promiſe: for the next Spring he meant to be with us, and ſet foot in *England*. And laſtly, he deſired on the King's behalf, of *Winter*, that he might have certain Advertiſement and Intelligence, if ſo it ſhould in the mean time happen that the Queen did die. *Tho. Winter* laden with theſe Hopes, returns into *England* about a Month before *Chriſtmas*, and delivered anſwer of all that had paſſed, to *Henry Garnet*, *Robert Catesby*, and *Francis Treſham*. But ſoon after ſet that glorious Light, her Majeſty died: *Mira cano; Sol occubuit, Nox nulla ſecuta eſt.*

Preſently after whoſe Death was *Chriſtopher Wright*, another Meſſenger, ſent over into *Spain* by *Garnet*, (who likewiſe did write by him to *Creſwell*, for the furtherance of the Negotiation) *Catesby* and *Treſham*, in the name and behalf of all the Romiſh Catholicks in *England*; as well to carry News of her Majeſty's Death, as alſo to continue the aforeſaid Negotiation for an Invaſion and Penſions, which by *Tho. Winter* had before been dealt in. And in the *Spaniſh* Court, about two Months after his arrival there, doth *Chriſtopher Wright* meet with *Guy Fawkes*; who upon the 22d of *June* was imployed out of *Flanders* from *Bruſſels* by Sir

William Stanley, *Hugh Owen*, (whoſe Finger hath been in every Treaſon which hath been of late Years detected) and *Baldwyn* the Legier Jeſuit in *Flanders*; from whom likewiſe the ſaid *Fawkes* carried Letters to *Creſwell* in *Spain*, for the countenancing and furtherance of his Affairs.

Now the End of *Fawkes*'s imployment was, to give Advertiſement to the King of *Spain*, how the King of *England* was like to proceed rigorouſly with the Catholicks, and to run the ſame courſe which the late Queen did; and withal to intreat that it would pleaſe him to ſend an Army into *England* to *Milford-haven*, where the Romiſh Catholicks would be ready to aſſiſt him; and then the Forces that ſhould be tranſported in *Spinola*'s Galliſes, ſhould be landed where they could moſt conveniently. And theſe their ſeveral Meſſages did *Chriſtopher Wright* and *Guy Fawkes* in the end intimate and propound to the King of *Spain*. But the King as then very honorably anſwered them both, that he would not in any wiſe further liſten to any ſuch Motion, as having before diſpatched an Embaſſy into *England*, to treat concerning Peace. Therefore this Courſe by foreign Forces failing, they fell to the Powder-Plot, *Catesby* and *Treſham* being in at all; in the Treaſon of the Earl of *Eſſex*, in the Treaſon of *Watſon* and *Clarke* Seminary Prieſts, and alſo in this of the Jeſuits; ſuch a greedy Appetite had they to practiſe againſt the State.

The reſt of that which Mr. Attorney then ſpake continuedly, was by himſelf divided into three general parts. The firſt containing certain Conſiderations concerning this Treaſon. The ſecond Obſervations about the ſame. The third a Compariſon of this Treaſon of the Jeſuits, with that of the Seminary Prieſts, and that other of *Raleigh* and others.

For the Conſiderations concerning the Powder-Treaſon, they were in Number eight: That is to ſay, 1. The Perſons by whom. 2. The Perſons againſt whom. 3. The Time when. 4. The Place where. 5. The Means. 6. The End. 7. The ſecret Contriving. And laſtly, The admirable Diſcovery thereof.

1. For the Perſons offending, or by whom, they are of two ſorts; either of the Clergy, or Laity: and for each of them there is a ſeveral Objection made. Touching thoſe of the Laity, it is by ſome given out, that they are ſuch Men, as admit juſt Exception, either deſperate in Eſtate, or baſe, or not ſettled in their Wits; ſuch as are *Sine Religione*, *Sine Sede*, *Sine Fide*, *Sine Re*, *& Sine Spe*; without Religion, without Habitation, without Credit, without Means, without Hope. But (that no Man, tho never ſo wicked, may be wronged) true it is, they were Gentlemen of good Houſes, of excellent Parts, howſoever moſt perniciouſly ſeduced, abuſed, corrupted, and jeſuited, of very competent Fortunes and States. Beſides that *Piercy* was of the Houſe of *Northumberland*, Sir *William Stanley*, who principally imployed *Fawkes* into *Spain*, and *John Talbot* of *Graſton*, who at the leaſt is in Caſe of Miſpriſion of High Treaſon, both of great and honourable Families. Concerning thoſe of the Spiritualty, it is likewiſe falſly ſaid, That there is never a religious Man in this Action. For I never yet knew a Treaſon without a Romiſh Prieſt; but in this there are very many Jeſuits, who are known to have dealt and paſſed through the whole Action: Three of them are Legiers and Stateſmen, as *Henry Garnet*, alias *Walley*, the Superior of the Jeſuits, Legier here in *England*; Father *Creſwell* Legier Jeſuit in *Spain*, Father *Baldwyn* Legier in *Flanders*, as *Parſons* at *Rome*; beſides their curſory Men, as *Gerrard*, *Oſwald*, *Teſmond* alias *Greeneway*, *Hamond*, *Hall*, and other Jeſuits. So that the principal Offenders are the ſeducing Jeſuits; Men that uſe the Reverence of Religion, yea, even the moſt ſacred and bleſſed Name of Jeſus, as a Mantle to cover their Impiety, Blaſphemy, Treaſon and Rebellion, and all manner of Wickedneſs, as by the help of Chriſt ſhall be made moſt apparent to the Glory of God, and the Honour of our Religion. Concerning this Sect, their Studies and Practices principally conſiſt in two DD's, to wit, in depoſing of Kings, and diſpoſing of Kingdoms: their Profeſſion and Doctrine is a Religion of Diſtinctions, the greateſt part of them being without the Text, and therefore in very deed, idle and vain Conceits of their own Brains; not having *Membra dividentia*, that is, all the parts of the diviſion warranted by the Word of God; and *ubi lex non diſtinguit, nec nos diſtinguere debemus*. And albeit that Princes hold their Crowns immediately of and from God, by Right of lawful Succeſſion and Inheritance inherent by Royal Blood; yet think theſe Jeſuits with a Gooſe-quill, within four diſtinctions to remove the Crown from the Head of any King chriſtened, and to deal with them, as the old *Romans* are ſaid to have done with their Viceroys, or petty Kings, who in effect were but Lieutenants unto them, to crown and uncrown them at their pleaſures. Neither ſo only, but they will proſcribe and expoſe them to be butchered by Vaſſals, which is againſt their own Canons, for Prieſts to meddle in cauſe of Blood. And by this means they would make the Condition of a King far worſe than that of the pooreſt Creature that breatheth. Firſt ſaith *Simanca*; *Hæretici omnes ipſo jure ſunt Excommunicati, & à Communione fidelium diris proſcriptionibus ſeparati, & quotannis in cœna Domini excommunicantur à Papa:* So then every Heretick ſtands and is reputed with them as excommunicated and accurſed, if not *de Facto*, yet *de Jure*, in Law and Right, to all their Intents and Purpoſes; therefore may he be depoſed, proſcribed and murdered. I but ſuppoſe he be not a profeſſed Heretick, but dealeth reſervedly, and keepeth his Conſcience to himſelf; how ſtands he then? *Simanca* anſwers, *Quæri autem ſolet an Hæreticus occultus excommunicatus ſit ipſo Jure, & in alias etiam pœnas incidat contra Hæreticos ſtatutas? Cui quæſtioni ſimpliciter Juriſperiti reſpondent, quod etſi hæreſis occulta ſit, nihilominus occultus Hæreticus incidit in illas pœnas.* Whether he be a known or a ſecret Heretick all is one, they thunder out the ſame Judgment and Curſe for both; whereas Chriſt ſaith, *Nolite judicare*, judge not, which is, ſaith *Auguſtine*, *Nolite judicare de occultis*, of thoſe things which are ſecret. But ſuppoſe that a Prince thus accurſed and depoſed, will eſtſoons return and conform himſelf to their Romiſh Church, ſhall he then be reſtored to his State, and again receive his Kingdom? nothing leſs: For ſaith *Simanca*, *Si Reges aut alii Principes Chriſtiani facti ſint Hæretici, protinus ſubjecti & vaſſalli ab eorum dominio liberantur; nec jus hoc recuperabunt, quamvis poſtea reconcilientur Eccleſiæ.* O but, *Sancta Mater Eccleſia nunquam claudit gremium redeunti*; our Holy Mother the Church never ſhuts her Boſom to any Convert. It is true, ſay they, but with a diſtinction, *Quoad Animam*: Therefore ſo he may, and ſhall be reſtored; that is, ſpiritually, in reſpect of his Soul's health. *Quoad Animam*, he ſhall again be taken into the Holy Church; but not *Quoad Regnum*, in reſpect of

of his Kingdom or State Temporal, he muſt not be reſtored. The reaſon is, becauſe all hold only thus far, *Modo non ſit ad damnum Eccleſiæ*, ſo that the Church receive thereby no detriment. I but ſuppoſe that ſuch an unhappy depoſed Prince have a Son, or lawful and right Heir, and he alſo not to be touched or ſpotted with his Father's Crime, ſhall not he at the leaſt ſucceed, and be inveſted into that princely Eſtate? Neither will this down with them; Hereſy is a Leproſy, and hereditary Diſeaſe: *Et ex leproſis parentibus leproſi generantur filii*; Of leprous Parents, come leprous Children. So that ſaith *Simanca*, *Propter Hereſim Regis, non ſolum Rex regno privatur, ſed & ejus filii a regni ſucceſſione pelluntur, ut noſter Lupus* (who is indeed, *Vir ſecundum nomen ejus*, a Wolf as well in Nature as Name) *luculenter probat*. Now if any Man doubt whom they here mean by an Heretick, *Creſwell* in his Book called *Philopater*, gives a plain Reſolution; *Regnandi jus amittit* (ſaith he) *qui Religionem Romanam deſerit*, he is the Heretick we ſpeak of; even whoſoever forſakes the Religion of the Church of *Rome*, he is accurſed, deprived, proſcribed, never to be abſolved but by the Pope himſelf, never to be reſtored either in himſelf or his Poſterity.

One place amongſt many out of *Creſwell*'s *Philopater*, ſhall ſerve to give a Taſte of the jeſuitical Spirits and Doctrine; which is, *Sect.* 2. *pag.* 109. *Hinc etiam infert univerſa Theologorum ac Juriſconſultorum Eccleſiaſticorum ſchola, (& eſt certum & de fide) quemcunq; Principem Chriſtianum, ſi a Religione Catholica manifeſto diflexerit, & alios avocare voluerit, excidere ſtatim omni poteſtate ac dignitate, ex ipſa vi juris tum humani tum divini, hocq; ante dictam ſententiam ſupremi paſtoris ac judicis contra ipſum prolatam, & ſubditos quoſcunq; liberos eſſe ab omni Juramenti obligatione, quod de obedientia tanquam Principi legitimo præſtitiſſent; poſſeq; & debere (ſi vires habeant) iſtiuſmodi hominem tanquam Apoſtatam, Hæreticum, ac Chriſti Domini Deſertorem, & Reipub. ſuæ inimicum hoſtemq; ex hominum Chriſtianorum dominatu eijcere, ne alios inficiat, vel ſuo exemplo aut Imperio a fide avertat. Atque hæc certa, definita & indubitata virorum doctiſſimorum ſententia.* That is, this inference alſo doth the whole School both of Divines and Lawyers make, (and it is a Poſition certain, and to be undoubtedly believed) that if any Chriſtian Prince whatſoever, ſhall manifeſtly turn from the Catholick Religion, and deſire or ſeek to reclaim other Men from the ſame, he preſently falleth from all princely Power and Dignity; and that alſo by virtue and force of the Law it ſelf, both divine and human, even before any Sentence pronounced againſt him by the ſupreme Paſtor and Judge. And that his Subjects of what Eſtate or Condition ſoever, are freed from all bond of Oath of Allegiance, which at any time they had made unto him as to their lawful Prince. Nay, that they both may and ought (provided they have competent Strength and Force) caſt out ſuch a Man from bearing Rule amongſt Chriſtians, as an Apoſtate, an Heretick, a Backſlider and Revolter from our Lord Chriſt, and an Enemy to his own State and Commonwealth, leſt perhaps he might infect others, or by his Example or Command turn them from the Faith. And this is the certain, reſolute, and undoubted Judgment of the beſt learned Men. But *Treſham* in his Book, *De officio Principis Chriſtiani*, goeth beyond all the reſt; for he plainly concludeth and determineth, that if any Prince ſhall but favour, or ſhew countenance to an Heretick, he preſently loſeth his Kingdom. In his fifth Chapter, he propoundeth this Problem, *An aliqua poſſit ſecundum Conſcientiam ſubditis eſſe Ratio, cur legitimo ſuo Regi, bellum ſine ſcelere moveant?* Whether there may be any lawful Cauſe, juſtifiable in Conſcience, for Subjects to take Arms without Sin, againſt their lawful Prince and Sovereign? The Reſolution is, *Si Princeps hæreticus ſit & obſtinate ac pertinaciter intolerabilis, ſummi Paſtoris divina poteſtate deponatur, & aliud caput conſtituatur, cui ſubditi ſe jungant, & legitimo ordine & authoritate tyrannidem amoveant. Princeps indulgendo hæreticos non ſolum Deum offendit, ſed perdit & regnum & gentem.* Their Concluſion therefore is, that for Hereſy as above is underſtood, a Prince is to be depoſed, and his Kingdom beſtowed by the Pope at pleaſure, and that the People upon pain of Damnation, are to take part with him whom the Pope ſhall ſo conſtitute over them. And thus whilſt they imagine with the Wings of their light-feathered Diſtinctions to mount above the Clouds and Level of vulgar Conceits, they deſperately fall into a Sea of groſs Abſurdities, Blaſphemy, and Impiety. And ſurely the Jeſuits were ſo far ingaged in this Treaſon, as that ſome of them ſtick not to ſay, that if it ſhould miſcarry, that they were utterly undone, and that it would overthrow the State of the whole Society of the Jeſuits: And I pray God that in this, they may prove true Prophets, that they may become like the Order of *Templarii*, ſo called for that they kept near the Sepulchre at *Jeruſalem*, who were by a general and univerſal Edict in one Day throughout Chriſtendom quite extinguiſhed, as being *Ordo Impietatis*, an Order of Impiety. *And ſo from all Sedition and privy Conſpiracy, from all falſe Doctrine and Hereſy, from Hardneſs of Heart and Contempt of thy Word and Commandment, Good Lord deliver us.* Their Proteſtations and Pretences, are to win Souls to God; their Proofs weak, light, and of no value; their Concluſions falſe, damnable, and damned Hereſies: The firſt mentioneth God, the ſecond ſavoureth of weak and frail Man, the laſt of the Devil; and their Practice eaſily appeareth out of the Dealing of their Holy Father.

Henry III. of *France* for killing a Cardinal, was excommunicated, and after murdered by *James Clement* a Monk: That Fact doth *Sixtus Quintus* then Pope, inſtead of orderly cenſuring thereof, not only approve, but commend in a long conſiſtory Oration. That a Monk, a religious Man ſaith he, hath ſlain the unhappy *French* King in the midſt of his Hoſt, it is *rarum, inſigne, memorabile Facinus*, a rare, a notable, and a memorable Act; yea further, it is, *Facinus non ſine Dei optimi Maximi particulari providentia & diſpoſitione, &c.* A Fact done not without the ſpecial Providence and Appointment of our Good God, and the ſuggeſtion and aſſiſtance of his Holy Spirit; yea, a far greater work than was the ſlaying of *Holofernes* by Holy *Judith*.

Verus Monachus fictum occiderat, a true Monk had killed the falſe Monk; for that, as was reported, *Henry* III. ſometimes would uſe that Habit when he went in Proceſſion: And for *France*, even that part thereof which entertaineth the Popiſh Religion, yet never could of antient time brook this uſurped Authority of the See of *Rome*; namely, that the Pope had Power to excommunicate Kings, and abſolve Subjects from their Oath of Allegiance: which Poſition is ſo directly oppoſite to all the Canons of the Church of *France*, and to all the Decrees of the King's Parliament there, as that the very Body of *Sorbonne*, and the whole Univerſity of *Paris*,

condemned it as a moſt ſchiſmatical, peſtilent and pernicious Doctrine of the Jeſuits; as may appear in a Treatiſe made to the *French* King, and ſet out 1602. intitled, *Le franc Diſcours*. But to return to the Jeſuits, *Catesby* was reſolved by the Jeſuits, that the Fact was both lawful and meritorious; and herewith he perſuaded and ſettled the reſt, as any ſeemed to make doubt.

Concerning *Thomas Bates*, who was *Catesby*'s Man, as he was wound into this Treaſon by his Maſter, ſo was he reſolved, when he doubted of the Lawfulneſs thereof, by the Doctrine of the Jeſuits. For the manner, it was after this ſort: *Catesby* noting that his Man obſerved him extraordinarily, as ſuſpecting ſomewhat of that which he the ſaid *Catesby* went about, called him to him at his Lodging in *Puddle-wharfe*; and in the preſence of *Thomas Winter*, asked him what he thought the buſineſs was they went about, for that he of late had ſo ſuſpiciouſly and ſtrangely marked them. *Bates* anſwered, that he thought they went about ſome dangerous matter, whatſoever the particular were: whereupon they asked him again what he thought the buſineſs might be; and he anſwered that he thought they intended ſome dangerous matter about the Parliament-Houſe, becauſe he had been ſent to get a Lodging near unto that place. Then did they make the ſaid *Bates* take an Oath to be ſecret in the Action; which being taken by him, they then told him that it was true, that they were to execute a great matter; namely, to lay Powder under the Parliament Houſe to blow it up. Then they alſo told him that he was to receive the Sacrament for the more aſſurance, and thereupon he went to Confeſſion, to the ſaid *Teſmond* the Jeſuit; and in his Confeſſion told him, that he was to conceal a very dangerous piece of work, that his Maſter *Catesby* and *Thomas Winter* had imparted unto him, and ſaid he much feared the matter to be utterly unlawful, and therefore therein deſired the Counſel of the Jeſuit; and revealed unto him the whole intent and purpoſe of blowing up the Parliament-Houſe upon the firſt Day of the Aſſembly; at what time the King, the Queen, the Prince, the Lords Spiritual and Temporal, the Judges, the Knights, Citizens and Burgeſſes, ſhould all have been there convented and met together. But the Jeſuit being a Confederate therein before, reſolved and incouraged him in the Action; and ſaid that he ſhould be ſecret in that which his Maſter had imparted unto him, for that it was for a good Cauſe. Adding moreover, that it was not dangerous unto him, nor any Offence to conceal it: and thereupon the Jeſuit gave him Abſolution, and *Bates* received the Sacrament of him, in the Company of his Maſter *Robert Catesby* and *Thomas Winter*. Alſo when *Rookewood* in the preſence of ſundry of the Traytors (having firſt received the Oath of Secrecy) had by *Catesby* imparted unto him the Plot of blowing up the King and State; the ſaid *Rookewood* being greatly amazed thereat, anſwered, that it was a matter of Conſcience to take away ſo much Blood: but *Catesby* replied, that he was reſolved, and that by good Authority (as coming from the Superior of the Jeſuits) that in Conſcience it might be done, yea, though it were with the Deſtruction of many Innocents, rather than the Action ſhould quaile. Likewiſe Father *Hammond* abſolved all the Traytors at *Robert Winter*'s Houſe, upon Thurſday after the diſcovery of the Plot, they being then in open Rebellion: And therefore, *Hos, O Rex magne, caveto*; and let all Kings take heed, how they either favour or give allowance or connivance unto them.

2. The ſecond Conſideration reſpecteth the Perſons againſt whom this Treaſon was intended; which are, 1. The King, who is God's Anointed. Nay, it hath pleaſed God to communicate unto him his own Name. *Dixi, Dii eſtis*, not ſubſtantially or eſſentially ſo, neither yet on the other ſide *Uſurpativè*, by unjuſt Uſurpation, as the Devil and the Pope; but *Poteſtativè*, as having his Power derived from God within his Territories. 2. Their natural liege Lord, and dread Sovereign, whoſe juſt Intereſt and Title to this Crown, may be drawn from before the Conqueſt; and if he were not a King by Deſcent, yet deſerved he to be made one for his rare and excellent Endowments and Ornaments both of Body and Mind. Look into his true and conſtant Religion and Piety, his Juſtice, his Learning above all Kings chriſtened, his Acumen, his Judgment, his Memory; and you will ſay that he is indeed, *Solus præteritis major, meliorque futuris*. But becauſe I cannot ſpeak what I would, I will forbear to ſpeak what I could. Alſo againſt the Queen, a moſt gracious and graceful Lady, a moſt vertuous, fruitful, and bleſſed Vine, who hath happily brought forth ſuch Olive-branches, as that *in benedictione erit Memoria ejus*, her Memory ſhall be bleſſed of all our Poſterity. Then againſt the Royal Iſſue Male, next under God, and after our Sovereign the future Hope, Comfort, Joy, and Life of our State. And as for preſerving of the good Lady *Elizabeth* the King's Daughter, it ſhould only have been for a time to have ſerved their Purpoſes, as being thought a fit Project to keep others in Appetite for their own further Advantage; and then God knoweth what would have become of her. To conclude, againſt all the moſt honourable and prudent Counſellors, and all the true-hearted and worthy Nobles, all the Reverend and Learned Biſhops, all the grave Judges and Sages of the Law, all the principal Knights, Gentry, Citizens and Burgeſſes of Parliament, the Flower of the whole Realm. *Horret Animus*, I tremble even to think of it: Miſerable Deſolation! no King, no Queen, no Prince, no Iſſue Male, no Counſellors of State; no Nobility, no Biſhops, no Judges! O barbarous, and more than *Scythian* or *Thracian* Cruelty! No mantle of Holineſs can cover it, no pretence of Religion can excuſe it, no ſhadow of good Intention can extenuate it; God and Heaven condemn it, Man and Earth deteſt it, the Offenders themſelves were aſhamed of it; wicked People exclaim againſt it, and the Souls of all true Chriſtian Subjects abhor it: miſerable, but yet ſudden had their Ends been, who ſhould have died in that fiery Tempeſt, and Storm of Gunpowder. But more miſerable had they been that had eſcaped; and what horrible Effects the blowing up of ſo much Powder and Stuff would have wrought, not only amongſt Men and Beaſts, but even upon inſenſible Creatures, Churches, and Houſes, and all places near adjoining; you who have been martial Men beſt know. For my ſelf, *Vox faucibus hæret*: So that the King may ſay with the kingly Prophet *David*; *O Lord, the Proud are riſen againſt me, and the Congregation, even* Synagoga, *the Synagogue of naughty Men have ſought after my Soul, and have not ſet thee before their Eyes*, Pſal. 86. 14. *The Proud have laid a Snare for me, and ſpread a Net abroad, yea, and ſet Traps in my way*, Pſal. 140. 5. *But let the Ungodly fall into their own Nets together, and let me ever eſcape them*, Pſal. 141. 11. We may ſay, *If the Lord himſelf had not been on our ſide*;

yea,

yea, if the Lord himself had not been on our side, when Men rose up against us, they had swallowed us up quick, when they were so wrathfully displeased at us: But praised be the Lord, which hath not given us over for a Prey unto their Teeth. Our Soul is escaped even as a Bird out of the Snare of the Fowler, the Snare is broken, and we are delivered; our help standeth in the name of the Lord which hath made Heaven and Earth. Psal. 124.

3. The third Consideration respects the Time when this Treason was conspired; wherein note that it was *Primo Jacobi*, even at that time when his Majesty used so great Lenity towards Recusants, in that by the space of a whole Year and four Months, he took no Penalty by Statute of them. So far was his Majesty from Severity, that besides the benefit and grace before specified, he also honoured all alike with Advancement and Favours; and all this was continued until the Priests Treason, by *Watson* and *Clarke*. But as there is *Misericordia puniens*, so is there likewise *Crudelitas parcens*: For they were not only by this not reclaimed, but (as plainly appeareth) became far worse. Nay, the Romish Catholicks did at that very time certify that it was very like, the King would deal rigorously with them, and the same do these Traytors now pretend, as the chiefest Motive; whereas indeed they had Treason on foot against the King, before they saw his Face in *England*: Neither afterwards for all the Lenity he used towards them, would any whit desist or relent from their wicked Attempts. Nay, (that which cometh next to be remembred in this part of their Arraignment) they would pick out the time of Parliament for the Execution of their hideous Treasons, wherein the Flower of the Land being assembled, for the Honour of God, the Good of his Church, and this Commonwealth; they might as it were with one Blow, not wound, but kill and destroy the whole State: So that with these Men, *Impunitas continuum affectum tribuit peccandi*, Lenity having once bred a hope of Impunity, begat not only Insolency, but Impenitency and Increase of Sin.

4. We are to consider the Place, which was the sacred Senate, the House of Parliament. And why there? For that, say they, unjust Laws had formerly been there made against Catholicks: Therefore that was the fittest place of all others to revenge it, and to do Justice in. If any ask who should have executed this their Justice, it was Justice *Fawkes*, a Man like enough to do according to his Name. If by what Law they meant to proceed; it was Gunpowder Law, fit for Justices of Hell. But concerning those Laws which they so calumniate as unjust, it shall in few words plainly appear, that they were of the greatest both Moderation and Equity that ever were any. For from the Year 1 *Eliz.* unto 11. all Papists came to our Church and Service without Scruple. I my self have seen *Cornwallis*, *Beddingfield*, and others at Church: so that then for the space of 10 Years, they made no Conscience nor doubt to communicate with us in Prayer. But when once the Bull of Pope *Pius Quintus* was come and published, wherein the Queen was accursed and deposed, and her Subjects discharged of their Obedience and Oath, yea cursed if they did obey her; then did they all forthwith refrain the Church, then would they have no more Society with us in Prayer: So that Recusancy in them is not for Religion, but in an acknowledgment of the Pope's Power, and a plain manifestation what their Judgment is concerning the Right of the Prince in respect of Regal Power and Place. Two years after, *viz.* 13 *Eliz.* was there a Law made against the bringing in of Bulls, *&c.* *Anno* 18. came *Mayne* a Priest to move Sedition. *Anno* 20. came *Campion* the first Jesuit, who was sent to make a Party here in *England*, for the Execution of the former Bull: Then follows treasonable Books. *Anno* 23 *Eliz.* after so many Years sufferance, there were Laws made against Recusants, and seditious Books. The Penalty or Sanction for Recusancy, was not loss of Life, or Limb, or whole State, but only a pecuniary Mulct and Penalty, and that also until they would submit and conform themselves, and again come to Church, as they had done for 10 years before the Bull. And yet afterwards the Jesuits and Romish Priests both coming daily into, and swarming within the Realm, and infusing continually this Poison into the Subjects Hearts, that by reason of the said Bull of *Pius Quintus*, her Majesty stood excommunicated and deprived of her Kingdom, and that her Subjects were discharged of all Obedience to her, endeavouring by all means to draw them from their Duty and Allegiance to her Majesty, and to reconcile them to the Church of *Rome*; then 27 *Eliz.* a Law was made, that it should be Treason for any (not to be a Priest and an *Englishman*, born the Queen's natural Subject, but for any) being so born her Subject, and made a Romish Priest, to come into any of her Dominions, to infect any her loyal Subjects with their treasonable and damnable Persuasions and Practices: yet so, that it concerned only such as were made Priests, sithence her Majesty came to the Crown, and not before.

Concerning the Execution of these Laws, it is to be observed likewise, that whereas in the Quinquenny, the five years of Queen *Mary*, there were cruelly put to death about 300 Persons for Religion; in all her Majesty's time by the space of 44 years and upwards, there were for treasonable Practices executed, in all not 30 Priests, nor above five Receivers and Harbourers of them; and for Religion not any one. And here by the way, I desire those of Parliament to observe, that it is now questioned and doubted, whether the Law of Recusants and reconciled Persons do hold for *Ireland* also, and the parts beyond the Seas: That is, whether such as were there reconciled be within the compass of the Statute or not, to the end it may be cleared and provided for.

Now against the usurped Power of the See of *Rome*, we have of former times about 13 several Acts of Parliament: So that the Crown and King of *England* is no ways to be drawn under the Government of any foreign Power whatsoever, neither oweth Duty to any, but is immediately under God himself. Concerning the Popes, for 33 of them, namely unto *Sylvester*, they were famous Martyrs. But *Quicunque desiderat primatum in terris, inveniet confusionem in cœlis*: He that desires Primacy upon Earth, shall surely find Confusion in Heaven.

5. The fifth Consideration is of the End, which was to bring a final and fatal Confusion upon the State. For howsoever they sought to shadow their Impiety with the Cloke of Religion, yet they intended to breed a Confusion fit to get new Alterations, for they went to join with Romish Catholicks, and discontented Persons.

6. Now the sixth Point, which is the Means to compass and work these Designs, were damnable; by Mining, by 36 Barrels of Powder, having Crows of Iron, Stones and Wood laid upon the Barrels, to have made the Breach the greater.

Lord;

Lord, what a Wind, what a Fire, what a Motion and Commotion of Earth and Air would there have been! But as it is in the Book of *Kings*, when *Elias* was in the Cave of the Mount *Horeb*, and that he was called forth to ſtand before the Lord, behold a mighty ſtrong Wind rent the Mountains, and brake the Rocks; *ſed non in vento Dominus, but the Lord was not in the Wind.* And after the Wind, came a Commotion of the Earth and Air; *Et non in Commotione Dominus, the Lord was not in that Commotion:* And after the Commotion come Fire; *& non in igne Dominus, the Lord was not in the Fire.* So neither was God in any part of this monſtrous Action. The Authors whereof were in this reſpect worſe than the very damned Spirit of *Dives*, who, as it is in the Goſpel, deſired that others ſhould not come *in locum tormentorum.*

7. The next Conſideration is, the ſecret Continuing and Carriage of this Treaſon; to which purpoſe there were four means us'd:

Firſt, *Catesby* was commended to the Marquiſs for a Regiment of Horſe in the *Low-Countries*, (which is the ſame that the Lord *Arundel* now hath) that under that pretence he might have furniſhed this Treaſon with Horſes without Suſpicion.

The Second means was an Oath, which they ſolemnly and ſeverally took, as well for Secrecy, as Perſeverance and Conſtancy in the execution of their Plot. The Form of the Oath was as follows:

YOU ſhall ſwear by the bleſſed Trinity, and by the Sacrament you now purpoſe to receive, never to diſcloſe directly nor indirectly, by Word or Circumſtance, the matter that ſhall be propoſed to you to keep ſecret, nor deſiſt from the Execution thereof, until the reſt ſhall give you leave.

This Oath was, by *Gerrard* the Jeſuit, given to *Catesby*, *Percy*, *Chriſtopher Wright*, and *Thomas Winter* at once; and by *Greenwel* the Jeſuit, to *Bates* at another time, and ſo to the reſt.

The Third, was the Sacrament; which they impiouſly and deviliſhly prophaned to this end.

But the Laſt, was their perfidious and perjurious Equivocating, abetted, allowed, and juſtified by the Jeſuits, not only ſimply to conceal or deny an open Truth, but religiouſly to aver, to proteſt upon Salvation, to ſwear that which themſelves know to be moſt falſe; and all this, by reſerving a ſecret and private Senſe inwardly to themſelves: whereby they are, by their Ghoſtly Fathers, perſuaded, That they may ſafely and lawfully delude any Queſtion whatſoever.

And here was ſhewed a Book written not long before the Queen's death, at what time *Thomas Winter* was employed into *Spain*, entituled, *A Treatiſe of Equivocation.* Which Book being ſeen and allowed by *Garnet*, the Superior of the Jeſuits, and *Blackwel* the Archprieſt of *England*, in the beginning thereof, *Garnet* with his own hand put out thoſe words in the Title *of Equivocation*, and made it thus; *A Treatiſe againſt Lying, and fraudulent Diſſimulation.* Whereas indeed and truth it makes for both, *Speciosaque nomina Culpæ imponis, Garnette, tuæ.* And in the end thereof, *Blackwel* beſprinkles it with his Bleſſing, ſaying, *Tractatus iſte, valde doctus & vere pius, & Catholicus eſt; certe S. Scripturarum, Patrum, Doctorum, Scholaſticorum, Canoniſtarum & optimarum Rationum preſidiis pleniſſime firmat æquitatem æquivocationis; ideoque digniſſimus eſt qui Typis propagetur, ad conſolationem afflictorum Catholicorum, & omnium piorum inſtructionem.* That is, *This Treatiſe is very learned, godly, and Catholick, and doth moſt fully confirm the Equity of Equivocation, by ſtrong Proofs out of holy Scriptures, Fathers, Doctors, Schoolmen, Canoniſts, and ſoundeſt Reaſons; and therefore worthy to be publiſhed in Print, for the Comfort of afflicted Catholicks, and Inſtruction of all the Godly.*

Now, in this Book there is *Propoſitio mentalis, verbalis, ſcripta,* and *mixta*, diſtinguiſhing of a mental, a verbal, a written, and a mixed Propoſition, a very Labyrinth to lead Men into Error and Falſhood.

For example, to give you a little taſte of this art of Couzening: A Man is asked upon Oath this Queſtion, Did you ſee ſuch a one to-day? He may by this Doctrine anſwer, No, though he did ſee him, *viz.* reſerving this ſecret Meaning, not with purpoſe to tell my Lord Chief Juſtice: Or, I ſee him not *viſione beatifica*, or, not in *Venice*, &c. Likewiſe to anſwer thus; I was in the company; reſerving and intending ſecretly as added, this word *Not:* As *Strange* the Jeſuit did to my Lord Chief Juſtice and my ſelf. Take one or two of theſe out of that very Book, as for purpoſe: A Man cometh unto *Coventry* in time of a ſuſpicion of Plague, and at the Gates the Officers meet him, and upon his Oath examine him, Whether he came from *London* or no, where they think certainly the Plague to be: This Man knowing for certain the Plague not to be at *London*, or at leaſt knowing that the Air is not there infectious, and that he only rid through ſome ſecret place of *London*, not ſtaying there, may ſafely ſwear, he came not from *London*; anſwering to their final Intention in their Demand, that is, whether he came ſo from *London*, that he may endanger their City of the Plague, although their immediate Intention were to know, whether he came from *London* or no. That Man (ſaith the Book) the very Light of Nature would clear from Perjury.

In like manner, One being convented in the Biſhop's Court, becauſe he refuſeth to take ſuch a one to his Wife, as he had contracted with, *per verba de præſenti*, having contracted with another privily before, ſo that he cannot be Husband to her that claimeth him; may anſwer, That he never contracted with her *per verba de præſenti:* underſtanding, that he did not ſo contract that it was a Marriage; for that is the final Intention of the Judge, to know whether there were a ſufficient Marriage between them or no.

Never did Father *Cranmer*, Father *Latimer*, Father *Ridley*, thoſe bleſſed Martyrs, know theſe Shifts, neither would they have uſed them to have ſaved their Lives. And ſurely let every good Man take heed of ſuch Jurors or Witneſſes, there being no Faith, no Bond of Religion or Civility, no Conſcience of Truth in ſuch Men; and therefore the Concluſion ſhall be that of the Prophet *David, Domine libera Animam meam a labiis iniquis & a lingua doloſa; Deliver me, O Lord, from lying Lips, and from a deceitful Tongue.*

S. P. Q. R. was ſometimes taken for theſe Words, *Senatus Populuſque Romanus; the Senate and People of Rome*: but now they may truly be expreſſed thus, *Stultus Populus quærit Romam; A fooliſh People that runneth to* Rome. And here was very aptly and delightfully inſerted and related the Apologue or Tale of the Cat and the Mice: The Cat having a long time preyed upon the Mice, the poor Creatures at laſt, for their Safety, contained themſelves within their Holes; but the Cat finding his Prey to ceaſe, as being known to the Mice, that he was indeed their Enemy and a Cat, deviſeth

ſeth this Courſe following, *viz.* Changeth his Hue, getteth on a Religious Habit, ſhaveth his Crown, walks gravely by their Holes: And yet perceiving that the Mice kept their Holes, and looking out, ſuſpected the worſt, he formally, and father-like, ſaid unto them, *Quod fueram non ſum, frater; caput aſpice tonſum! Oh Brother, I am not as you take me for, no more a Cat; ſee my Habit and ſhaven Crown!* Hereupon ſome of the more credulous and bold among them, were again, by this Deceit, ſnatched up; and therefore, when afterwards he came as before to entice them forth, they would come out no more, but anſwered, *Cor tibi reſtat idem, vix tibi praſto fidem: Talk what you can, we will never believe you, you have ſtill a Cat's Heart within you:* You do not watch and pray, but you watch to prey. And ſo have the Jeſuits, yea, and Prieſts too, for they are all joined in the Tails like *Sampſon*'s Foxes, *Ephraim* againſt *Manaſſes*, and *Manaſſes* againſt *Ephraim*, but both againſt *Judah*.

8. The laſt Conſideration is concerning the admirable Diſcovery of this Treaſon, which was by one of themſelves, who had taken the Oath and Sacrament, as hath been ſaid, againſt his own will: The Means was by a dark and doubtful Letter ſent to my Lord *Mounteagle*.

And thus much as touching the Conſiderations; the Obſervations follow, to be conſidered in this Powder-Treaſon, and are briefly thus:

1. If the Cellar had not been hired, the Mine-work could hardly, or not at all have been diſcovered; for the Mine was neither found nor ſuſpected until the Danger was paſt, and the capital Offenders apprehended, and by themſelves, upon Examination, confeſſed.

2. How the King was divinely illuminated by Almighty God, the only Ruler of Princes, like an Angel of God, to direct and point as it were to the very Place, to cauſe a ſearch to be made there, out of thoſe dark Words of the Letter concerning a terrible Blow.

3. Obſerve a miraculous Accident which befel in *Stephen Littleton*'s Houſe, called *Holbach*, in *Staffordſhire*, after they had been two days in open Rebellion, immediately before the Apprehenſion of theſe Traitors: For ſome of them ſtanding by the Fire-ſide, and having ſet two pound and an half of Powder to dry in a Platter before the Fire, and underſet the ſaid Platter with a great Linen Bag full of other Powder, containing ſome fifteen or ſixteen pounds; it ſo fell out, that one coming to put more Wood into the Fire, and caſting it on, there flew a Coal into the Platter, by reaſon whereof the Powder taking fire and blowing up, ſcorched thoſe who were neareſt, as *Catesby*, *Grant*, and *Rookewood*, blew up the Roof of the Houſe; and the Linen-Bag which was ſet under the Platter being therewith ſuddenly carried out through the Breach, fell down in the Court-yard whole and unfir'd: which if it had took fire in the Room, would have ſlain them all there, ſo that they never ſhould have come to this Tryal: and *Lex juſtior ulla eſt, quam necis artifices arte perire ſua?*

4. Note, that Gunpowder was the Invention of a Fryar, one of the *Romiſh* Rabble, as Printing was of a Soldier.

5. Obſerve the ſending of *Bainham*, one of the damned Crew, to the High-Prieſt of *Rome*, to give ſignification of this Blow, and to crave his Direction and Aid.

6. That for all their ſtirring and riſing in open Rebellion, and notwithſtanding the falſe Rumours given out by them, That the Throats of all Catholicks ſhould be cut; ſuch is his Majeſty's bleſſed Government, and the Loyalty of his Subjects, as they got not any one Man to take their parts beſides their own Company.

7. Obſerve, the Sheriff, the ordinary Miniſter of Juſtice, according to the Duty of his Office, with ſuch Power as he on a ſudden by Law collected, ſuppreſſed them.

8. That God ſuffered their intended Miſchief to come ſo near the Period, as not to be diſcovered, but within few hours before it ſhould have been executed.

9. That it was in the entring of the Sun into the Tropick of *Capricorn*, when they began their Mine; noting, that by Mining, they ſhould deſcend; and by Hanging, aſcend.

10. That there never was any Proteſtant Miniſter in any Treaſon and Murder as yet attempted within this Realm.

I am now come to the laſt part, which I propoſed in the beginning of this Diſcourſe; and that is, touching certain Compariſons of this Powder-Treaſon of the Jeſuits, with that of *Raleigh*, and the other of the Prieſts *Watſon* and *Clarke*.

1. They had all one End, and that was the Romiſh Catholick Cauſe.

2. The ſame Means, by Popiſh and Diſcontented Perſons, Prieſts and Lay-men.

3. They all plaid at hazard: The Prieſts were at the Bye, *Raleigh* at the Main, but theſe in at all; as purpoſing to deſtroy all the King's Royal Iſſue, and withal the whole Eſtate.

4. They were all alike obliged by the ſame Oath and Sacrament.

5. The ſame Proclamations were intended (after the Fact) to be publiſhed for reformation of Abuſes.

6. The like Army provided for invading, to land at *Milford-Haven*, or in *Kent*.

7. The ſame Penſions of Crowns promiſed.

8. The agreeing of the Times of the Treaſon of *Raleigh* and theſe Men, which was when the Conſtable of *Spain* was coming hither: and *Raleigh* ſaid, there could be no ſuſpicion of any Invaſion, ſeeing that the Conſtable of *Spain* was then expected for a Treaty of Peace; and the Navy might be brought to the *Groin* under pretence of the Service in the *Low-Countries*. And *Raleigh* further ſaid, That many more were hanged for Words, than for Deeds. And before *Raleigh*'s Treaſon was diſcovered, it was reported in *Spain*, that Don *Raleigh* and Don *Cobham* ſhould cut the King of *England*'s Throat.

I ſay not, that we have any Proofs, that theſe of the Powder-Plot were acquainted with *Raleigh*, or *Raleigh* with them: but as before was ſpoken of the Jeſuits and Prieſts, ſo they all were joined in the Ends, like *Sampſon*'s Foxes in the Tails, howſoever ſever'd in their Heads.

The Concluſion ſhall be from the admirable Clemency and Moderation of the King, in that howſoever theſe Traitors have exceeded all others their Predeceſſors in Miſchief, and ſo *Creſcente malitia, creſcere debuit & Pœna*; yet neither will the King exceed the uſual Puniſhment of Law, nor invent any new Torture or Torment for them; but is graciouſly pleaſed to afford them as well

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an ordinary Courſe of Tryal, as an ordinary Puniſhment, much inferior to their Offence. And ſurely worthy of Obſervation is the Puniſhment by Law provided and appointed for High-Treaſon, which we call *Crimen læſæ Majeſtatis*. For firſt, after a Traitor hath had his juſt Tryal, and is convicted and attainted, he ſhall have his Judgment to be drawn to the place of Execution from his Priſon, as being not worthy any more to tread upon the face of the Earth, whereof he was made: Alſo for that he hath been retrograde to Nature, therefore is he drawn backward at a Horſe-Tail. And whereas God hath made the Head of Man the higheſt and moſt ſupreme part, as being his chief Grace and Ornament, *Pronaque cùm ſpectent Animalia cætera terram, Os homini ſublime dedit*; he muſt be drawn with his Head declining downward, and lying ſo near the ground as may be, being thought unfit to take benefit of the common Air. For which cauſe alſo he ſhall be ſtrangled, being hanged up by the Neck between Heaven and Earth, as deemed unworthy of both, or either; as likewiſe, that the Eyes of Men may behold, and their Hearts contemn him. Then is he to be cut down alive, and to have his Privy Parts cut off and burnt before his Face, as being unworthily begotten, and unfit to leave any Generation after him. His Bowels and inlay'd Parts taken out and burnt, who inwardly had conceived and harboured in his Heart ſuch horrible Treaſon. After, to have his Head cut off, which had imagined the Miſchief. And laſtly, his Body to be quartered, and the Quarters ſet up in ſome high and eminent Place, to the View and Deteſtation of Men, and to become a Prey for the Fowls of the Air.

And this is a Reward due to Traitors, whoſe Hearts be hardned: For that it is Phyſick of State and Government, to let out corrupt Blood from the Heart. But, *Pœnitentia vera nunquam ſera, ſed pœnitentia ſera raro vera:* True Repentance is indeed never too late; but late Repentance is ſeldom found true; which yet I pray the merciful Lord to grant unto them, that having a ſenſe of their Offences, they may make a true and ſincere Confeſſion both for their Souls Health, and for the Good and Safety of the King and this State. And for the reſt that are not yet apprehended, my Prayer to God is, *Ut aut convertantur ne pereant, aut confundantur ne noceant*; that either they may be converted, to the end they periſh not, or elſe confounded that they hurt not.

After this, by the direction of Maſter Attorney-General, were their ſeveral Examinations (ſubſcribed by themſelves) ſhewed particularly unto them, and acknowledged by them to be their own, and true, wherein every one had confeſſed the Treaſon. Then did Maſter Attorney deſire, That albeit that which had been already done and confeſſed at the Bar, might be all-ſufficient for the Declaration and Juſtification of the Courſe of Juſtice then held, eſpecially ſeeing we have *Reos confitentes*, the Traitor's own voluntary Confeſſions at the Bar; yet for further Satisfaction to ſo great a Preſence and Audience, and their better Memory of the Carriage of theſe Treaſons, the voluntary and free Confeſſions of all the ſaid ſeveral Traitors in writing ſubſcribed with their own proper Hands, and acknowledged at the Bar by themſelves to be true, were openly and diſtinctly read; by which, amongſt other things, it appeared that *Bates* was reſolved for what he undertook concerning the Powder-Treaſon, and being therein warranted by the Jeſuits. Alſo it appeared, that *Hammond* the Jeſuit, after that he knew the Powder-Treaſon was diſcovered, and that theſe Traitors had been in actual Rebellion, confeſſed them, and gave them Abſolution: and this was on Thurſday the 7th of *November*.

Here alſo was mention made by Maſter Attorney of the Confeſſions of *Watſon* and *Clarke*, Seminary Prieſts, upon their Apprehenſion; who affirmed, that there was ſome Treaſon intended by the Jeſuits, and then in hand; as might appear,

1. By their continual negotiating at that time with *Spain*, which they aſſured themſelves tended to nothing but a Preparation for a foreign Commotion.

2. By their collecting and gathering together ſuch great Sums of Money, as then they had done, therewith to levy an Army when time ſhould ſerve.

3. For that ſundry of the Jeſuits had been tampering with Catholicks, as well to diſſuade them from Acceptance of the King at his firſt coming, ſaying, That they ought rather to die, than to admit of any Heretick (as they continually termed his Majeſty) to the Crown: And that they might not, under pain of Excommunication, accept of any but a Catholick for their Sovereign; as alſo to diſſuade Catholicks from their Loyalty after the State was ſettled.

Laſtly, In that they had both bought up ſtore of great Horſes throughout the Country, and conveyed Powder and Shot, and Artillery, ſecretly to their Friends; wiſhing them not to ſtir, but keep themſelves quiet until they heard from them.

After the reading of their ſeveral Examinations, Confeſſions, and voluntary Declaration as well of themſelves, as of ſome of their dead Confederates, they were all by the Verdict of the Jury found Guilty of the Treaſons contained in their Indictment.

And then being ſeverally asked, What they could ſay, wherefore Judgment of Death ſhould not be pronounced againſt them? There was not one of theſe (except *Rookewood*) who would make any continued Speech, either in Defence or Extenuation of the Fact.

Thomas Winter only deſired, that he might be hanged both for his Brother and himſelf.

Guy Fawkes being asked, Why he pleaded Not Guilty? Having nothing to ſay for his Excuſe, anſwered, That he had ſo done in reſpect of certain Conferences mention'd in the Indictment, which he ſaid that he knew not of: which were anſwered to have been ſet down according to Courſe of Law, as neceſſarily pre-ſuppoſed before the Reſolution of ſuch a Deſign.

Keys ſaid, That his Eſtate and Fortunes were deſperate, and as good now as at another time, and for this Cauſe rather than for another.

Bates craved Mercy.

Robert Winter, Mercy.

John Grant was a good while mute; yet after, ſubmiſſively ſaid, He was Guilty of a Conſpiracy intended, but never effected.

But *Ambroſe Rookewood* firſt excuſed his denial of the Indictment, for that he had rather loſe his Life than give it. Then did he acknowledge his Offence to be ſo heinous, that he juſtly deſerved the Indignation of the King, and of the Lords, and the Hatred of the whole Commonwealth; yet could he not deſpair of Mercy at the hands of a Prince, ſo abounding in Grace and Mercy: And the rather, becauſe his Offence, though it were incapable

pable of any Excuſe, yet not altogether incapable of ſome Extenuation, in that he had been neither Author nor Actor, but only perſuaded and drawn in by *Catesby*, whom he loved above any worldly Man: and that he had concealed it not for any Malice to the Perſon of the King or to the State, or for any ambitious Reſpect of his own, but only drawn with the tender Reſpect, and the faithful and dear Affection he bare to Mr. *Catesby* his Friend, whom he eſteemed more dearer than any thing elſe in the World. And this Mercy he deſired not for any fear of the Image of Death, but for grief that ſo ſhameful a Death ſhould leave ſo perpetual a blemiſh and blot unto all Ages, upon his Name and Blood. But howſoever that this was his firſt Offence, yet he humbly ſubmitted himſelf to the Mercy of the King, and prayed that the King would herein imitate God, who ſometimes doth puniſh *corporaliter, non mortaliter*, corporally yet not mortally.

Then was related how that on the Friday immediately before this Arraignment, *Robert Winter* having found opportunity to have Conference with *Fawkes* in the *Tower*, in regard of the nearneſs of their Lodgings, ſhould ſay to *Fawkes*, as *Robert Winter* and *Fawkes* confeſſed, That he and *Catesby* had Sons, and that Boys would be Men, and that he hoped they would revenge the Cauſe: Nay, that God would raiſe up Children to *Abraham* out of Stones. Alſo that they were ſorry, that no body did ſet forth a Defence or Apology of their Action, but yet they would maintain the Cauſe at their Deaths.

Here alſo was reported *Robert Winter*'s Dream, which he had before the blaſting with Powder in *Littleton*'s Houſe, and which he himſelf confeſſed and firſt notified, *viz.* That he thought he ſaw Steeples ſtand awry, and within thoſe Churches ſtrange and unknown Faces. And after, when the foreſaid Blaſt had the Day following ſcorched divers of the Confederates, and much disfigured the Faces and Countenances of *Grant*, *Rookewood*, and others; then did *Winter* call to mind his Dream, and to his remembrance thought, that the Faces of his Aſſociates ſo ſcorched, reſembled thoſe which he had ſeen in his Dream. And thus much concerning the former Indictment.

Then was Sir *Everard Digby* arraigned, and after his Indictment was read; wherein he was charged, not only to have been acquainted with the Powder-Treaſon, and concealed it, and taken the double Oath of Secrecy and Conſtancy therein, but likewiſe to have been an Actor in this Conſpiracy; and laſtly to have expoſed, and openly ſhewed himſelf in the Rebellion in the Country amongſt the reſt of the Traytors. All which after he had attentively heard and marked, knowing that he had confeſſed it, and the Strength and Evidence of the Proofs againſt him, and convicted with the Teſtimony of his own Conſcience, ſhewed his diſpoſition to confeſs the principal part of the ſaid Indictment, and ſo began to enter into a Diſcourſe. But being advertiſed that he muſt firſt plead to the Indictment directly, either Guilty, or not Guilty; and that afterwards he ſhould be licenſed to ſpeak his Pleaſure; he forthwith confeſſed the Treaſon contained in the Indictment, and ſo fell into a Speech, whereof there were two parts, *viz.* Motives, and Petitions. The firſt Motive which drew him into this Action, was not Ambition or Diſcontentment of his Eſtate, neither Malice to any in Parliament, but the Friendſhip and Love he bare to *Catesby*, which prevailed ſo much, and was ſo powerful with him, as that for his ſake he was ever contented and ready to hazard himſelf and his Eſtate. The next Motive was the cauſe of Religion, which alone, ſeeing (as he ſaid) it lay at the ſtake, he entred into Reſolution to neglect in that behalf, his Eſtate, his Life, his Name, his Memory, his Poſterity, and all worldly and earthly Felicity whatſoever; though he did utterly extirpate, and extinguiſh all other hopes, for the reſtoring of the Catholick Religion in *England*. His third Motive was, that Promiſes were broken with the Catholicks. And laſtly, That they generally feared harder Laws from this Parliament againſt Recuſants, as that Recuſants Wives, and Women ſhould be liable to the Mulct as well as their Husbands and Men. And further, that it was ſuppoſed, that it ſhould be made a *Præmunire*, only to be a Catholick.

His Petitions were, That ſithence his Offence was confined and contained within himſelf, that the Puniſhment alſo of the ſame might extend only to himſelf, and not be transferred either to his Wife, Children, Siſters, or others: and therefore for his Wife he humbly craved, that ſhe might enjoy her Jointure; his Son, the benefit of an Entail made long before any thought of this Action; his Siſters, their juſt and due Portions, which were in his hands; his Creditors their rightful Debts, which that he might more juſtly ſet down under his Hand, he requeſted that before his Death, his Man (who was better acquainted both with the Men, and the Particulars than himſelf) might be licenſed to come unto him. Then prayed he Pardon of the King and Lords for his Guilt. And laſtly, he entreated to be beheaded; deſiring all Men to forgive him, and that his Death might ſatisfy them for his Treſpaſs.

To this Speech forthwith anſwered Sir *Edward Coke* Attorney General; but in reſpect of the time (for it grew now dark) very briefly:

1. For his Friendſhip with *Catesby*, that it was mere Folly and wicked Conſpiracy.

2. His Religion, Error, and Hereſy.

3. His Promiſes, idle and vain Preſumptions, as alſo his Fears, falſe Alarms. Concerning Wives that were Recuſants, if they were known ſo to be before their Husbands (though they were good Proteſtants) took them, and yet for outward and worldly Reſpects whatſoever, any would match with ſuch; great reaſon there is, that he or they ſhould pay for it, as knowing the penalty and burden before: for *volenti & ſcienti non fit injuria*; No Man receives Injury in that, to which he willingly and knowingly agreeth and conſenteth. But if ſhe were no Recuſant at the time of Marriage, and yet afterwards he ſuffer her to be corrupted and ſeduced, by admitting Prieſts and Romaniſts into his Houſe; good Reaſon likewiſe that he, be he Papiſt or Proteſtant, ſhould pay for his Negligence and Miſgovernment.

4. Concerning the Petitions for Wife, for Children, for Siſters, *&c.* O how he doth now put on the bowels of Nature and Compaſſion, in the peril of his private and domeſtical Eſtate! But before, when the publick State of his Country, when the King, the Queen, the tender Princes, the Nobles, the whole Kingdom were deſigned to a perpetual Deſtruction; where was then this Piety, this religious Affection, this Care? All Nature, all Humanity, all Reſpect of Laws both divine and human, were quite abandoned; then was there no Conſcience made to extirpate the whole Na-

tion, and all for a pretended Zeal to the Catholick Religion, and the Juſtification of ſo deteſtable and damnable a Fact.

Here did Sir *Everard Digby* interrupt Mr. Attorney, and ſaid that he did not juſtify the Fact, but confeſſed that he deſerved the vileſt Death, and moſt ſevere Puniſhment that might be: But he was an humble Petitioner for Mercy, and ſome Moderation of Juſtice. Whereupon Mr. Attorney replied, that he ſhould not look by the King to be honoured in the manner of his Death, having ſo far abandoned all Religion and Humanity in his Action: But that he was rather to admire the great Moderation and Mercy of the King, in that for ſo exorbitant a Crime, no new Torture anſwerable thereunto was deviſed to be inflicted upon him. And for his Wife and Children, whereas he ſaid that for the Catholick Cauſe he was content to neglect the Ruin of himſelf, his Wife, his Eſtate, and all; he ſhould have his deſire as it is in the *Pſalm, Let his Wife be a Widow, and his Children Vagabonds, let his Poſterity be deſtroyed, and in the next Generation let his Name be quite put out.* For the paying of your Creditors, it is equal and juſt; but yet fit the King be firſt ſatisfied and paid, to whom you owe ſo much, as that all you have is too little: yet theſe things muſt be left to the Pleaſure of his Majeſty, and the Courſe of Juſtice and Law.

My Lord of *Northampton*'s Speech, as it was taken at the Arraignment of Sir *Everard Digby*, by *T. S.*

You muſt not hold it ſtrange, Sir *Everard Digby*, though at this time being preſſed in Duty, Conſcience and Truth, I do not ſuffer you to wander in the Labyrinth of your own idle Conceits, without oppoſition, to ſeduce others, as your ſelf have been ſeduced, by falſe Principles, or to convey your ſelf by Charms of Imputation, by Clouds of Error, and by Shifts of lately deviſed Equivocation, out of that ſtrait wherein your late ſecure and happy Fortune hath been unluckily entangled, but yet juſtly ſurprized by the Rage and Revenge of your own raſh Humours. If in this Crime (more horrible than any Man is able to expreſs) I could lament the Eſtate of any Perſon upon Earth, I could pity you; but thank your ſelf and your bad Counſellors for leading you into a Crime of ſuch a kind, as no leſs benumbeth in all faithful, true and honeſt Men, the Tenderneſs of Affection, than did in you the Senſe of all Humanity.

That you were once well thought of, and eſteemed by the late Queen, I can witneſs, having heard her ſpeak of you with that Grace, which might have encouraged a true Gentleman to have run a better Courſe. Nay, I will add further, that there was a time wherein you were as well affected to the King our Maſter's Expectation, though perhaps upon falſe Rumours and Reports, that he would have yielded Satisfaction to your unprobable and vaſt Deſires; but the Seed that wanted moiſture (as our Saviour himſelf reporteth) took no deep Root: that Zeal which hath no other End or Object than the pleaſing of it ſelf, is quickly ſpent; and *Trajan*, that worthy and wiſe Emperor, had reaſon to hold himſelf diſcharged of all Debts to thoſe that had offended more by Prevarication, than they could ever deſerve by Induſtry.

The Grace and Goodneſs of his Majeſty in giving Honour at his firſt coming unto many Men of your own Affection, and (as I think) unto your ſelf; his Facility in admitting all without diſtinction of *Trojan* or of *Tyrian*, to his Royal Preſence, upon juſt occaſions of Acceſs; his Integrity in ſetting open the Gate of civil Juſtice unto all his Subjects equally and indifferently, with many other Favours that ſucceeded by the progreſſion of Peace; are ſo palpable and evident to all Men, that have either Eyes of Underſtanding, or Underſtanding of Capacity, as your ſelf and many others have been driven of late to excuſe and countenance your execrable Ingratitude with a falſe and ſcandalous Report of ſome further Hope and Comfort yielded to the Catholicks for Toleration or Connivance, before his coming to the Crown, than ſince hath been performed, made good or ſatisfied.

I am not ignorant, that this ſeditious and falſe Alarm hath awaked and incited many working Spirits to the prejudice of the preſent State, that might otherwiſe have ſlept as before with ſilence and ſufferance; it hath ſerved for a Shield of Wax againſt a Sword of Power: it hath been uſed as an Inſtrument of Art to ſhadow falſe Approaches, till the *Trojan* Horſe might be brought within the Walls of the Parliament, with a Belly ſtuffed, not as in old time with armed *Greeks*, but with helliſh Gunpowder. But howſoever God had blinded you and others in this Action, as he did the King of *Egypt* and his Inſtruments, for the brighter Evidence of his own powerful Glory; yet every Man of Underſtanding could diſcern, that a Prince whoſe Judgment had been fixed by Experience of ſo many Years upon the Poles of the *North* and the *South*, could not ſhrink upon the ſudden: no nor ſince with fear of that Combuſtion which *Catesby* that Arch-Traytor, like a ſecond *Phaeton*, would have cauſed in an inſtant in all the Elements. His Majeſty did never value Fortunes of the World, in leſſer matter than Religion, with the freedom of his Thoughts: he thought it no ſafe Policy (profeſſing as he did, and ever will) to call up more Spirits into the Circle than he could put down again; he knew, that *omne regnum in ſe diviſum deſolabitur.* Philoſophy doth teach, that whatſoever any Man may think in ſecret thought, that where one doth hold of *Cephas*, another of *Apollo*, openly Diſſenſion enſues, *Quod inſitum alieno ſolo eſt, in id quo alitur natura vertente degenerat*; and the World will ever apprehend, that *Quorum eſt commune ſymbolum, facillimus eſt tranſitus.*

Touching the Point it ſelf of promiſing a kind of Toleration to Catholicks, as it was divulged by theſe two Limbs of *Lucifer*, *Watſon* and *Piercy*, to raiſe a ground of Practice and Conſpiracy againſt the State and Perſon of our dear Sovereign; let the Kingdom of *Scotland* witneſs for the ſpace of ſo many Years before his coming hither, whether either Flattery or Fear (no not upon that Enterprize of the 17th of *November*, which would have put the patience of any Prince in *Europe* to his proof) could draw from the King the leaſt Inclination to this diſpenſative Indifference, that was only believed, becauſe it was eagerly deſired.

Every Man doth know how great Art was uſed, what ſtrong Wits ſublimed, and how many Miniſters ſuborned and corrupted many Years both in *Scotland* and in foreign Parts, to ſet the King's Teeth an edge with fair Promiſes of future Helps and Supplies, to that happy End of attaining his due Right in *England*, when the Sun ſhould ſet, to riſe more glorioully in the ſame Hemiſphere, to the wonder both of this Iſland and of the World. But all in vain; for *jacta erat alea*, the King's

Compaſs

Compass had been set before, and by a more certain Rule, and they were commonly cast off as forlorn Hopes in the King's Favour, that ran a Course of ranking themselves in the foremost Front of foreign Correspondency.

Upon notice given to his Majesty from hence some years before the Death of the late Queen, that many Men were grown suspicious of his Religion, by Rumours spread abroad, that some of those in foreign Parts, that seemed to be well-affected to his future Expectation, had used his Name more audaciously, and spoken of his Favour to the Catholicks, more forwardly than the King's own Conscience and unchangeable Decree could acknowledge or admit (either with a purpose to prepare the Minds of foreign Princes, or for a practice to estrange and alienate Affections at home) not only utterly renounced and condemned these Encroachments of blind Zeal, and rash Proceedings, by the Voices of his own Ministers, but was careful also for a Caution to succeeding Hopes, so far as lay in him, that by the Disgrace of the Delinquents in this kind, the Minds of all *English* Subjects chiefly might be secured, and the World satisfied.

No Man can speak in this Case more confidently than my self, that received in the Queen's time, for the space of many Years, Directions and Warnings to take heed, that neither any further Comfort might be given to Catholicks, concerning future Favours, than he did intend, which was to bind all Subjects in one Kingdom to one Law, concerning the Religion established, howsoever in Civil Matters he might extend his Favour as he found just cause: nor any Seeds of Jealousy and Diffidence sown in the Minds of Protestants by *Semeis* and *Achitophels*, to make them doubtful of his Constancy, to whom he would confirm with his dearest Blood, that Faith which he had sucked from the Breast of his Nurse, apprehended from the Cradle of his Infancy, and maintained with his uttermost Endeavour, Affection and Strength; since he was more able out of reading and disputing, to give a reason of those Principles which he had now digested and turned to Nutriment.

He that wrote the Book of Titles before the late Queen's Death, declares abundantly by seeking to possess some foreign Prince of the King's Hereditary Crowns, when the Cause should come to the proof, and may witness instead of many; what hope there was of the King's Favour or Affection to Catholicks in the case of Toleration or Dispensation, with Exercise of Conscience. For every Man may guess that it was no sleight or ordinary degree of despair, that made him and other of his Suit renounce their Portion in the Son and Heir of that renowned and rare Lady, *Mary* Queen of *Scotland*, a Member of the Roman Church; as some did in *David*, *Nulla nobis pars in David, nec hæreditas in filio Isa*: For hereof by Letters intercepted in their Passage into *Scotland*, the Records and Proofs are evident. His Majesty, so long as he was in expectation of that which by the Work and Grace of God he doth now possess, did ever seek to settle his Establishment upon the Faith of Protestants in generality, as the most assured Shoot-Anchor. For tho he found a number on the other side, as faithful and as well-affected to his Person, Claim and Interest, as any Men alive, as well in respect of their dependency upon the Queen his Mother, as for the taste which they had of the sweetness of himself; yet finding with what strength of Blood many have been over-carried out of a Fervency in Zeal in former Times, observing to what Censures they were subject, both in Points of Faith, and Limitation of Loyalty; And last of all, forecasting to what end their former Protestation would come, when present Satisfaction should shrink; he was ever fearful to embark himself for any further Voyage and Adventure in this Strait, than his own Compass might steer him, and his Judgment level him.

If any one green Leaf for Catholicks could have been visibly discerned by the Eye of *Catesby*, *Winter*, *Garnet*, *Fawkes*, &c. they would neither have entred into Practice with foreign Princes during the Queen's time for prevention of the King's Lawful and Hereditary Right, nor have renewed the same both abroad and at home by Missions and Combinations, after his Majesty was both applauded and entered.

It is true, that by Confessions we find, that false Priest *Watson*, and Arch-Traytor *Piercy*, to have been the first Devisers and Divulgers of this scandalous Report, as an accursed Ground, whereon they might with some advantage, as it was conceived, build the Castles of their Conspiracy.

Touching the first, no Man can speak more soundly to the point than my self: for being sent into the Prison by the King to charge him with this false Alarm, only two days before his Death, and upon his Soul to press him in the presence of God, and as he would answer it at another Bar, to confess directly whether at either of both these times he had access unto his Majesty at *Edinborough*, his Majesty did give him any Promise, Hope or Comfort of Encouragement to Catholicks concerning Toleration; he did there protest upon his Soul that he could never win one Inch of Ground, or draw the smallest Comfort from the King in those degrees; nor further than that he would have them apprehend, that as he was a Stranger to this State, so till he understood in all Points how those matters stood, he would not promise Favour any way; but did protest that all the Crowns and Kingdoms in this World, should not induce him to change any jot of his Profession, which was the Pasture of his Soul, and Earnest of his eternal Inheritance. He did confess that in very deed, to keep up the Hearts of Catholicks in Love and Duty to the King, he had imparted the King's words to many, in a better Tune, and a higher kind of Descant, than his Book of plain Song did direct; because he knew that others like sly Bargemen looked that way, when their stroke was bent another way. For this he craved Pardon of the King in humble manner, and for his main Treasons of a higher Nature than these Figures of Hypocrisy; and seemed penitent, as well for the Horror of his Crime, as for the Falshood of his Whisperings.

It hindered not the Satisfaction which may be given to *Piercy*'s Shadow (the most desperate *Bouteseu* in the Pack) that as he died impenitent, for any thing we know; so likewise he died silent in the Particulars. For first, it is not strange that such a Traytor should devise so scandalous a Slander out of the Malice of his Heart, intending to destroy the King by any means, and to advance all means that might remove obstructions and impediments to the Plot of Gunpowder. The more odious that he could make him to the Party Malecontent, and the more sharply that he could set the Party Malecontent upon the point and Humour of Revenge; the stronger was his Hope at the giving of the last Blow, to be glorified and justified. But touching the truth of the matters, it will be witnessed by ma-

ny, that this Traytor *Piercy* after both the firſt and ſecond return from the King, brought to the Catholicks no ſpark of Comfort, of Encouragement, of Hope; whereof no ſtronger Proof of Argument doth need, than that *Fawkes* and others were imployed both into *Spain* and other Parts, for the reviving of a Practice ſuſpended and covered, after *Piercy*'s coming back; as in likelihood they ſhould not have been, in caſe he had returned with a Branch of Olive in his Mouth, or yielded any Ground of Comfort to reſolve upon.

Therefore I thought it thus far needful to proceed, for the clearing of thoſe Scandals that were caſt abroad, by theſe forlorn Hopes and graceleſs Inſtruments. It only remains that I pray for your Repentance in this World for the Satisfaction of many, and Forgiveneſs in the next World, for the ſaving of your ſelf; having had by the King's favour ſo long a time to caſt up your Account, before your appearance at the Seat of the great Auditor.

H. Northampton.

Then ſpake the Earl of *Salisbury*, eſpecially to that Point, of his Majeſty's breaking of Promiſe with Recuſants, which was uſed and urged by Sir *Everard Digby*, as a motive to draw him to participate in this ſo hideous a Treaſon. Wherein his Lordſhip after acknowledgment that Sir *Everard Digby* was his Ally, and having made a zealous and religious Proteſtation concerning the Sincerity and Truth of that which he would deliver; ſhortly and clearly defended the Honour of the King herein, and freed his Majeſty from all Imputation and Scandal of Irreſolution in Religion, and in the conſtant and perpetual maintaining thereof; as alſo from having at any time given the leaſt hope, much leſs promiſe of Toleration. To which purpoſe he declared how his Majeſty, as well before his coming to this Crown, as at that very time, and always ſince, was ſo far from making of Promiſe, or giving Hope of Toleration, that he ever profeſſed he ſhould not endure the very Motion thereof from any.

And here his Lordſhip ſhewed what was done at *Hampton-Court* at the time of *Watſon*'s Treaſon, where ſome of the greater Recuſants were convented; and being found then not to have their Fingers in Treaſon, were ſent away again with Encouragement to perſiſt in their dutiful Carriage, and with Promiſe only of thus much Favour, That thoſe mean Profits which had accrued ſince the King's time to his Majeſty for their Recuſancy, ſhould be forgiven to the principal Gentlemen, who had both at his Entry ſhewed ſo much Loyalty, and had kept themſelves ſo free ſince from all Conſpiracies.

Then did his Lordſhip alſo (the rather to ſhew how little truth Sir *Everard Digby*'s words did carry in any thing which he had ſpoken) plainly prove, that all his Proteſtations wherein he denied ſo conſtantly to be privy to the Plot of Powder, were utterly falſe, by the Teſtimony of *Fawkes* (there preſent at the Bar) who had confeſſed, that certain Months before that Seſſion, the ſaid *Fawkes* being with *Digby* at his Houſe in the Country, about what time there had fallen much wet; *Digby* taking *Fawkes* aſide after Supper, told him, that he was much afraid that the Powder in the Cellar was grown dank, and that ſome new muſt be provided, leſt that ſhould not take fire.

Next, the ſaid Earl did juſtly and greatly commend the Lord *Monteagle* for his Loyal and Honourable Care of his Prince and Country, in the ſpeedy bringing forth of the Letter ſent unto him; wherein he ſaid, that he had ſhewed both his Diſcretion and Fidelity. Which Speech being ended, *Digby* then acknowledged, that he ſpake not that of the Breach of Promiſe out of his own Knowledge, but from their Relation whom he truſted; and namely from Sir *Tho. Treſham*.

Now were the Jury returned, who having delivered their Verdict, whereby they jointly found thoſe ſeven Priſoners, arraigned upon the former Indictment, Guilty; Serjeant *Philips* craved Judgment againſt thoſe ſeven upon their Conviction, and againſt Sir *Everard Digby* upon his own Confeſſion.

Then the Lord Chief Juſtice of *England*, after a grave and prudent Relation and Defence of the Laws made by Queen *Elizabeth* againſt Recuſants, Prieſts, and Receivers of Prieſts, together with the ſeveral Occaſions, Progreſſes and Reaſons of the ſame; and having plainly demonſtrated and proved that they were all neceſſary, mild, equal, moderate, and to be juſtified to all the World; pronounced Judgment.

Upon the riſing of the Court, Sir *Everard Digby* bowing himſelf towards the Lords, ſaid, If I may but hear any of your Lordſhips ſay, you forgive me, I ſhall go more cheerfully to the Gallows. Whereunto the Lords ſaid, God forgive you, and we do.

And ſo according to the Sentence, on Thurſday following Execution was done upon Sir *Everard Digby*, *Robert Winter*, *John Graunt*, and *Thomas Bates*, at the Weſt end of *Paul*'s Church; and on Friday following, upon *Thomas Winter*, *Ambroſe Rookewood*, *Robert Keyes*, and *Guy Fawkes*, within the old *Palace-yard* at *Weſtminſter*, not far from the Parliament-Houſe.

The Arraignment of HENRY GARNET, *Superior of the Jeſuits in* England; *on Friday the* 28*th of* March, 1606. *at* Guildhall *in the City of* London: *Before the Lords Commiſſioners there preſent*; Viz.

Sir *Leonard Holyday*, Lord Mayor.
The Earl of *Nottingham*.
The Earl of *Suffolk*.
The Earl of *Worceſter*.
The Earl of *Northampton*.
The Earl of *Salisbury*.

The Lord Chief Juſtice of *England*, Sir *John Popham*.
The Lord Chief Baron of the *Exchequer*.
Sir *Chriſtopher Yelverton* Kt. one of his Majeſty's Juſtices of the *King's-Bench*.

THE Subſtance and Effect of the Indictment of *Henry Garnet*, Superior of the Jeſuits in *England*, appeareth before in the Relation of the former Arraignment, and therefore unneceſſary to be repeated again; which Indictment was ſummarily and effectually repeated by Sir *John Croke* Kt. his Majeſty's Serjeant at Law, in this manner.

This Perſon and Priſoner here at the Bar, this Place, and this preſent Occaſion and Action do prove that true, which the Author of all Truth hath told us; That *nihil eſt occultum quod non manifeſtabitur, & nihil eſt ſecretum, quod non revelabitur & in palam veniet*: There is nothing hid that ſhall not be made manifeſt, there is nothing ſecret that ſhall not be revealed and come in publick. And that God by whom Kings do reign, *Conſilium Pravorum diſſipat*, doth ſcatter and bring to nought the Counſel of the Wicked.

That he ſpake with fear and trembling, and with horror and amazedneſs, againſt that rotten Root of that hideous and hateful Tree of Treaſon, and of that deteſtable and unheard-of Wickedneſs, he did crave Pardon for it; affirming that no Fleſh could mention it without Aſtoniſhment.

He ſhewed that *Henry Garnet* of the Profeſſion of the Jeſuits, otherwiſe *Walley*, otherwiſe *Darcy*, otherwiſe *Roberts*, otherwiſe *Farmer*, otherwiſe *Philips* (for by all thoſe Names he called himſelf) ſtood indicted of the moſt barbarous and damnable Treaſons, the like whereof was never heard of: That he was a Man, *Multorum Nominum*, but not *boni Nominis*; of many Names, as appeared by the Indictment, but of no good Name; adorned by God and Nature, with many Gifts and Graces, if the Grace of God had been joined with them: But that wanting, *quanto ornatior* in other Gifts, *tanto nequior*.

That this *Garnet* (his Majeſty ſummoning his Parliament to be holden at *Weſtminſter* the 19th of *March*, in the firſt Year of his Reign, and by divers Prorogations continuing it till the third of *October* laſt) together with *Catesby* lately ſlain in open Rebellion, and with *Oſwald Teſmond* a Jeſuit, otherwiſe *Oſwald Greenwell*, as a falſe Traytor againſt the moſt mighty and moſt renowned King our Sovereign Lord King *James*; the 9th of *June* laſt, traitorouſly did conſpire and compaſs,

To depoſe the King, and to deprive him of his Government;

To deſtroy and kill the King, and the noble Prince *Henry* his eldeſt Son: Such a King, and ſuch a Prince, ſuch a Son of ſuch a Father, whoſe Vertues are rather with amazed ſilence to be wondred at, than able by any Speech to be expreſſed.

To ſtir Sedition and Slaughter throughout the Kingdom.

To ſubvert the true Religion of God, and whole Government of the Kingdom.

To overthrow the whole State of the Commonwealth.

The Manner how to perform theſe horrible Treaſons, the Serjeant ſaid *Horrvo dicere*, his Lips did tremble to ſpeak it, but his Heart praiſed God for his mighty Deliverance. The Practice ſo inhuman, ſo barbarous, ſo damnable, ſo deteſtable, as the like was never read nor heard of, or ever entred into the Heart of the moſt wicked Man to imagine. And here he ſaid he could not but mention that religious Obſervation ſo religiouſly obſerved by his religious Majeſty, wiſhing it were engraven in Letters of Gold, in the Hearts of all his People; The more helliſh the Imagination, the more Divine the Preſervation.

This *Garnet*, together with *Catesby* and *Teſmond*, had Speech and Conference together of theſe Treaſons, and concluded moſt traitorouſly, and deviliſhly,

That *Catesby*, *Winter*, *Fawkes*, with many other Traytors lately arraigned of High Treaſon, would blow up with Gunpowder in the Parliament-Houſe, the King, the Prince, the Lords Spiritual and Temporal, the Judges of the Realm, the Knights, Citizens and Burgeſſes, and many other Subjects and Servants of the King aſſembled in Parliament at one Blow, traitorouſly and deviliſhly to deſtroy them all, and piece-meal to tear them in ſunder, without reſpect of Majeſty, Dignity, and Degree, Age or Place.

And

And for that purpoſe, a great Quantity of Gunpowder was traitorouſly and ſecretly placed, and hid by theſe Conſpirators under the Parliament-Houſe.

This being the Subſtance and the Effect of the Indictment, *Garnet* did plead, Not guilty to it; and a very diſcreet and ſubſtantial Jury, with allowance of Challenges unto the Priſoner, were ſworn at the Bar for the Tryal of him.

To whom the Serjeant ſhew'd that they ſhould have Evidences to prove him guilty, that ſhould be *Luce clariores*, that every Man might read them running.

They ſhould have *Teſtimonia Rerum*, and *Loquentia ſigna*, Witneſſes and Teſtimonies of the things themſelves.

Reum confitentem, or rather *Reos confitentes, accuſantes invicem.*

That every one may ſay unto him, *Serve nequam*, thou wicked Subject, thou wicked Servant, *ex ore tuo te judico*, of thine own Mouth I judg thee, of thine own Mouth I condemn thee.

And this ſhall be made ſo manifeſt by him that beſt can do it, as ſhall ſtop the mouth of all contradiction.

The Effect of that which Sir *Edward Coke* Knt. his Majeſty's Attorney General, ſaid at the Arraignment of *Henry Garnet*, Superior of the Jeſuits in *England*, as near to his own Words as the ſame could be taken.

Your Lordſhips may perceive by the Parts of the Indictment which have been ſuccinctly open'd, that this is but a latter Act of that heavy and woful Tragedy, which is commonly called the Powder-Treaſon, wherein ſome have already play'd their parts, and according to their Demerits ſuffer'd condign Puniſhment and Pains of Death. We are now to proceed againſt this Priſoner for the ſame Treaſon; in which reſpect the neceſſary Repetition of ſome things before ſpoken, ſhall at the leaſt ſeem tolerable: for that, *Nunquam nimis dicitur, quod nunquam ſatis dicitur*; *It is never ſaid too often, that can never be ſaid enough.* Nay, it may be thought juſtifiable to repeat in this Caſe; for that in reſpect of the Confluence and Acceſs of People at the former Arraignment, many could not hear at that time: And yet, becauſe I fear it would be tedious; for that moſt of all my Lords Commiſſioners, and of this honourable and great Aſſembly, were preſent at the Arraignment, and for that I am now to deal with a Man of another Quality, I will only touch, and that very little, of the former Diſcourſe or Evidence; and that little alſo ſhall be mingled with ſuch new Matter, as ſhall be worth the hearing, as being indeed of weight and moment: and all this with very great brevity.

But before I further proceed to the opening of this ſo great a Cauſe, I hold it fit and neceſſary to give ſatisfaction to two divers and adverſe ſorts of Men, who, according to the divers Affections of their Hearts, have divined and conjectur'd diverſly of the Cauſe of the Procraſtination and Delay of Proceeding, eſpecially againſt this Perſon; the Matter wherewith he ſtands charged being ſo tranſcendent and exorbitant as it is. The firſt ſort of theſe, out of their hearty Love and Loyalty to their natural Liege Lord and King, and to their dear Country and this State, have feared the Iſſue of this Delay, leſt that others might be animated by ſuch Protraction of Judgment, to perpetrate the like: for they ſay (and it is moſt true) *Quia non profertur cito contra malos ſententia, abſq; timore ullo filii hominum perpetrant mala*; *Becauſe ſpeedy Juſtice is not executed againſt wicked Men, the People without all Fear commit Wickedneſs.* And pity it were that theſe good Men ſhould not be ſatisfy'd. The other ſort are of thoſe, who in reſpect no greater Expedition hath been uſed againſt this Priſoner at the Bar, fall to excuſing of him, as gathering theſe Preſumptions and Conjectures: Firſt, that if he, or any of the Jeſuits, had indeed been juſtly to be touched with this moſt damnable and damned Treaſon, ſurely they ſhould have been brought forth and try'd before this time. Secondly, That there was a Bill exhibited in Parliament concerning this Treaſon, and this Traitor, but that it was defer'd and proceeded not, for want of juſt and ſufficient Proofs. Nay, Thirdly, There was a particular Apology ſpread abroad for this Man, and another general for all Jeſuits and Prieſts, together with this Imputation, That King-killing and Queen-killing was not indeed a Doctrine of theirs, but only a Fiction and Policy of our State, thereby to make the Popiſh Religion to be deſpiſed and in diſgrace.

Now for theſe Men, pity it were that the Eye of their Underſtanding ſhould not be enlightned and clear'd, that ſo being by demonſtrative and luculent Proofs convinced, they may be to their Prince and Country truly converted. Firſt therefore concerning the Delay, (tho it be true, *Quod flagellatur in corde, qui laudatur in ore*) yet muſt I remember the great Pains of my Lords the Commiſſioners of his Majeſty's Privy Council in this Cauſe: for *Garnet* being firſt examined upon the 13th of the laſt Month, hath ſithence been again examined and interrogated above twenty ſeveral times, which laſted to the 26th of *March*, within two days of this Arraignment. Touching the Bill in Parliament, it was indeed exhibited before *Garnet* was apprehended; but his Majeſty's gracious Pleaſure was, that albeit this Treaſon be without all Precedent and Example, yet they ſhould quietly and equally be indicted, arraigned, publickly heard, and proceeded withal in a moderate, ordinary, and juſt Courſe of Law. Concerning their Apologies, and the Fictions of State (as they term them) anſwer ſhall be made, by God's Grace, in the proper Place, when I come to lay open the Plots and Practices of the Jeſuits, to the ſatisfaction of all this honourable and great Aſſembly. But firſt I have an humble Petition to preſent to your Lordſhips, and the reſt of this grave Auditory for my ſelf, in reſpect that I am neceſſarily to name great Princes, yet with Proteſtation and Caution, that no Blot is intended to be laid upon any of them. I know there is *Lex in ſermone tenenda, A Law and Rule to be obſerved in ſpeaking*, eſpecially in this kind; and that Kings and great Princes, and the mighty Men of this Earth are to be reverently and reſpectfully dealt withal: and therefore I humbly recommend unto you theſe Conſiderations, concerning this Point of mentioning foreign States.

1*ſt*, That the Kingdoms were at thoſe times in open Enmity and Hoſtility, and that might be honourable at one time which was not ſo at another: ſo that hoſtile Actions were then juſtifiable and honourable, as being in times of Hoſtility and War.

2*dly*, In theſe things it is not the King's Attorney that ſpeaks, but *Garnet* the Jeſuit: As alſo that it proceedeth from an inevitable Neceſſity; for that the Examinations as well of this, as of the reſt of the Traitors,

Traitors, cannot otherwiſe be open'd and urged againſt them: ſo is the mention of great Men, by the Impudency of theſe wicked Traitors, woven into their Confeſſions, as they cannot be ſever'd.

And with this Comfort I conclude the Preface, That I hope in God, this Day's Work, in the Judgment of ſo many as ſhall be attentive and well diſpoſed, ſhall tend to the Glory of Almighty God, the Honour of our Religion, the Safety of his moſt excellent Majeſty and his royal Iſſue, and the Security of the whole Commonwealth.

For Memory and Method, all that I ſhall ſpeak may be contracted to two general Heads.

Firſt, I will conſider the Offences, together with certain Circumſtances,

Precedent before the Offence,
Concurrent with the Offence,
Subſequent after the Offence.

Secondly, I will lay down ſome Obſervations concerning the ſame.

For the proper Name of this Offence, becauſe I muſt ſpeak of ſeveral Treaſons, for diſtinction and ſeparation of this from the other, I will name it the Jeſuits Treaſon, as belonging to them both *ex congruo & condigno*; they were the Proprietaries, Plotters and Procurers of it: and in ſuch Crimes *plus peccat author, quam Actor*; *The Author or Procurer, offendeth more than the Actor or Executer*: as may appear by God's own Judgment given againſt the firſt Sin in Paradiſe, where the Serpent had three Puniſhments inflicted upon him, as the original Plotter; the Woman two, being as the mediate Procurer; and *Adam* but one, as the Party ſeduc'd.

Circumſtances precedent and ſubſequent ſo termed here, are indeed in their proper Natures all High Treaſons; but yet in reſpect of the Magnitude, nay Monſtrouſneſs of this Treaſon, may comparatively, without any diſcountenance to them in this Caſe, be uſed as Circumſtances. And becauſe I am to deal with the Superior of the Jeſuits, I will only touch ſuch Treaſons, as have been plotted and wrought by the Jeſuits, of whom this Man was Superior; and thoſe Treaſons alſo ſithence this *Garnet* his coming into *England*, whereof he may truly ſay, *Et quorum pars magna fui.*

The coming of this *Garnet* into *England* (which very Act was a Treaſon) was about twenty years paſt, *viz.* in *July* 1586. in the twenty eighth Year of the Reign of the late Queen, of famous and bleſſed Memory: whereas the Year before, namely the twenty ſeventh Year of *Elizabeth*, there was a Statute made, whereby it was Treaſon for any, who was made a Romiſh Prieſt by any Authority from the See of *Rome*, ſithence the firſt Year of her Reign, to come into her Dominions: which Statute the Romaniſts calumniate as a bloody, cruel, unjuſt, and a new upſtart Law, and abuſe that Place of our Saviour, *O* Jeruſalem, Jeruſalem, *thou that killeſt the Prophets, and ſtoneſt them that are ſent unto thee*, &c. *Mat.* 23. 37. to that purpoſe: But indeed it is both mild, merciful and juſt, and grounded upon the antient fundamental Laws of *England*. For (as hath already in the former Arraignments been touched) before the Bull of *Impius Pius Quintus*, in the eleventh Year of the Queen, wherein her Majeſty was excommunicated and depoſed, and all they accurſed who ſhould yield any obedience unto her, *&c.* there were no Recuſants in *England*, all came to Church (howſoever popiſhly inclin'd, or perſuaded in moſt Points) to the ſame divine Service we now uſe; but thereupon preſently they refuſed to aſſemble in our Churches, or join with us in publick Service, not for conſcience of any thing there done, againſt which they might juſtly except out of the Word of God, but becauſe the Pope had excommunicated and depoſed her Majeſty, and curſed thoſe who ſhould obey her: and ſo upon this Bull enſued open Rebellion in the North, and many Garboils. But ſee the Event: Now moſt miſerable in reſpect of this Bull, was the State of Romiſh Recuſants; for either they muſt be hanged for Treaſon, in reſiſting their lawful Sovereign, or curs'd for yielding due Obedience unto her Majeſty. And therefore of this Pope it was ſaid by ſome of his own Favourites, that he was *Homo pius & doctus, ſed nimis credulus*; *A holy and a learned Man, but over-credulous*; for that he was informed and believ'd that the Strength of the Catholicks in *England* was ſuch, as was able to have reſiſted the Queen. But when the Bull was found to take ſuch an effect, then was there a Diſpenſation given, both by *Pius Quintus* himſelf, and *Gregory* the Thirteenth, That all Catholicks here might ſhew their outward Obedience to the Queen, *ad redimendam vexationem, & ad oſtendendam externam obedientiam*; but with theſe Cautions and Limitations: 1. *Rebus ſic ſtantibus, Things ſo ſtanding as they did.* 2. *Donec publica Bullæ executio fieri poſſet*; that is to ſay, *They might grow into Strength, until they were able to give the Queen a Mate, that the publick Execution of the ſaid Bull might take place.* And all this was confeſſed by *Garnet* under his own hand, and now again openly confeſs'd at the Bar.

In the twentieth Year of Queen *Elizabeth*, came *Campion* the Jeſuit and many others of his Profeſſion with him, purpoſely to make a Party in *England* for the Catholick Cauſe, to the end that the Bull of *Pius Quintus* might be put in execution. And tho all this while Recuſancy, being grounded upon ſuch a diſloyal Cauſe, were a very dangerous and diſloyal thing; yet was there no Law made in that behalf until the twenty third Year of her Majeſty's Reign; and that alſo impoſing only a Mulct or Penalty upon it, until Conformity were offer'd and ſhew'd. *Anno 26 Eliz.* came *Parry* with a Reſolution from Cardinal *de Como*, and others, that it was lawful to kill her Majeſty, as being excommunicated and depoſed. Whereupon her Majeſty entring into Conſultation how (together with her Safety, and the Protection of her Subjects) ſhe might avoid the imminent Dangers, and yet draw no Blood from theſe Prieſts and Jeſuits, found out this moderate and mild Courſe, as the beſt Means to prohibit their coming at all into her Land; there never being any King who would endure, or not execute any ſuch Perſons, within their Dominions, as ſhould deny him to be lawful King, or go about to withdraw his Subjects from their Allegiance, or incite them to reſiſt or rebel againſt him. Nay, the bringing in of a Bull by a Subject of this Realm againſt another, in the time of *Edward* I. was adjudged Treaſon. But by the way, for that *Garnet* hath exclaim'd, ſaying, Shew us where was your Church before *Luther*, deſign the Place, name the Perſons, and ſo forth; it is anſwer'd by a Compariſon of a Wedg of pure Gold, which coming into the hands of Impoſtors, is by their Sophiſtications and Mixtures, for Gain and worldly Reſpects, increaſed and augmented into a huge Body and Maſs, and retaining ſtill an outward fair Shew and Tincture of Gold. Where is now the pure Gold, ſaith one, ſhew me the Place? I anſwer, in that Maſs; but for the extracting thereof, and purifying it from Droſs, that muſt be done by the Art of the Workman, and the Tryal of the Touchſtone. So the

true

true Religion and Service of Almighty God, being for human Reſpects, and worldly Pomp, mixed and overladen with a number of ſuperſtitious Ceremonies and Inventions of Man; yet ever had God his true Church, holding his Truth, which hath been by skilful Workmen, with the Touchſtone of the Word of God, refined and ſeparate from the Droſs of Man's Inventions.

But to proceed: In the twenty eighth Year of Queen *Elizabeth*, being the Year 1586, in *June*, came *Garnet* into *England*, breaking thro the Wall of Treaſon; being in truth, *Totus compoſitus ex proditione*: And this was at that time when the great Armado of *Spain*, which the Pope bleſſed, and chriſten'd by the Name of *The invincible Navy*, was by the Inſtigation of that High Prieſt of *Rome*, preparing and collecting together of many Parcels, out of divers Parts, where they could be bought, or hired or borrow'd; and therefore may be called a compounded Navy, having in it 158 great Ships. The Purveyors, and Forerunners of this Navy and Invaſion, were the Jeſuits; and *Garnet* among them being a Traitor, even in his very entrance and footing in the Land. But the Queen with her own Ships, and her own Subjects, did beat this Armado, God himſelf (whoſe Cauſe indeed it was) fighting for us againſt them, by Fire, and Seas, and Winds, and Rocks, and Tempeſts, ſcattering all, and deſtroying moſt of them: for *offenſo Creatore, offenditur omnis Creatura*; *The Creator being offended, ever Creature is readily armed to revenge his Quarrel*: in which reſpect he is called the Lord of Hoſts. So that of 158, ſcarce 40 of their Ships returned to the Bar of their own Haven; and as it is reported, moſt of them alſo periſhed: inſomuch, that in this reſpect, we may ſay of Queen *Elizabeth*, as the Poet writeth of the Chriſtian Emperor:

O nimium dilecta Deo, cui militat æther,
Et conjurati veniunt ad claſſica venti.

Obſerve here, that about the time of this Invaſion, there being in *Spain* met in Conſultation about that Buſineſs, the Cardinal of *Auſtria*, the Duke of *Medina*, Count *Fuentes*, two *Iriſh* Biſhops, with ſundry Military Men, and amongſt others *Winſlade*, an *Engliſhman*; the *Iriſh* Biſhops perceiving that they expected a Party of Catholicks in *England*, reſolv'd that true it was, that it was not poſſible to do any good here in *England*, unleſs there there were a Party of Catholicks made beforehand. But ſuch, ſaid they, was the Policy of *England*, as that could never be effected; for if any Suſpicion or Fear aroſe, the Catholicks ſhould quickly be either ſhut up, or quite cut off. Oh, ſaith an old Soldier there preſent, *Hoc facit pro nobis, That makes for us*; for by that means their Souls ſhall go to Heaven for their Religion, their Bodies to the Earth for their Treaſon, and their Lands and Goods to us as Conquerors: this was indeed that they principally aim'd at.

Note here, that ſithence the Jeſuits ſet foot in this Land, there never paſſed four Years without a moſt peſtilent and pernicious Treaſon, tending to the Subverſion of the whole State.

After that hoſtile Invaſion in 88, the Jeſuits fell again to ſecret and treaſonable Practices: for then, in the Year 92, came *Patrick Cullen*, who was incited by Sir *William Stanly*, *Hugh Owen*, *Jaques Fraunces*, and *Holt* the Jeſuit, and reſolv'd by the ſaid *Holt* to kill the Queen; to which purpoſe he receiv'd Abſolution, and then the Sacrament, at the hands of the ſaid Jeſuit, together with this ghoſtly Counſel, That it was both lawful and meritorious to kill her. Nay, ſaid *Jaques*, that baſe Laundreſs's Son, (who was a continual Practiſer both with this *Cullen* and others, to deſtroy her Majeſty) The State of *England* is and will be ſo ſettled, that unleſs Miſtreſs *Elizabeth* be ſuddenly taken away, all the Devils in Hell will not be able to prevail againſt it, or ſhake it.

Now *Cullen*'s Treaſon was accompany'd with a Book called *Philopater*, written for the abetting and warranting of ſuch a deviliſh Act in general, by *Creſwel* the legier Jeſuit in *Spain*, under the Name of *Philopater*.

Anno 94. came *Williams* and *Yorke* to the ſame end, *viz.* to kill the Queen; being wrought to undertake ſo vile and deteſtable a Fact by Father *Holt* the Jeſuit, and other his Complices: And thereupon the ſaid *Williams* and *Yorke* in the Jeſuits College receiv'd the Sacrament together of Father *Holt*, and other Jeſuits, to execute the ſame. And that Treaſon likewiſe was accompany'd with a Book written by the legier Jeſuit and Rector at *Rome*, *Parſons*, under the Name of *Doleman*, concerning Titles, or rather Tittles; a leud and a lying Book, full of Falſhood, Forgery and Malediction.

Anno 97. came *Squire* from *Spain*, to poiſon her Majeſty, incited, directed, and warranted by *Walpole* a Jeſuit, then reſiding there: at whoſe hands likewiſe, after Abſolution, he receiv'd the Sacrament, as well to put the Practice in execution, as to keep it ſecret. All theſe Treaſons were freely and voluntarily confeſſed by the Parties themſelves under their own hands, and yet remain extant to be ſeen.

In the Year 1601. when Practices fail'd, then was foreign Force again attempted; for then (as in the former Arraignment hath been declared) was *Thomas Winter* employ'd to the King of *Spain*, togegether with *Teſmond* the Jeſuit, by this *Garnet*, who wrote his Letters to *Arthur*, *alias Joſeph Creſwell*, (the only Man whom I have heard of, to change his Chriſtian Name) the legier Jeſuit in *Spain*, for the furtherance of that Negotiation; which was, as hath been ſaid, to offer the Services of the *Engliſh* Catholicks to the King, and to deal further concerning an Invaſion, with Promiſe from the Catholicks here of Forces, both of Men and Horſes, to be in a readineſs to join with him. This Negotiation, by the means of *Creſwel*, to whom *Garnet* wrote, took ſuch effect, that the two Kingdoms ſtanding then in Hoſtility, the Propoſition of the *Engliſh* Romiſh Catholicks was accepted and entertain'd; an Army to invade (as hath been ſpecify'd in the former Arraignment) promiſed, and 100000 Crowns to be diſtributed amongſt Romaniſts and diſcontented Perſons, making of a Party in *England*, and for the furtherance of the ſaid Service granted. In the mean time the King earneſtly deſired, That if the Queen of *England* ſhould happen to die, he might receive preſent and certain Advertiſement thereof.

Now this Treaſon was accompany'd with the Pope's own Writing: For now doth the Holy Father cauſe to be ſent hither to *Garnet* two Briefs or Bulls, one to the Clergy, and another to the Laity; wherein obſerve the Title, the Matter, the Time. The Title of the one was, *Dilectis Filiis, Principibus, & Nobilibus Catholicis Anglicanis, Salutem & Apoſtolicam Benedictionem*: that is, *To our beloved Sons the Nobles and Gentlemen of* England, *which are Catholicks, Greeting and Apoſtolical Benediction.* The Title of the other was, *Dilectis Filiis, Archipreſbytero, & reliquo Clero Anglicano, &c. To our beloved Sons, the*

the Archprieſt, and the reſt of the Catholick Clergy. The matter was, That after the Death of her Majeſty, whether by Courſe of Nature, or otherwiſe, whoſoever ſhould lay Claim or Title to the Crown of *England*, though never ſo directly and nearly intereſted therein by Deſcent and Blood Royal; yet unleſs he were ſuch an one as would not only tolerate the Catholick (Romiſh) Religion, but by all his beſt Endeavours and Force promote it, and according to the antient Cuſtom would, by a ſolemn and ſacred Oath, religiouſly promiſe and undertake to perform the ſame, they ſhould admit or receive none to be King of *England*: His words are theſe, *Quantumcunque propinquitate ſanguinis niterentur, niſi ejuſmodi eſſent qui fidem Catholicam non modo tolerarent, ſed omni ope ac ſtudio promoverent, & more Majorum Jurejurando ſe id præſtituros ſuſciperent, &c.*

As for King *James* (at whom the Pope aimed) he hath indeed both *Propinquitatem* and *Antiquitatem Regalis Sanguinis*, Propinquity and Antiquity of Blood Royal, for his juſt juſt Claim and Title to this Crown both before and ſince the Conqueſt.

To inſiſt upon the Declaration and Deduction of this point, and paſs along through the Series and Courſe of ſo many Ages and Centuries, as it would be over long for this Place, ſo further I might herein ſeem as it were to gild Gold: Only in a word, His Majeſty is lineally deſcended from *Margaret* the Saint, Daughter of *Edward*, Son of King *Edmund*, Grandchild of Great *Edgar* the *Britain* Monarch. Which *Margaret*, ſole Heir of the *Engliſh-Saxon* King, was married to *Malcolme* King of *Scotland*; who by her had Iſſue *David the Holy* their King, from whom that Race Royal at this day is deduced; and *Maud the Good*, Wife of the firſt and learned *Henry* King of *England*, from whom his Majeſty directly and lineally proceedeth, and of whom a Poet of that time wrote:

Nec decor effecit fragilem, non ſceptra ſuperbam,
Sola potens humilis, ſola pudica decens.

And laſtly, his Majeſty cometh of *Margaret* alſo the eldeſt Daughter of *Henry* VII. who was deſcended of that famous Union of thoſe two fair Roſes, the White and the Red, *York* and *Lancaſter*; the effecting of which Union coſt the Effuſion of much *Engliſh* Blood, over and beſides fourſcore or thereabouts of the Blood-Royal. But a more famous Union is by the Goodneſs of the Almighty perfected in his Majeſty's Perſon of divers Lions, two famous, antient, and renowned Kingdoms, not only without Blood, or any Oppoſition, but with ſuch an univerſal Acclamation and Applauſe of all ſorts and degrees (as it were with one Voice) as never was ſeen or read of. And therefore moſt Excellent King, for to him I will now ſpeak,

Cum triplici fulvum conjunge leone leonem,
Ut varias Atavus junxerat ante Roſas:
Majus opus varios ſine pugna unire leones,
Sanguine quam varias conſociaſſe Roſas.

Theſe four noble and magnanimous Lions, ſo firmly and individually united, are able, without any Difficulty or great Labour, to ſubdue and overthrow all the Letters and Bulls (and their Calves alſo) that have been, or can be ſent into *England*.

Now for the Time, obſerve that theſe Bulls or Briefs came upon the aforeſaid Negotiation of *Thomas Winter* into *Spain*, at what time an Army ſhould ſhortly after have been ſent to invade the Land: and this was to be put in execution, *Quandocunque contingeret miſeram illam fœminam ex hac vita excedere*; Whenſoever it ſhould happen that that miſerable Woman (for ſo it pleaſed the High Prieſt of *Rome* to call great Queen *Elizabeth*) ſhould depart this Life. Was Queen *Elizabeth* miſerable? It is ſaid that *Miſeria conſtat ex duobus contrariis, ſcilicet, Copia & Inopia: Ex Copia tribulationis, & Inopia conſolationis.* Was ſhe, I ſay, miſerable, whom Almighty God ſo often and ſo miraculouſly protected, both *from the Arrow that flieth by day*, their great *Armado*, and *from the Peſtilence that walketh in the darkneſs*, their ſecret and treacherous Conſpiracies? that did beat her moſt potent Enemies? that ſet up a King in his Kingdom? that defended Nations, and harboured and protected diſtreſſed People? that protected her Subjects in Peace and Plenty, and had the Hearts of the moſt and the beſt of her Subjects? that reigned Religiouſly and Glorioufly, and died Chriſtianly and in Peace? Oh bleſſed Queen, our late dear Sovereign, *ſemper honos nomenque tuum laudeſque manebunt.* But Queen *Elizabeth* of famous Memory, (for *Memoria ejus ſemper erit in benedictione*) as a bright Morning-Star in fulneſs of time loſt her natural Light, when the great and glorious Sun appeared in our *Horizon*.

And now ſithence the coming of great King *James*, there have not paſſed, I will not ſay four, nay not two months, without ſome Treaſon.

Firſt, in *March* 1603. upon the death of her Majeſty, and before they had ſeen his Majeſty's Face, was *Chriſtopher Wright* employed into *Spain*, by *Garnet*, *Catesby*, and *Treſham*, to give advertiſement of the Queen's death, and to continue the former Negotiation of *Thomas Winter*: And by him alſo doth this *Garnet* write to *Creſwell* the Jeſuit, in Commendation, and for Aſſiſtance and Furtherance of his Buſineſs.

As alſo on the 22d of *June* following, was *Guy Fawkes* ſent out of *Flanders*, by *Baldwin* the Jeſuit, by Sir *William Stanley*, and *Hugh Owen*, about the ſame Treaſon; and by Letters from *Baldwin* directed and commended to *Creſwell* the Legier Jeſuit in *Spain*, for the procuring of his Diſpatch, as in the former Arraignment hath been declared.

In the ſame *June* doth *Garnet* the Superior, together with *Gerrard* and other Jeſuits and Jeſuited Catholicks, labour not only in providing of Horſes, which by *Thomas Winter* and *Chriſtopher Wright*, upon their ſeveral Negotiations, they, in the names of all the Catholicks in *England*, had promiſed the King of *Spain*, to aſſiſt and do him Service withal, at ſuch time as the ſaid King ſhould ſend his Forces to invade, either at *Milford-Haven*, or in *Kent*, as hath before been ſhewed; but alſo did, by force of the ſaid two Bulls or Briefs, diſſuade the Romiſh Catholicks from yielding their due Obedience to his Majeſty, for that he was not of the Roman Religion: contrary to the Practice of the true Church and Churchmen, that undergo Wars, *ferendo, non feriendo, with Patience, not with Strokes*; their Weapons being properly *Orationes & Lachryma, Prayers and Tears*.

On the ſame *June* 9, which was in 1603. *primo Jacobi*, brake out likewiſe the Treaſon of the Romiſh Prieſts, *Watſon* and *Clarke*, as alſo that other of Sir *Walter Raleigh* and others. But the Jeſuits ſeeing that the Peace was now in great forwardneſs, and having advertiſement alſo, that the King of *Spain* did now diſtaſte their Propoſitions, ſo that there was no further hope left for Force; then fell they again to ſecret Practice. As for the Bulls

for Briefs before-mention'd, when *Catesby* had informed *Garnet*, that King *James* was proclaimed, and the State ſettled, they were by *Garnet*, as himſelf hath affirmed, burnt. But to proceed:

In *March* 1603. *Garnet* and *Catesby*, (a peſtilent Traitor) confer together, and *Catesby* in general telleth him (though moſt falſly) That the King had broken Promiſe with the Catholicks, and therefore aſſuredly there would be Stirs in *England* before it were long. In *September* following, meets *Catesby* and *Thomas Piercy*, and after an unjuſt, but a grievous Complaint made by *Catesby* of the King's Proceedings, for that contrary to their Expectations, his Majeſty both did hold, and was like continually to run the ſame Courſe, which the Queen before had held; *Piercy* preſently breaks forth into this deviliſh Speech, That there was no way but to kill the King, which he the ſaid *Piercy* would undertake to do. But *Catesby*, as being *verſuto ingenio & profunda perfidia*, a cunning, a wily, and a deep Traitor, intending to uſe this ſo furious and fiery a Spirit to a further Purpoſe, doth as it were ſtroke him for his great forwardneſs, yet with ſage and ſtayed Counſel tells him; No, *Tom*, thou ſhalt not adventure thy ſelf to ſo ſmall purpoſe: If thou wilt be a Traitor, there is a Plot to greater advantage, and ſuch a one as can never be diſcovered, *viz.* the Powder-Treaſon.

In *January*, in the firſt Year of his Majeſty, *Garnet* took out a General Pardon under the Great Seal of *England*, of all Treaſons, (which Pardon his Majeſty of his Grace granted to all Men at his firſt entrance into his Kingdom) under the name of *Henry Garnet* of *London* Gent. but therein he never uſed any of his *alias dictus Walley*, *Farmer*, or any other of his feigned names. But *Catesby* fearing leſt any of thoſe whom he had or ſhould take into Confederacy, being touched in Conſcience with the horror of ſo damnable a Fact, might give it over, and endanger the Diſcovery of the Plot, ſeeks to *Garnet*, (as being the Superior of the Jeſuits, and therefore of high Eſtimation and Authority amongſt all thoſe of the Romiſh Religion) to have his Judgment and Reſolution in Conſcience, concerning the Lawfulneſs of the Fact, that thereby he might be able to give Satisfaction to any who ſhould in that behalf make doubt or ſcruple to go forward in that Treaſon. And therefore *Catesby* coming to *Garnet*, propoundeth unto him the Caſe, and asketh, Whether for the Good and Promotion of the Catholick Cauſe againſt Hereticks, (the neceſſity of Time and Occaſion ſo requiring) it be lawful or not, amongſt many *Nocents*, to deſtroy and take away ſome *Innocents* alſo. To this Queſtion, *Garnet* adviſedly and reſolvedly anſwered, That if the Advantage were greater to the Catholick part, by taking away ſome *Innocents* together with many *Nocents*, then doubtleſs it ſhould be lawful to kill and deſtroy them all. And to this purpoſe he alledged a Compariſon of a Town or City which was poſſeſſed by an Enemy, if at the time of taking thereof there happen to be ſome few Friends within the place, they muſt undergo the Fortune of the Wars in the general and common Deſtruction of the Enemy. And this Reſolution of *Garnet*, the Superior of the Jeſuits, was the ſtrongeſt, and the only Bond, whereby *Catesby* afterwards kept and retained all the Traitors in that ſo abominable and deteſtable a Confederacy: For in *March* following, *Catesby*, *Thomas Winter*, and others, reſolve upon the Powder-Plot; and *Fawkes* as being a Man unknown, and withal a deſperate Perſon and a Soldier, was reſolved upon as fit for the executing thereof; to which purpoſe he was in *April* following by *Thomas Winter* ſought and fetched out of *Flanders* into *England*.

In *May*, in the 2d Year of his Majeſty, *Cateſby*, *Piercy*, *John Wright*, *Thomas Winter*, and *Fawkes* meet, and having, upon the Holy Evangeliſts, taken an Oath of Secrecy and Conſtancy to this effect;

YOU ſhall ſwear by the bleſſed Trinity, and by the Sacrament you now purpoſe to receive, never to diſcloſe directly or indirectly, by Word or Circumſtance, the matter that ſhall be propoſed to you to keep ſecret, nor deſiſt from the Execution thereof, until the reſt ſhall give you leave:

They all were confeſſed, had Abſolution, and received thereupon the Sacrament, by the hands of *Gerrard* the Jeſuit then preſent.

In *June* following, *Catesby* and *Greenwell* the Jeſuit confer about the Powder-Treaſon. And at *Midſummer*, *Catesby* having ſpeech with *Garnet* of the Powder-Treaſon, they ſaid, that it was ſo ſecret, as that it muſt prevail before it could be diſcovered. Then *Garnet* ſeemed to deſire that the Pope's Conſent might be obtained: but *Catesby* anſwered, that he took that as granted by the Pope in the two Bulls or Briefs before; for that, ſaid he, if it were lawful not to receive, or to repel him, as the ſaid Bulls or Briefs did import, then is it lawful alſo to expel or caſt him out.

Upon the 7th of *July*, 1604. was the Parliament prorogued until the 7th of *February*: And in *November* following, *Thomas Bates*, being (as hath been declared more at large in the former Arraignment) fetched in by *Catesby*, his Maſter, to participate in the Powder-Treaſon, for better Aſſurance of his Secrecy, and Proſecution thereof, is by *Greenwell* the Jeſuit confeſſed, encouraged, and told, That being for a good Cauſe, he might and ought, not only conceal it, as committed unto him in ſecret by his Maſter; but further ſaid, That it was no Offence at all, but juſtifiable and good.

About this time was *Robert Keyes* taken into the Confederacy, and by *Catesby* reſolved of the Lawfulneſs thereof from the Jeſuits.

On the 11th of *December*, they enter'd the Mine: and in *March* following, which was in 1605. was *Guy Fawkes* ſent over to Sir *William Stanley*, with Letters from *Garnet*, to *Baldwin* the Legier Jeſuit there, to take order, That againſt the time of the Blow, the Forces might be brought near to the Sea-ſide, to the end that they might ſuddenly be tranſported into *England*: And there doth *Fawkes*, by conſent of the Confederates, give *Owen* the Oath of Secrecy and Perſeverance, and then acquaints him with the whole Treaſon: Who having been a moſt malicious and inveterate Traitor, greatly applauded it, and gave his Conſent and Counſel for the furtherance thereof.

In *May* 1605. fell out certain Broils in *Wales* by the Romiſh Catholicks; at what time alſo *Rookwood* was by *Catesby* acquainted with the Powder-Treaſon, and reſolv'd of the Lawfulneſs of the Fact by him as from the Jeſuits.

Now doth *Garnet* write to the Pope, That Commandment might come from his Holineſs, or elſe from *Aquaviva* the General of the Jeſuits, for the ſtaying of all Commotions of the Catholicks here in *England*, intending indeed to ſet their whole Reſt of the Catholick Romiſh Cauſe, upon the

the Powder-Plot, and in the mean time to lull us asleep in Security, in respect of their dissembled Quietness and Conformity; as also lest Impediment might be offer'd to this main Plot by reason of any suspicion of the stirring of Papists, or of inquiry after them upon occasion of any petty Commotions or Broils. But when he further desired, that it might be so enjoin'd upon Censures, that latter Request was not granted, lest it might indeed be an Impediment to the Powder-Plot.

In *June* following doth *Greenwel* the Jesuit consult with *Garnet* his Superiour, of the whole Course of the Powder-Treason at large; wherein observe the politick and subtle Dealing of this *Garnet*. First, he would not (as he saith) confer of it with a Layman, (other than *Catesby* whom he so much trusted) Why so? because that might derogate from the Reverence of his Place, That a Jesuit, and a Superiour of them, should openly join with Laymen in cause of so much Blood. And therefore, Secondly, as he would consult of it with a Priest and a Jesuit, one of his own Order, and his Subject; so for his further security, he would consult thereof with *Greenwel* the Jesuit, as in a disguised Confession. And being inform'd that the Discourse would be too long to repeat kneeling, he answer'd that he would consult with him of it in Confession walking; and so accordingly in an ambulatory Confession, he at large discoursed with him of the whole Plot of the Powder-Treason; and that a Protector (after the Blow given, should be chosen out of such of the Nobility as should be warned and reserved.

In this Month likewise was there a great Conference and Consultation betwixt *Garnet*, *Catesby*, and *Francis Tresham*, concerning the Strength of the Catholicks in *England*, to the end that *Garnet* might by Letters send direct Advertisement thereof to the Pope; for that his Holiness would not be brought to shew his Inclination concerning any Commotion or Rising of the Catholick Party, until such time as he should be certainly inform'd that they had sufficient and able Force to prevail.

And in *August* following, *Garnet* in a conference had about the acquainting of the Pope with the Powder-Treason, named and appointed Sir *Edmund Baynam* for to carry that Message to the Pope; yet not to him as Pope, but to him as a temporal Prince: and by him doth *Garnet* write Letters in that behalf; as also for staying of Commotions, under pain of Censures, well knowing that before his Letters could be answer'd, the House of Parliament (according to their Designs) should have been blown up, and the whole State overthrown. But this Trick he used like a Thief, that going to steal and take Partridges with a Setting-Dog, doth rate his Dog for questing, or going too near, until he have laid his Net over them, for fear the Game should be sprung, and the Purpose defeated.

In this Month also doth *Garnet* write to *Baldwine* the legier Jesuit in the Low Countries, in the behalf of *Catesby*, that *Owen* should move the Marquis for a Regiment of Horses for him the said *Catesby*; not with any intent, as it was agreed, that *Catesby* should undertake any such charge, but that under colour of it, Horses and other Necessaries might be provided without suspicion to furnish the Traitors.

In *September* following doth *Parsons* the Jesuit write to *Garnet*, to know the Particulars of the Project in hand, for the Journy to St. *Winifred*'s Well in this Month. It was but a Jargon, to have better opportunity, by colour thereof, to confer and retire themselves to those parts.

In *October* doth *Garnet* meet the other Traitors at *Coughton* in *Warwickshire*, which was the Place of Rendezvous, whither they resorted out of all Countries.

Upon the first of *November*, *Garnet* openly prayeth for the good Success of the great Action, concerning the Catholick Cause in the beginning of the Parliament: and Prayer is more than Consent; for *Nemo orat, sed qui sperat & credit.* He in the Prayer used two Verses of a Hymn, *Gentem auferte perfidam credentium de finibus, ut Christo laudes debitas persolvamus alacriter.*

Now was the Letter with the Lord *Monteagle*, whose Memory shall be blessed, on the fourth of *November*; by the Providence of the Almighty, not many hours before the Treason should have been executed, was it fully discover'd.

On the fifth of *November*, being the time when the Traitors expected that their devilish Practice should have taken effect, they convented at *Dunchurch*, under colour of a great Hunting-Match, appointed by Sir *Everard Digby*, as being a Man of Quality and Account thereabout; purposing by this means to furnish themselves with Company for their intended Insurrection and Rebellion: for that Men being gather'd together, and a Tumult suddenly raised, the Traitors thought that every or most of them would follow the present Fortune, and be easily persuaded to take part with them; and that they might easily surprize the Person of the Lady *Elizabeth*, then being in those Parts, in the L. *Harrington*'s House.

Upon the sixth of *November*, early in the Morning, *Catesby* and the said Confederates dispatch'd *Tho. Bates* with a Letter to *Garnet* the Superior of the Jesuits, who was (as they well knew) then ready at *Coulton*, near unto them, earnestly entreating his Help and Assistance for the raising of *Wales*, and putting so many as he could into open Rebellion. At what time *Garnet*, and *Greenwel* (who then of purpose was there with *Garnet*) then certainly perceiving that the Plot was indeed discover'd, and knowing themselves to be the chiefest Authors thereof, propheſy'd the Overthrow of the whole Order of the Jesuits; saying, That they feared that the Discovery and Miscarrying of this Practice, would utterly undo and overthrow the whole Society of the Jesuits. But *Greenwel* the Jesuit being carry'd with a more violent and fiery Spirit, posteth up and down to incite such as he could to rise up in open Rebellion: And meeting in Master *Abington*'s House with *Hall*, another Jesuit, adviseth him the said *Hall* likewise to lose no time, but forthwith to seek to raise and stir up so many as he could: But *Hall* seeming to deliberate thereof, whether seeing no end of so rash an Attempt, or fearing by that means to be himself apprehended, *Tesmond* told him that he was a flegmatick Fellow; and said, a Man may herein see the difference betwixt a flegmatick Man (such as he meant *Hall* was) and a cholerick, as he said himself was: And further added, that he was resolv'd to do his best Endeavours for the raising of a Rebellion, under this false Pretext and Colour, That it was concluded that the Throats of all the Catholicks in *England* should be cut; so persuading himself to incite them to take Arms for to stand upon their guard and defence: and with this Device he posted away into the County of *Lancaster*. Afterwards *Hall* the Jesuit, otherwise called *Oldcorn*, being urged by *Humphry Littleton* with the evil Success of their intended Treason, that surely God was displeased and offended with such bloody and barbarous Courses, instead of an humble Acknow-

ledgment of the Juſtice of God, and a Senſe of the Wickedneſs of the Treaſon, fell rather ſatanically to argue for the Juſtification of the ſame; and ſaid, Ye muſt not judg the Cauſe by the Event; for the eleven Tribes of *Iſrael* were by God himſelf commanded to go and fight againſt *Benjamin*, yet were they twice overthrown: So *Lewis* of *France* fighting againſt the *Turk*, his Army was ſcatter'd, and himſelf died of the Plague: And laſtly, the Chriſtians defending of *Rhodes*, were by the *Turks* overcome. And theſe he apply'd to the Powder-Treaſon, and perſuaded *Littleton* not to judge it ungodly or unlawful by the Event.

Obſerve here a double Conſequent of this Powder-Treaſon. Firſt, open Rebellion, as hath been ſhewed both immediately before, and more at large in the former Arraignment; and ſince that, Blaſphemy in *Garnet* the Superior of the Jeſuits: for, he having liberty in the Tower to write, and ſending a Letter (which Letter was openly ſhewed in the Court before him) to an Acquaintance of his in the Gate-houſe, there was nothing therein to be ſeen but ordinary Matter, and for certain Neceſſaries: but in the Margin, which he made very great and ſpacious, and underneath, where there remained clean Paper, he wrote cunningly with the Juice of an Orange, or of a Lemon, to publiſh his Innocency, and concerning his Uſage; and there denieth thoſe things which before he had freely and voluntarily confeſſed: and ſaid, that for the *Spaniſh* Treaſon, he was freed by his Majeſty's Pardon; and as for the Powder-Treaſon, he hoped, for want of Proof againſt him, to avoid that well enough: but concludeth blaſphemouſly, applying the Words which were ſpoken of our Bleſſed Saviour, to himſelf, in this damnable Treaſon, and ſaith, *Neceſſe eſt ut unus Homo moriatur pro Populo; It is neceſſary that one Man die for the People.* Which Words *Caiaphas* ſpake of Chriſt: Wherein note his Prevarication and Equivocation; for before the Lords Commiſſioners, he truly and freely confeſſed his Treaſons, being (as himſelf, under his own hand, confeſſeth) overwhelmed *tanta nube teſtium*; and yet *ad faciendum populum*, in his Letters which he wrote abroad, he cleareth himſelf of the Powder-Treaſon. And thus much concerning the two Circumſtances ſubſequent, which were Rebellion and Blaſphemy.

The Circumſtances concurring, are concerning the Perſons both offending and offended. For the principal Perſon offending, here at the Bar, he is, as you have heard, a Man of many Names, *Garnet*, *Wally*, *Darcy*, *Roberts*, *Farmer*, *Philips*: and ſurely I have not commonly known or obſerved a true Man, that hath had ſo many falſe Appellations: He is by Country an *Engliſhman*, by Birth a Gentleman, by Education a Scholar, afterwards a Corrector of the Common Law Print, with Mr. *Tottle* the Printer; and now is to be corrected by the Law. He hath many Gifts and Endowments of Nature, by Art learned, a good Linguiſt, and by Profeſſion a Jeſuit, and a Superior, as indeed he is ſuperior to all his Predeceſſors in deviliſh Treaſon; a Doctor of Jeſuits, that is, a Doctor of five DD's, as Diſſimulation, Depoſing of Princes, Diſpoſing of Kingdoms, Daunting and Deterring of Subjects, and Deſtruction.

Their Diſſimulation appeareth out of their Doctrine of Equivocation: Concerning which it was thought fit to touch ſomething of that which was more copiouſly delivered in the former Arraignment, in reſpect of the Preſence of *Garnet* there, who was the Superior of the Jeſuits in *England*, concerning the Treatiſe of Equivocation ſeen and allowed by *Garnet*, and by *Blackwell* the Archprieſt; wherein, under the pretext of the Lawfulneſs of a mixt Propoſition to expreſs one part of a Man's Mind, and retain another, People are indeed taught not only ſimple Lying, but fearful and damnable Blaſphemy. And whereas the Jeſuits ask, why we convict and condemn them not for Hereſy; it is for that they will equivocate, and ſo cannot that way be try'd or judg'd according to their words.

Now for the Antiquity of Equivocation, it is indeed very old, within little more than three hundred years after Chriſt, uſed by *Arius* the Heretick, who having in a General Council been condemned, and then by the Commandment of *Conſtantine* the Emperor ſent into Exile, was by the ſaid Emperor, upon inſtant Interceſſion for him, and Promiſe of his future Conformity to the *Nicene* Faith, recalled again: who returning home, and having before craftily ſet down in writing his heretical Belief, and put it into his Boſom, when he came into the Preſence of the Emperor, and had the *Nicene* Faith propounded unto him, and was thereupon asked, whether he then did indeed, and ſo conſtantly would hold that Faith; he (clapping his Hand upon his Boſom where his Paper lay) anſwered and vowed that he did, and ſo would conſtantly profeſs and hold that Faith (laying his Hand on his Boſom where the Paper of his Hereſy lay) meaning fraudulently (by way of Equivocation) that Faith of his own, which he had written and carried in his Boſom.

For theſe Jeſuits, they indeed make no Vow of ſpeaking Truth, and yet even this Equivocating and Lying is a kind of Unchaſtity, againſt which they vow and promiſe: For as it hath been ſaid of old, *Cor linguæ fœderat naturæ ſanctio, veluti in quodam certo Connubio: Ergo cum diſſonent cor & loquutio, Sermo concipitur in Adulterio*; that is, The Law and Sanction of Nature, hath (as it were) married the Heart and Tongue, by joining and knitting of them together in a certain kind of Marriage; and therefore when there is Diſcord between them two, the Speech that proceeds from them, is ſaid to be conceived in Adultery, and he that breeds ſuch Baſtard-Children offends againſt Chaſtity.

But note the heavy and woeful Fruit of this Doctrine of Equivocation: *Francis Treſham* being near his natural Death in the Tower, had of charity his Wife permitted (for his Comfort) to come unto him: who underſtanding that her Husband had before directly and truly accuſed *Garnet* of the *Spaniſh* Treaſon, leſt belike her Husband ſhould depart this Life, with a Conſcience that he had revealed any thing concerning the Superior of the Jeſuits, a very little before he died, drew him to this; that his own Hand being ſo feeble as that he could not write himſelf, yet he cauſed his Servant then attending on him, to write that which he did dictate, and therein proteſted upon his Salvation, That he had not ſeen the ſaid *Garnet* of ſixteen years before, and thereupon prayed that his former Confeſſion to the contrary might in no wiſe take place; and that this Paper of his Retractation which he had weekly and dyingly ſubſcribed, might, after his Death, be delivered to the Earl of *Salisbury*: Whereas Maſter *Garnet* himſelf hath clearly confeſſed the *Spaniſh* Treaſon, and now acknowledged the ſame at the Bar; and he and Mrs. *Fawkes*, and others, directly confeſs and ſay, That *Garnet* and *Treſham* had, within two years

ſpace,

ſpace, been very often together, and alſo many times before: But, *Qualis vita, finis ita.* And *Garnet* himſelf being at the Bar afterwards urged to ſay what he thought of ſuch the Departure of *Francis Treſham* out of this Life, anſwered only this; I think he meant to equivocate.

Thus were they ſtained with their own Works, and went a whoring with their own Inventions, as it is in the Pſalm. So that this is indeed *Gens perfida*, according to the Hymn, *a perfidious People*; and therefore *Jurat? crede minus; non Jurat? credere noli. Jurat, non jurat hoſtis, ab hoſte cave.*

For their Doctrine of Depoſing of Princes, *Simanca* and *Philopater* are plain, (as hath in the former Arraignment been more amply declared, and was now again at large to *Garnet*'s face repeated:) If a Prince be an Heretick, then is he excommunicated, curſed, and depoſed; his Children deprived of all their Right of Succeſſion, himſelf not to be reſtored to his Temporal Eſtate upon Repentance. And by an Heretick, they profeſs, that he is intended and meant, namely, whoſoever doth not hold the Religion of the Church of *Rome*. Nay, there is an eaſier and a more expedite way than all theſe to fetch off the Crown from off the Head of any King chriſtned whatſoever; which is this, That *Princeps indulgendo hæreticis, amittit Regnum; If any Prince ſhall but tolerate or favour Hereticks, he loſeth his Kingdom.* Nay, whereas *Garnet*, in defence of this uſurped Power of the High Prieſt of *Rome*, alledged, *Nos Sanctorum, &c.* out of the Decretals; in the very next Title before that, there is another Decree that paſſeth all we have recited; wherein it is ſhewed, That *Zachary* the Pope depoſed *Childerick* of *France*, for nothing elſe there ſpecified, *ſed quia Inutilis*, but only for that he was reputed unprofitable to govern.

Now as concerning their Daunting and Deterring of Subjects, which is a part of the Jeſuits Profeſſion; it were good that they would know and remember, how that the moſt noble and famous Kings of *England* never were afraid of Popes Bulls, no not in the very Midnight of Popery, as *Edward the Confeſſor*, *Henry* I. *Edward* I. *Richard* II. *Henry* IV. *Henry* V. *&c.* And in the time of *Henry* VII. and in all their times, the Pope's Legate never paſſed *Calais*, but ſtay'd there, and came not to *England*, until he had taken a ſolemn Oath to do nothing to the detriment of the Crown or State.

For the Perſons offended, they were theſe:

Firſt, The King, of whom I have ſpoken often, but never enough: A King of high and moſt noble antient Deſcent, as hath been briefly declared; and in himſelf full of all Imperial Virtues, Religion, Juſtice, Clemency, Learning, Wiſdom, Memory, Affability, and the reſt.

Secondly, The Queen; and ſhe, in reſpect of her happy Fruitfulneſs, is a great Bleſſing, inſomuch that of her, in that reſpect, may be ſaid, ſhe is *Ortu magna, Viro major, ſed maxima Prole*; great in Birth, greater in her Marriage, but to all Poſterity greateſt, in the bleſſed Fruit of her Womb, as having brought forth the greateſt Prince that ever *England* had.

Thirdly, The noble Prince, of whom we may ſay with the Poet, *Quæ te tam læta tulere ſecula? Qui tanti talem genuere parentes?* Never Prince, true Heir-Apparent to the Imperial Crown, had ſuch a Father, nor ever King had ſuch a Son.

Fourthly, Then the whole Royal Iſſue, the Council, the Nobility, the Clergy, nay our Religion it ſelf, and eſpecially this City of *London*, that is famous for her Riches, more famous for her People, (having above five hundred thouſand Souls within her and her Liberties) moſt famous for her Fidelity, and more than moſt famous of all the Cities in the World for her true Religion and Service of God. Hold up thy Head, noble City, and advance thy ſelf, for that never was thy Brow blotted with the leaſt taint or touch, or ſuſpicion of Diſloyalty: Thou mayſt truly ſay with the Prophet *David*, *I will take no wicked thing in hand, I hate the ſin of unfaithfulneſs, there ſhall no ſuch cleave unto me.* Therefore for thy Fidelity thou art honoured with the Title of *The King's Chamber*, as an inward place of his greateſt Safety: And for thy comfort and joy this day, hath *Britain*'s great King honoured thee with the proceeding upon this great and honourable Commiſſion; after the heavy and doleful Rumours this other day, when it was certainly known that King *James* was in ſafety, well did the Fidelity of this City appear, (whereof I was an Eye-witneſs) *Una voce conclamaverunt omnes, Salva Londinum, ſalva Patria, ſalva Religio, Jacobus Rex noſter ſalvus; Our City, our Country, our Religion is ſafe, for our King* James *is in ſafety.*

The Obſervations are many, and only in a word to be touched:

1. That in the *Spaniſh* Treaſon before-mention'd, and this Powder-Treaſon, there was the ſame Order, Cauſe and End. The Order was, firſt, to deal by ſecret Practice and Treaſon, and then by Force and Invaſion. The Cauſe which they pretend, was the Romiſh Catholick Religion. The End was the final Deſtruction of the Royal Succeſſion, yea, even *occidere Regnum*, to overthrow and diſſolve the whole Kingdom.

2. Note, that even the Enemy hath acknowledged, That our State is ſo ſettled and eſtabliſhed, as neither Strength nor Stratagem can prevail, unleſs there be a Party made in *England*.

3. We ſhall never have Bull more to come from *Rome* to *England*, becauſe they ſhall never have a Party ſtrong enough to encounter with ſo many Lions.

4. All their Canons, Decrees, and new-found Doctrines tend to one of theſe two Ends; either worldly Pride, or wicked Policy; for the amplitude and enlargement of the Pope's Authority, and for the ſafety of the Jeſuits, Prieſts, *&c.*

5. Obſerve that *Baynam*, a Layman, and one of the damned Crue, and ſo naming himſelf, was ſent to inform the Pope as a Temporal Prince.

6. I conceive their Fall to be near at hand, both by Divinity and by Philoſophy. For the firſt, there are now in *England* about four hundred Prieſts: ſo many were there in *Iſrael* in the days of *Achab*; *Who*, ſaith God, *ſhall go and deceive* Achab, *that he may fall?* A lying Spirit in the mouths of his four hundred Prophets undertook and effected it; their Fall was near, when once a lying Spirit had poſſeſſed the Prieſts, according to the Viſion of *Micheas*, as now it hath poſſeſſed the Jeſuits. *2dly*, The Imitation of Good for the moſt part comes ſhort of the Pattern; but the Imitation of Evil ever exceeds the Example. Now no Imitation can exceed this Fact, and therefore their time is at an end.

7. Many condemn it now, that would have commended it, if it had taken effect; for this, ſay they, is *E numero eorum quæ non laudantur niſi peracta.*

8. They and their Adherents ſpread abroad falſe Rumours; as that the King ſhould have broken Promiſe with them concerning Toleration: which mixture of God's Service, rather than he would ſuffer,

ſuffer, he would loſe Children, Crown, Life, and all. Nay, they may ſee there is no ſuch hope left, for that his Majeſty bringeth up his Royal Iſſue in the true Religion and Service of the Almighty.

Laſtly, Obſerve the wonderful Providence of God in the admirable Diſcovery of this Superior Jeſuit to be party to this Treaſon; and that in two reſpects:

1. In reſpect of the Means of Secrecy, uſed by him in conference only with *Catesby* of the Laity. (2) They had a ſtrong and a deep Oath given them both for Secrecy and Perſeverance. (3) They hereupon received the holy Sacrament. (4) They were allowed and taught by the Jeſuits, to equivocate upon Oath, Salvation or otherwiſe: And how then ſhould it be diſcovered? (5) Their ſecret Intelligence was ſuch, as that it was impoſſible by the Wit of Man to be found out. And therefore,

2. The ſecond thing is, How this Treaſon being long ſithence plotted, the Providence of God did continually, from time to time, divert and put off the executing thereof, by unexpected putting off the times of aſſembly in Parliament. For the Parliament began the 19th of *March*, in the firſt Year of his Majeſty's Reign, and continued till the 7th of *July* following, before which time the Conſpirators could not be ready: from thence it was prorogued until the 7th of *February*, againſt which time they could not make the Mine ready, in reſpect that they could not dig there, for that the Commiſſioners of the Union ſate near the place, and the Wall was thick, and therefore they could not be provided before the 7th of *February*; and on the 7th of *February* the Parliament was prorogued until the 5th of *October*. After this, they found another Courſe, and altered the place from the Mine to the Cellar. O bleſſed Change of ſo wicked a Work! Oh! but theſe fatal Engineers are not yet diſcovered, and yet all things are prepared. Oh prorogue it once more! And accordingly, God put it into his Majeſty's heart (having then not the leaſt ſuſpicion of any ſuch matter) to prorogue the Parliament; and further, to open and enlighten his Underſtanding, out of a myſtical and dark Letter, like an Angel of God, to point to the Cellar, and command that to be ſearched; ſo that it was diſcovered thus miraculouſly, but even a few hours before the Deſign ſhould have been executed.

The Concluſion thereof ſhall be this; *Qui cum Jeſuitis, non itis cum Jeſuitis*: For, *They encourage themſelves in miſchief, and commune among themſelves ſecretly, how they may lay ſnares, and ſay, that no man ſhall ſee them. But God ſhall ſuddenly ſhoot at them with a ſwift arrow, that they ſhall be wounded; inſomuch that whoſo ſeeth it ſhall ſay, This hath God done; for they ſhall perceive that it is his work.*

Then were repeated the Proofs for every of the particular Accuſations aforeſaid, by the expreſs and voluntary Confeſſions of *Garnet*, and of his Complices themſelves, and of two credible Witneſſes ſworn at the Bar, and openly heard *viva voce*, and acknowledged by *Garnet* himſelf to be Men without exception.

Then Mr. *Garnet* having Licence of the Court to anſwer what he could for himſelf, ſpake, and divided all which had been objected, to his remembrance, into four parts, *viz.*

Containing matter of,
1*ſt*, Doctrine.
2*dly*, Recuſants.
3*dly*, Jeſuits in general.
4*thly*, Himſelf in particular.

1*ſt*, In Doctrine, he remembred two points:

1. Concerning Equivocation; whereunto he anſwered, That their Church condemned all Lying, but eſpecially if it be in cauſe of Religion and Faith, that being the moſt pernicious Lye of all others, and by S. *Auguſtine* condemned in the *Priſcillianiſts*: Nay, to lye in any cauſe is held a Sin and Evil; howſoever, of eight degrees which St. *Auguſtine* maketh, the loweſt indeed is to lye for to procure the Good of ſome, without hurting of any. So then our Equivocation is not to maintain Lying, but to defend the uſe of certain Propoſitions: For a Man may be asked of one, who hath no Authority to interrogate, or examined concerning ſomething which belongeth not to his Cognizance who asketh, As what a Man thinketh, *&c.* So then no Man may equivocate, when he ought to tell the Truth, otherwiſe he may. And ſo St. *Auguſtine* upon *John* ſaith, That Chriſt denied he knew the Day of Judgment, *viz.* with purpoſe to tell it to his Diſciples; and ſo St. *Thomas* and others who handle this Matter, chiefly under the title of Confeſſion.

2. For the ſecond Point, which was the Power of the Pope in depoſing of Princes, his anſwer was threefold. (1) That therein he only propounded and followed the the general Doctrine of the Church. (2) That this Doctrine of the Power of the Pope, was by all other Catholick Princes tolerated without Grievance. (3) That yet for his own part, he always made a difference in the matter of Excommunicating and Depoſing of Princes, betwixt the Condition and State of our King and of others, who having ſometimes been Catholicks, did or ſhall afterwards fall back. As for *Simanca*, and other Writers, whatſoever they ſet down of the depoſing of Hereticks, it is to be underſtood of thoſe Princes, who having ſometimes profeſſed the Faith of the Church of *Rome*, do afterwards make a defection from the ſame.

2*dly*, For Recuſants; 1. I deſire them not to impute any Offence or Crime of mine, to the Prejudice of the Cauſe of Religion. 2. Concerning their not going to Church; whereas it was urged by Mr. *Attorney*, that the ground of their not going to Church, was the Excommunication and Bull of *Pius Quintus*; and that now they may go, for that his Majeſty is not denounced Excommunicate: I anſwer, That it followeth not; for the *Arians* and Catholicks had the ſame Service in their Churches, yet came they not together; and I know divers my ſelf, who, before that Bull, refuſed to go to Church all the time of Queen *Elizabeth*, though perhaps moſt Catholicks did indeed go to Church before. It was about the end of the Council of *Trent*, where this matter was diſcuſſed by twelve learned Men, and concluded not lawful. And this was occaſioned, for that *Calvin* himſelf held it not lawful for any Proteſtant to be preſent, not only at our Maſs, wherein perhaps they may ſay there is Idolatry, but not at our Even-ſong, being the ſame with theirs.

3*dly*, Concerning the Jeſuits, he ſaid, That if any were privy to ſuch horrible Treaſons, it was impious, eſpecially in Men of their Profeſſion: But ſaid, that he talked with ſome of them about it, and that they denied it.

4*thly*, Touching my ſelf, The Negotiation into *Spain* was indeed propounded unto me, and I was alſo acquainted with the Negotiation for Mo-

ney, but ever intended it ſhould be beſtowed for the relief of poor Catholicks: But when they were there, they moved for an Army; which when they afterwards acquainted me withal, I miſliked it, and ſaid, it would be much diſliked at *Rome*: only I muſt needs confeſs I did conceal it after the example of Chriſt, who commands us, when our Brother offends, to reprove him, for if he do amend, we have gained him; yet I muſt needs confeſs, that the Laws made againſt ſuch Concealing, are very good and juſt, for it is not fit the Safety of a Prince ſhould depend upon any other Man's Conſcience. So that I am verily perſuaded, if they yielded to me, it had been good: but what their Intent and Meaning was, in deſiring an Army, I knew not, and I was charged not to meddle therein, no not with the Money which was to be ſent for Penſions, though it was to maintain the Title of the King.

The Earl of *Salisbury* then demanded, To maintain whoſe Title?

Garnet anſwered, The Title of the King of *Spain*.

The Earl of *Northampton* asked him, Why he did not oppoſe himſelf againſt it, and forbid it, as he might have done? For, *Qui cum poſſit non prohibet, jubet*.

Whereupon *Garnet* anſwered, That he might not do it: and for ſending of Letters, and commending ſome Perſons thereby, he confeſſed he did it often, as they were commended to him, without knowing either their Purpoſes, or ſome of their Perſons; for he never knew Mr. *Wright*, for whom he writ.

The Earl of *Salisbury* then replyed to *Garnet*, I muſt now remember you, how little any of your Anſwers can make for your Purpoſe, when you would ſeek to colour your dealing with *Baynham*, by profeſſing to write to *Rome* to procure a Countermand of Conſpiracies; and yet you know, when he took his journey towards *Rome*, the Blow muſt needs have been paſſed, before the time he could have arrived to the Pope's Preſence, (ſuch being your Zeal and his Haſte for any ſuch Prevention) as it was about the 20th of our *October* when he paſſed by *Florence* towards *Rome*.

To which *Garnet* made no great anſwer, but let it paſs; and then went on with his Defence of ſending Letters in Commendation of many of thoſe with which he had been formerly charged, and ſo confeſſed that he had written Commendation of *Fawkes*, thinking that he went to ſerve as a Soldier, not knowing then of any other Purpoſe he had in hand. And as for Sir *Edmund Baynham*, what he or Mr. *Catesby* intended, he knew not in particular; only Mr. *Catesby* asked him in general, the queſtion of the Lawfulneſs to deſtroy Innocents with Nocents, as had been before objected againſt him; which at firſt, I thought, ſaid *Garnet*, had been an idle Queſtion, though afterwards I did verily think, he intended ſomething that was not good. Whereupon having ſhortly after this, received Letters from *Rome*, to prohibit all Inſurrections intended by Catholicks, which might perturb this State; *Garnet* informed *Catesby* thereof, and told him, That if he proceeded againſt the Pope's will, he could not prevail: but *Catesby* refuſed and ſaid, He would not take notice of the Pope's pleaſure by him. Notwithſtanding, he ſhewed to *Catesby* the general Letter which he had received from *Rome*, but ſaid he would inform the Pope, and tell *Garnet* alſo in particular, what Attempt he had in hand, if he would hear it; which afterwards he offered to do, but *Garnet* refuſed to hear him, and at two ſeveral times requeſted him to certify the Pope what he intended to do.

And when Sir *Edmund Baynham* (as he pretended) was to go over into *Flanders* for a Soldier, *Garnet* thought good to ſend him to the Pope's Nuncio, and to commend him to other Friends of his, That they ſhould ſend him to inform the Pope of the diſtreſſed Eſtate of Catholicks in *England*. The rather, that the Pope having a Lay-man there, might be acquainted with all their Proceedings; and that *Baynham* might then learn of the Pope, what courſe he would adviſe the Catholicks in *England* to take for their own Good: but wiſhed *Baynham* in no caſe to uſe *Garnet's* name to the Nuncio in that behalf.

Then were the two Witneſſes called for; both of them Perſons of good Eſtimation, that overheard the Interlocution, betwixt *Garnet* and *Hall* the Jeſuit, *viz.* Mr. *Fauſet* a Man learned and a Juſtice of Peace, and Mr. *Lockerſon*: but Mr. *Fauſet* being not preſent, was ſent for to appear; and in the mean time Mr. *Lockerſon*, who being depoſed before *Garnet*, delivered upon his Oath, that they heard *Garnet* ſay to *Hall*, They will charge me with my Prayer for the good Succeſs of the great Action, in the beginning of the Parliament, and with the Verſes which I added in the end of my Prayer,

Gentem auferte perfidam
Credentium de finibus,
Ut Chriſto Laudes debitas
Perſolvamus alacriter.

It is true indeed (ſaid *Garnet*) that I prayed for the good Succeſs of that great Action; but I will tell them, that I meant it in reſpect of ſome ſharper Laws, which I feared they would then make againſt Catholicks: and that Anſwer ſhall ſerve well enough.

Here *Garnet* replied, That for the two Gentlemen that heard the Interlocution, he would not charge them with Perjury, becauſe he knew them to be honeſt Men; yet he thought they did miſtake ſome things, though in the ſubſtantial parts, he confeſſed, he could not deny their Relation. And for the main Plot, he confeſſed, that he was therewithal acquainted by *Greenwell* particularly; and that *Greenwell* came perplexed unto him to open ſomething, which Mr. *Catesby* with divers others intended: to whom he ſaid, He was contented to hear by him what it was, ſo as he would not be acknown to Mr. *Catesby*, or to any other, that he was made privy to it. Whereupon Father *Greenwell* told him the whole Plot, and all the Particulars thereof, with which he proteſted, that he was very much diſtempered, and could never ſleep quietly afterwards, but ſometimes prayed to God, that it ſhould not take effect.

To that the Earl of *Salisbury* replied, That he ſhould do well to ſpeak clearly of his Devotion in that point; for otherwiſe he muſt put him in remembrance, that he had confeſſed to the Lords, that he had offered ſacrifice to God for ſtay of that Plot, unleſs it were for the good of the Catholick Cauſe; and in no other faſhion (ſaid his Lordſhip) was this State beholden to you for your Maſſes and Oblations. Adding thus much farther, That he wonder'd why he would not write to his Superior *Aquaviva*, as well of this particular Powder-Treaſon, as to procure prohibition for other ſmaller matters.

Garnet

Garnet faintly anſwered, He might not diſcloſe it to any, becauſe it was matter of ſecret Confeſſion, and would endanger the Life of divers Men.

Whereunto the Earl of *Northampton* replied, That that matter of Confeſſion, which before he refuſed to confeſs, becauſe he would ſave Lives, he confeſſed it now to endanger his own Life; and therefore his former Anſwer was idle and frivolous.

Then *Garnet* told the Lords, That he commanded *Greenwell* to diſſuade *Catesby*, which he thought he did; and if *Catesby* had come to him upon *Alhallow-day*, he thought he could ſo far have ruled him, as he would have been perſuaded to deſiſt.

Then ſaid the Earl of *Salisbury*, Why did you refuſe to hear *Catesby* tell you all the Particulars, when he would have told you, if you had been deſirous to prevent it?

Garnet replied, That after *Greenwell* had told him, what it was which *Catesby* intended, and that he called to mind what *Catesby* ſaid to him, at his firſt breaking with him in general Terms, his Soul was ſo troubled with miſlike of that Particular, as he was loth to hear any more of it.

Well then (ſaid the Earl of *Salisbury*) you ſee his Heart: and then turning to the Lords Commiſſioners, he deſired leave of them, that he might uſe ſome ſpeech concerning the proceeding of the State in this great Cauſe, from the firſt beginning until that hour; and ſo began to this effect: That although the Evidence had been ſo well diſtributed and opened by Mr. Attorney, as he had never heard ſuch a maſs of Matter better contracted, nor made more intelligible to the Jury, to whom it was not his part to ſpeak, nor his purpoſe to meddle with Mr. *Garnet* in Divinity, or in the Doctrine of Equivocation, in which latter he ſaw how he had played his Maſter-prize; yet becauſe he had been particularly uſed in this Service with other of the Lords Commiſſioners, by whom nothing was more deſired, next the Glory of God, than to demonſtrate to the World, with what Sincerity and Moderation his Majeſty's Juſtice was carried in all points, he would be bold to ſay ſomewhat of the Manner of this Arraignment, and of the Place where it was appointed. For the firſt, he ſaid, That ſeeing there was nothing to which this State might more attribute the infinite Goodneſs and Bleſſings of God, than to the Protection of the true Religion, which had groaned ſo long under the bitter Perſecutions of Men of his Profeſſion; he confeſſed, that he held himſelf greatly honoured to be an Aſſiſtant amongſt ſo many great Lords at the Seat of Juſtice, where God's Cauſe ſhould receive ſo much Honour, by diſcrediting the Perſon of *Garnet*, on whom the common Adverſary had thought to confer the Uſurpation of ſuch an eminent Juriſdiction: For otherwiſe, Who did not know, that the Quality of poor *Henry Garnet* might have undergone a more ordinary Form of Tryal, and happily in ſome other place of leſs Note and Obſervation? And ſo his Lordſhip took an occaſion to declare, That the City of *London* was ſo dear to the King, and his Majeſty ſo deſirous to give it all Honour and Comfort, as when this Opportunity was put into his hands, whereby there might be made ſo viſible an Anatomy of Popiſh Doctrine, from whence theſe Treaſons have their Source and Support, he thought he could not chuſe a fitter Stage, than the City of *London*, which was not only rightly termed, *The Chamber of his Empire*, but was by his Majeſty eſteemed as his greateſt and ſafeſt Treaſury; who accounteth no Riches comparable to his Subjects Hearts, and acknowledgeth that ſuch a Circuit did never contain ſo many faithful Subjects within the Walls: A Matter well appearing to his own Eyes amongſt others, upon the deceaſe of the late Queen of precious Memory, when he attending moſt of the Peers and Privy-Counſellors of this Kingdom, who were accompanied with no ſmall number of noble and faithful Gentlemen, had ſeen them all ſtayed from entry within the Gates of this City, until they had publickly declared with one Voice, That they would live and die with the King our Sovereign Lord. To you therefore, Mr. *Garnet* (ſaid the Earl of *Salisbury*) muſt I addreſs my ſelf, as the Man in whom it appeareth beſt what horrible Treaſons have been covered under the Mantle of Religion, which heretofore had been Petty Treaſon for a Proteſtant to have affirmed. Such hath been the Iniquity of falſe Tongues, who have always ſought to prove the Truth a Lyar. Of which impudent Calumnies, the State is ſo tender, as you do beſt know, (Mr. *Garnet*) that ſince your Apprehenſion, even till this Day, you have been as chriſtianly, as courteouſly, and as carefully uſed, as ever Man could be, of any Quality, or any Profeſſion: yea, it may truly be ſaid, that you have been as well attended for Health or otherwiſe, as a Nurſe-Child. Is it true or no, ſaid the Earl?

It is moſt true (my Lord) ſaid *Garnet*, I confeſs it.

Well then (ſaid the Earl) if your ſtrange Doctrine of Equivocation be obſerved, and your Hardneſs of Heart to deny all things; let it not be forgotten, that this Interlocution of yours with *Hall*, over-heard by others, appears to be *digitus Dei*: for thereby had the Lords ſome light, and proof of matter againſt you, which muſt have been diſcovered otherwiſe by Violence and Coercion, a matter ordinary in other Kingdoms, though now forborn here: but it is better as it is, for the Honour of the State, for ſo were your own Words, that you thought it beſt to tell the truth at laſt, when you ſaw you were confounded *tanta nube teſtium*. In which I proteſt, that I do confidently aſſure my ſelf, that you would as eaſily have confeſſed your ſelf to be Author of all the Action, as the Concealer, but that his Majeſty and my Lords were well contented to draw all from you without Racking, or any ſuch bitter Torments.

Then ſpeaking to *Garnet*, he ſaid; I pray you, Mr. *Garnet*, what encouraged *Catesby* that he might proceed, but your reſolving him in the firſt Propoſition? What warranted *Fawkes*, but *Catesby*'s Explication of *Garnet*'s Arguments? as appears infallibly by *Winter*'s Confeſſion, and by *Fawkes*, that they knew the Point had been reſolved to Mr. *Catesby*, by the beſt Authority.

Then *Garnet* anſwered, That Mr. *Catesby* was to blame to make ſuch Application.

To that the Earl replied, That he muſt needs be bold with him, to drive him from the Truſt he had, to ſatisfy the World by his Denials, by putting him in mind, how after the Interlocution betwixt him and *Hall*, when he was called before all the Lords, and was asked, not what he ſaid, but whether *Hall* and he had conference together, deſiring him not to equivocate; how ſtiffly he deny'd it upon his Soul, reiterating it with ſo many deteſtable Execrations, as the Earl ſaid, it wounded their Hearts to hear him: and yet aſſoon as *Hall* had confeſſed it, he grew aſhamed, cried the

the Lord's Mercy, and said, he had offended, if Equivocation did not help him.

To this *Garnet* answered, That when one is asked a question before a Magistrate, he was not bound to answer before some Witnesses be produced against him, *Quia nemo tenetur prodere seipsum.* Then *Garnet* falling into some Professions of his welwishing to his Majesty, and being put in mind of the Answer he made concerning the Excommunication of Kings, wherein he referred himself to the Canon of *Nos Sanctorum*, he answered that his Majesty was not yet excommunicated.

Then the Earl of *Salisbury* bade him deal plainly, for now was the time, Whether in case the Pope, *per Sententiam Orthodoxam*, should excommunicate the King's Majesty of *Great Britain*, his Subjects were bound to continue their Obedience?

To this *Garnet* denied to answer, by which the Hearers might see his Mind.

From that Matter he began to make request, That where he had confessed the receiving of two Briefs or Bulls from the Pope, in the Queen's time, by which all Catholicks were forbidden to adhere to any Successor that was not obedient to the Church of *Rome*, his Majesty would be pleased to make a favourable Interpretation, because he had shewed them to very few Catholicks in *England*, in the Queen's time; and when he understood that the Pope had changed his Mind, then he burnt the Bulls.

To that it was said, That belike the Pope changed his Mind, when the King was so safely possessed of his Estate, and *Garnet* with his Complices began to feel their own Impiety, and so as *Catesby* said to *Piercy*, did resolve roundly of that Treason, which would speed all at once.

Then *Garnet* began to use some Speeches, that he was not consenting to the Powder-Treason.

Whereupon the Earl of *Salisbury* said, Mr. *Garnet*, give me but one Argument that you were not consenting to it, that can hold in any indifferent Man's Ear or Sense, besides your bare Negative. But *Garnet* replyed not.

Then Mr. Attorney-General spake in answer of *Garnet* more particularly, to this effect:

1. For Equivocation, it is true indeed, that they do outwardly to the World condemn Lying and Perjury, because the contrary were too palpable, and would make them odious to all Men: But it is open and broad Lying and Forswearing, not secret and close Lying and Perjury, or swearing a Falshood, which is most abominable, and without Defence or Example. And if they allow it not generally in others, yet at least in themselves, their Confederates and Associates in Treasonable Practices, they will both warrant and defend it, especially when it may serve their turn for such Purposes and Ends as they look after.

2. Concerning the usurped Power of the Pope in Deposing of Princes; neither is it the general Doctrine of the Church, as he falsly said, neither allowed or tolerated by all Princes, who are otherwise of their Religion, as may appear out of the *French* Discourse written to the *French* King against the re-admitting of the Jesuitical Faction. And whereas he would pick a thanke in seeming to spare and exempt King *James* our Sovereign, it is not possible to avoid their Distinction of being excommunicated *de Jure*, if not *de Facto*, howsoever it be true also, that the Pope doth *de Facto* curse all Hereticks. For Recusants not going to Church, the example of the Catholicks not joining in Service and Prayer with the *Arians*, who denied a main Article of the Christian Creed, doth no ways hold, neither can it agree to us, of whom no such impious Blasphemy can be shewed or imagined. That *Garnet* said, he knew some, who before the Bull came, went not to Church, it may be true perhaps in some one or two perverted and perverse Men like himself; but whereas he produced the Council of *Trent*, as if there the Matter had been determined, and thereupon inferreth, that after that all Romish Catholicks refused to meet with us at Church in time of Prayer, it is a gross Error: for the last Session of that Council was in the Year of our Lord 1563. which was in the fifth Year of Queen *Elizabeth*; whereas I shewed, and am able to justify and prove, That their Romish English Catholicks came to our Service in our Churches until the nineteenth Year of her Majesty, which was many Years after that Council was ended.

Concerning *Garnet* himself; *1st*, For that Answer of his, That he knew of the Powder-Treason by Confession, it is true which before was spoken, that such Acts as this is, *Non laudantur nisi peracta*, are then only commended, when they are performed: but otherwise, First, *Greenwell*'s was no Sacramental Confession, for that the Confitent was not penitent: nay, himself hath clearly delivered under his hand, That the Powder-Treason was told him, not as a Fault, but by way of Consultation and Advice. *2dly*, It was a future thing to be done, and not already then executed. *3dly*, *Greenwell* told it not of himself, that he should do it, but of *Fawkes*, *Piercy*, *Catesby*, *Winter*, and others; and therefore he ought to have discovered them, for that they were no Confitents. *4thly*, He might and ought to have discovered the Mischief, for Preservation of the State, though he had concealed the Persons. *5thly*, *Catesby* told it unto him *extra Confessionem*, out of Confession; saying, They might as well turn him out, as have kept him out. *Lastly*, By the Common Law, howsoever it were (it being *crimen læsæ Majestatis*) he ought to have disclosed it.

Now for that *Garnet* denied that he was a principal Author and Procurer of this Treason, but only that he had received knowledge thereof; the contrary is clear and manifest, both out of his own Confessions, by himself acknowledged, and apparently proved, in that he resolved *Catesby* concerning the Lawfulness and Merit thereof, and that he prayed for the good Success of the Powder-Treason, which is more than either Consultation or Consent. Besides, he must remember him of the old Versicle, *Qui non prohibet quod prohibere potest, consentire videtur.* *Garnet* might have commanded *Greenwell*, that told him of the Powder-Treason, to have desisted, but did not: But *Greenwell* went still on with the Treason, and when it was discloſed, went into the Country to move Rebellion, which doubtless he would never have done, if *Garnet* had forbidden him; therefore he said, he might say with the Orator *Tully*, *Cui adsunt testimonia rerum, quid opus est verbis?* Moreover, Mr. Attorney added, How *Garnet* writ first for *Thomas Winter*, then for *Kit Wright*, after that for *Guy Fawkes*, then for Sir *Edward Baynham*, and afterwards for *Catesby*, for a Regiment of Horse; and that *Garnet* was for the *Infanta*, and by his Briefs intended to keep out the King, except he should tolerate and swear to maintain the Romish Religion.

Then Mr. Attorney spake of the Interlocution betwixt *Garnet* and *Hall*, and said, That in all their Speeches they never named God, nor confes-

ſed their Innocency: But as ſoon as they ſpake together, *Hall* ſpake firſt; and then *Garnet* ſaid, he ſuſpected one, whoſe Name they that were ſet to overhear them, could not hear, to have diſcloſed ſomething againſt them: But it may be otherwiſe, for he ſaid he was much ſubject to that Frailty of Suſpicion. He ſaid he received a Note from *Rookwood*, that *Greenwell* was gone over Seas; and another, that *Gerrard* was gone to Father *Parſons*, and that Miſtreſs *Anne* was in Town (meaning Miſtreſs *Anne Fawkes*) and many other things were by them uttered in that Conference.

By this time came in Mr. *Forſet*, who being depoſed, affirmed likewiſe, that their Examination, and the matter therein contained, were true: ſaying further, that both of them took Notes of that which they heard from *Garnet* and *Hall*, as near as poſſibly they could, and ſet down nothing in their Examinations, but thoſe things, wherein both their Notes and perfect Memories agreed and aſſented; and that many things that were very material, and of great moment, were left out of their Examinations, becauſe both their Notes and Memories did not perfectly agree therein.

And now one of the Letters, which were written with Sack, was ſhewed to the Court; by which appeared that *Hall* and *Garnet* had Interlocution together. Mr. Attorney here inferred that the neceſſary End of Juſtice was, *ut pœna ad paucos, metus ad omnes perveniat*; and urged the Examination of *Garnet*, wherein he confeſſed that when *Teſmond* alias *Greenwell*, made relation to him of the great Blow by the Powder-Treaſon, who ſhould have the Protection, *Greenwell* ſaid, the Lords that ſhould be left alive ſhould chuſe a Protector. And further, Mr. Attorney urged the writing of another Letter written with Sack to *Sayer* alias *Rookwood*, a Prieſt in the *Gatehouſe*: But of this point much is formerly mentioned.

Here Mr. Attorney ending; my Lord of *Northampton* ſpake to the Priſoner this Speech following.

Though no Man alive can be leſs apt or willing than my ſelf, to add the leaſt grain or ſcruple of Improvement to the weight of any Man's Calamity, that groans under the heavy burden of a diſtreſſed State, *Vel gravatis addere gravamina*, whereof I have as many Witneſſes as the World hath Eyes; yet as the Caſe ſtands now in this Tryal, Mr. *Garnet*, between my dear Sovereign, *ex cujus ſpiritu*, as one of *Alexander* ſaid, *nos omnes ſpiritum ducimus*; and you that were ſo well content, to let the courſe of Conſpiracy run forward to the ſtopping of this breath before the time, which God by Nature doth preſcribe between his Honour and your Error, his juſt Proceedings and your painted Shows, his Sincerity and your Hypocriſy; I could wiſh it poſſible that in a Perſon of ſome other Quality, you might hear the Echoes of your unperfect and weak Anſwers, and thereupon judge more indifferently and evenly of the true ſtate of the Cauſe than you have done hitherto; being diſtracted with Fear, or foreſtall'd by Prejudice, or, to borrow your own Phraſe, which is more proper to the Point than any I can uſe, oppreſſed *tanta nube teſtium*, with ſo thick a Cloud of Witneſſes, as concur with one Voice, Heart and Spirit, for the Confuſion of your Audacity.

I confeſs that never any Man in your State gave leſs hold or advantage to Examiners, than you have done in the whole courſe of Proceeding to us that were in Commiſſion; ſometime by forſwearing, as upon the Confeſſion of *Hall* your Fellow; ſometime by diſſembling, as about the places of your Rendezvous, which was the Lapwing's Neſt; ſometimes by earneſt Expoſtulation; ſometime by artificial Equivocation; ſometime by ſophiſticating true Subſtances; ſometime by adding falſe Qualities: yet *ſat ſupereſt*, as may appear, to the defeat of your Inventions, and the defence of the King's Majeſty; *quia magna eſt veritas, & prævalet.*

Your Parts by Nature ſimply conſidered, and in another Perſon, would rather move Compaſſion, than exaſperate Humanity; for whom would not the Ruin of ſuch a Perſon touch, as is in Appearance temperate, and in Underſtanding ripe? But our End at this time is the ſame with *Decius* in *Livy*, *ut quem vos obrutum reliquiſtis ignem*, &c. that we may quench that Fire by prevention, which you have only raked up in Aſhes; *ut novum daret incendium*, that it might cauſe a new Combuſtion ſo ſoon as it might hit upon matter that were fit and ſutable. Wherefore I muſt rather draw your Anſwers to the true touch for diſcharge of Rumors, than *verberare aerem*, beat the Air: For the ſubſtance of all your Evaſions and ſly Shifts, is as the Inn-keeper of *Chalcus* confeſſed of his Diſhes to his Gueſts, admiring *tantam ferculorum diverſitatem*, that they were only compounded of Pork, howſoever your fine Cookery may vary them.

The two Bulls that in the late Queen's time entred the Land (with a purpoſe by their loud Lowing to call all their Calves together, for the making of a ſtrong Party, at the ſhutting up of the Evening, againſt your dread Sovereign) were grazed in your Paſtures, Mr. *Garnet*; or to ſpeak more properly (becauſe they durſt neither endure the Light, nor admit the Air) they were ſtall-fed at your Crib, as your ſelf confeſs; and therefore, *Serve nequam, ex ore tuo te judico.* And what anſwer make you to this? marry that the Purpoſe was imparted to very few; ſo much the worſe: For out of Publication grows Diſcovery; and yet Experience hath juſtified, that thoſe very few were the very Souls and Spirits of that pack of Conſpirators, and ſuch as for want of Patience and Temperance to tarry the time, when the Game had been brought to bearing, ſhould have played the chiefeſt parts in the late ſmoaking Tragedy. You ſay the Bulls were after ſacrificed in the Fire by your ſelf: But not before the King's good Angel had cut their Throats, and the beſt part of their Proof were paſt, and your Hopes dead of that good which in likelihood they ſhould have brought with them. For to what uſe could theſe dumb Beaſts ſerve, in ſeeking to prevent that lawful and undoubted Right, which Heaven had now proclaimed, and Earth acknowledged? But let the proof be what it will, I look into the Root. I wonder, Mr. *Garnet*, what Apoſtle warrants you in undertaking wicked Plots, in hope that good may follow; neglecting what all Laws (and the Laws of *England* above all) what all States and Nations conclude of Men, that ſlily practiſe and combine for Anticipation of the future Rights of lawful Succeſſors.

In excuſe of Letters written with your own Hand by *Thomas Winter* to Father *Creſwell*, when he was employed about the procurement of an Army to invade with ſupplys of Treaſure proportionable for the quicker Execution of ſo deſperate an Enterprize; you anſwer, that the Perſons were commended in your Letters, not the Plot: *ſpectatum admiſſi, riſum teneatis amici?* as though the Miniſter

niſter had any other Errand or Inſtruction, than the main Plot it ſelf: as though you, Mr. *Garnet*, being then *Magiſter in Iſrael* and *Rector Chori*, could or would be ignorant of their prefixed End; as though ſo grave a Perſon as your ſelf, were likely to ſet his hand to blanks like a Baby, and to leave the reſt to the diſpoſition of a Man wholly tranſported with fiery Humours: Or as though in this very point other Mens Confeſſions in particular, beſide your own in generality, had not left us Marks and Traces evident and plain enough to deſcry doubleneſs with diverſity. You confeſs privity to a Practice, but not for an Army; Foreknowledge of a Courſe for getting Treaſure, but with a purpoſe, as you conceived, to employ it wholly for the relief of Catholicks. So as the reaſon of the reſervedneſs of *Catesby*, *Winter* and the reſt toward you, muſt be undoubtedly their Suſpicion of your over-great Affection and Duty to the Queen: For otherwiſe it is certain they would have truſted you as well with their Intention, as with their Means; with their Hopes, as with their Inſtruments; eſpecially conſidering how hard it was for them to compaſs their own vaſt Deſires, without help both of your Credit, and of your Induſtry.

Wright was in like manner, and with like Expedition, commended by you afterward for the quickening of *Winter*'s Project, if any Life were in it, upon the ſlacking of the Paſſions of *Spain*, with the Propoſitions of Peace, that no time might be loſt, no Stone left unremoved that might give a knock to the Peace of our Policy; your Head wrought upon all Offers, your Hand walked in all Regions, your Spirit ſteered all Attempts and Undertakings: and yet if Proteſtations, qualified and protected by Equivocations, may carry weight, all this while your Mind was as good Paſtors ought to be, patient, your Thoughts were obedient, and your Counſels innocent. But now to ſearch your cunning ſomewhat nearer to the quick, we muſt obſerve, that when your Hopes of Invaſion began to cool by likelihood of Peace, your Deſires of Supplies by the cold Anſwers that came from *Spain*, your Expectation of new Miſchief to be wrought at home without Complots abroad; when Malice it ſelf was caſt into ſo deſperate a Swoon, as neither *Roſa-ſolis* when *Spain* relented, nor *Iſcobah* when *Tyrone* ſubmitted, nor Diſſenſion within the Kingdom when Diſcontentments ended, could put it by any freſh adventure into Life; when you for your own part, Mr. *Garnet*, having been once waſhed and regenerated in the Fountain of the King's free Pardon, from the leprous Spots of former Treaſons, were determined to begin upon another Stock, and return as a Dog to the Vomit: though waſhing can avail no Man (as the Preacher warns) that *iterum tangit mortuum*, toucheth the dead the ſecond or third time after he hath been made clean; for ſecretly *Catesby* reſorts to you, as *Mahomet* might to *Sergius*, (for now I ſpeak according to the Matter, and not the Men) to enquire whether it were lawful, conſidering the neceſſity of the time, to undertake an Enterprize for the advancement of the Catholick Religion, though it were likely that among many that were Nocent, ſome ſhould periſh that were Innocent. A Man that is religious in any kind, or but morally honeſt in his own kind, would expect that a Prieſt, a Jeſuit, (which Title doth imply Salvation, and not Deſtruction; nay, the Superior of *Engliſh* Jeſuits) upon this raſh demand, ſhould have reſorted for a ſafe Reſolution to God's own Book; where he ſhould have found that God was pleaſed to withdraw his wrathful Hand from *Sodom*, ſo as there had been only *decem juſti*, ten juſt Men within that Town, and for their ſakes; that the wiſe Houſholder in St. *Matthew*, marking how hard it would be when the Corn was ripe to make Separation, gave Order to his Servants to abſtain from plucking up the Tares, *ne ſimul eradicarent triticum*, leſt withal they plucked up the Wheat by the Roots. Ye ſhould have found in the Stories of the Church, that the godly Biſhops in the firſt ſpring of Religion, ſuſpended proceſs againſt the *Priſcillian* Hereticks, *ne Catholici cum illis perirent*, leſt the Catholicks might alſo periſh with them. And the Church of *Millan* taxed *Theodoſius* the Emperor, *quod inſontes una cum ſontibus trucidaſſet*, that he had proceeded both againſt the Guilty and the Guiltleſs with one Stroke, and in one meaſure of Severity. But far beſide the warrant either of Holy Writ, or Holy Precedents, your anſwer, Mr. *Garnet*, was ſuch, as I both abhor to think, and quake to utter; that if any great advantage were to grow to the Church this way, they might deſtroy them all.

Tantæne animis cœleſtibus iræ? O Mr. *Garnet*, be not offended though I ask of you, as a worthy Emperor did once of a Traytor in a Caſe by many degrees inferior to this, *Quid facit in pectore humano lupi feritas, canis rabies, ſerpentis venenum?* But that which ought moſt to torture and afflict the Spirit (if you be the Child of him, whoſe Name and Badge you bear) is, that your Doctrine was confidently delivered, and ſo ſpeedily digeſted, and converted to Nutriment from ſuch a Mouth as yours, conſidering that (according to the Prophet) Knowledge ſhould depend upon the Lips of a Prieſt, as *Rookewood*, *Bates* and others, that did ſhrink at the horror of the Project when it was firſt laid down, received Satisfaction upon the very ſound of your Aſſent, though masked with the Title of a Man, as grave and learned as any in the Land. And *Catesby* doubting of the fickleneſs of Men's Affections, in Caſes that concern the Soul, uſed your admittance as a Charm or Spell, to keep quick Spirits within the Circle of combined Faith; which otherwiſe perhaps, when Hell brake looſe, would have ſought Liberty. Your Charter only (whereupon I beſeech you for your own Soul's Health, to meditate for the time you tarry in this World) was the Baſe whereon ſome grounded their bad Conſcience in proceeding with this Plot, not only to the Deſtruction of their Bodies, but to the Peril of their Souls, without ſound and true Repentance, which by the merit of Chriſt's Paſſion will ſerve in *quacunque hora peccator ingemuerit*. For tho Chriſt were joyful that he had not loſt one of thoſe whom his Father gave him in charge, and came to ſave and not to deſtroy; yet your Advice was to deſtroy them all: Such was your burning Charity!

Some Man ſurprized with a Queſtion upon the ſudden, might anſwer ſharply and ſhrewdly at ſome time, I confeſs, without thinking or intending ill: But this Man, Mr. *Garnet*, cannot be you, that have confeſſed clearly under your own Hand, your ſuſpicion and fear of ſome Miſchief purpoſed and intended in their Hearts, by this quick Queſtion of Nocents and Innocents: and therefore *quod dubitas ne feceris*. It ſeems the Heart of *Catesby* was a fertile Soil for ſprouting of ſtinking Weeds haſtily, into which the Seed of your ſecuring Confidence was caſt. For the Powder-Plot, which in *January* was barely *embryo*, became *formatus fœtus* in the *March* next following; it quickened the next *December*, when the Pioneers began to dig in the thick Wall: *Catesby* not long after imparted his

Conceit ſecretly to you of the great likelihood he foreſaw of a lucky time of Birth; and thereupon was *Guy Fawkes* ſent over by your Knowledge and Encouragement, to deal with Sir *William Stanley*, about the drawing down of Forces ſomewhat nearer to the Sea-ſide for ſpeedy Tranſport, which if need were, might carry Torches at the Solemnity. But what is your anſwer to this Employment of *Guy Fawkes?* Forſooth, that your purpoſe was only to commend him as a Soldier, but not as a Conſpirator. O unlucky Treaſon, that comes to be excuſed by ſo poor an Advocate! when *Fawkes* himſelf meant nothing leſs than to be a Soldier, having ſo ſtrange a part to play ſoon after in the Powder Train, but uſed this Retreat as a Colour to diſguiſe the ſecret Purpoſe that did only tarry time, and to eſchew thoſe watchful Eyes, that nearer hand would have obſerved both his Inlets and his Outlets in that place more narrowly. The Point is clear, the Confeſſions are direct, the Purpoſe is palpable. All the Lines of your Level are drawn to the Center of the Powder Mine. All Letters are either drawn or interlined *manu Scorpionis*, to uſe the word of *Hierome*; and yet under pain of Cenſure we muſt believe, That all this while you were in Charity, becauſe all this while (which it grieves me to remember) you were not afraid to communicate.

But now to weigh your Anſwers that concern the Powder Plot it ſelf; which is *paramount* in reſpect of the Longitude and Latitude to all that have been, or ever ſhall be: Your ſelf cannot deny, Mr. *Garnet*, that *Greenwell*'s Overture as you ſay in Confeſſion, coming after the notice which you took of *Catesby*'s Queſtion about Innocents, was but a Fruit of your own Doctrine, an Effect of your own Inſtruction, and a Concluſion drawn wholly out of your own Propoſitions and Principles. Now when we preſs to know what Reaſon drew you to the concealment of a Project ſo pernicious both to Prince and State, without revealing it either to the King himſelf, *tanquam præcellenti*, to uſe St. *Peter*'s Term, or to his Miniſters ſubordinate; you ſtart to the ſhift of Confeſſion for a formal help, which comes too ſhort in reſpect of *Catesby*'s firſt Diſcovery, which your own words aver plainly to have wrought with you. I will not argue in this place what Courſe a Confeſſor ſhould take, or how far he ought to ſtrain for the ſecuring of a Prince's Life, that otherwiſe is ſure to periſh by the Rage and Ignorance invincible of a baſe Villain, (whoſe Life anſwers not in value the leaſt hair of a Prince's Head) becauſe time ſuffers not: But I am ſure that for a matter of leſs weight than this, and a Crime of leſs importance than the Life both of Prince and State; Confeſſion received a deep wound for a long time, more than a thouſand Years paſt, in the Church of *Conſtantinople*. For God forbid that matters of ſuch weight, ſhould hang by ſuch feeble Threds. But to this excuſe of tenderneſs in the point of Confeſſion, I would anſwer, by making a great doubt, Whether this courſe of Conference were a Confeſſion or not; for againſt your bare words, which Equivocation ſupports, I object ſome likelihood, That ſince you kneeled ſometimes, and ſometimes walked up and down; ſince matter of Conſpiracy were enterlaced with matter of Confeſſion, not for eaſe of Conſcience as ſhould appear, but for advice in Execution; ſince *Greenwell* was abſolved inſtantly, which excludes the ſhift of Reference; and *Greenwell* ſhould be found to lye to the Holy Ghoſt in caſe this were a true Confeſſion: in promiſing (Mr. *Garnet*) as you ſay, to diſſuade the Project which he proſecuted even to the laſt Point, as is evident; and after the Powder Camp brake up: I conclude, that though this diſcovery were by Confeſſion, yet it was no *Superſedeas* to your former knowledge from *Catesby* your truſty Friend; and if it were none, then it can be no Protection for Faith putrified. What need we ſeek Light through Cobweb-Lawnes, when the drift of your whole Device in ſeeking to conclude from one, what you learned of another, and from all what you affected and abetted in your Heart, doth evidently prove your Counſels to have been carried along with ſuch a temper of reſervedneſs, as whenſoever Miſchief ſhould be brought to light, the World might rather wonder at your Caution, than commend your Fidelity?

By ſhaping ſuch weak Anſwers to Demonſtrations ſo manifeſt, you muſt either work by the Ring of *Gyges*, in making your Audacity and Preſumption inviſible, or hold a very weak Conceit of our Capacities, in ſuppoſing that they can be either dazled or deluded by ſuch poor Sophiſtry. For though you pretend to have received a deep Wound in Conſcience at the firſt revealing of the Plot, to have loſt your Sleep with vexation of Spirit, to have offered and prayed to God for his preventing Grace, to have required *Greenwell*'s help and furtherance in croſſing and diverting the deſign; yet all this while you ſuffered the Project to proceed, you helped and aſſiſted their Endeavours that were Labourers, you wrote earneſt Letters both to *Baldwin* and to *Creſwell* for their furtherance of ordinary Means; you gave order for a Prayer to be ſaid by Catholicks for their proſperous Succeſs; you kept meaſure with the two firſt Dimenſions of Fryar *Bacon*'s Brazen-head; Time is, Time was, till (thanks be to God) the third Time was paſt: you had ever an Ear open to liſten for the Crack, and were in the ſame Agony for the Powder-Plot, that *Charles* V. was for the Pope's dureſs, giving order in all his Dominions, that Prayers ſhould be made for his releaſe, when in the mean time he kept and held him in his own hand Priſoner. The leaſt Word of your Mouth, or Labour of your Pen might have ſecured both Prince and State, while you pretend to have broken both your Sleeps and your Brains, and that with a greater advantage to the Cauſe which you would advance, than can ever grow by Combuſtion and Conſpiracy. But your Tenderneſs herein was ſutable with another dutiful deſire of yours to diſſuade *Catesby* from the Plot, at his coming into *Warwickſhire*, who never meant to come thither, but as to the Rendezvous, when the Parliament had been blown up, and the Storm had been blown over. It may be that your Mind was perplexed and diſquieted upon the meditation of ſtrange Events; for ſo was the mind of *Cain*, *Achitophel*, and *Judas* that betrayed his Maſter; the Reaſon is very pregnant in the Word of God it ſelf, That *cum ſit timida nequitia dat teſtimonium condemnationis*, ſince Wickedneſs is cowardly and timorous, it gives Evidence of Condemnation againſt it ſelf; *& ſemper præſumit ſæva perturbata Conſcientia:* but Satan prevailing, his Angels execute.

I will now conclude this Addreſs to you, Mr. *Garnet*, by obſerving ſome ſpecial Points how ſtrangely and prepoſterouſly the Devil in his laſt Project of Powder hath altered his old Properties. For the Curſe that God laid upon the Serpent after the firſt Tranſgreſſion was, *ut gradiretur ſuper pectus ſuum*, to creep upon his Breaſt: but now we find him mounted upon the Wings of an *Eſpraie* to the higheſt Region of the Air, and among the Fireworks. The other part of his Curſe was, that he

ſhould

ſhould eat *Pulverem*; that is, Duſt or Powder: but now ſince *Sodom* was deſtroyed by Sulphur, and the Wife of *Lot* tranſmuted into Salt, the proper materials of that mean by which Satan wrought in this hot Fire; it appears that the Serpent from eating Powder (which was a plain device) fell, for a worſe purpoſe, to ſnuff Gunpowder. Then the Serpent did *inſidiari calcaneo*, now *capiti*, from which the Body draweth both Senſe and Influence. Then he began to *Eve*, with a modeſt queſtion, *Cur præcepit Deus?* why hath God commanded? now with a Reſolution, *Præcepit Deus*, God hath commanded. His words in thoſe carried a flouriſh of great Comfort, *Nequaquam moriemini*, but now Terror, *Moriemini*, For a great Advantage deſtroy them all. The Devil at that time did only nibble about the Text of Holy Writ, *tanquam mus ponticus*, as *Tertullian* terms *Martian*: but now he draws the grounds of Equivocation concerning Princes Lives out of the very Scripture, and by ſcholaſtical Authority Satan tempted Chriſt with a fair offer, *dandi omnia*, of giving all upon the top of the Pinacle: But now he ſets upon the great Lieutenant of God's Authority and Dignity, with an *auferam tibi omnia*, both Life and Crown, *ex penetralibus ubi Chriſtus non eſt*, as we are taught by his Evangeliſt. The Dragon's Ambition extended no further than the ſweeping away with his Tail of the third part of the Stars in the Firmament: But now the Plot of him and his Diſciples, was to ſweep away the Sun, the Moon, and the Stars, both out of Star-Chamber and Parliament, that no Light be given in this Kingdom to the beſt Labourers. In the time of *Saul*, the Devil was ſo modeſt, as to ſuſpend his Illuſions and Oracles till the Viſions of the Prophets began to ceaſe: But now though we have both *Moſes* and the Prophets, *& firmiorem ſermonem propheticum*, yet he ruffles among the Robes, *& inaudita fundit oracula*. In the beginning of the Chriſtian Church, the very Name of Chriſt was ſufficient to make Satan pack, and to quit the Poſſeſſion of tormented Men; but he hath learned a more cunning Trick of late, under the Banner of Chriſt to fight againſt the Lieutenants of his Imperial Majeſty. In one point I find no Change; that is, in labouring and working by all means to draw Men from their Truſt in God's Direction, to a tickle kind of Confidence in themſelves, and their own weak Knowledge of Good and Ill. And as that Error was the Cauſe of *Adam*'s Exile from Paradiſe, which was *hortus concluſus*; ſo had ſuch another almoſt divided us and our Heirs both from our Lives and Eſtates: *Et penitus toto diviſos orbe Britannos.*

I have ſtood the longer on this Point, to let you know how idly, and yet how wilfully you ſtrive both againſt the Providence of God, and the Juſtice of the Land, *Quæ tuo te jugulavit gladio:* The more you labour to get out of the Wood, having once loſt the right way, the further you creep in. For the Wiſdom of the World is Folly before God; and unpoſſible it is, that thoſe Counſels or Proceedings ſhould either have good Proof in this World, or Reward in the next, that are embrued with Blood, and purſued with Tyranny. If then there be no other way to Heaven, than by the Deſtruction of God's Anointed and their Heirs, I will conclude with you Mr. *Garnet*, as *Conſtantius* did with *Aſceſius*, *Erigito tibi ſcalam, & in cœlum ſolus aſcendito*; Set up a Ladder for your ſelf, and climb up to Heaven alone; for loyal Minds will not ſute themſelves with ſuch bad Company. The worſt I wiſh to your Perſon ſtanding now to be convicted at the Bar, is Remorſe and Repentance for the ſafeguard of your Soul; and for the reſt, *Fiat juſtitia, currat lex, & vincat veritas.*

Hereunto *Garnet* ſaid, That he had done more than he could excuſe, and he had dealt plainly with them, but he was bound to keep the Secrets of Confeſſion, and to diſcloſe nothing that he heard in Sacramental Confeſſion.

Whereupon the Earl of *Nottingham* asked him, if one confeſſed this day to him, that to-morrow Morning he meant to kill the King with a Dagger; if he muſt conceal it?

Whereunto *Garnet* anſwered, that he muſt conceal it.

Then the Earl of *Salisbury* deſired Liberty of him to ask him ſome queſtions of the nature of Confeſſions.

Garnet ſaid, His Lordſhip might, and he would anſwer him as well as he could.

Why then (ſaid he) muſt there not be Confeſſion and Contrition before Abſolution?

Yes (ſaid *Garnet.*)

Then he demanded, whether *Greenwell* were abſolved by him, or no?

Garnet ſaid, He was.

The Earl then asked him, What *Greenwell* had done, to ſhew that he was ſorry for it, and whether did he promiſe to deſiſt?

Garnet anſwered, that *Greenwell* ſaid, He would do his beſt.

To that the Earl replied, that it could not be ſo; for as ſoon as *Catesby* and *Piercy* were in Arms, *Greenwell* came to them from *Garnet*, and ſo went from them to *Hall* at Mr. *Abington*'s Houſe, inviting them moſt earneſtly to come and aſſiſt thoſe Gentlemen in that Action. Hereby, ſaith he, it appears, that either *Greenwell* told you out of Confeſſion, and then there needs no Secrecy; or if it were in Confeſſion, he profeſſed no Penitency, and therefore you could not abſolve him. To which the Earl added, That this one Circumſtance muſt ſtill be remembred, and cannot be cleared; That when *Greenwell* told you what *Catesby* meant in particular, and you then called to mind alſo what *Catesby* had ſpoken to you in the general before, if you had not been ſo deſirous to have the Plot take effect, you might have diſcloſed it out of your general knowledge from *Catesby*: but when *Catesby* offered to deliver you the particulars himſelf, as he had done to *Greenwell*, you refuſed to hear him, leſt your Tongue ſhould have betrayed your Heart.

To this *Garnet* weakly replied, That he did what he could to diſſuade it, and went into *Warwickſhire* with a purpoſe to diſſuade Mr. *Catesby*, when he ſhould have come down. And for Mr. *Greenwell*'s going to Father *Hall*, to perſuade him to join, *Garnet* ſaid he did very ill in ſo doing.

To that the Earl of *Salisbury* replied, That his firſt Anſwer was moſt abſurd, ſeeing he knew *Catesby* would not come down till the ſixth of *November*, which was the Day after the Blow ſhould have been given, and *Garnet* went in the Country ten days before. And for the ſecond, he ſaid, That he was only glad, that the World might now ſee, that Jeſuits were condemned by Jeſuits; and Treaſon and Traytors laid naked by the Traytors themſelves: yea, Jeſuits by that Jeſuit, that governs all Jeſuits here, and without whom no Jeſuit in *England* can do any thing.

Garnet (as it ſhould ſeem) being here mightily touched with Remorſe of his Offence, prayed God and

and the King, that other Catholicks might not fare the worſe for his ſake.

Then the Earl of *Salisbury* ſaid, Mr. *Garnet*, is it not a lamentable thing, that if the Pope, or *Claudius Aquaviva*, or your ſelf, command poor Catholicks any thing, that they muſt obey you, tho it be to endanger both Body and Soul? And if you maintain ſuch Doctrine amongſt you, how can the King be ſafe? Is it not time therefore, the King and the State ſhould look to you, that ſpend your time thus in his Kingdom?

Garnet ſaid very paſſionately, My Lord, I would to God I had never known of the Powder-Treaſon.

Hereupon the Lord Chief Juſtice of *England* ſaid, *Garnet*, you are Superiour of the Jeſuits; and if you forbid, muſt not the reſt obey? Was not *Greenwel* with you half an hour at Sir *Everard Digby*'s Houſe, when you heard of the Diſcovery of your Treaſon? And did you not there confer and debate the Matter together? Did you not ſend him to *Hall*, to Mr. *Abington*'s Houſe, to ſtir him up to go to the Rebels, and encourage them? yet you ſeek to colour all this; but that's but a mere ſhift in you. And notwithſtanding all this, you ſaid, No Man living, but one, did know that you were privy to it: then belike ſome that are dead did know it. *Catesby* was never from you (as the Gentlewoman that kept your Houſe with you confeſſed) and by many apparent Proofs, and evident Preſumptions, you were in every particular of this Action, and directed and commanded the Actors; nay, I think verily you were the chief that moved it.

Garnet ſaid, No, my Lord, I did not.

Then it was exceedingly well urged by my Lord Chief Juſtice, how he writ his Letters for *Winter*, *Wright*, *Fawkes*, *Baynham*, and *Catesby*, principal Actors in this matchleſs Treaſon. Beſides, his Lordſhip told him of his keeping the two Bulls to prejudice the King, and to do other miſchief in the Realm; which when he ſaw the King peaceably to come in, then being out of hope to do any good, he burnt them.

Here Mr. Attorney cauſed to be read the Confeſſion of *Hall*, *alias Oldcorne*, the Jeſuit, under his own hand (which he ſaid was *Omni exceptione major*) againſt him; wherein he confeſſed, that *Humphrey Littleton* told him, that *Catesby* and others were ſore hurt with Powder, and ſaid that he was exceeding ſorry that things took no better effect; whereat *Hall* wiſhed him not to be diſcouraged, nor to meaſure the Cauſe by the Event: For tho the eleven Tribes of *Iſrael* went twice by the ſpecial Commandment of God againſt the Tribe of *Benjamin*, yet they both times receiv'd the Overthrow. So *Lewis* the *French* King, in his Voyage into the Holy Land againſt the Infidels, was overthrown, and his whole Army diſcomfited, tho his Cauſe were good. And ſo likewiſe the Chriſtians, when they defended *Rhodes* againſt the *Turks*, loſt the City, and the *Turks* had the upper hand. And this he confeſſed, and apply'd to the Fact of *Catesby* and others for the Powder-Treaſon; and ſaid, It would have been commendable when it had been done, tho not before.

After this, Mr. Attorney open'd, how *Francis Treſham*, a delinquent Romaniſt, even *in articulo mortis* (a fearful thing) took it upon his Salvation, That he had not ſeen *Garnet* in ſixteen years before, when *Garnet* himſelf had confeſſed he had ſeen him often within that time; and likewiſe, that *Garnet* knew not of the *Spaniſh* Invaſion, which *Garnet* himſelf confeſſed alſo, and which two things *Treſham* himſelf had formerly confeſſed to the Lords: yet for a Recantation of theſe two things upon his Death-bed, he commanded *Vavaſor*, his Man, whom I think (ſaid Mr. Attorney) deeply guilty in this Treaſon, to write a Letter to the Earl of *Salisbury*. And to ſhew this his deſperate Recantation, Mr. *Treſham's* Letter was offer'd to be read.

But before the reading thereof, my Lord of *Saliſbury* ſaid, Becauſe there was Matter incident to him, and to that which ſhould be read, he thought fit to ſay ſomething. To which purpoſe he ſaid his Deſire was, truly to lay open what cauſe there was for any faith to be given to theſe Mens Proteſtations; when they, to colour their own Impieties, and to ſlander the King's Juſtice, would go about to excuſe all Jeſuits, how foul ſoever, out of an Opinion that it is meritorious ſo to do, at ſuch time as they had no hope of themſelves. Such is it to be doubted, that Sir *Everard Digby*'s Proteſtations might be at the Bar, who ſought to clear all Jeſuits of thoſe Practices which they themſelves have now confeſſed *ex ore proprio*. That ſuch was alſo *Treſham*'s Labour, who being viſited with Sickneſs, and his Wife in charity ſuffered to come to him, this Letter was hatch'd by them, and ſign'd by himſelf ſome few hours before his death, wherein he taketh that upon his Salvation, which ſhall now by *Garnet* be diſprov'd.

Then the Letter was read, being to this effect: That whereas ſince the King's time he had had his pardon, and that to ſatisfy the Lords who heretofore examined him, he had accuſed *Garnet*; that now, he being weak, deſired that his former Examinations might be called in, becauſe they were not true; and ſet down upon his Salvation, that he had not ſeen *Garnet* in ſixteen years before.

Then my Lord of *Salisbury* ſhewed and ſaid, it was a lamentable thing; for within three hours after he had done this, he died: and asked *Garnet* what Interpretation he made of this teſtamental Proteſtation?

Garnet anſwer'd, It may be, my Lord, he meant to equivocate. Here was the Examination and Confeſſion of Mrs. *Anne Fawkes* offer'd to be read alſo to confirm *Treſham*'s Perjury, who confeſſed that ſhe had ſeen Mr. *Treſham* with *Garnet* at her Houſe three or four times ſince the King's coming in, and divers times before, and that he had dined with him; and that *Garnet* always gave him good counſel, and would ſay ſometimes to him, and others, Good Gentlemen, be quiet; for we muſt obtain that which you deſire by Prayer. She confeſſed alſo, that they were at *Erith* together the laſt Summer.

After all this, *Garnet* being demanded if theſe Examinations were true, he affirmed they were. And then were his own Examinations likewiſe read to the ſame effect; wherein he both confeſſed the ſeeing of Mr. *Treſham*, and his ſending into *Spain* about an Invaſion.

Here my Lord of *Salisbury* concluded, That that which was ſaid of Mr. *Treſham*, and others, was not done againſt Charity to the Dead, but upon inevitable neceſſity, to avoid all their ſlanderous Reports and Practices; for he ſaid that even now there was current throughout the Town, a Report of a Retractation under *Bates*'s hand, of his Accuſation of *Greenwel*, which are ſtrange and grievous Practices to think upon. But this Day ſhall witneſs to the World, that all is falſe, and your ſelf condemned not by any but your ſelf, your own

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Confeſſions and Actions. Alas! Mr. *Garnet*, why ſhould we be troubled all this day with you poor Man, were it not to make the Cauſe appear as it deſerveth? wherein God ſend you may be ſuch an Example, as you may be the laſt Actor in this kind.

Hereupon my Lord Admiral ſaid to *Garnet*, that he had done more good this day in that Pulpit which he ſtood in (for it was made like unto a Pulpit wherein he ſtood) than he had done all the days of his Life-time in any other Pulpit.

Then was another Examination of Mrs. *Anne Fawkes* read, wherein ſhe confeſſed that Mr. *Garnet* and ſhe were not long ſince with Mr. *Treſham*, at his Houſe in *Northamptonſhire*, and ſtayed there.

After this, my Lord of *Salisbury* ſaid, Mr. *Garnet*, if you have not yet done, I would have you to underſtand, that the King hath commanded, that whatſoever made for you, or againſt you, all ſhould be read, and ſo it is; and we take of you what you will. This Gentlewoman that ſeems to ſpeak for you in her Confeſſions, I think would ſacrifice her ſelf for you to do you good, and you likewiſe for her: Therefore, good Mr. *Garnet*, whatſoever you have to ſay, ſay on in God's Name, and you ſhall be heard.

Then *Garnet* deſired the Jury, that they would allow of, and believe thoſe things he had denied and affirmed; and not to give credit unto thoſe things whereof there was no direct proof againſt him, nor to condemn him by Circumſtances or Preſumptions.

The Earl of *Salisbury* demanded of him, ſaying, Mr. *Garnet*, is this all you have to ſay? if it be not, take your time, no Man ſhall interrupt you.

To whom *Garnet* anſwer'd, Yea, my Lord.

Mr. Attorney humbly deſired all the Lords Commiſſioners, that if he had forgotten to ſpeak of any thing material, that their Lordſhips would be pleaſed to put him in mind of it; who was aſſured by my Lord of *Salisbury*, that he had done very well, painfully, and learnedly.

Then Mr. Attorney deſired the Jury might go together, who upon his Motion going together forth of the Court, within leſs than a quarter of an hour return'd, and found *Henry Garnet* guilty.

Whereupon Mr. Serjeant *Crooke* pray'd Judgment.

Then Mr. *Waterhouſe*, the Clerk of the Crown, demanding what he could ſay for himſelf, why Judgment ſhould not be given againſt him?

Garnet made anſwer, that he could ſay nothing, but referred himſelf to the Mercy of the King, and God Almighty.

Then the Lord Chief Juſtice making a pithy Preamble of all the apparent Proofs and Preſumptions of his Guiltineſs, gave Judgment, that he ſhould be drawn, hanged, and quarter'd.

And my Lord of *Salisbury* demanded, if *Garnet* would ſay any thing elſe?

Garnet anſwer'd, no my Lord; but I humbly deſire your Lordſhips all to commend my Life to the King's Majeſty: ſaying, That at his pleaſure he was ready either to die or live, and do him ſervice.

And ſo the Court aroſe.

The Proceedings between the Lady Frances Howard *and* Robert *Earl of* Eſſex, *before the King's Delegates*, George *Archbiſhop of* Canterbury, John *Biſhop of* London, Lancelot *Biſhop of* Ely, Richard *Biſhop of* Litchfield *and* Coventry, *Dr.* Cæſar, Thomas Parrey, *Dr.* Donne, John Bennet, Francis James, *and* Thomas Edwards; *authoriz'd under the King's Broad-Seal.* Anno 1613. 11 Jac. I.

The Allegations.

I. THAT ſhe, at the time of the Marriage, was thirteen years old, and is at this time twenty two or twenty three.

II. That ſhe and *Robert* Earl of *Eſſex* were marry'd by publick Rites and Ceremonies of the Church in *January* 1603.

III. That the aforeſaid *Robert*, at the time of the pretended Marriage, was about fourteen, and is about twenty two or twenty three at this time; and ever ſince, and at this preſent, is a Man (as far forth as a Man may judge) and hath been in good Health, and perfect Eſtate of Body, not any way hinder'd by any Ague or Sickneſs, but that he might have carnal Copulation with a Woman.

IV. That ſince the pretended Marriage, at leaſt by the ſpace of whole and continuate three years after the ſaid *Robert* had fully attained the Age of eighteen Years, as Time and Place did ſerve, after the faſhion of other married Folks, the ſaid *Frances Howard* in hope of lawful Iſſue, and deſirous to be made a Mother, liv'd together with the ſaid *Robert*, at bed and board, and lay both naked and alone in the ſame Bed, as married Folks uſe: And deſirous to be made a Mother, from time to time, again and again, yielded her ſelf to his power, and as much as lay in her, offer'd her ſelf and her Body to be known; and earneſtly deſired Conjunction and Copulation.

V. And alſo the ſaid Earl, in the ſame time very often, again and again, did try to have Copulation, as with his lawful Wife, which ſhe refus'd not, but uſed the beſt means ſhe could: notwithſtanding all this,

this, the ſaid Earl could never carnally know her, nor have that Copulation in any ſort which the married Bed alloweth.

VI. Yet before the ſaid pretended Marriage, and ſince, the ſaid Earl hath had, and hath Power and Ability of Body to deal with other Women, and to know them carnally, and ſometimes hath felt the Motion and Pricks of the Fleſh carnally, and tending to carnal Copulation, as he ſaith and believeth; and peradventure, by a perpetual and natural Impediment hath been hindred all the former time, and is at this preſent, that he can have no Copulation with the ſaid Lady *Frances*.

VII. Furthermore, the ſaid Lady *Frances* hath been, and is fit and able to have Copulation with a Man, and ſuch a one as may be carnally known; neither hath in this regard any Impediment.

VIII. Moreover, the ſaid Lady *Frances* remaineth, and is at this preſent, a Virgin. Alſo at the time of the pretended Marriage, the ſaid Lady *Frances* was unacquainted with the Earl's want of Ability and Impediment, formerly mention'd.

IX. And furthermore the ſaid Earl, long before this Suit commenced, hath very often, and at ſundry times confeſſed in good earneſt, before Witneſſes of good Credit, and his Friends and Kinſfolks, that although he did his beſt endeavour, yet he never could, nor at this time can, have Copulation with the ſaid Lady *Frances*, no not once.

X. And laſtly, in regard of womaniſh Modeſty, the Lady *Frances* hath conceal'd all the former Matters, and had a purpoſe ever to conceal them, if ſhe had not been forced through falſe Rumours of Diſobedience to the ſaid Earl to reveal them.

She requireth, ſince this pretended Matrimony is but a Fact, and not in Right, it may be pronounced, declared, and adjudged as none, and of none effect; and ſhe may be quit and free from all Knots and Bonds of the ſame, by your Sentence and Authority.

The Earl of Eſſex *replieth, 5th* July, 1614.

The firſt and ſecond he anſwereth affirmatively.

To the third, he thinketh that at the time of his Marriage, he was full fourteen Years, and is now twenty two and upwards, neither ſince hath had, or hath any Sickneſs or Impediment to hinder him, but that he might have had Copulation with a Woman, ſaving in the time of his Sickneſs of the Small-Pox, for two or three Years after his Marriage, which continued for a Month or ſix Weeks, and at another time, when he had a few Fits of an Ague.

To the fourth, he affirmeth, that for one Year he divers times attempted; that the two other Years, when he was willing, ſhe ſhewed herſelf ſometimes willing, but other times refuſed, and he lay in Bed moſt commonly with her, but felt no Motions or Provocations, and therefore attempted the firſt Year.

To the fifth, he anſwereth, that he never carnally knew her, but found not any defect in himſelf, yet was not able to penetrate in her Womb, nor enjoy her.

To the ſixth, he believeth, that before and after the Marriage, he hath found an Ability of Body to know any other Woman, and hath oftentimes felt Motions and Provocations of the Fleſh, tending to carnal Copulation; but for perpetual and natural Impediments, he knoweth not what the Words mean; but that he hath lain by the Lady *Frances* two or three Years laſt paſt, and had no Motion to know her, and he believes never ſhall.

To the ſeventh, he believeth not that the ſaid Lady *Frances* is a Woman able and fit for carnal Copulation, becauſe he hath not found it.

To the eighth and ninth, he believeth them both to be true, and thinketh that once before ſome Witneſſes of Credit, he did ſpeak to this purpoſe, *That he oftentimes had endeavoured carnally to know her, but that he did not, nor could not.*

Doubts conceived out of the Fact and Proceſs in the Suit between the Lady Frances Howard, *and the Earl of* Eſſex.

1. Whether the Libel be defective, eſpecially in the fourth Article, where it is ſaid, that *Dominus Comes Eſſex pluribus & iteratis vicibus* (which may be verified and ſatisfied in two or three times) *dictam dominam Franciſcam ejus uxorem prætenſam cognoſcere tentavit*, &c.

2. Whether the Anſwer of my Lord of *Eſſex* to the ſaid fourth Article in that behalf, being but thus, That he did divers times attempt, *&c.* be full, certain and ſufficient.

3. Whether in this caſe my Lord of *Eſſex* his Oath (*cum 7 manu propinquorum*) be not by Law requiſite, as well as my Lady's.

4. Whether my Lord of *Eſſex* would be inſpected by Phyſicians, to certify (ſo far as they can by Art) the true Cauſe and Nature of the Impediment.

5. Whether by triennial Cohabitation, there having been no carnal Copulation between them (*Impedimentum maleficii* being accidental) *præſumatur præceſſiſſe vel potius ſubſecutum fuiſſe matrimonium contractum & ſolemnizatum.*

6. Whether they ought *poſt præceptum Judicis* (notwithſtanding their triennial Cohabitation before the Suit begun) to cohabit together, *ſaltem per aliquod temporis ſpatium arbitrio Judicis moderandum*, for further Tryal, *&c.*

His G. Arguments.

The Lord Archbiſhop's Speech to his Majeſty.

Inaſmuch as we firmly believe, that the Scripture doth directly, or by conſequence, contain in it ſufficient matter to decide all Controverſies, eſpecially in things appertaining to the Church, as that Marriage among Chriſtians can be no leſs accounted than a ſacred Thing, as being inſtituted by God himſelf in Paradiſe, honoured by the preſence of our Saviour himſelf, declared by St. *Paul* to be a Sign of the ſpiritual Conjunctions between Chriſt and the Church:

I would be glad to know, and by what Text of Scripture, either by the Old or New Teſtament, a Man may have a Warrant to make a Nullity of a Marriage ſolemnly celebrated, *Propter maleficium verſus hanc.*

Which I do the rather ask, becauſe I find warrant expreſly in the Scriptures to make a Nullity of a Marriage *propter frigiditatem*, by the Words of our Saviour, *Mat.* 19. 12. *For there be ſome chaſte, or Eunuchs, which are ſo born of their Mothers Belly, and there be ſome which are made chaſte of Men, and there be ſome which have made themſelves chaſte for the Kingdom of Heaven.*

I would alſo know gladly what antient Father amongſt the *Greeks* or *Latins* by occaſion of Interpretation of Scripture, or any Diſputation, hath mentioned *maleficium verſus hanc.*

The

The like I demand touching antient Councils, either General or Provincial, and concerning Stories Eccleſiaſtical, whether any ſuch matter be to be found in them.

If for ought that appeareth never mention was made of this, till *Hircanus Rhemiſis Epiſcopus*, who lived four hundred Years after Chriſt; it may well be conceived that this was a Concomitant of Darkneſs or Popiſh Superſtition, which about that time grew to ſo great an height (God permitting them) that puniſhment might fall upon the Children of Unbelief.

But ſince the Light of the Goſpel is now in ſo great a meaſure broken forth again, why ſhould not I hope that thoſe, who have imbraced the Goſpel, ſhould be free from this *Maleficium*; eſpecially ſince amongſt a Million of Men in our Age, there is but one found in all our Country, who is clearly and evidently known to be troubled with the ſame? and if there ſhould be any which ſhould ſeem to be moleſted, we are taught to uſe two Remedies, the one temporal Phyſick, the other eternal.

For the firſt, our Saviour ſaid, *hoc genus Dæmoniorum non ejicitur, niſi per orationem & jejunium:* and St. *Peter* ſpeaking of the Devil, *Cui reſiſtite firme in fide;* and the Canoniſts themſelves preſcribe Alms, Faſting and Prayer to be uſed in this Caſe; but that they join Supplication and their Exorciſms thereunto, and for corporeal Medicine to be applied therewith as againſt a Diſeaſe: ſo is the Judgment of our late Divines, whether they ſpeak of *Maleficium* or not.

Now admit the Earl of *Eſſex* might be imagined to be troubled with *maleficium verſus hanc*; I demand what Alms hath been given, what Faſting hath been uſed, and what Prayers have been poured forth to appeaſe the Wrath of God towards him or his Wife; or what Phyſick hath been taken, or Medicine hath been applied for three Years together? Not one of theſe things: but the firſt hearing muſt be to pronounce a Nullity in the Marriage, of which Declaration we know the beginning, but no mortal Man's Wit can foreſee the end, either in his Perſon, or in the Example.

Then the Archbiſhop for Confirmation of his Opinion ſhewed the Teſtimony of *Melanctbon*, *Pezelius*, *Hemingius*, *Polanus*, *Arcularius*, *Beza*, *Zanchius*.

Judicium Philippi Melanctbonis de divortiis ex impotentia.

PErſonæ quæ non ſunt idoneæ ad commixtionem conjugalem nequaquam fiunt conjuges, ſed cum explorata eſt frigiditas, Judex pronunciet illas perſonas liberas eſſe. Nec fit tunc divortium, quia non erat conjugium, juxta dictum, Mat. 19. *ſed fit declaratio, ut alii ſciant, illam ſocietatem non eſſe conjugium, & perſonæ quæ habet naturæ vires integras, concedi aliam feliciorem copulationem legitimam. Sed ad explorandam frigiditatem Jura tempus conſtituunt, ſi res dubia eſt, ne ante triennium fiat ſejunctio. Eodem modo pronunciant de iis in quibus natura ita læſa eſt faſcino aut veneficio, ut ope medica ſanari non poſſit, ſi toto triennio fruſtra tentata eſt medicatio.*

Tanta autem eſt virtus aliquarum mulierum, ut occultent imbecillitatem virorum, ſicuti viri doctiſſimi Simonis Grynei *ſoror narravit, ſe, mortua prima conjuge, duxiſſe viduam virginem, quæ undecem annos nupta fuerit viro frigido, nec unquam ulli ante mortem viri hanc rem patefecit. Hæc Melanctbon in locis: Loco de conjugio, quæ Chriſtopherus Pezelius ſuis in Melanctbonis examen explicationibus inſeruit, & eis adjecit hanc annotationem. Impotentia alia naturalis, alia accidentalis eſt. Naturalis, cum quis natura non eſt idoneus ad commixtionem conjugalem. Accidentalis, cum quis eſt caſtratus, aut veneficio corruptus. Rurſus quæ ex veneficio accedit impotentia, aut curari poteſt medicamentis, aut eſt perpetua. Ex his diſtinctionibus ſumitur explicatio quæſtionis, an & quomodo impotentia ſit cauſa divortii. Nam inter impotentes, non poteſt conſtare conjugium, quia deeſt cauſa ſufficiens & finalis. Primum, ni perſona illa quæ ſana eſt, decepta fuit, & ignorans duxit impotentem, non igitur potuit eſſe conſenſus, qui eſt cauſa efficiens Matrimonii. Secundo, duplex eſt finis conjugii, unus eſt generatio ſobolis, ſicut dicitur, Creſcite & multiplicamini: Alter finis eſt Vitatio confuſionis libidinum, juxta dictum: Vitandæ fornicationis cauſa unuſquiſq; habeat uxorem. Hæc Pezelius 2 parte explicat. in Examen Melanctbon.*

In eadem Cauſa Hemingii Judicium.

INhabilitas corporum ad uſum matrimonii divortii cauſa eſt, & nonnunquam faſcino & veneficio adeo inhabiles redduntur viri, ut nunquam ſanari poſſint. Sed plura ſunt judicii perpendenda, antequam divortii ſententiam ferat. Primum, an impotentia præceſſerit Nuptias. Secundum, an ſit ſubſecuta Nuptias. Tertium, an ſit curabilis. Quartum, an ejus rei mulier conſcia fuerit ante Nuptias. Si præceſſerit Nuptias, poteſt liberari perſona ſana divortium petens, non enim fuit verum conjugium, ſiquidem non legitime conſentiunt, cum unus fallit, alter errat, fallit impotens, errat potens. Cum ergo Deus nec fallaciam nec errorem probat, non eſt dicendus eos conjunxiſſe. Proinde Judex, ſi intellexerit ex probationibus incurabile eſſe vitium, mox declarabit ſuo teſtimonio, non fuiſſe Matrimonium; verum ſi ſpes ſit curationis, triennium ſtatuatur, in quo patienter expectetur curatio; quæ ſi fruſtra tentata fuerit, Judex pronunciabit Conjugium nullum fuiſſe.

Si ſubſecutum eſt vitium poſt nuptias & complexum maritalem conjugum, nullo pacto permittendum eſt divortium: fortuna enim afflicta, ſi abſit culpa, patienter in conjugio ferenda eſt. Si alter fuerit conſcius infirmitatis alterius ante nuptias, cogantur ſimul habitare, & alia officia ſibi mutuo præſtare: Nam perſona conſcia vitii alterius abſque dubio fraudem meditata eſt, quæ fraus non debet illi prodeſſe, ſi poſtea divortium petat. Hæc Hemingius libello de Conjugio, Repudio, & Divortio.

Polani profeſſoris Theo. nuper in Academia Baſilienſi Judicium.

COnjugium inire poſſunt, qui non ſunt natura vel arte Spadonis, aut quibus natura non eſt læſa faſcino aut veneficio. Tales enim perſonæ nequaquam fiunt conjuges. Ideo etiam nuptiis celebratis, cum triennii ſpatio explorata eſt ſpadonis frigiditas, aut toto triennio tentata eſt naturæ læſæ medicatio, Judex pronunciare poteſt illas perſonas liberas eſſe. Polanus lib. 10. *Syntag. cap.* 53.

* Arcularii nuper profeſſoris Theol. in Academia Marpurgenſi Judicium.

* *Sive Trularii.*

INter perſonas quæ propter frigiditatem aliudve naturæ vitium ad uſum conjugii ſunt ineptæ, cum non ſit conjugium, teſte Chriſto, Mat. 19. *divortium hic locum habere poterit. Si quam igitur perſonam talem alteri jungi contingat, Judex, explorata frigiditate aut naturæ vitio, utramque perſonam liberam pronunciabit. Porro ad explorandam frigiditatem Jura triennii tempus præſcribunt, præſertim ſi res dubia ſit. Idem judicium*

eſt de eis quorum natura vel faſcino vel veneficio ita ſit læſa, ut ad conjugii uſum reddantur inepti; & omnem medicorum operam intra triennium inanem fuerint experti. Hæc Arcularius in arcu fœderis, cap. 28.

Theodori Bezæ Judicium.

Sponſalia cum perſonis paralyſi immedicabili, quæ corpus prorſus enervavit, frigiditate inſanabili, genitalium partium privatione, vel adeo inſigni læſione, ut perpetua coitus impotentia neceſſario conſequetur, affectis, contracta prorſus inutilia ſunt, cum ad matrimonium a Deo vocati videri non poſſint, qui fidem in ſponſalibus datam præſtare, naturali objecto vitio nequeunt. Quod ſi ſponſalibus factis, conjugio tamen nondum reipſa conſummato, ejuſmodi malum ſupervenerit, ſentio ejuſmodi ſponſalia, veluti Deo ipſo jubente, dirimenda; ut, quid objecto perpetuo impedimento, palam demonſtret, ſibi iſtiuſmodi ſponſalia non placere. Beza lib. de Divort. & Repud. pag. 91. *Genev.* 1591. *impreſſ.*

Atque hanc ſuam doctrinam Beza multis ex ſacræ ſcripturæ teſtimoniis probat: ſed tantum pag. 94. *ei duas cautiones adjecit. Primam, ſi frigidus poſtea convaluit, repetere priorem uxorem, errore,* viz. *Separatam oportet, etiamſi alteri poſtea eſſet conjuncta: ſecundam cautionem, recte omnino in iſtiuſmodi controverſiis conſtitutum eſt: (ne quod videlicet fieret, quod poſtea mutari ſine magno offendiculo non poſſet) ut triennium ſaltem ab ipſo copulationis,* i. e. *ductæ uxoris die expectaretur, priuſquam iſti morbi inſanabiles eſſe, & ſponſalia conjugiave dirimenda pronunciarentur. Hoc autem omnino de iis vitiis accipendum eſt quæ per ſe non patent. Nam alioqui, ut in exectione, vel ſiquis naturæ vitio, teſtibus aut genitali membro careat, quorſum ullum temporis intervallum?*

Zanchii Judicium.

Quemadmodum Beza, ſic nec Canchius impotentiam ex veneficio attigit, ſed tantum docet, quoſdam eſſe caſus, quibus matrimonia in ipſa Eccleſia benedicta nulla ſint, & ſubinde hæc exempla ſubjungit. Si cum eo contrahitur, qui vir non erat, ſed ſpado, aut propter perpetuum ei inſanabilem morbum, officium conjugis præſtare nullo modo poteſt. Hæc Zanchius lib. 4. *de op. Dei, cap.* 3. *ſed illam nec ſcripturæ teſtimoniis nec rationibus confirmat.*

The KING's Anſwer.

TO the Firſt Article that the Scripture doth directly or by conſequence contain ſufficient matter to decide all Controverſies, eſpecially in this appertaining to the Church: This in my Opinion is prepoſterous, and one of the Puritans Arguments, without a better Diſtinction or Explanation.

For the Orthodox Propoſition is, That the Scripture doth directly, or by conſequence, contain in it ſufficient Matter to decide all Controverſies in Points of Faith and Salvation, of which ſort a Nullity of Marriage cannot be accounted for one; and therefore your Conſequence upon the former Propoſition muſt fail.

For further ſatisfaction of your following Queſtion (I ſay) your ſecond Queſtion doth anſwer it, if there be warrant in Scripture for pronouncing a Nullity *propter frigiditatem*, then all the means which may make him *frigidus verſus hanc*, muſt be comprehended therein; for why doth our Church juſtly condemn the Marriage of a Man with his Siſter's Daughters, or the Marriage of two Siſters, but *ut paritate rationis*, for none of them are *in terminis* prohibited by the Scripture; only the Concluſion is gathered *a paritate rationis*. For if it be not lawful to marry the Father's Wife, becauſe thereby you diſcover your Father's Shame; nor his Siſter, becauſe ſhe is his Kinſwoman; nor your own Siſter, becauſe thereby you diſcover your Father's and your Mother's Shame: it can no more be lawful to marry your Siſter's Daughter, for thereby alſo you diſcover your own Shame; as alſo the ſame Reaſon ſerves for aſcending or deſcending in Points of *Conſanguinity*, *quia par eſt ratio.*

The like is in this caſe; for although Chriſt ſpake only of three ſorts of Eunuchs, yet *Ratio eſt quia non poteſt eſſe Copulatio inter Eunuchum & Mulierem*; and therefore St. *Paul*, 1 Cor. vii. telleth us clearly, that it is not *Conjugium ſine Copulatione.* I conclude, therefore, *a paritate rationis*, that Chriſt did comprehend under theſe three ſorts all Inability which doth perpetually hinder *Copulationem verſus hanc*, whether it be natural or accidental; for what difference is there between cutting off the Hand, and being made impotent thereof? *Amputatio & Mutilatio membri*, is all one in the Civil Law; and that is a like defrauding of the Woman, when either he who is to be her Husband is gelded, or when the uſe of that Member towards her is by any unlawful means taken from him. Neither is it any way needful to crave the particular Warrant of Scripture for a Nullity, no more than of Warrant in this place for any Nullity at all; for Chriſt doth not directly ſay, that a Marriage ſo married ſhall be nullified, neither doth he teach us what form or proceſs ſhall be uſed in that, neither makes he mention of the triennial Probation, no more than he forbiddeth Marriage within the fourth Degree, without leave obtained of the Biſhop of the Dioceſs. It is then ſufficient to all moderate Chriſtians to be taught out of the Word of God, that Marriage is *nulla ſine Copulatione*; and theſe words, *quos Deus conjunxit*, are never found in Scripture, where *& erunt eis* doth not proceed, *viz.* they two ſhall be one Fleſh.

But whether the Impediment be univerſal, or *verſus hanc* only; or whether the Fault thereof hath been born with him, or done to him by Violence, or fallen unto him by Diſeaſe, or Diſproportion, or Inaptitude betwixt the Parties, or unnatural Practices, that is ever *par ratio*, he is *Eunuchus verſus hanc & omnes alias*, ſeeming to him only was ſhe married.

Then *Paritate rationis*, ſuch Nullities are grounded upon the aforeſaid warrant of *Scripture*, neither had Chriſt any occaſion to ſpeak of the *Jews* Marriage concerning *Maleficium verſus hanc*: for though it be appa rent that God made King *Abimelech* and his Servants unable to abuſe *Sarah*, *Abraham*'s Wife, and ſo was he made by God himſelf *Eunuchus verſus hanc*, and that be not improbable that the Devil being God's Ape, ſhould imitate God's Works, by his filthy Witchcraft, by making ſuch as God will permit him, unable *verſus hanc*; howbeit, it is very probable that it was long after that time the Devil put that trick upon the Earth.

As for the third and fourth Queſtions, what mention the Fathers and Councils do make of *Maleficium verſus hanc*, I anſwer, that it may be (if they were well ſearched) that either ſomething to this purpoſe in them, or at the leaſt *Aliquid analogum*, with *a paritate rationis*, or by conſequence, may ſerve to decide the Queſtion.

But leaving this to Search, my main Anſwer is, That we muſt diſtinguiſh oft-times: for in all the

firſt Ages, as long as Perſecution lay heavy upon the Church, and before the Empire became Chriſtian, the Church did not meddle with any thing, which drew a Conſequence after it of Poſſeſſions, or Inheritance, as Marriage doth; nay, even divers hundred Years after the Converſion of the Emperors, the Judgment and Deciſion of all ſuch Queſtions did ſtill remain *in foro Civili*, till the Popedom began to wax great, and aſſume, or rather uſurp to her ſelf a ſupreme and independent *Judicatory* in all *Eccleſiaſtical* Cauſes: and therefore the *Fathers* and *Councils* had no occaſion to make mention of that which was not *de præſori* at that time.

And beſides, that is an evil Argument to ſay ſuch a thing is not lawful, becauſe the *Fathers* and *Councils* made no mention of it: for you know much better than I, divers and many Points betwixt the *Papiſts* and us are never mentioned by the *Fathers*, becauſe they could never have dreamed that ſuch Queſtions would ariſe; and therefore are the *Fathers* exact only in ſuch Queſtions as were agitated upon the State at that time, as *De Trinitate*, *de duabus in Chriſto Naturis*, and ſuch like: and therefore 'tis ſufficient that there can be nothing found which may juſtly be underſtood to contradict this Opinion.

And it is very probable (as I ſaid before) that this trick of *Maleficium* had not then been put in practice in the World, and therefore not known or mentioned by them; for why may not the Devil as well find out new tricks of Witchcraft (when God will permit him) as he did daily new *Sects* of *Hereſies*? for his Malice can never end until the end of times.

To the fifth Argument, my former Anſwer doth alſo ſerve; for till the 400th Year after Chriſt, it may be that deviliſh trick came never to be diſcovered. You know the old Proverb, *ex malis moribus bonæ leges*: and it is not unlikely that the time of Darkneſs gave the *Devil* occaſion to deviſe ſuch new Tricks (look my *Dæmonology*) and yet was that Law for which you cite *Hircanus*, by *Charles* the *Great*, who in many great Points (as you know) had ſo great light, as I do ſcarce term this time a time of Blindneſs; but howſoever the Darkneſs was in points of Superſtition, I will ſtill maintain (as I have ever done) that for matters of Order and Policy, all the World ſhall never be able to find out any ſo good and ſo old an Order of Argument to be put in the place of it: in ſign whereof there is no well governed Commonwealth in the Chriſtian World, wherein the Common-Law is not received to judge in Queſtions of that nature; and it is certain, that this Queſtion now in hand, is only a Queſtion of Order and Policy: for the ground of this Queſtion, that the eſſential point of Matrimony cannot be accompliſhed *ſine copula*, is warranted by expreſs Scripture, and confeſſed by your ſelf.

To your ſixth Argument (or rather Hope) I fear that Hope ſhall prove contrary to Faith; for as ſure as *God* is, there be *Devils*, and ſome *Devils* muſt have ſome Power, and their Power is in this World, neither are the *Elect* exempted from this Power; *Job* was not, *Paul* was not, *Chriſt* ſaid to all his Diſciples, *Gribaverit vos Sathanas*; and if the *Devil* hath any Power, it is over the Fleſh, rather over the filthieſt and moſt ſinful part thereof, whereunto original Sin is ſoldred: as God, before and under the Law, to ſhew *officialem* of purging Man's original Sin, ordained the *Præputium* of the Foreskin, and to exempt this of our Profeſſion from the Power of Witchcraft, is a Paradox never yet maintained by any learned or wiſe Man.

That the Devil's Power is not ſo univerſal againſt us, that I freely confeſs; but that it is utterly reſtrained *quoad nos*, how was then a Miniſter of *Geneva* bewitched to death, and were the Witches daily puniſhed by our Law; if they can harm none but the Papiſts, we are too charitable for avenging of them only.

Satan is permitted to puniſh Man, as well for his breach of the Second as of the firſt Table, and thereof are we no leſs guilty than the Papiſts are; and if the Power of Witchcraft may reach to our Life, much more to a Member, not ſo governed by the Fancy, wherein the Devil hath his principal Operation; and he may ſo eſtrange the Huſband's Affection towards the Wife, as he cannot be able to perform that Duty to her; for that is a common thing in many Mens Natures, that they cannot do that thing but where they love, nor fight but where they are angry. God keep us therefore from putting the Tryal of our Profeſſion upon Miracles; let the Miracle-mongers live by their own Trade.

To the ſeventh Argument touching Remedies, what do you know, whether both Parties, or either of them hath uſed theſe means of Remedy or not? And that ſpecial Remedy ſhould be uſed publickly, for there I can ſee no Neceſſity, for *Non intereſt Reipub. nec Eccleſ.* and private Perſons are commanded to their Faſtings and Alms, ſecretly and in private; no ſuch Cure alſo is likely to ſucceed well, except the Parties own Hearts and Deſires be ſet thereupon.

And as for your Concluſion upon your *Incommodum*, whether upon his Perſon or the Example, I can ſee none in either, ſo as to the Couple, between them Marriage was never accompliſhed truly; they will peradventure both of them by the Declaration of the Nullity be capable to accompliſh Marriage with others, which they could never do between themſelves; wherein they may have the Satisfaction of their Hearts, and enjoy the Bleſſing of Procreation of Children.

And as for the Example, the Law ſhall be fulfilled with due Adminiſtration of Juſtice, which cannot prove for an Example or Precedent of a counterfeit Nullity hereafter, *Authoritas facti*, or rather *non facti, ſed luce clarior* in this caſe, beſides the many Probations and Confeſſions of the Parties which have been taken in this Proceſs: whereas by the contrary, they ſhall be forcibly kept together, but never their Perſons or Affections, and they ſtill be forced to live in perpetual Scandal, or Miſery, or both; and what ſuch a kind of forced Continency may avail, the Monks Continency may teach us: and for a precedent in time to come, that reacheth no further, than to open a way of lawful Relief, to any Perſon who ſhall chance to be diſtreſſed in that ſort.

And for legal Doubts, they concern none of their Calling; if your Conſcience be reſolved in points of Divinity, that is your part to give your conſent to the Nullity, and let the Lawyers take the burden of making that firm; and as for the Triennial Probation, I hope no Man can be ſo blind as to make a doubt, whether that be taken before or after the Suit begun: and in concluſion of Divine Solution of this Queſtion proved clearly, that this Reſolution of this doubt, howſoever it

was in Blindneſs as you think, that is now proved in the greateſt time of Light and Purity of the Profeſſion of the Goſpel.

And for your Extract upon the late Divines Opinions, upon this Queſtion, I cannot gueſs what your Intent was in ſending them to me, for they all agree in Terms with my Opinion: but there is ſuch a thing as *Maleficium, & Maleficiale verſus hanc*; and your very interlude Paſſages prove that cleareſt: and for that Advice concerning the Remedies, that is but *Conſilium non decretum*, not impoſing a Neceſſity; but is to be uſed by Diſcretion, as occaſion ſhall prove and require it.

To conclude then, if this may ſatisfy your Doubts, I will end with our Saviour's Words to St. *Peter*, *Cum converſus fueris, confirma fratres tuos*; for on my Conſcience, all the Doubts I have yet ſeen, are nothing but *nodos in ſcirpo quærere*.

The Midwives appointed to make Inſpection upon the Lady's Body, gave in, That the Lady *Eſſex* is a Woman apt to have Copulation, and to bring forth Children, and that the ſaid Lady is a Virgin and Uncorrupted.

Three Ladies affirm, That they believe the ſame, for that they were preſent when the Midwives made the Inſpection, and did ſee them give good Reaſons for it.

There is a Sentence of Divorce given for the Nullity of the Marriage, and both Parties licens'd to be married again.

The Commiſſioners that gave Sentence; *Winchester*, *Ely*, *Litchfield* and *Coventry*, *Rocheſter*, Biſhops. Sir *Julius Cæſar*, Sir *Thomas Parrey*, Sir *Daniel Dunne*, Doctors.

The Commiſſioners diſſenting; Archbiſhop of *Canterbury*, Biſhop of *London*. Sir *Juan Bennet*, *Francis James*, *Thomas Edwards*, Doctors.

The Tryal of Anne Turner *Widow, at the* King's-Bench *Bar at* Weſtminſter, *the 7th day of* November, 1615.

THE Indictment, whereupon *Richard Weſton* took his Tryal, being repeated *verbatim*, ſhe was indicted for comforting, aiding and aſſiſting the ſaid *Weſton*, in the poiſoning to death Sir *Thomas Overbury*; to which ſhe pleaded, Not Guilty, put her ſelf upon God and the Country. Whereupon a ſufficient Jury of two Knights, and the reſt Eſquires and Freeholders of *Middleſex*, were ſworn and impanelled for the Tryal, whereof Sir *Thomas Fowler* was Foreman.

Sir *Ed. Coke*, Lord Chief Juſtice, told her, That Women muſt be covered in the Church, but not when they are arraigned, and ſo cauſed her to put off her Hat; which done, ſhe covered her Hair with her Handkerchief, being before dreſſed in her Hair, and her Hat over it.

Sir *Laurence Hide*, the Queen's Attorney, open'd the Matter much to the effect, as he did at *Weſton*'s Arraignment, ſhewing the Wickedneſs and Heinouſneſs of Poiſoning: He ſhewed further, That there was one Dr. *Forman*, dwelling in *Lambeth*, who died very ſuddenly, and a little before his Death, deſired that he might be buried very deep in the Ground, or elſe (ſaith he) I ſhall fear you all.

To him, in his Life-time, often reſorted the Counteſs of *Eſſex* and Mrs. *Turner*, calling him Father: their cauſe of coming to him, was, That by force of Magick, he ſhould procure the now Earl of *Somerſet*, then Viſcount *Rocheſter*, to love her, and Sir *Arthur Manwaring* to love Mrs. *Turner*, by whom (as it was there related) ſhe had three Children; about this Buſineſs, the Counteſs of *Eſſex* wrote two Letters, one to Mrs. *Turner*, another to Dr. *Forman*, as followeth:

The Counteſs's Letter to Mrs. Turner.

[*Burn this Letter.*]

Sweet Turner,

'I Am out of all hope of any Good in this World, 'for my Father, my Mother, and my Brother 'ſaid, I ſhould lie with him; and my Brother 'Howard was here, and ſaid, he would not come 'from this place all Winter; ſo that all Comfort 'is gone: and, which is worſt of all, my Lord 'hath complained, that he hath not lain with 'me, and I would not ſuffer him to uſe me. My 'Father and Mother are angry, but I had rather 'die a thouſand times over; for beſides the Suf'ferings, I ſhall loſe his Love; if I lie with him, 'I will never deſire to ſee his Face, and if my 'Lord do that unto me, my Lord is very well as 'ever he was: ſo as you may ſee in what a miſe'rable Caſe I am. You muſt ſend the Party word 'of all; he ſent me word all ſhould be well, but 'I ſhall not be ſo happy, as the Lord to love me. 'As you have taken pains all this while for me, 'ſo now do all you can, for never ſo unhappy as 'now, for I am not able to endure the Miſeries 'that are coming on me, but I cannot be happy 'ſo long as this Man liveth; therefore pray for 'me, for I have need, but I ſhould be better if I 'had your Company to eaſe my Mind: Let him 'know this ill News; if I can get this done, you 'ſhall have as much Money as you can demand, this 'is fair play.

Your Siſter,

Frances Eſſex.

A Letter from the Counteſs to Dr. Forman.

Sweet Father,

'I Muſt ſtill crave your Love, although I hope 'I have it, and ſhall deſerve it better hereafter: Remember the Galls, for I fear, though 'I have yet no cauſe, but to be confident in you, 'yet I deſire to have it as it is yet remaining 'well; ſo continue it ſtill, if it be poſſible, and if 'you can you muſt ſend me ſome good fortune, 'alas I have need of it. Keep the Lord ſtill to me, 'for that I deſire; and be careful you name me 'not to any body, for we have ſo many Spies, that 'you muſt uſe all your wits, and all little enough,

'for

'for the World is againſt me, and the Heavens 'favour me not, only happy in your Love; I hope 'you will do me good, and if I be ungrateful, let 'all Miſchief come unto me. My Lord is luſty 'and merry, and drinketh with his Men; and all 'the Content he gives me, is to abuſe me, and uſe 'me as doggedly as before: I think I ſhall never 'be happy in this World, becauſe he hinders my 'Good, and will ever, I think ſo; remember (I 'beg for God's ſake) and get me from this vile 'Place.

Your affectionate loving Daughter,

Frances Eſſex.

'Give *Turner* warning of all things, but not the 'Lord: I would not have any thing come out 'for fear of the Lord Treaſurer, for ſo they may 'tell my Father and Mother, and fill their ears 'full of Toys.

There was alſo ſhewed in Court certain Pictures of a Man and Woman in Copulation, made in Lead, as alſo the Mould of Braſs, wherein they were caſt, a black Scarf alſo full of white Croſſes, which Mrs. *Turner* had in her Cuſtody. At the ſhewing of theſe and inchanted Papers and other Pictures in Court, there was heard a crack from the Scaffolds, which cauſed great Fear, Tumult and Confuſion among the Spectators, and throughout the Hall, every one fearing Hurt, as if the Devil had been preſent, and grown angry to have his Workmanſhip ſhewed, by ſuch as were not his own Scholars; and this Terror coming about a quarter of an hour after Silence proclaimed, the reſt of the cunning Tricks were likewiſe ſhewed.

Dr. *Forman*'s Wife being Adminiſtratrix of her Husband, found Letters in Packets, by which much was diſcovered; ſhe was in Court, and depoſed that Mrs. *Turner* came to her Houſe immediately after her Husband's Death, and did demand certain Pictures which were in her Husband's Study; namely, one Picture in Wax, very ſumptuouſly apparelled in Silks and Sattins, as alſo one other ſitting in form of a naked Woman, ſpreading and laying forth her Hair in a Looking-glaſs, which Mrs. *Turner* did confidently affirm to be in a Box, and that ſhe knew in what part or room of the Study they were.

Mrs. *Forman* further depoſeth, That Mrs. *Turner* and her Husband would be ſometimes three or four hours locked up in his Study together; ſhe did depoſe further, that her Husband had a Ring would open like a Watch.

There was alſo a Note ſhewed in the Court, made by Dr. *Forman*, and written in Parchment, ſignifying what Ladies loved what Lords in the Court; but the Lord Chief Juſtice would not ſuffer it to be read openly in the Court.

Mrs. *Turner* ſent *Margaret* her Maid to Mrs. *Forman*, and wiſhed that all ſuch Letters and Papers as concerned the Earl of *Somerſet*, or the Counteſs of *Eſſex*, or any other great Perſonages, ſhould be burnt; telling her, That the Council's Warrant ſhould come to ſearch the Study, and that all his Goods might be ſeized: whereupon ſhe and her Maid *Margaret*, with the Conſent of Mrs. *Forman*, burnt divers Letters and Papers, but yet ſhe kept ſome without their Privity.

There was alſo Enchantments ſhewed in Court, written in Parchment, wherein were contained all the Names of the Bleſſed Trinity, mentioned in the Scriptures; and in another Parchment, + *B.* + *C.* + *D.* + *E.* and in third likewiſe in Parchment, were written all the Names of the Holy Trinity, as alſo a Figure, in which was written this Word, *Corpus*; and upon the Parchment was faſtned a little piece of the Skin of a Man.

In ſome of theſe Parchments, the Devils particular Names, who were conjured to torment the Lord *Somerſet* and Sir *Arthur Manwaring*, if their Loves ſhould not continue, the one to the Counteſs, the other to Mrs. *Turner*.

Mrs. *Turner* alſo confeſſed, That Dr. *Savories* was uſed in ſucceſſion after *Forman*, and practiſed many Sorceries upon the Earl of *Eſſex*'s Perſon.

Mrs. *Turner* being in a manner kept cloſe Priſoner in one of the Sheriff's Houſes in *London*, before ſhe was brought to the Bar, knew not that *Weſton* was executed; but by the Proceedings, having underſtanding thereof, and hearing divers Examinations read, it ſo much dejected her, that in a manner ſhe ſpake nothing for herſelf: alſo Examinations and Witneſſes, *viva voce*, that were produced at *Weſton*'s Arraignment, and divers others, were now read again, as the Examinations of one *Edward Pain*, *John Wright*, and *Robert Freeman*.

Symcots, *Rawlins*, *Payte* and *Williams*, one of theſe Examinations, gave evidence, That one *Franklin*, being an Apothecary and Druggiſt, was the Provider of all the Poiſons given to Sir *Thomas Overbury*.

A Chirurgeon there depoſed, That he cured *Franklin* of the Pox; and that at ſeveral times he demanded of this Chirurgeon, What was the ſtrongeſt Poiſon? The Chirurgeon demanding of him what he would do with it, *Franklin* replies, Nothing but for his Experience, and to try Concluſions.

Another Examination of one *Mercer*, who had Conference with the ſaid *Franklin*, calling him Couſin, who demanded of this Examinant, What News? He anſwered, I hear ill News, I am ſorry that my old Lord and Maſter's Son is found inſufficient, and not able to content the Lady.

Franklin replies, I have a hand in that Buſineſs; I have a great Friend of my Lady of *Eſſex*, ſhe allows me 2 *s.* 6 *d.* a day for my Boat-hire, and 10 *s.* a week for my Diet, I could have any Money I would. *Mercer* replies, But, Couſin, how can God bleſs you in this Buſineſs? *Franklin* anſwers, Let them talk of God that have to do with him, my Lord of *Somerſet* and the Counteſs will bear me out in any thing I do; if you have any Suit, wherein you may do your ſelf any good, and I may gain by it, I will warrant you I will get it.

Frances depoſeth, That *Franklin* married his Siſter, and that he thinketh in his Conſcience ſhe was poiſoned; and that upon ſome Diſcontent, he heard him ſay, He would be hanged for never a Whore or Quean of them all.

The Lord Chief Juſtice made a Speech upon divers Examinations there read, That the Earl of *Somerſet* gave Directions, that of the Powder he ſent to *Overbury*, that which ſhould be left, ſhould be brought back again: his Pretext was, that it ſhould make him ſick; which ſhould be the Ground to make the King grant his Liberty, ſaying further, It would do *Overbury* good; and he had Tarts and Jellies likewiſe ſent him by the Counteſs, with expreſs Commandment, that none muſt eat of them but Sir *Thomas*, ſaying, they will do him no harm.

At another time, the Counteſs ſent Tarts, Jellies and Wine, with Directions, that thoſe which had been formerly ſent, ſhould be brought back again; and thoſe laſt brought, ſhould be given

ven him at Supper, and then all ſhould be well; but Directions given, that neither the Lieutenant nor his Wife might eat of them, but they might drink of the Wine, for in the Tarts and Jellies there might be Letters, but in the Wine there might be none. And afterwards it was openly related, and proved by divers Witneſſes, that thoſe words Letters were private Tokens between the Counteſs, and the Lieutenant, and *Weſton*, to give notice what things were poiſoned, and what not.

In the Examinations that were of *Weſton*, it was related, That Mr. *James* told him, that the Earl his Maſter would pay him for his pains about Sir *Thomas Overbury*.

Then the Lord Chief Juſtice gave in charge to the Jury, concerning the Evidence they had formerly heard, and told them, That *Weſton*, at his Examination, had confeſſed, that all he had ſaid formerly was true.

He further related, What a great Vexation and Grief it was to the King, that *Somerſet* only by making uſe of his Favour and Love, ſo foul a Fact was done: as, Firſt, To be the Occaſion to put Sir *Thomas Overbury* to Employment for the Embaſſage at *Ruſſia*: and, Secondly, To make him refuſe the ſame, and to give right Cauſe for his Commitment: Thirdly, To bear him in hand, that he would work his Liberty, but ſtill aggravated and laboured the contrary, and gave Directions to the Lieutenant of the *Tower*, to look ſurely to him, and to keep him cloſe Priſoner, and that he ſhould ſend to none of his Friends, or they to him, urging great Matters againſt him.

Sir *Thomas Monſon* was often employed to give Directions to the Lieutenant therein; which was a moſt barbarous Courſe to be ſo dealt withal, only for a Contempt: concluding that *Overbury* was a cloſe Priſoner to all his Friends, but open to all his Enemies, ſuch as *Somerſet* would have or ſend unto him.

Then the Lord Chief Juſtice told Mrs. *Turner*, that ſhe had the ſeven deadly Sins; *viz.* a Whore, a Baud, a Sorcerer, a Witch, a Papiſt, a Felon, and a Murderer, the Daughter of the Devil; *Forman* wiſhing her to repent, and to become a Servant of Jeſus Chriſt, and to pray to him to caſt out of her thoſe ſeven Devils.

She deſired the Lord Chief Juſtice to be good unto her, ſaying, ſhe was ever brought up with the Counteſs of *Somerſet*, and had been of a long time her Servant, and knew not that there was Poiſon in any of thoſe things ſent to Sir *Thomas Overbury*.

Then the Jury went forth, and not long after returned, finding her Guilty.

Who being asked, What ſhe had to ſay for her ſelf, why Judgment ſhould not be pronounced againſt her; ſhe only deſired Favour, but could not ſpeak any thing for weeping.

Then Judge *Crook* made another grave Speech, exhorting her to Repentance, and to prepare her ſelf ready for Death; and that the little time which ſhould be aſſigned her to live, ſhe ſhould not ſpend it either in Hope or in Imagination to get Life, for that Hope was but a Witch. Upon concluſion of which Speech, he gave Judgment, and told her, ſhe had a very honourable Tryal, by ſuch Men as he had not ſeen for one of her Rank and Quality, and ſo was delivered to the Sheriffs.

Upon the *Wedneſday* following, ſhe was brought from the Sheriffs in a Coach to *Newgate*, and was there put into a Cart; and caſting Money often among the People as ſhe went, ſhe was carried to *Tyburn*, where ſhe was executed, and whither many Men and Women of faſhion came in Coaches to ſee her die: to whom ſhe made a Speech, deſiring them not to rejoice at her Fall, but to take example by her; ſhe exhorting them to ſerve God, and abandon Pride, and all other Sins, relating her breeding with the Counteſs of *Somerſet*, having had no other Means to maintain her and her Children, but what came from the Counteſs: and ſaid farther, That when her hand was once in this Buſineſs, ſhe knew the revealing of it would be her Overthrow. The which, with other like Speeches, and great Penitency there ſhewed, moved the Spectators to great Pity, and great Grief for her.

The Tryal of J. Franklin, *at the* King's-Bench *Bar, the* 27*th Day of* November, 1615.

AFTER he had put himſelf for his Tryal upon the Country, a Jury of Eſquires and Gentlemen was impanelled to paſs upon his Life: Then *Weſton*'s Indictment was read, and *Franklin* accuſed as Acceſſary to the Poiſoning of Sir *Thomas Overbury*, and in his Examination formerly taken in theſe Words:

James Franklin's *Confeſſion.*

He confeſſeth, That in a Houſe near to *Doctors-Commons*, Mrs. *Turner* did firſt come unto him about the Poiſoning of Sir *Thomas Overbury*, and prayed him to provide that which ſhould not kill a Man preſently, but lie in his Body for a certain time, wherewith he might languiſh away by little and little; at the ſame time ſhe gave him four Angels, wherewith he bought a Water called *Aqua fortis*, and ſent it to Mrs. *Turner*, who, to try the Operation thereof, gave it to a Cat, wherewith the Cat languiſhed, and pitifully cried for the ſpace of two days, and then died.

Afterwards Mrs. *Turner* ſent for *Franklin* to come to the Counteſs, who told him, that *Aqua fortis* was too violent a Water; but what think you (quoth ſhe) of white *Arſnick?* He told her, it was too violent. What ſay you (quoth ſhe) to *Powder* of *Diamonds?* He anſwers, I know not the Nature of that. She ſaid, then he was a Fool; and gave him Pieces of Gold, and bade him buy ſome of that Powder for her. *Franklin* demands of

the Counteſs, what was the reaſon ſhe would poiſon Sir *Thomas Overbury*? She told him, He would pry ſo far into their Eſtate, that he would overthrow them all.

A little before Sir *Thomas Overbury*'s Death, the Counteſs ſent for *Franklin*, and ſhewed him a Letter written from the Lord of *Rocheſter*, wherein he read theſe Words; *I marvel at theſe Delays, that the Buſineſs is not yet diſpatched.* Whereby *Franklin* thinketh in his Conſcience, was meant the Poiſoning of Sir *Thomas Overbury*; and in another Letter from the Lord of *Rocheſter*, was written, that Sir *Thomas* was to come out of the Tower within two days, and they all ſhould be undone: whereupon the Counteſs ſent for *Weſton*, and was very angry with him that he had not diſpatched Sir *Thomas Overbury*. *Weſton* told her, that he had given him a thing that would have killed twenty Men.

Alſo, a Fortnight after *Weſton*'s Apprehenſion, the Counteſs ſent for *Franklin* to her Houſe at St. *James*'s Park, where he found the Earl and the Counteſs walking together; and as ſoon as he came, the Earl went apart into a Chamber; then ſhe told him, *Weſton* had been ſent for by a Purſuivant, and had confeſſed all, and we ſhall all be hanged: but on your Life (quoth ſhe) do not you confeſs that you brought any Poiſon to me, or to Mrs. *Turner*; for if you do, you ſhall be hanged, for I will not hang for you; and, ſays Mrs. *Turner*, I will not hang for you both.

The Counteſs told him, That the Lord who was to examine him, would promiſe him a Pardon to confeſs; but believe him not, for they will hang thee when all is done.

Weſton comes to *Franklin*'s Houſe, and told him, Now the Counteſs's Turn is ſerv'd, ſhe uſed him unkindly, and they ſhould be poiſoned, and that two were ſet of purpoſe to poiſon him.

Franklin having confeſſed his former Examinations under his own Hand, being permitted to ſpeak for himſelf, ſaid, That at the Entreaty of the Counteſs and Mrs. *Turner*, he did buy theſe Poiſons, but proteſted his Ignorance what they meant to do with them; and for the reſt, he referred himſelf to the Conſcience of the Jury: who went from the Bar, and within a quarter of an hour, did return, and pronounc'd him Guilty.

Then Judge *Crook*, after a brief Exhortation, gave the Sentence of Death upon him.

The Lord Chief Juſtice made a ſhort Exhortation alſo, with addition of theſe Words; That knowing as much as he knew, if this had not been found out, neither the Court, City, nor any particular Family had eſcaped the Malice of this wicked Cruelty.

The Tryal of Sir Jervis Elvis *Knight, Lieutenant of the Tower, at* Guild-Hall, *the 16th of* November, 1615.

THE Form of the Indictment was the malicious Aiding, Comforting, and Abetting of *Weſton* in the Poiſoning and Murdering of *Overbury*; whereupon it was laid againſt him as follows:

Firſt, When *Weſton* received the Vial of Poiſon of two Inches long, to give Sir *Thomas*, he having the Glaſs in one Hand, and Broth for Sir *Thomas* in the other Hand, meeting the Lieutenant, asked him thus, *Sir, ſhall I give it him now?* The Lieutenant reproved him, yet that Night he gave it him in his Broth: *Ergo*, the Lieutenant knew of the Practice and Poiſoning of Sir *Thomas Overbury*: *& qui non propulſat injuriam cum poſſit, infert. Cicero.*

After this was known to be Poiſon, yet he kept *Weſton* ſtill, he favoured, countenanced and graced him, and one time ſent him a Cup of Sack, and bid his Man tell him, that he loved him as well as ever he did; all this while he paid him no Wages, and as ſoon as *Overbury* died, *Weſton* was removed.

The Counteſs wrote a Letter to the Lieutenant, with the Letter ſhe ſent poiſoned Tarts to *Overbury*, and Wine to the Lieutenant's Wife, and bade him give the Tarts to *Overbury*, for there were Letters in them, but his Wife and Children might drink the Wine, for ſhe was ſure there were no Letters in it.

The Earl of *Northampton* writ a Letter to the Lieutenant, concerning the Impriſonment of *Overbury*; the ſaid Earl writ two Letters to *Rocheſter* concerning theſe Words.

The Earl of *Northampton*'s Letter to *Rocheſter*.

Sweet Lord,

'THink not I find Pain in that which gives me 'ſweeteſt Pleaſure, which is any thing that 'falls from your Pen; three things concur to my 'exceeding joy in your worthy Letters, Proof of 'your Love, Comfort in your Words, and Judg-'ment in your Writing: you may believe the 'Words of him that will rather die than flatter 'you; my Heart is full of the Love of you; your 'Characters are no more Pain for me to peruſe, 'being as well acquainted with your Hand as my 'own, the Pain is no more than the cracking of a 'Nut for the ſweet Kernel, or my Niece's Pain, 'in the Silver-dropping Stream of your Pen.'— [There the Lord Chief Juſtice left off reading for the Bawdineſs of it; then after in the Letter followed]; 'I ſpent two Hours yeſterday, prompt-'ing the Lieutenant with Cautions and Conſidera-'tions; obſerving with whom he is to deal, tha 'he might the better act his Part, for the Adven-'ture in which he dealeth.

Henry Northampton.

Another Letter to Rocheſter.

Sweet Lord,

'I Cannot deliver unto you with what Caution and 'Conſideration, *&c.* and the Lieutenant look-'ing

'ing to his Buſineſs, which concerns no more 'than Text affords, that marched in his Affairs, 'I ſhall hold him diſcreet, and love him better 'whilſt I live, for this his Concluſion: For this 'Negro can no more change his Skin than a *Leopard* 'his Spots.

Henry Northampton.

Another Letter to Rocheſter.

Sweet Lord,

'*Overbury* being viewed, there was found in 'his Arm an Iſſue, and on his Belly twelve 'Kernels likely to break to iſſue, each as big as 'Three-Pence; one Iſſue on his Back, with a tawny 'Plaiſter on it; this was ſtrange and ugly. He 'ſtunk intolerably, inſomuch that he was caſt into 'the Coffin with a looſe Sheet over him. God is 'gracious in cutting off ill Inſtruments from off 'the factious Crew: If he had come forth, they 'would have made uſe of him. Thus, Sweet 'Lord, wiſhing you all Increaſe of Happineſs 'and Honour, I end,

Your Lordſhip's, more than any Man,

Henry Northampton.

The Lieutenant writ a Letter to the Earl of *Northampton*, certifying him, That he undertook Sir *Thomas Overbury* according to his Inſtructions: That as ſoon as he came to the Place, Sir *Thomas* proteſted his Innocency upon the Bible; and then (quoth he) he asked me what they meant to do with him. I anſwered, *They mean to refine you, that your Pureneſs may appear a little better.* After I walked with him in his Chamber, and adviſed him to give way to the Match between *Rocheſter* and the Counteſs; but then he grew hot againſt your Lordſhip and the Counteſs of *Suffolk*, ſaying, *If he were the Counteſs of* Suffolk's *Priſoner*, (as he thought he was) *then* (ſaid he) *let her know that I care as little to die, as ſhe to be cruel.* The Counteſs of *Suffolk* I find to be joined with you in this Plot, though the Chamberlain knows not of it, nor any one elſe. But *Rocheſter*'s part I ſhall much fear, until I ſee the Event to be clearly conveyed. And ſo he concluded his Letter.

Jervis Elvis.

The Anſwer of Sir Jervis Elvis *to the Points propoſed.*

My Lord, Before I anſwer to the Matter of Charge againſt me, let me remember your Lordſhip of one Speech which I learned from your Mouth: I have heard you ſpeak it at the Council-Table, and you have delivered it at the Aſſizes in the Country, That when a Priſoner ſtands at the Bar for his Life, comfortleſs, allowed no Council, but ſtrong Council againſt him, perchance affrighted with the Fear of Death, his Wife and Children to be caſt forth out of Doors, and made to ſeek their Bread; you have always pitied the Cauſe of ſuch a one: You have proteſted you had rather hang in Hell for Mercy to ſuch a one, than for Judgment.

My Lord, you have not obſerved your own Rule in my Cauſe, you have paraphraſed upon every Examination, you have aggravated every Evidence, and applied it to me, ſo that I ſtand clearly condemned before I be found guilty: if I be ſo vile a Man as your Lordſhip conceives me, I were unworthy of any Favour, but I hope your Lordſhip ſhall not find it.

So I will deny nothing that hath Evidence of Truth againſt me, I will not tell a Lye to ſave my Life, and I beſeech your Lordſhip ſo to conceive of me, move your Charity towards me.

Then deſired he the Court, that the Heads of the Accuſations might be collected by the Council of the King, which were the ſame which were mentioned before; to which he ſeverally anſwered, *&c.*

To the firſt, Shall I give it him now? he anſwered, that when *Weſton* asked him the Queſtion, he ſaw no Poiſon in his Hand, and therefore ſaid he, in *Weſton*'s and mine Examination, the Queſtion was, Shall I give it him now? not, Shall I give him this now? for there is a great difference between *Hoc* and *Id* in matter of Prevention.

But further, when *Weſton* had told me that it was Poiſon which he meant to give, I reproved and beat him down with God's Judgment; nay, I humbled him ſo, that upon his Knees he thanked God and me, and told me, that he and his had cauſe to bleſs God for me, for that I withheld him from doing that Act: and if you call this Comforting and Abetting, to terrify a Man for his Sins, and to make him ſo confeſs his Faults to God, and to abhor and deteſt the Act, then was I an Abettor and Comforter of *Weſton.*

To the ſecond, after I had thus terrified *Weſton* with God's Judgments, and ſaw him caſt down for his Offence; I could do him no better Office than of Charity, to raiſe him up, who was thus down, and therefore favoured him, I ſhewed him kindneſs, I drank to him, to the intent I might encourage the Intentions of his Mind, which I found then reſolved in abhorring the Fact: and that I gave him no Wages, it is true, I took him from the Commendations of my Lord of *Northampton*, and Sir *Thomas Monſon*, whom I took to be my Friends, and thought they would commend no Man to be a Keeper, which might any way endanger me.

To the third, I never knew any other meaning to the Counteſs's words in her Letters, but the bare literal meaning; and ſure (quoth he) after I had received the Tarts, and they had ſtood a while in my Kitchin, I ſaw them ſo black and foul, and of ſuch ſtrange Colours, that I did cauſe my Cook to throw them away, and to make other Tarts and Jellies for him.

To the fourth, he ſaid the Earl of *Northampton*'s Letter to me, was not any thing touching the Poiſoning of *Overbury*, but for a cloſe Reſtraint; to the end, that *Overbury* might agree to their Purpoſes concerning the Marriage to be had between *Rocheſter* and the Counteſs: if the Earl of *Northampton* had any other Plot to take away his Life, I was not any thing of his Council, or had knowledge therein.

To the fifth, whereas it is ſaid, I received him according to my Inſtructions, I meant none other thing than I have delivered before, which was concerning the cloſeneſs of his Impriſonment. But being asked what he meant by theſe words; Rocheſter's *part, I ſhall greatly fear, until I ſee the Event to be clearly carried*; in this, he ſtaggered, and wavered much, and gave his Anſwer: It was long ſince I wrote this Letter, and for the particular Circumſtances that induced me to this Speech, I cannot now call to Memory; but ſure I am, that at that time, knowing my ſelf to be innocent, I could the better have ſatisfied my remembrance, ſo that I meant nothing the taking away of his Life: but becauſe I was a Stranger to *Rocheſter*, and had heard and known

of

of that great League that was between them; I might well think, ſuſpect, and fear, whether he would always countenance theſe Projects for his reſtraint. Theſe were the Anſwers he made to his Accuſations, and after he had made many Proteſtations between God and his Soul, of his Innocency of this malicious plotting and abetting of *Overbury*'s Death, he applied himſelf to the Jury, and told them thus:

I will prove unto you by many infallible and unanſwerable Reaſons, that I could not be Aider and Complotter with *Weſton* in this Poiſoning.

Firſt, I made a free and voluntary diſcovery of it my ſelf, I was not compelled: will any Man imagine, that I would diſcover a thing, whereof I could not clear my ſelf? Nature is more kind than to be its own Accuſer.

Beſides, that my Clearneſs might more appear, and remain in the World without any Suſpicion, I proceeded and accuſed the Murderer *Weſton*; it had been a ſenſeleſs thing, and obſcure in me, if I had not thought my ſelf clear, to have accuſed him, who might have done as much for me.

Nay, *Weſton* himſelf proved me to be an honeſt Man before the Chancellor of the Exchequer; for he confeſſed to him, and others being preſent, that he thought that the Lieutenant knew not of the Poiſon, and in his Examination before the Lord Chief Juſtice, and Serjeant *Crew*, being asked the meaning of theſe words, Shall I give it him now? he anſwers, that he thought that thoſe which had ſet him on work, had acquainted the Lieutenant with their Plot.

Alſo I was ſo confident in my own Innocency, that I told my Lord Chief Juſtice, and my Lord *Zouch* the way to make *Weſton* confeſs, and to diſcover all, which was by fair and gentle intreaty of him, and ſo by this means they might ſearch the bottom of his Heart; in this the Lord Chief Juſtice witneſſed with him.

And after Sir *Thomas Overbury* was dead, *Weſton* and Mrs. *Turner* were ſent to know of me whether I had any inkling of the Death of Sir *Thomas*? What need they have made this Queſtion, if I had known any thing thereof?

Alſo that which I do know concerning the Poiſoning of Sir *Thomas*, was after his Death, by Relation of *Weſton*; and here I am indicted as Acceſſary before the Fact, when I knew nothing till after the Fact.

After that he had confirmed theſe Reaſons by ſundry Proofs and Witneſſes, he went further in his own Defence: If I be in the Plot, the Lord Treaſurer is, I have his Letter to ſhew in it; he called me to his Lodging, and ſaid the Plots you know them as well as I, the Plots were only to repair her Honour: my Wife hath the Letters from my Lord Treaſurer and *Monſon*, for theſe Plots I will run willingly to my Death, if Circumſtances be knit with any manner of Fact.

He proceeded further, and told the Lord Chief Juſtice, that he ſpake not this to juſtify himſelf, ſo that no blemiſh or ſtain might cleave unto him; for (ſaid he) this Viſitation is ſent me from God, and whether I live or die, it is the happieſt Affliction to my Soul, that I ever received: I have laid open my whole Heart for Blood-guiltineſs: I have not repented me other than of Errors of my Judgment, in not detecting what I ſuſpected, and yet I do ask God forgiveneſs daily for leſſer Sins; but of this I know no other, but the groſs Error of my Judgment, in not preventing it, when I ſaw ſuch Intendment and Imaginations againſt him.

Then he put to my Lord Chief Juſtice this Caſe, If one that knoweth not of any Plot to poiſon a Man, but only ſuſpecteth, is no Actor or Contriver himſelf, only imagineth ſuch a thing, Whether ſuch a one be acceſſary to the Murder; for the words of the Indictment are, Abetting and Comforting with Malice: Now if there be any Man that charges me expreſly, or in direct Terms, that I was an Abettor, or if the Court ſhall think in this Caſe which I have put that ſuch a concealing without Malice, is an Abetting, I refuſe not to die, I am Guilty: this was the Sum of his Speech.

Then the Lord Chief Juſtice replied; That to his Knowledge, he ſpake no more concerning the Evidence than he could in Conſcience juſtify, which was only to expreſs the Evidence of things, and not wreſting any thing in prejudice of his Life.

But further he told him, That two Days before Sir *Thomas Overbury* died, you wiſhed his Man to bring his beſt Suit of Hangings to hang his Chamber, which you knew were your Fees.

And after he told him, that his Accuſation of the Lord Treaſurer was very malicious; for in the Examinations he had taken, and in all the exact Speech he could work for the finding out of the Truth, he ſaw not that honourable Gentleman any way touched.

In Concluſion he told him, It is not your deep Proteſtations, nor your appealing to God, that can ſway a Jury from their Evidence, which is not yet anſwered unto.

But to leave you without Excuſe, and to make the Matter as clear as may be, here is the Confeſſion of *Franklin*, (which he then drew out of his Boſom) ſaying, This *poor Man*, not knowing Sir *Jervis* ſhould come to his Tryal, this Morning he came unto me at Five of the Clock, and told me, That he was much troubled in his Conſcience, and could not reſt all that Night until he had made his Confeſſion; and it is ſuch a one (theſe were his Words) as the Eye of *England* never ſaw, nor the Ear of *Chriſtendom* never heard.

The Confeſſion of James Franklin, *the 16th of* November, 1615.

Mrs. *Turner* came to me from the Counteſs, and wiſhed me from her to get the ſtrongeſt Poiſon I could for Sir *Thomas Overbury*. Accordingly I bought ſeven, *viz. Aquafortis*, *White Arſenick*, *Mercury*, *Powder of Diamonds*, *Lapis Coſtitus*, great *Spiders*, and *Cantharides*: All theſe were given to Sir *Thomas Overbury* at ſeveral times. And further confeſſeth, That the Lieutenant knew of theſe Poiſons; for that appeared (ſaid he) by many Letters which he writ to the Counteſs of *Eſſex*, which I ſaw, and thereby knew that he knew of this Matter: One of theſe Letters I read for the Counteſs, becauſe ſhe could not read it her ſelf, in which the Lieutenant uſed this Speech;

Madam, The *Scab* is like the *Fox*, the more he is *curſed*, the *better* he *fareth*; and many other Speeches. Sir *Thomas* never eat White Salt, but there was *White Arſenick* put into it: Once he deſired Pig, and Mrs. *Turner* put into it *Lapis Coſtitus*.

The *White Powder* that was ſent to Sir *Thomas* in a Letter, he knew to be *White Arſenick*.

At another time he had two Partridges ſent him from the Court; and Water and Onions being the Sauce, Mrs. *Turner* put in *Cantharides* inſtead of Pepper; ſo that there was ſcarce any thing that he did eat, but there was ſome Poiſon mix'd. For

theſe Poiſons the Counteſs ſent me Rewards: She ſent many times Gold by Mrs. *Turner*.

She afterwards wrote unto me to buy her more Poiſons. I went unto her, and told her I was weary of it; and I beſought her upon my Knees that ſhe would uſe me no more in thoſe Matters: But ſhe importuned me, bad me go, and enticed me with fair Speeches and Rewards; ſo ſhe overcame me, and did betwitch me.

The Cauſe of this Poiſoning, as the Counteſs told him, was, Becauſe Sir *Thomas Overbury* would pry ſo far into their Suit, as he would put them down. He did alſo ſay that the *Toothleſs Maid*, Truſty *Margaret*, was acquainted with the Poiſoning; ſo was Mrs. *Turner*'s Man *Stephen*; ſo alſo Mrs. *Horne*, the Counteſs's own Hand.

He ſaith, On the Marriage-Day of the Counteſs with *Somerſet* ſhe ſent him 20 *l.* by Mrs. *Turner*; and he was to have been paid by the Counteſs 200 *l. per Annum* during his Life.

That he was urged and haunted two hundred ſeveral times, at leaſt, by the Counteſs to do it againſt his Conſcience. He ſaith, She was able to bewitch any Man; and then he wrought the Love between *Rocheſter* and her; and that he had twelve ſeveral Letters from her to proſecute it, and was to have 200 *l.* to continue their Loves until the Marriage; and that all Things were burnt ſince the firſt Diſcovery.

Thoſe were all the *Materials* in *Franklin*'s Confeſſion. To this Sir *Jervis Elvis* knew not what to anſwer, or to make of his own Letters.

Then preſently the Jury departed from the Bar, and ſhortly after returned, and found him guilty; and the Lord Chief Juſtice gave Judgment, and he was executed on *Tower-Hill*.

The Tryal of Richard Weſton *at* Guild-Hall, *the 19th of* November, 1615, *before the Lord Mayor, the Lord Chief Juſtice of* England, *and three other Juſtices of the* King's-Bench, *viz.* Crook, Daudridge, *and* Haughton, *and Serjeant* Crew, *and others of the Commiſſioners.*

Sir Henry Montague, *Recorder.*

THE Court being ſet, the King's ſpecial Commiſſion being read, the Lord Chief Juſtice gave the Charge; the Effect whereof was,

Firſt, To expreſs the King's pious Inclination and Command unto juſt Proceedings againſt all ſuch as ſhould be any way proved to be guilty of the Murdering and Poiſoning of Sir *Thomas Overbury*, his Majeſty's Priſoner in the Tower.

Secondly, To aggravate the Manner and Quality of the Murdering, in ſhewing the Baſeneſs of Poiſoning above all other Kinds of Murder, declaring the Vengeance of God, and his Juſtneſs in puniſhing Offenders: He alledged 9 *Gen.* 6. *Quicunque effuderit humanum ſanguinem, effundetur ſanguis illius; ad imaginem Dei quippe factus eſt homo.* He alſo took the Example of *Uriah* by *David*; he therein obſerved how Adultery is moſt often the Begetter of that Sin.

Then he declared, That of all Felonies, Murder is the moſt horrible; of all Murders, Poiſoning the moſt deteſtable; and of all Poiſoning, the lingering Poiſoning.

He ſhewed how that by an Act of Parliament, 22 *H.* 8. *cap.* 9. it was made Treaſon, and that wilful Poiſoners ſhould be boiled to death; rehearſing the Example of one *Richard Rowſe*, that had poiſoned a Man and Woman, and was therefore ſcalded to death.

Then he laid open to the Jury the Baſeneſs and Cowardlineſs of Poiſoners, who attempt that ſecretly, againſt which there is no Means of Preſervation or Defence for a Man's Life; and how rare it was to hear of poiſoning in *England*, ſo deteſtable it was to our Nation: But that ſince the Devil had taught divers to be cunning in it, ſo that they can poiſon in what Diſtance of Space they pleaſe, by conſuming the *Nativum Calidum* or *Humidum Radicale* in one Month, two, or three, or more, as they liſt; which they four manner of Ways do execute, 1. *Guſtu*, 2. *Hauſtu*, 3. *Odore*, 4. *Contactu*.

He finiſhed his Charge with ſerious Exhortations to the Jury to do Juſtice in preſenting the Truth, notwithſtanding the Greatneſs of any that upon their Evidence ſhould appear to be guilty of the ſame Offence; comforting both Judge and Jury with the Scripture, *Pſal.* 5. *ver. ultimo*, *For thou, Lord, wilt bleſs the Righteous; with Favour wilt thou compaſs them as with a Shield.*

The Charge being ended, the Jury, conſiſting of fourteen Perſons, did for the Space of an Hour depart the Court into a private Room, where they received their Evidence from Mr. *Fanſhaw*, his Majeſty's *Coroner*, and his Highneſs's *Council* prepared and inſtructed for that purpoſe, with the Examinations and Confeſſions as well of the Priſoner himſelf, as of divers other Witneſſes, before that time taken by the Lord Chief Juſtice of *England*, and others the Lords of his Majeſty's Council.

In the mean time, Mr. *William Goare*, Sheriff of *London*, was commanded to fetch his Priſoner, remaining at his Houſe, to be ready in Court for his Arraignment.

So a certain Space after the *Grand Jury* returned to the Bar, and delivered in their Bill of Indictment, ſigned *Billa Vera*. Whereupon the Priſoner was ſet up to the Bar, and the Indictment read by Mr. *Fanſhaw*, which contained in effect as followeth.

The Indictment.

THAT *Richard Weſton*, being about the Age of ſixty Years, not having the Fear of God before his Eyes, but inſtigated and ſeduced by the Devil, deviſed and contrived not only to bring upon

upon the Body of Sir *Thomas Overbury* Kt. great Sickneſs and Diſeaſes, but alſo to deprive him of his Life: And to bring the ſame to paſs, 9 *Maii* 1613, 11 *Jacobi*, &c. at the *Tower* of *London*, in the Pariſh of *Allhallows Barkin*, did obtain and get into his hands certain Poiſon of green and yellow Colour, called *Roſalgar*, (knowing the ſame to be deadly Poiſon) and the ſame did maliciouſly and felonioufly mingle and compound in a kind of Broth poured out into a certain Diſh; and the ſame Broth ſo infected and poiſoned, did give and deliver to the ſaid *Thomas Overbury* as wholeſome and good Broth, to the intent therewith to kill and poiſon the ſaid Sir *Thomas*, which Broth he took and did eat.

Alſo the ſaid *Weſton* upon the 1ſt of *July*, 11 *Jacobi*, as aforeſaid, did in like manner get another Poiſon or Poiſons compounded, called *White Arſnick*, and (knowing the ſame to be deadly Poiſon) did give unto the ſaid Sir *Thomas Overbury*, as good and wholeſome to eat, who took and did eat.

Alſo that *Weſton*, upon the ſaid 19th of *July* following, did get another Poiſon called *Mercury Sublimate* (knowing the ſame to be mortal Poiſon) and put and mingled the ſame in Tarts and Jellies, and gave the ſame unto Sir *Thomas Overbury*, as good and wholeſome to eat, which he in like manner took and did eat.

Alſo the ſaid *Weſton*, and another Man being an Apothecary, afterwards, upon the 14th of *September*, felonioufly did get a Poiſon, called *Mercury Sublimate*, (knowing the ſame to be deadly Poiſon) and put the ſame into a Clyſter mingled with the ſaid Poiſon; and the ſaid Clyſter the ſaid Apothecary, for the Reward of 20*l.* promiſed unto him, did put and miniſter (as good and wholeſome) into the Guts of the ſaid Sir *Thomas*, and that *Weſton* was preſent and aiding to the ſaid Apothecary in miniſtring and infuſing the ſaid Clyſter; and that immediately after, as well the taking of the ſaid poiſoned Meats, and miniſtring the ſaid Clyſter, the ſaid Sir *Thomas* did languiſh, and fell into Diſeaſes and Diſtempers; and from the aforeſaid Times of taking and eating the ſaid poiſoned Meats, and miniſtring the ſaid Clyſter, he died: and ſo the Jury gave their Verdict, That *Weſton* in this manner had killed, poiſoned, and murdered the ſaid Sir *Thomas*, againſt the King's Peace and Dignity.

Which Indictment being read, he was demanded if he were guilty of the Felony, Murdering, and Poiſoning, as aforeſaid, yea, or no. To which he anſwered, doubling his Speech, *Lord, have Mercy upon me! Lord, have Mercy upon me!* But being again demanded, he anſwered, *Not guilty.* And being then demanded how he would be tryed, he anſwered, He referred himſelf to God, and would be tryed by God; refuſing to put himſelf and his Cauſe upon the Jury or Country, according to the Law or Cuſtom.

Hereupon the Lord Chief Juſtice, and all other in their Order, ſpent the ſpace of an Hour in perſuading him to put himſelf upon the Tryal of the Law; declaring unto him the Danger and Miſchief he ran into by reſiſting his ordinary Courſe of Tryal, being the Means ordained by God for his Deliverance, if he were innocent; and how by this means he would make himſelf the Author of his own Death, even as if he ſhould with a Knife or Dagger kill or ſtab himſelf: exhorting him very earneſtly either with Repentance to confeſs his Fault, or elſe with Humility and Duty to ſubmit himſelf to his ordinary Tryal. Whereupon he ſtubbornly anſwered, *Welcome, by the Grace of God*; and he referred himſelf to God. And ſo when no Perſuaſions could prevail, the Lord Chief Juſtice plainly delivered his Opinion, That he was perſuaded that *Weſton* had been dealt withal by ſome Great-Ones, guilty of the ſame Fact, as acceſſary, to ſtand mute, whereby they might eſcape their Puniſhment; and therefore he commanded (for Satisfaction of the World) that the Queen's Attorney there preſent ſhould declare and ſet forth the whole Evidence, without any Fear or Partiality; and yet notwithſtanding, he once more uſed much Perſuaſion to the Priſoner to conſider what Deſtruction he brought upon himſelf by his Contempt; and declaring unto him how his Offence of Contempt was, in refuſing his Tryal, and how the Laws of the Land had provided a ſharper and more ſevere Puniſhment to ſuch Offenders than unto thoſe that were guilty of High Treaſon: and ſo he repeated the Form of Judgment given againſt ſuch, the Extremity and Rigour thereof was expreſſed in theſe Words, *Onere, Frigore, & Fame.* For the firſt, he was to receive his Puniſhment by the Law, to be extended, and then to have Weights laid upon him, no more than he was able to bear, which were by little and little to be increaſed.

For the ſecond, that he was to be expoſed in an open Place, near to Priſon, in the open Air, being naked.

And laſtly, That he was to be preſerved with the coarſeſt Bread that could be got, and Water out of the next Sink or Puddle to the Place of Execution, and that Day he had Water he ſhould have no Bread, and that Day he had Bread he ſhould have no Water; and in this Torment he was to linger as long as Nature could linger out, ſo that oftentimes they lived in that Extremity eight or nine Days: adding further, that as Life left him, ſo Judgment ſhould find him. And therefore he required, upon conſideration of theſe Reaſons, to adviſe himſelf to plead to the Country; who notwithſtanding abſolutely refuſed.

Hereupon the Lord Chief Juſtice willed Sir *Lawrence Hyde*, the *Queen's Attorney*, and there of Counſel for the King, to manifeſt unto the Audience the Guiltineſs of the ſaid *Weſton* by his own Confeſſion, ſigned with his own Hand; and if in the Declaration thereof they may meet with any great Perſons whatſoever, as certainly there were Great-Ones confederate in that Fact, he ſhould boldly and faithfully open whatſoever was neceſſary, and he could prove againſt them. Whereupon Mr. *Attorney* began his Accuſation:

Firſt, He charged the Counteſs of *Somerſet* and the Earl to be principal Movers unto this unhappy Concluſion, Mrs. *Turner* to be of the Confederacy, and the Pay-Miſtreſs of the Priſoners Rewards; in which I could not but obſerve the *Attorney's* Boldneſs in terming the Counteſs a dead and rotten Branch, which being lopt off, the Noble Tree, meaning that Noble Family, would proſper the better.

Secondly, He proceeded to the Cauſe, which he affirmed to be the Malice of the Counteſs: And the Ground of this Malice he alledged, and by many Inducements he evidently affirmed, That Sir *Thomas Overbury* had perſuaded him from that adulterate Marriage of the Counteſs of *Somerſet*, then Counteſs of *Eſſex*. And for this he alledged as followeth.

Sir *Thomas Overbury* having divers times diſſuaded the Earl, then Viſcount *Rocheſter*, from ſeeking by any means to procure Marriage with the Counteſs of *Eſſex*, to which he ſaw the Earl too

too much inclined; and having very earneſt Conference with the Earl one Night in private in the Gallery at *White-Hall* concerning his Intendment, perceiving the Earl too much at that time to deſire that unlawful Communication, in the Ardency of his fervent Affection unto the Earl, and great Preſcience of the future Miſery it would inevitably bring unto him, (his well-beloved Lord and Friend) uſed Speeches to this Effect.

Well, my Lord, if you do marry that filthy baſe Woman, you will utterly ruin your Honour and your ſelf; you ſhall never do it by my Advice or Conſent; and if you do, you had beſt look to ſtand faſt.

My Lord replied, betwitched with the Love of the ſaid Counteſs, moved with Sir *Thomas Overbury* for ſo ſlighting her, anſwered, *My own Legs are ſtreight and ſtrong enough to bear me up; but, in Faith, I will be even with you for this:* and ſo parted from him in a great Rage.

This Conference was over-heard by ſome in an adjoining Room, and their Depoſitions for the Truth thereof were read in Court.

Although this Conference moved the Earl to ſuch a ſudden Choler, yet it ſeemed Sir *Thomas Overbury* conceited it no otherwiſe than a ſudden extreme Diſtemperature or Paſſion, and not a final Concluſion of their Boſom-Friendſhip as before, in which the Earl ſeemed reciprocal; howſoever, in his Double-Dealing it ſeemed to be clearly otherwiſe.

For upon this the Earl moved the King to appoint Sir *Thomas Overbury* Embaſſador for *Ruſſia*. The King, willing to preſer Sir *Thomas Overbury*, as one whoſe Worth and Valour wat yet unknown to his Majeſty, accordingly adjoined him that Service; the which Sir *Thomas* was moſt willing to accept of, as a gracious Aſpect of the King towards him: which Willingneſs of his was proved by the Depoſition of two or three ſeveral Witneſſes read in Court, and by the Oath of Sir *Dudly Diggs*, who voluntarily, at the Arraignment in open Court, upon his Oath, witneſſed how Sir *Thomas* had impartted to him his Readineſs to be imployed on an Embaſſage.

The Earl as well abuſing the King's Favours in moving to ſhew Favour where he meant the Party ſhould take no Benefit, as bearing unhoneſt Friendſhip, in Conference with Sir *Thomas* concerning that Imployment, perſuaded him to refuſe to ſerve Embaſſador, where (quoth he) I ſhall not be able to perform ſuch Kindneſs to your advantage, as having you with me; and (quoth he) if you be blamed or committed for it, care not, I will quickly free you from all harm. Sir *Thomas*, thus betrayed by a Friend, refuſed to ſerve in that nature; where upon juſt Equity he was committed to the *Tower*.

Being thus committed, he was preſently committed cloſe Priſoner, and a Keeper he muſt have; and who muſt that be but this *Weſton*, who was commended by the Counteſs of *Eſſex* to Sir *Thomas Monſon*, to be by him recommended over unto the Lieutenant of the *Tower*, to be Keeper to Sir *Thomas Overbury*. Sir *Thomas Monſon*, according to the Counteſs's Requeſt, commended the ſaid *Weſton* to Sir *Jervis Elvis*; whereupon the ſaid Lieutenant entertained the ſaid *Weſton*, and appointed him to keep Sir *Thomas Overbury*. The ſaid *Weſton*, upon his own Confeſſion read in Court, ſigned with his Mark, had during the time that ſhe was Counteſs of *Eſſex*, been a Procurer and Pander to the ſaid Earl, then Viſcount *Rocheſter*, and the Counteſs of *Eſſex*, for the conveying and effecting of their adulterate Deſires, which they did divers times conſummate, meeting in Mrs. *Turner*'s Houſe once between the Hours of Eleven and Twelve, and at *Hammerſmith*, and at divers times elſewhere, for that purpoſe; that now, by the Procurement of the Counteſs, (who hated Sir *Thomas Overbury*, for being a good Means to keep from contaminating themſelves with ſuch luſtful Imbracements, and from the purpoſed Marriage they mutually laboured to compaſs) her Pander was become his Keeper, a fit Agent for Luſt and Murder.

Weſton now being become Sir *Thomas Overbury*'s Keeper, kept him ſo cloſe, that he ſcarce had the Comfort of the Day's Brightneſs, neither ſuffered he any one to viſit him, Father, Brother, his beſt Friends, his neareſt Kindred were Strangers to him from the beginning of his Impriſonment unto the end.

Mrs. *Turner*, upon the firſt day's keeping, promiſed to give him a contenting Reward, if he ſhould adminiſter ſuch things to Sir *Thomas Overbury*, as ſhould be ſent unto him, thinking him a fit Inſtrument to compaſs black Murder, that was ſo well acquainted with foul Luſt; and ſo indeed they found him, for he agreed and did promiſe to adminiſter whatſoever ſhe would ſend him. Mrs. *Turner*, upon this murderous Promiſe, the very ſame day that *Weſton* became Sir *Thomas Overbury*'s Keeper, being the 6th day of *May*, 1613. ſent unto him the ſaid *Weſton*, certain yellow Poiſon, called *Roſalgar*, in a Vial.

Weſton having received that Poiſon, the aforeſaid 6th of *May* at Night, bringing Sir *Thomas Overbury*'s Supper in one hand, and the Vial of Poiſon in the other, meets with the Lieutenant, and asks him in theſe terms, *Sir, ſhall I give it him now?* Upon this word *Now*, the Lord Chief Juſtice demurs, to aggravate the Maliciouſneſs; affirming that this Particle *Now*, ſhewed a Reſolution to poiſon him. What ſhall you give him? replies the Lieutenant. *Weſton* replies, As if you did not know, Sir. The Lieutenant blaming him, he carries the Poiſon into an inner Room, which *Weſton*, the 9th of *May*, did adminiſter to Sir *Thomas Overbury* in Broth. This was proved both by *Weſton* and the Lieutenant's Confeſſion.

Weſton having given this Poiſon, which wrought very vehemently with him by Vomits and extreme Purging, he preſently demands his Reward of Mrs. *Turner*, who replies, *That the Man is not yet dead, perfect your Work, and you ſhall have your Hire.* This was alſo confeſſed by *Weſton* under his Marks.

Sir *Thomas Overbury*, by his cloſe Impriſonment, growing ſick, and daily languiſhing, after three or four Weeks ſpace (conſidering he had not got his Freedom and Releaſe, having not Friends ſuffered to come unto him, but only ſuch as the Earl ſent to comfort him, of his own Followers) writ to the Earl to remember his Impriſonment; who received anſwer, *The Time would not ſuffer, but ſo ſoon as poſſible might be, he would haſten his Delivery:* ſo indeed it ſeems he intended to do, but not ſo as Sir *Thomas Overbury* conceived, whoſe true Affection would not admit his Judgment to debate the ſtrangeneſs of his Impriſonment, which he might well think the Earl might eaſily have relieved.

The 5th of *June*, Viſcount *Rocheſter* ſent a Letter to Sir *Thomas Overbury*; in the Letter he ſent him a white Powder, willing Sir *Thomas* to take it: *It will* (quoth he) *make you more ſick, but fear not, I will make this a means for your Delivery, and for the recovery of your Health.* Sir *Thomas Overbury* never dreaming of baſe Treachery, but conceiving it as a friendly Policy, received the ſaid Powder, which wrought

wrought upon him more vehemently; whereupon his Sickneſs grew more vehement or violent, and his Languiſhment increaſed: which white Powder, upon *Weſton*'s Confeſſion, was Poiſon.

Sir *Thomas Overbury*'s Sickneſs increaſing, and with it his wondering that he could not in two Months ſpace be releaſed, after his Phyſick taking, he thus writes to the Earl, lamenting his own Eſtate; for his Faith being thus ſhaken with the Earl's Unkindneſs, gave way for his Judgment to ſcan thoſe Actions, rather like an underſtanding Man, than like a loving Friend, as appeareth by his Letter ſent to Viſcount *Rocheſter*, the effect whereof was thus, as it is averred by the Depoſitions of Sir *Thomas Overbury*'s Servants, who ſaw the Letter.

Sir Thomas Overbury*'s Letter to the Viſcount* Rocheſter.

SIR,

'I Wonder you have not yet found means to effect my Delivery, but I remember you ſaid, 'you would be even with me,' [not ſuſpecting, as it ſeemeth, any Poiſoning, but an unkind Forgetfulneſs of my Lord of *Rocheſter*] 'and ſo indeed 'you are; but aſſure your ſelf, my Lord, if you 'do not releaſe me, but ſuffer me thus to die, my 'Blood will be required at your hands.'

My Lord comforts him, and excuſes, that it cannot yet be compaſſed: Sir *Thomas*, after the Powder taken, languiſheth deadly, and to comfort him, ſome Followers of my Lord of *Rocheſter*'s are ſent to him daily, in the name of my Lord, by the appointment and procurement too of the Lady of *Eſſex* (as *Weſton* confeſſed) to viſit and comfort him, and to intreat him if he deſired any Meat, that he ſhould ſpeak, and it might be better perhaps provided for him, than he ſhould have in the Tower; this was about three Months after his Impriſonment.

He (as Men ſick deſire luſcious Meats) deſired Tarts and Jellies, which were provided by Mrs. *Turner*, with the knowledge of the ſaid Counteſs, and ſent unto him, of which he did eat; the which Tarts were poiſoned with *Mercury Sublimate*, not being ſo well coloured as other Tarts are, and *Weſton* confeſſed that he was ſtraitly charged not to taſte thereof.

Sir *Thomas* thus continuing languiſhing with the extremity of Sickneſs, until the 6th of *September*, when the aforeſaid Mrs. *Turner* did procure an Apothecary's Boy for twenty Pounds to poiſon a Clyſter, which was by the Boy and *Weſton* afterwards adminiſtred as good Phyſick, upon the 7th day of *October*; after the Receipt of the Clyſter, he fell into a great extremity of Vomiting, and other Purging, which left him not, till it cauſed his Soul to leave his poiſoned Body: this *Weſton* confeſſed and ſigned.

Being thus dead, he was preſently and very unreverently buried in a Pit, digged in a very mean place; on his Body thus venomouſly infected, appeared divers Blains and Bliſters: whereupon they, to take away as well his good Name, as his Life, did ſlanderouſly report, that he died of the *French* Pox; but this Report was cleared in Court, by the Depoſitions of his Servants, and other Men of worth there read.

That before his Impriſonment, he had a clean and ſound Body, only he had an Iſſue in his Left Arm, purpoſely made for the benefit of his Nature, for the avoiding of Rheum and ill Humours, which, with continual ſitting at his Study, he had ſubjected himſelf unto.

He further obſerved the Confeſſion of the Lieutenant to be, that if any Priſoner died there, his Body was to be viewed, and Inquiſition to be taken by the Coroner.

But Sir *Thomas Overbury*'s Friends and others, by no means might be ſuffered to ſee his Body; and although it was reported, that there was an Inquiſition taken, yet it could by no means be found.

After Mr. Attorney had ended his Speech, Mr. *Warr* alſo of Council for the King, declared to the Court what Familiarity he had with Sir *Thomas*, being both of the *Temple* together, much commending his ſingular, honeſt and virtuous Converſation; affirming, That he was addicted to no diſhoneſt Actions: and from this he proceeded to urge his ſaid Uſage in the Tower, where he might have no Company, but the Apothecary and the *Walloon*; and repeating the ſending of the Tarts and Jellies in my Lord of *Somerſet*'s Name, he ended his Speech with this Saying, *Pereat unus, ne pereant omnes; pereat peccans, ne pereat Reſpub.* Then, by the Commandment of the Court, were read by Mr. *Fenſhaw* the Examinations of divers Witneſſes taken before my Lord Chief Juſtice and others, which in effect were as follows.

Laurence Davies, *Servant to Sir* Thomas Overbury, *examined the 15th of* October, *before the Lord Chief Juſtice.*

He ſaith, That he had ſerved Sir *Thomas Overbury* eight or nine Years; in all which time he was very healthful, and never kept his Bed for any Sickneſs, only he was ſometimes troubled with the Spleen, for eaſe whereof, he had by the Advice of his Phyſician an Iſſue made in his Left Arm; but before his Impriſonment, he had no Sores, Bliſters, or other Defects in all his Body.

Alſo he ſaith, Sir *Thomas* would have gone over upon the Embaſſage, but was diſſuaded by *Somerſet*, who promiſed to bear him out: he complained, he needed not to be Priſoner if *Somerſet* would; and that if he died, his Blood would be required at his hands.

That *Somerſet* was as good as his word, who told him at *Newmarket*, he would be even with Sir *Thomas Overbury*.

Henry Payton, *another Servant of Sir* Thomas Overbury*'s, examined the 15th of* October, 1615.

He affirmeth, That Sir *Thomas* was of a very good Conſtitution of Body, that he uſed ſometimes to run, to play at Foils, and ſuch-like; that he was of a moderate Diet, never had any Sores, ſaving the ſaid Iſſue in his Arm.

That Sir *Thomas* wrote Letters to *Somerſet*, ſignifying, that he needed not to lie in Priſon if *Somerſet* would, and if he died, his Blood ſhould be required at his hands.

That Sir *Thomas*, at one of the Clock at Night, meeting *Somerſet* in the Gallery at *Whitehall*, had Speeches with him touching the Counteſs, whom he called baſe Woman, and told *Somerſet*, he would overthrow all the King's Favours and Honours; and upon Diſpleaſure between them at this Conference, Sir *Thomas Overbury* deſired *Somerſet* that he might have his Portion due, and he would ſhift for himſelf. Whereunto *Somerſet* anſwered, And my Legs are ſtraight enough to carry me; and ſo flung away in Anger. All which this Examinant heard,

heard, being in a Chamber next to the Gallery.

Sir *Dudley Diggs* being preſent in Court, and ſworn, declared *viva voce*, that he was ſent by a Privy Counſellor (a great Man) to Sir *Thomas Overbury* to bring him to this great Man, which he did; and coming back together over the Water in a Boat, Sir *Thomas* was much diſcontented; the Reaſon whereof he ſaid was, That he was perſuaded by the great Man to withdraw himſelf from the Court for ſome Reaſons which he diſcloſed not; and Sir *Dudley* afterwards being ſent by the Lords, to know the Reſolution of Sir *Thomas* touching the Embaſſage, he found him to rely upon the Lord of *Somerſet*, ſaying, My precious Chief knows the King's Mind better than any, and I the Mind of my precious Chief.

Richard Weſton *the Priſoner examined, the 6th of* October, 1615. coram Coke & Crew.

He affirmeth, That before Sir *Thomas Overbury* was in the Tower, he, this Examinant, carried three Letters to *Somerſet*, from the Lady *Eſſex*, to *Royſton*, *Newmarket*, and *Hampton-Court*, and he delivered anſwer to Mrs. *Turner*; and that upon the Letter to *Hampton-Court*, he had anſwer only by word of Mouth, That his Lordſhip would come: and that coming back, he met with the Counteſs and Mrs. *Turner* half way, in the Coach, whom he told, that the Lord only anſwered ſo; whereupon the Counteſs ſtrook out of the way into a Farmer's Houſe hard by, whither, within a little ſpace *Somerſet* came, and that afterwards they met in the Night at Mrs. *Turner*'s Houſe in *Pater-noſter-row*. And he confeſſeth, that of a Year before Sir *Thomas*'s Impriſonment, no Man carried Letters between them but he.

Sir Thomas Monſon *examined the 5th of* October, coram Coke & Crew.

He ſaith, That he never knew *Weſton* until Sir *Thomas Overbury* was Priſoner in the Tower; and that he preferred him to the Lieutenant, to be Keeper of Sir *Thomas Overbury*, at the Requeſt of the Counteſs.

Anne Turner *Widow, examined the 11th of* October, 1615. coram Coke & Crew.

She ſaith, That *Weſton* was an antient Servant, and her Husband's Bailiff in the Country; ſhe denieth to have any thing to do in placing him in the Tower; but ſaith, that the Counteſs of *Eſſex* did effect it, and uſed the help of Sir *Thomas Monſon* therein.

Sir Jervis Elvis *examined the 3d of* October, 1615. coram Coke & Crew.

He ſaith, He had a Letter from Sir *Thomas Monſon*, requeſting him, that *Weſton* might be Keeper of Sir *Thomas Overbury*, and that he did perform it; and afterwards having conference with Sir *Thomas Monſon*, he told him, That his Keeper was not to ſuffer any Letters or Tokens, or any things to be delivered unto him.

Richard Weſton *the Priſoner examined again.*

He confeſſeth, He ſhewed him the Glaſs that was delivered him by his Son from the Counteſs to the Lieutenant, and told him, that it came from the Counteſs of *Eſſex*, and that he perſuaded him not to give it to Sir *Thomas*.

He ſaith, That he had divers Tarts from the Counteſs, to give to Sir *Thomas*, with Caveats that he himſelf ſhould not taſte of them; and confeſſeth, that he thought they were poiſoned.

He ſaith, Mrs. *Turner* appointed him to come to *White-hall*, and that ſhe dealt with him, to give Sir *Thomas Overbury* the Water, and told him, he ſhould not drink thereof; and was promiſed a great Reward, and he ſuſpected it was Poiſon. His Son afterwards delivered him the Glaſs, which he ſhewed to the Lieutenant, who rebuked him, and ſo he ſet the Glaſs in a Study near to Sir *Thomas*'s Chamber, but gave it him not; although he told Mrs. *Turner*, the next day, he had given the Water, which made Sir *Thomas* to vomit often, and to be exceeding ſick.

He ſaith, Mr. *James* and Mrs. *Rawlins* Servants to the Counteſs, came often to know of the Examinant, how Sir *Thomas Overbury* did, and what he would eat; and they delivered him Jellies and Tarts, which he gave Sir *Thomas*, who did eat thereof.

He ſaith, He demanded of Mrs. *Turner* his Reward, who anſwered, He was to have no Reward until Sir *Thomas* was dead, and he was promiſed a Purſuivant's Place; but confeſſeth, that afterwards, at two ſeveral times, he received ſecretly after the Death of Sir *Thomas*, for a Reward of Mrs. *Turner* from the Counteſs, 180 *l.*

William Weſton, *Son to the Priſoner, examined.*

He confeſſeth, He received a Glaſs from the Counteſs (by her Servant) two Inches long, being wrapped in Paper, which he delivered to his Father in the Tower.

Then was read the Confeſſion of the Lieutenant to the King.

He ſaith, That *Weſton* met him, carrying Sir *Thomas*'s Supper in the one Hand, and the Glaſs in the other, and demanded of the Lieutenant this, *Sir, ſhall I give it him now?* Whereat the Lieutenant ſtepped to him, and asked him, What? to which *Weſton* ſaid, Why Sir, know you not what is to be done? And ſo the Lieutenant having made him to confeſs the Matter, diſſuaded him, and he ſeemed to be reſolved not to do it: and afterwards this *Weſton* confeſſed, that an Apothecary had twenty Pounds for adminiſtring a Clyſter to Sir *Thomas Overbury*.

Weſton, *the Priſoner, examined before the Lord* Zouch *and others;*

Confeſſeth, That Sir *Thomas* had a Clyſter which gave him ſixty Stools and a Vomit; alſo being confronted, with the Writings of Sir *Jervis Elvis*, and charged therewith, he confeſſeth the ſame to be true.

Simon Marſon, *Muſician, examined.*

Saith, He ſerved Sir *Thomas Monſon* ſix Years, and is preferred by him to the King's Service, but waiteth ſometimes upon Sir *Thomas Monſon*; he ſaith, That he received divers Tarts and Jellies from the Counteſs of *Eſſex*, to be carried to the Lieutenant of the Tower for Sir *Thomas Overbury*.

Paul

Paul de la Bell, examined;

Saith, That on the 3d of *July*, he made Sir *Thomas Overbury* a Bath by Dr. *Micham*'s Advice, to cool his Body, and that he ſaw his Body very exceeding fair and clear; and again, he ſaw his Body (being dead) full of Bliſters, and ſo conſumed away as he never ſaw the like Body.

George Rawlins, *a Kinſman to Sir* Thomas Overbury, *examined*;

Saith, That upon the Bruit of the Murder of Sir *Thomas*, he was taxed by ſome, why he made no Proſecution; he thereupon made a Petition, and delivered it to the King, that the Examination of the Cauſe might be referred to Law, and denieth that he was perſuaded by any to the contrary: he ſaith, that he coming often to the Tower to ſee Sir *Thomas*, could not be ſuffered to ſee him ſo much as out at the Windows; and *Weſton* told him, it was the Commandment of the Council, and of the Lieutenant.

The Lieutenant of the Tower examined, coram Coke & Crew.

He ſaith, That after the Death of Sir *Thomas*, *Weſton* came to him, and told him he was much neglected and ſlighted by the Counteſs, and could receive no Reward; but afterwards he confeſſed he had received 100 *l.* and ſhould receive more: and the Lieutenant alſo ſaith, that Sir *Thomas Overbury* was very angry with his Apothecary at certain Vomits which he had, and alſo at the Tarts and Jellies which he had, would be found within a day or two ſtanding, ill-coloured, and that no body did eat thereof but Sir *Thomas*; and *Weſton* confeſſed unto him, that the Apothecary had twenty Pounds for adminiſtring the Clyſter.

Theſe Examinations being read and applied to the purpoſe, the Lord Chief Juſtice ſaid, he would diſcharge his Duty firſt to God, in giving all Glory, for the bringing to light of ſo horrible and wicked a Fact; and next to the King, his great Maſter, who as in caſe of the like nature, as in the caſe of *Zanquer* and *Turner*, ſo eſpecially in this, hath given ſtraight charge of juſt and due Examination to be had, without any manner of Partiality or Fear in the World; to the intent, that as well the Innocent might be freed, as the Nocent and Guilty ſeverally puniſhed.

And for this purpoſe, his Majeſty hath with his own Hand written two Sheets of Paper on both ſides, concerning Juſtice to be adminiſtred to all Parties which were to be examined; which Writing, the Lord Chief Juſtice ſhewed to the Lord Mayor, and the reſt of the Commiſſioners; and then he declared the King's Juſtice, who, albeit the many Favours and Honours which his Majeſty had beſtowed on the Lord *Somerſet*, and his nearneſs to his Perſon, by reaſon of his Office, yet he had committed him Priſoner to the Dean of *Weſtminſter*'s Houſe, under the Cuſtody of Sir *Oliver St. John*, and alſo had committed his Lady. So having laſt of all (again) demanded of the Priſoner, If he would put himſelf to be try'd by the Country? which he refuſed;

The Court was adjourn'd until Monday following, at Two of the Clock in the Afternoon.

On Monday the 23d of *November*, 1615. to which day the Court was adjourned by the ſaid Commiſſioners, after Proclamation made, the Jury of Life and Death call'd, the Priſoner *Weſton* was ſet to the Bar, and Mr. *Fanſhaw* Clerk of the Crown declared unto him, that he had been formerly arraigned, and had pleaded Not Guilty; ſo he demanded of him, how he would be tried: whereupon the Priſoner anſwered, By God and his Country. And thereupon the Jury being ſworn, and the Indictment being read as before, Sir *Lawrence Hide* the Queen's Attorney being of Council with the King, having briefly rehearſed the Effect of the Indictment, ſhewed how that he muſt neceſſarily mention others that were guilty of the ſame Fact, wherein if any other Man or Woman were touched, the Cauſe it was, and not he that touched them.

And therefore *Weſton* being but a Stranger to Sir *Thomas Overbury*, and one, who by himſelf could reap no benefit by his Death, it was againſt all reaſon that he would do it of himſelf, therefore (ſaid he) I muſt needs open the whole Plot; and having firſt declared the Worth and Honeſty of Sir *Thomas Overbury*, ſhewed his Familiarity with *Rocheſter*, and how often he willed him to forbear the Company of the Lady *Eſſex*, terming her a vile and baſe Woman, which ſtirred up the Anger and Malice of the Counteſs againſt him.

And that afterwards, the King intended, for the Honour of Preferment of Sir *Thomas Overbury*, to ſend him upon an Embaſſage; whereunto he was willing, but was dealt with and perſuaded by the Lord *Rocheſter*, to diſobey the King's Direction and Counſel, with Promiſes that he would bear him out; by which Contempt Sir *Thomas* was committed to the Tower the 22d of *April*, 1613. Sir *William Wade* being Lieutenant of the Tower: the 6th of *May* following, Sir *William* was removed, and Sir *Jervis Elvis* put in his place.

And the next day after, *Weſton*, by the procurement of the Counteſs, was preferred to the Service of the Lieutenant, and to be Keeper of Sir *Thomas*; which *Weſton* had been Servant to Mrs. *Turner*, and the only Agent in conveying Letters and Meſſages between *Rocheſter* and the Counteſs: and he, whoſe Office ſhould have been to ſave and keep, was now appointed to kill and murder him.

He ſhewed, how the very ſame day of his Entertainment at the Tower, he was ſent for to the Counteſs, who perſuaded him, that if he would give Sir *Thomas* a Water that ſhould be delivered him, he ſhould be well rewarded, and ſhe bid him not taſte of it himſelf.

And that the 9th of the ſame month of *May*, the ſaid Water was ſecretly ſent from the Counteſs to *Weſton* by his Son; and the ſame Night *Weſton* meeting with the Lieutenant, and having Sir *Thomas*'s Supper in one Hand, and the ſaid Glaſs in the other, he demanded of the Lieutenant, *Sir, ſhall I give it him now?* Whereupon the Lieutenant took him aſide, and diſſuaded him ſo far forth that he confeſſed, he thanked God upon his Knees, that he had met with him.

But Mr. *Attorney* obſerved this notwithſtanding, that the Lieutenant did let him go away with the Poiſon; and albeit he now denieth he ever gave the Poiſon, yet ſaid he delivered it: he confeſſed to Mrs. *Turner* he had done it, ſaying, It made him very ſick, and to vomit often, demanding of her his Reward; to which he anſwered, He was not to have his Reward until Sir *Thomas* were dead.

Then

Then he ſhewed how the laſt of *June* following, a certain Powder was ſent in a Letter to Sir *Thomas Overbury* from *Rocheſter*, perſuading him not to fear, though it made him ſick, for that ſhould be his Reaſon to move the King for his Enlargement.

And that the 14th of *September*, *Weſton* and the Apothecary miniſtred the Clyſter to Sir *Thomas*, which gave him ſixty Stools and Vomits, and that he died the next day, remembring the ſtrangeneſs of the Botches and Bliſters on his Body, being dead: he ſhewed how *Weſton* came to Mrs. *Turner* for his Reward, which was deferred till his Death; and that he had received in ſecret from the Counteſs by Mrs. *Turner* at ſeveral times for his Reward 180 *l.* and that the Apothecary had for his Reward 20 *l.* All which *Weſton* had confeſſed to be true.

Then remembring how ignominiouſly they buried him, not ſuffering any to ſee him, for fear he ſhould be digged up again, and without any Coroner's Inqueſt that ſhould be found; and thus he ended his Speech.

And to all this opened and ſet forth by Mr. Attorney, Mr. *Warr* only added thus much, which he deſired the Jury to conſider, That *Weſton* was Servant to Mrs. *Turner*, when Sir *Thomas* was committed, and then he was entertained and made Keeper to Sir *Thomas Overbury*; and having diſpatched his Buſineſs (Sir *Thomas* being dead and poiſoned) he ſtay'd no longer at the Tower, but returns again to his Mrs. *Turner*.

Then the Lord Chief Juſtice exhorted the Jury to take God before their Eyes, and with equal Ballance to weigh as well the Anſwer of the Priſoner, as the Proofs and Examinations againſt him, declaring unto them how quietly and freely he had examined him from time to time, without menacing or rough uſage, which the Priſoner confeſſed: and my Lord, for matter of Law, ſatisfied the Jury, That albeit the Poiſoning in the Indictment be ſaid to be with *Roſalgar*, *White Arſenick*, and *Mercury Sublimate*, yet the Jury were not to expect preciſe Proof in that Point, ſhewing how impoſſible it were to convict a Poiſoner, who uſeth not to take any Witneſſes to the compoſing of his ſibber Sauces: wherefore he declared the Law in the like Caſe; As if a Man be indicted for murdering a Man with a Dagger, and it fall out upon Evidence to have been done with a Sword or with a Rapier, or with neither, but with a Staff; in this Caſe the Inſtrument ſkilleth not, ſo that the Jury find the Murder. And ſo in this Priſoner's Caſe, if they would be ſatisfied of the Poiſoning, it ſkilleth not with what; therefore he requireth them to attend the Proof.

Then were read, firſt the Examinations of *Laurence Davies*, as at the firſt Arraignment; then of *Henry Payton*, both Servants to Sir *Thomas Overbury*; then of *Weſton* himſelf formerly read.

Then the Examination of Sir David Wood, *taken the 21ſt of* October, 1615. *ſince the firſt Arraignment.*

He ſaith, He had obtained the King's Conſent to a Suit, for which he was a Petitioner, and that he was croſſed by the Lord *Rocheſter* and Sir *Thomas Overbury*: that for certain Words he had received from Sir *Thomas Overbury*, he intended to baſtinado him; that his Suit would have been worth 2200 *l.* and that *Rocheſter* would not let it paſs, unleſs he might have 1200 *l.*

That the Lady *Eſſex* ſent for this Examinant upon the day that the King and Queen went to *Rocheſter* with the Lady *Elizabeth*, and told him, ſhe underſtood that he had received much Wrong from Sir *Thomas Overbury*, and that he was a Gentleman that could revenge himſelf; and that Sir *Thomas* had much wronged her: and Sir *David* anſwered, That Sir *Thomas* had refuſed him the Field; ſhe perſuaded him to kill him, and promiſed him 1000 *l.* for his Reward, and Protection from his Enemies: which he refuſed, ſaying, He would be loth to hazard going to *Tyburn* upon a Woman's Word; but ſhe ſtill perſuaded him he might eaſily do it, as he returned late home from Sir *Charles Wilmot*'s in his Coach.

Then were read the Examinations of Sir Thomas Monſon *and Mrs.* Turner, *as at the firſt Arraignment.*

Next, the Examination of *Weſton* before the Lord *Zouch*, and Sir *Ralph Winwood*, Sir *Thomas Parrey*, and Sir *Foulke Grevil*, at the *Dutchy-houſe*, the 29th of *September*, 1615. where *Weſton* did confeſs, That he was preferred to the keeping of Sir *Thomas Overbury*, by Mrs. *Turner*, upon the means and requeſt of Sir *Thomas Monſon*, to the Lieutenant; and that ſhe told him, If he would give Sir *Thomas Overbury* a Water which the Counteſs would ſend him, he ſhould be well rewarded; and being confronted with a Relation in Writing, which Sir *Jervis Elvis* had made to the King, as touching Sir *Thomas Overbury*, he confeſſed the ſame to be all true.

The Examination of the Lieutenant, *taken the 5th of* October, 1615.

He ſaith, That having conferred with his Servants about the time of *Weſton*'s coming to the Tower, he found it to be the very next day after himſelf was made Lieutenant, and had the Poſſeſſion of the Tower; and that he had Letters from Sir *Thomas Monſon*, that *Weſton* might be Keeper to Sir *Thomas Overbury*; which Letters he had loſt: Sir *Thomas Monſon* told him the chief Purpoſe of *Weſton*'s keeping of Sir *Thomas Overbury*, was, to ſuffer no Letters or other Meſſengers to paſs to or from him, and to that purpoſe he adviſed the Lieutenant.

Weſton's *Examination the 5th of* October, 1615.

He confeſſeth, That the next day he was preferred to the Tower, he had the keeping of Sir *Thomas Overbury*, and ſoon after he received the Glaſs by his Son ſecretly from the Counteſs; and that the Lieutenant told him, all the Tarts came likewiſe from her: and he confeſſeth, the Counteſs willed him to give them to Sir *Thomas*, but not to taſte of them himſelf.

Weſton's *Examination the 1ſt of* October, 1615.

Confeſſeth, That Mrs, *Turner* appointed him to come to *White-hall* to the Counteſs, the next day that he was at the Tower, and that he went, and the Counteſs did requeſt him to give to Sir *Thomas Overbury* a Water, which ſhe would deliver him, but not to drink of it himſelf; ſhe promiſed to give him a good Reward, and he ſuſpected it was Poiſon: he received the Glaſs by his Son, and told the Lieutenant of it, who did rebuke him and he ſet the Glaſs into a little Study; he confeſſeth, he told Mrs. *Turner* he had given it him, and demanded his Reward; that Mr. *James* and Mr. *Rawlins*, my Lord

Lord of *Somerſet*'s Men, came often to know of him what Tarts, Jellies, or Wine Sir *Thomas* would have, and that they brought divers times Tarts and Jellies, whereof he did eat.

He confeſſeth to have received of the Counteſs in Rewards, after Sir *Thomas Overbury*'s Death, by Mrs. *Turner* ſecretly, in all 180 *l.*

The Confeſſion of the Lieutenant *to his Majeſty.*

After *Weſton* was placed in the Tower, he met with me with Sir *Thomas*'s Supper, and the Glaſs, and asked me, *Sir, ſhall I give it him now?* Wherein I proteſt unto your Majeſty my Ignorance, as I would alſo be glad to proteſt the ſame to the World: ſo I privately conferred with *Weſton*, and by this means made him aſſured unto me, and knew all, but diſſuaded him; and *Weſton* has, ſince the Death of Sir *Thomas Overbury*, confeſſed to me, that the Clyſter was his Overthrow, and the Apothecary had 20 *l.* for adminiſtring it.

Your Majeſty's Servant,
Sir Jervis Elvis.

Here the Lord Chief Juſtice obſerved by this Queſtion of *Weſton* to the Lieutenant, *Shall I give it him now?* that it was preſently agreed and plotted before What ſhould be done, and that nothing more was doubted on but the time When it ſhould be done.

The Teſtimony of Lawrence Davies *taken upon Oath before* Coke *and* Crew.

He affirmeth, That *Weſton* delivered him a Letter from Sir *Thomas Overbury* to *Rocheſter*, the Effect whereof was, That he would do his Endeavour in being a means of Friendſhip between *Rocheſter* and ſome others; but as touching the Marriage with the Counteſs of *Eſſex*, he would never give his Conſent: and alſo bringing a Letter from *Rocheſter* to Sir *Thomas Overbury*, he delivered it to *Weſton*, and a Paper of white Powder fell out, which *Rocheſter* perſuaded Sir *Thomas* to eat, and not to fear, though it made him ſick, for that ſhould be a means for his Enlargement; ſo they put the Powder into the Letter again: he ſaith, that he ſaw ſome part of the Powder in *Weſton*'s hands after the Death of Sir *Thomas Overbury*.

The Examination of Simon Weſton *and* Paul de la Bell, *at the firſt Arraignment.*

Giles Rawlins Eſq; the 15th of *October*, 1615. ſaith, That upon the Bruit of poiſoning of Sir *Thomas Overbury*, being taxed of divers, for that he ſtirred not in the Matter, Sir *Thomas* being his Kinſman and Means of his Preferment; he did of himſelf prefer a Petition to the King, that the Cauſe might be referred to the Judges of the Law, for ordinary Courſe of Juſtice, rather than to the Lords of the Council, by them to be examined; of which he had a gracious Anſwer: and ſaith, that of fourteen days before the death of Sir *Thomas Overbury*, he could never be ſuffered to ſee him, either in his Chamber, or at the Window; which *Weſton* ſaid, was the Commandment of the Lords and the Lieutenant.

And here the Lord Chief Juſtice declared what a Scandal they put upon his Majeſty and the State, that a Gentleman and a Freeman, being only committed upon Contempt, ſhould be more ſtreightly and cloſely kept than a Traitor or Bond-Slave, ſo that neither his Father, Brother, nor Friend might poſſibly ſee him. And to that Point, Mr. *Overbury*, Father to Sir *Thomas*, ſwore, being preſent in Court; who ſaid, That his Son being Priſoner in the Tower, and himſelf not being ſuffered to have Acceſs unto him, found at laſt, that *Rocheſter* was the Man that withſtood it.

The Lieutenant *examined the 5th of* October;

Saith, That after the Death of Sir *Thomas Overbury*, *Weſton* told him, That he was neglected by the Counteſs, and demanded his Reward: Mrs. *Turner* told him, The Counteſs had not Money; but afterwards he confeſſed, he had received ſome, and ſhould have more; and that Mr. *James* told him, My Lord of *Somerſet* would reward him for the Pains he took with Sir *Thomas Overbury*. He ſaith, That the Tarts were ſent from the Counteſs to Sir *Thomas*, which looked ill-favouredly, and that the Jellies, with a little ſtanding, would be furred, and thinketh they were poiſoned: alſo *Weſton* told him, that the Apothecary had 20 *l.* for giving the Clyſter, and that he was poiſoned with that Clyſter.

Here was well obſerved by the Court, as by the Queen's Attorney, That *Weſton* was not ſingle in his Confeſſion, but whenſoever he had confeſſed any thing in any of his Examinations, it was likewiſe confirmed by the Examinations of others, as the Lieutenant, his Son, *&c.*

The Examination of William Goare *one of the Sheriffs of* London;

Saith, *Weſton* being in his Cuſtody, he often perſuaded him to put himſelf to be tried by his Country, telling him, he would firſt kill himſelf, and ask God Forgiveneſs afterwards: and *Weſton* anſwered, He hoped he would not make a Net to catch little Birds, and let the great ones go.

Then Mr. *Warr* craving leave of the Court to ſpeak, proteſted, in his Experience he never found a Buſineſs ſo proſecuted with degrees of Malice, which was the Ground of Sir *Thomas Overbury*'s Overthrow; he urged the Evidence in the Examination of Sir *David Wood*, and ſhewed the Reaſons of the Malice againſt him to be, for that he was ſo great an Impediment to Affections; then he made the Dependency Mrs. *Turner* had to the Lady, and *Weſton* to Mrs. *Turner*, and how they all concluded to kill Sir *Thomas Overbury*, the like whereof he ſaid our Fathers never ſaw before us; and he lamented the Place from whence the Poiſon came, ſhould be from the Court, the Place (ſaid he) from whence all Men expect their Safeties and Protection.

Laſtly, He obſerved the *Finger of God*, even in this, that the Poiſon had been ſcarcely ſuſpected at all, or enquired after, had it not been for the extraordinary ſtrange Things appearing after his Death, which was the firſt only Cauſe of Suſpicion and Muttering.

The Evidence being given, *Weſton* was demanded what he could ſay for himſelf? Who, although he had before confeſſed all his Examinations to be true, yet he ſeemed to excuſe himſelf in a kind of Ignorance or Unawares: he ſaid, he received the ſaid Glaſs, and thought it was not good, but denied

nied the giving of it to Sir *Thomas*. Being demanded, Why he had formerly accuſed one *Franklin*, for delivering him the ſaid Glaſs from the Counteſs? (from whom indeed it was ſent;) He confeſſed it was to ſave his Child: and finally could ſay nothing that had any colour of material or ſubſtantial Point to excuſe or argue Innocency in him. So the Court referred him to the Jury; who went together, and within a ſhort ſpace returned, being agreed upon their Verdict, and there at the Bar gave in, that *Weſton* was guilty of the felonious Murdering and Poiſoning of Sir *Thomas Overbury*. And then the Clerk of the Crown demanded of *Weſton*, What he could ſay for himſelf, why Judgment ſhould not be pronounced againſt him according to Law? To which he anſwered, He referred himſelf to my Lord, and to the Country. And then the Lord Chief Juſtice, before he pronounced Sentence of Death, ſpake to this effect, That for the Duty of the Place, he muſt ſay ſomewhat; and that to two ſeveral Perſons:

Firſt, To the Auditory: And,
Secondly, To the Priſoner.

And that which he ſpake to the Auditory, he divided into four Parts:

1*ſt*, The *Manifeſtation of the Glory of God, and Honour of the King*.

2*dly*, The preventing of other damned Crimes of Poiſoning.

3*dly*, An Anſwer to certain Objections.

4*thly*, That there is no Practice of Conſpiracy in Proſecution of the Buſineſs.

For the 1*ſt*, He obſerved the Finger of God in the manifeſtation and bringing to light of this Matter, having ſlept two Years, being ſhadowed with Greatneſs, which cannot overcome the Cry of the People.

He obſerved alſo the Providence and Goodneſs of God, to put in the Hearts of himſelf and the reſt of the Judges, the day of his laſt Arraignment, when the Priſoner ſtood mute, not to give Judgment againſt him for that time, but defer it till now; and how in the mean time it pleaſed his Majeſty out of his gracious Care and Pity, to ſend to the Priſoner, firſt the Biſhop of *London*, next the Biſhop of *Ely*, to admoniſh and perſuade him for the ſaving of his Soul; who, after each of them had ſpent two hours with him, it pleaſed God (when they had left him) to move his Heart, ſo that now he did put himſelf to be tried by the Country; by which means (uſing *Weſton*'s own Words) he ſaid, The *great Flies* ſhall not eſcape, but receive their Puniſhment. For concluſion of his firſt Point, he laſtly obſerved, *Divinum quiddam in vulgi opinione*, that notwithſtanding ſo many uncertain Rumours touching this Caſe, at laſt it proved to be true.

2*dly*, He declared, how for prevention of this damned Crime of Poiſoning, Juſtice was the golden Mean, and declared his Majeſty's Reſolution ſtreightly to execute Juſtice for that Treaſon; and he uſed this Saying, *Nemo prudens*, &c. and deſired God that this Precedent of *Overbury* might be an Example and Terror againſt this horrible Crime, and therefore it might be called, *The great Oyer of Poiſoning*.

3*dly*, He ſaid, That at the Arraignment were certain Criticks put, who had given out, the Priſoner ſhould deny his Examinations; and found ſo much fault, for that the Examinations were read, the Priſoner ſtanding mute. But for the firſt, how untrue it was, all the World ſaw the Priſoner here confeſſing them, all being read and ſhewed unto him; and for the ſecond, beſides that it was exceeding diſcreet and convenient the World ſhould receive ſome Satisfaction in a Cauſe of that nature, he cited and ſhewed, that by the Laws of the Land they ought and were bound to do, notwithſtanding the Greatneſs of any that might thereby be impeached; of whom he ſaid, although this was *unicum crimen*, yet it was not *unicum crimen*.

4*thly*, As touching the ſuppoſed Practice or Conſpiracy, he ſolemnly proteſted to God, he knew of none, nor of any Semblance for Colour thereof; and therefore he much inveighed againſt the Baſeneſs and Unworthineſs of ſuch as went about ſo untruly and wickedly to ſlander the Courſe of Juſtice. And ſo he came, laſt of all, to that which he had to ſpeak of *Weſton* the Priſoner.

Firſt, Touching the Wickedneſs of his Fact, he very ſeriouſly exhorted him to an unfeigned Confeſſion and Contrition for the ſame, declaring unto him, how that his Confeſſion would be a Satisfaction to God and the World, by his Faith and true Repentance he would lay hold upon the Merits of his Saviour.

He perſuaded him, that no vain Hope (which is a Witch) ſhould keep him back from giving Satisfaction to the World, by diſcovering the Guiltineſs of the Great-ones; aſſuring him, that after this Life, as Death left him, ſo Judgment ſhould find him.

And laſtly, taking occaſion there to remember this Poiſoning to have been a Popiſh Trick, which he inſtanced by examples of one *Gurnandus de Birlanus*, mentioned 22 *Edw.* I. *Squier*, that attempted to poiſon Queen *Elizabeth*'s Saddle; *Lopez*, and Mrs. *Turner*: he then proceeded to give Judgment, which was,

That the Priſoner ſhould be carried from thence to the Place from whence he came, and from thence to *Tyburn*, and there to be hanged by the Neck till he was dead.

Judgment being given, the Lord Chief Juſtice commanded, that the Priſoner might have convenient Reſpite, and the Company of ſome godly learned Men to inſtruct him for his Soul's health.

The Tryal of Sir THOMAS MONSON, *at* Guild-Hall, *the 4th of* December, 1615.

WHEN he came to the Bar, he made a Motion to the Lord Chief Juſtice; That, whereas he had written unto his Lordſhip, to ask the Lord-Treaſurer two Queſtions, which my Lord would do; he deſired then an Anſwer, and that Sir *Robert Cotton* might be preſent.

The Queſtions read, he was indicted for conſpiring with *Weſton* to poiſon Sir *Thomas Overbury*; to which he pleaded, Not Guilty, and would be tried by God and his Country.

The Lord Chief Juſtice brake up the Proceedings, and made a Speech to this effect, *viz.*

He ſaw a great Aſſembly, and though it had been ſhewed them often, yet it could not be ſaid too often, that the City was much bound to God, and to his Deputy on Earth the King, his Maſter, for their great Deliverance, and exact Juſtice; for God was always juſt; and for the King, though they were never ſo high in Place, nor ſo dear to him, though his own Creatures, yet his Juſtice is dearer to him, for which we are upon our Knees to give him Thanks; as alſo for ſo mild a Proceeding in ſo great an Affair: for neither the great Man's Houſe in the Tower, nor his Lady's Houſe, nor this Priſoner's Houſe (to my knowledge) have been ſearched, neither hath this Priſoner been committed to the Sheriff, but to an Alderman, a Man who of all others might be moſt kind to him; for, as I take it, leſt I ſhould be miſtaken, Sir *Francis Anderſon* married Sir *Stephen Somes*'s Daughter, and Sir *Thomas Monſon* married Sir *Francis Anderſon*'s Siſter. I never knew the like Favour, nor do I like it ſo well, but do declare it as a gentle Proceeding from the King.

For other things, I dare not diſcover Secrets; but though there was no Houſe ſearched, yet ſuch Letters were produced, which make our Deliverance as great, as any that happened to the Children of *Iſrael*.

For *Weſton* and Mrs. *Turner*, they died penitently, as is worthy to be written in Letters of Gold; and for the Lieutenant, though with great Imprecations, and a high hand he denied, yet for the great Glory of the King's Juſtice, he died moſt penitently and reſolutely: this is ſpoken to the Praiſe of God, that hath crowned theſe juſt Proceedings, *Juſtitia confirmata non eget Authoritate*, though not having reaſon for it; wherein we may ſee the great Hand of God, for that Morning the Lieutenant was arraigned, he came to me as one afflicted in Conſcience, not knowing of his Arraignment, with evidence againſt him: which being delivered to the Jury, one of them heard him ſay, *Then Lord have mercy on me*; and for this preſent, *Non eſt conſtantia longa de vita hominis*; therefore he muſt be conveyed to the Tower as a ſafer Place, till further Order be taken. Then he addreſſed his Speech to Sir *Thomas Monſon*, ſaying,

Whereas you name my Lord-Treaſurer, every Man's Fame is dear unto him, and he hath ever been honourable, you ſhall hear what he hath anſwered to my Letter.

'After my hearty Commendations, I have heard 'that Sir *Thomas Monſon* thinks I can clear him, 'but I know nothing of him to accuſe or excuſe 'him; but I hope he is not guilty of ſo foul a Crime.

You hear (quoth he) that he will neither accuſe you, nor excuſe you.

Monſon. I do not accuſe the Lord-Treaſurer, nor calumniate him, for I know he is very honourable, but I deſire to have Anſwer to my two Queſtions.

Ld Ch. Juſt. You ſhall hear more of that when the time ſerveth; do you as a Chriſtian, and as *Joſhua* bad *Achan*, *My Son acknowledge thy Sin, and give Glory to God.*

Monſon. If I be Guilty, I renounce the King's Mercy and God's; I am innocent.

Ld Ch. Juſt. There is more againſt you than you know of.

Monſon. If I be Guilty, it is of that I know not.

Ld Ch. Juſt. You are Popiſh, that Pulpit was the Pulpit where *Garnet* died, and the Lieutenant as firmly; I am not ſuperſtitious, but we will have another Pulpit.

Daudridge. It is an Atheiſt's word to renounce God's Mercy, you muſt think the Change of your Lodging means ſomewhat.

Hide. I have looked into this buſineſs, and I proteſt my Lord, he is as guilty as the guiltieſt.

Monſon. There was never Man more innocent than I; in this will I die an Innocent.

After this Speech, certain Yeomen of his Majeſty's Guard, attending for that purpoſe, conducted him to the Tower, where between the Yeomen and the Wards, there was ſome Contention about his Entertainment.

The Tryal of the Lady Frances *Counteſs of* Somerset, *for the Murder of Sir* Thomas Overbury, *the 24th of* May, 14 Jac. I. 1616.

The Summons of the Peers to the Tryal.

AFTER our hearty Commendations to your Lordſhip: Whereas the King's Majeſty has reſolv'd, that the Earl of *Somerſet*, and the Counteſs his Wife, lately indicted of Felony, for the Murder and Poiſoning of Sir *Thomas Overbury*, then his Majeſty's Priſoner in the Tower, ſhall now receive their lawful and publick Tryal, by their Peers, immediately after the end of this preſent *Eaſter* Term; at the Tryal of which noble Perſonages your Lordſhip's Preſence, as being a Peer of the Realm, and one of approv'd Wiſdom and Integrity, is requiſite to paſs upon them: Theſe are to let your Lordſhip underſtand, that his Majeſty's Pleaſure is, and commandeth by theſe our Letters, that your Lordſhip make your repair to the City of *London*, by the eleventh Day of the Month of *May* following, being ſome few days before the intended Tryal; at which time your Lordſhip ſhall underſtand more of his Majeſty's Pleaſure. So not doubting of your Lordſhip's Care to obſerve his Majeſty's Directions, we commit you to God.

Your Lordſhip's

From Whitehall *this* 24*th of* April, 1616. *Very loving Friends,*

G. Cant.
T. Elleſmore Canc.
Fenton.
E. Watton.
Tho. Lake.
Lord *Darcy*, of the South.
C. Edmonds.
E. Worceſter.
Lenox.
P. Herbert.
Ralph Winwood.
Fulke Grevyl.
Jul. Cæſar.

The Names of the Peers.

The Earl of *Worceſter*, Lord Privy-Seal.
The Earl of *Pembroke*, Lord Chamberlain.
The Earl of *Rutland.*
The Earl of *Suſſex.*
The Earl of *Montgomery.*
The Earl of *Hertford.*
The Lord Viſcount *Liſle.*
The Lord *Zouch*, Warden of the *Cinque-Ports.*
The Lord *Willoughby* of *Eresby.*
The Lord *Delaware.*
The Lord *Dacres*, of the South.
The Lord *Mounteagle*; who being ſick, went away before Judgment.
The Lord *Wentworth.*
The Lord *Rich.*
The Lord *Willoughby* of *Parham.*
The Lord *Hunſdon.*
The Lord *Ruſſel*, the ſecond Day was not there.
The Lord *Compton.*
The Lord *Norris.*
The Lord *Gerrard.*
The Lord *Cavendiſh.*
The Lord *Dormer.*
Thomas Lord *Elleſmere*, Chancellor of *England*, Lord High-Steward *hac vice.*

His Aſſiſtants in the Commiſſion there preſent.

Sir *Edward Coke*, Lord Chief Juſtice of *England.*
Sir *Henry Hubbart*, Lord Chief Juſtice of the *Common-Pleas.*
Sir *Lawrence Tanfield*, Lord Chief Baron of the *Exchequer.*
Judge *Altham*, one of the Barons of the *Exchequer.*
Judge *Crooke*, one of the Judges of the *King's-Bench.*
Judge *Dodridge*, one of the Judges of the *King's-Bench.*
Judge *Haughton*, one of the Judges of the *King's-Bench.*
Judge *Nicholls*, one of the Judges of the *Common-Pleas.*

The Counſel that were there the firſt Day.

Sir *Francis Bacon*, the King's Attorney-General.
Serjeant *Montague.*
Serjeant *Crew.*
Sir *Henry Yelverton*, the King's Sollicitor.
Francis Moor, the Queen's Serjeant.
Sir *Lawrence Hyde*, the Queen's Attorney.
Moſley, Attorney of the Dutchy.
Sir *John Davis*, the King's Serjeant.
Mr. *Walter*, the Prince's Attorney.
Mr. *Finch*, Keeper of the Records of Attainders.

More the ſecond Day.

Serjeant *Thomas Moor.*
Serjeant *Finch.*

The Peers above-nam'd were all that appear'd at any time at the Tryal, but I find there were ſix others ſummon'd, but why they abſented themſelves I know not; and thoſe were,

The Duke of *Lenox*, Lord Steward of the Houſhold.
Earl of *Huntingdon.*
Lord *Darcy* of *Menell.*
Lord *Eure.*
Lord *Hunſdon.*
Lord *Darcy* of *Chich.*

The Form of their Sitting and their Ceremonies.

When my Lord Chancellor, who for this time was High-Steward of *England*, came into the Court, there came before him ſix Serjeants at Arms, with their Maces; Sir *George Coppin* with his Patent; Sir *Richard Coningsby* with his white Staff; Mr. *Manwaring* with the Great Seal; he himſelf, at the upper end of the Court, ſitting under a Cloth of Eſtate: on both Hands of him the Peers, under them the Judges; at the farther end the King's Counſel, below the Judges; on one ſide *Finch*, Keeper of the Records of Attainders, the Clerk of the Crown and his Deputy; in the midſt of the Court, the Serjeant-Crier ſtanding by him, Sir *Richard Coningsby*, Sir *George Coppin*, the Seal-bearer, *&c.* at my Lord Steward's Feet. The Priſoner at the Bar behind the King's Counſel, the Lieutenant of the Tower in a little ſpace adjoining to the Bar.

All being ſilent, Sir *George Coppin* riſes and delivers the Patent to the Lord High Steward, upon his Knee; he receives it and kiſſes it, then redelivers it to Mr. *Fanſhaw*, who takes it kneeling. Then the Serjeant-Crier makes a Proclamation in the Lord High Steward's Name, to keep ſilence; then Mr. *Fanſhaw* reads the Commiſſion, which bears date the 9th of *May*: then there is another O yes, to certify my Lord Steward, whether *Weſton* were convicted as Principal, for the Murder of Sir *Thomas Overbury*; then the Lord Chief Juſtice delivers a Schedule indorſed with a Certificate of four Judges of the *King's-Bench*, and others the Commiſſioners. This *Fanſhaw*, turning to my Lord Steward, reads. A third O yes, for certifying of other Indictments; my Lord *Coke* delivers another Schedule indors'd with the Certificate of my Lady *Somerſet*'s Indictment; which *Fanſhaw*, as before, read. A fourth O yes, for *Walter Lee*, Serjeant at Arms, to return the Precept for the Peers of *Frances* Counteſs of *Somerſet*; which accordingly, after his three Reverences to the Lord High Steward, he delivered to Mr. *Fanſhaw*: he reads the Indorſement. A fifth O yes, to call the Lords ſummon'd by the Command of the Lord High Steward, to anſwer to their Names, which they accordingly did, beginning at the firſt, as every one was named putting off their Hats, and ſtanding up till the next was named. A ſixth O yes to the Lieutenant of the Tower, to return his Precept, and bring the Priſoner to the Bar; which he did, and gave his Precept to the Serjeant, who gave it to Mr. *Fanſhaw*, and he, as before, read the Indorſement. The Priſoner made three Reverences to his Grace and the Peers, in black Tammel, a Cypreſs Chaperon, a Cobweb Lawn Ruff and Cuffs.

L. H. S. My Lords, the Reaſon why you be call'd hither this day, is to ſit as Peers of *Frances* Counteſs of *Somerſet*.

Mr. *Fanſhaw, Clerk of the Crown. Frances* Counteſs of *Somerſet*, hold up thy Hand.

She does ſo, and held it up till Mr. Lieutenant told her ſhe might put it down; and then reads the Indictment, containing *Weſton*'s Accounts, in the poiſoning of Sir *Thomas Overbury*, and her abetting of him, the 8th of *May* 1613.

The Counteſs of *Somerſet*, all the while the Indictment was reading, ſtood, looking pale, trembled, and ſhed ſome few Tears; and at the firſt naming of *Weſton* in the Indictment, put her Fan before her Face, and there held it half cover'd till the Indictment was read.

Mr. *Fanſhaw. Frances* Counteſs of *Somerſet*, what ſayſt thou? Art thou guilty of this Felony and Murder, or not guilty?

The Lady *Somerſet* making an Obeiſance to the Lord High Steward, anſwer'd Guilty; with a low Voice, but wonderful fearful.

My Lady, upon her Arraignment, having pleaded Guilty, the Proceeding after was thus:

Mr. Attorney. May it pleaſe your Grace, my Lord High Steward of *England*, I am glad to hear this Lady's ſo free Acknowledgment, for Confeſſion is noble. Thoſe that have been formerly indicted at their Arraignment, perſiſted in denial, as *Weſton*, *Elvis*, *Franklin* and *Turner*; but you ſee this Lady's Humility and Repentance by ſo pleading; and certainly ſhe cannot but be a Spectacle of much Commiſeration, if you either reſpect the Sex, a Woman, or her Parentage, honourable; but this day and to-morrow is to crown Juſtice: the Mercy-Seat is the inner part of the Temple, the Throne publick, and therefore I ſhould now only pray a Record of the Confeſſion and Judgment: but ſince the Peers are met, for Honour's ſake it is good to declare the King's Juſtice. This is the ſecond time ſince the King's coming, theſe thirteen years, that any Peers have been arraign'd, and both theſe times your Grace had the Place of High-Steward; the firſt were *Grey* and *Cobham*, and though they were convicted, yet Execution followed not. No noble Blood hath yet been ſpilt ſince his Majeſty's Reign. The firſt was Revenge of Treaſon amongſt Malecontents; and this of a particular Offence to a private Subject, againſt thoſe that have been ſo high in the King's Grace and Favour, and therefore deſerve to be written in a Sun-beam. But his being the beſt Maſter in the World, hinders him not from being the beſt King; for he can as well plain a Hill as raiſe a Valley: a good Leſſon to put to my Lords the Peers; he is Lieutenant to him that is no Reſpecter of Perſons. This that I ſhould now ſpeak of, may be reduc'd to that which was acted in the Vault, and ſince upon the Stage: The firſt I will not now enter into, becauſe I will neither grieve a Lady that is preſent, nor touch a Lord that is abſent; my Duty requires it not, and my Humanity forbids it. For that which hath been upon the Stage, which is the Theatre of God's Juſtice, you ſhall underſtand that which hath been worthily acted by the King, in this noble Work of Juſtice, and right well by his Miniſters. *Overbury* dy'd poiſoned the 15th of *September* 1613. in the Tower of *London*: He was no ſooner dead, but there was a certain Rumour and Muttering that was *Vox Populi*, that *Overbury* came ſtrangely to his Death: And in that time, on the contrary hand, there was another Rumour, but that was *Vox Diaboli*, that he died of a foul Diſeaſe, ſo foul a one as is not fit for me to name. But for two years after this, though *Overbury*'s Blood cried for Revenge, *Vox Dei* was not heard. *Gloria Dei celare, Regis perſcrutare rem*: It is the Glory of God to conceal a thing, of a King to find it out; yet all the while God ſo dazled the Eyes of theſe two great Procurers, and their Inſtruments, that the firſt look'd not about them, the other fled not. About the beginning of the laſt Progreſs it firſt brake forth, and as all Murders are ſtrange in their Diſcovery, ſo this was miraculous, for it came out in a Compliment thus. My Lord of *Shrewsbury*, who is now with God, commended Sir *Jervis*

Elvis

Elvis to a Counſellor of Eſtate, and it was by him that Sir *Jervis*, in reſpect of the good Report he had heard made of his Honour and Worth, deſired to be made known unto him. That Counſellor anſwered, That he took it for a Favour from him; but withal added, there lies a kind of heavy Imputation on him, about *Overbury*'s Death. I could wiſh he would clear himſelf, and give ſome Satisfaction in the point. This my Lord *Shrewſbury* related back, and preſently *Elvis* was ſtruck with it, and makes a kind of Diſcovery, that ſome Attempts were undertaken againſt *Overbury*, but took no effect, as check'd by him. Though the truth be, he lack'd rather Fortitude in the Repulſe, than Honeſty. This Counſellor weighing well this Narration from *Elvis*, acquainted the King with the Adventure; who commanded preſently that *Elvis* ſhould ſet down his Knowledge in Writing, which accordingly he did but ſtill reſerving himſelf within his own Compaſs, not to touch himſelf, ſtill endeavouring rather to diſcover others, than any elſe ſhould undertake that Office, and ſo accuſe him. The King ſtill endeavours to ſearch the Truth of this Buſineſs, gives direction for the Examination of the Truth of it, commits it to certain Counſellors; they pick ſomething out of *Weſton*, then the further Enquiry is deliver'd over to my Lord *Coke*, who in this Cauſe was very painful, took two or three hundred Examinations; but when he found it might touch upon greater Perſons, then he deſired ſome others might be join'd with him, which was accordingly granted; namely, the Lord Chancellor, Lord Steward, the Lord *Zouch*. But then there were no Practices left untry'd for the Suppreſſion of the Diſcovery; *Weſton* was ſollicited to ſtand mute, but at laſt this dumb Devil was caſt out. Then follows *Elvis*, *Turner*, *Franklin*, all of which were Actors in this Tragedy, without Malice, but no Authors. Now when this Lady comes to her part, ſhe meets Juſtice in the way, by Confeſſion, which is the Corner-ſtone either of Mercy or Judgment; yet it is ſaid, that Mercy and Truth be met together. Truth you have in her Confeſſion, and that may be a Degree to Mercy, which we muſt leave to him in whoſe power it reſides; in the mean time this Day muſt be reſerved for Judgment. Now to conclude, and give you an Account of the often Procraſtinations in this Buſineſs; the firſt was due to Humanity, her Child-birth; the ſecond was for Reaſon of State; and the laſt had a grave and weighty Cauſe. Thoſe Directions the King at the firſt gave written with his own Hand, for the Examination of this Buſineſs, I deſire may be read.

The King's Inſtructions read.

There be two Things in this Cauſe to be try'd, and the Verity can be but in one of them; Firſt, Whether my Lord of *Somerſet* and my Lady were the Procurers of *Overbury*'s Death; or, That this Imputation hath been by ſome practiſed to caſt an Aſperſion upon them. I would firſt have you diligently enquire of the firſt; and if you find them clear, then I would have you as carefully look after the other, to the intent ſuch Practices may be diſcovered, and not ſuffer'd to paſs with Impunity.

Mr. Attorney. There be other Directions in theſe Inſtructions, by way of Interrogatories, that are not now neceſſary to be read.

L. H. S. Let the Lords the Peers view theſe Directions from the King.

Ld Coke. None of theſe Interrogatories which the King deſired there ſhould be Examinations upon, came away empty; and whatſoever Whiſperings there be abroad of the Death of *Weſton*, they all (ſome before the hour of their Death) confeſs'd the Fact, and died penitent; and if need ſhould require, I have brought their Confeſſor along, (namely, Dr. *Whiting*.)

L. H. S. My Lords, you ſee and have heard thoſe Directions under the King's Hand; give the Glory to God, and Honour to the King.

Mr. Attorney. May it pleaſe your Grace, *&c.* whereas *Frances* Counteſs of *Somerſet* hath been indicted as Acceſſary before the Fact, of the wilful Poiſoning and Murder of Sir *Thomas Overbury*; upon her Indictment, ſhe hath been arraign'd; upon her Arraignment, pleaded guilty: I deſire that her Confeſſion may be recorded, and Judgment againſt the Priſoner.

Fanſhaw. *Frances* Counteſs of *Somerſet*, hold up thine Hand: Whereas thou haſt been indicted, arraign'd, and pleaded guilty, as Acceſſary before the Fact, of the wilful Poiſoning and Murder of Sir *Thomas Overbury*; what canſt thou now ſay for thy ſelf, why Judgment of Death ſhould not be pronounc'd againſt thee?

C. of Som. I can much aggravate, but nothing extenuate my Fault; I deſire Mercy, and that the Lords will interceed for me to the King. (This ſhe ſpake humbly, fearfully, and ſo low, the Lord Steward could not hear it, but Mr. Attorney related it.)

Mr. Attorney. The Lady is ſo touch'd with Remorſe and Senſe of her Fault, that Grief ſurprizes her from expreſſing of her ſelf; but that which ſhe hath confuſedly ſaid, is to this effect, That ſhe cannot excuſe herſelf, but deſires Mercy.

Sir *Richard Comingsby* ſitting before the Lord High Steward, riſes, and, upon his Knee, delivers him the White Staff.

L. H. S. *Frances* Counteſs of *Somerſet*, whereas thou haſt been indicted, arraigned, pleaded guilty, and that thou haſt nothing to ſay for thy ſelf, it is now my part to pronounce Judgment; only thus much before, Since my Lords have heard with what Humility and Grief you have confeſſed the Fact, I do not doubt they will ſignify ſo much to the King, and mediate for his Grace towards you: but in the mean time, according to the Law, the Sentence muſt be this, That thou ſhalt be carried from hence to the Tower of *London*, and from thence to the place of Execution, where you are to be hang'd by the Neck till you be dead; and Lord have Mercy upon your Soul.

The Arraignment and Tryal of ROBERT CARR *Earl of* Somerſet, *on Saturday* May 25. 14 Jac. I. Anno Dom. 1616.

Serj. Cryer. O Yes, my Lord High-Steward of *England* purpoſes this day to proceed to the Tryal of *Robert* Earl of *Somerſet*. O yes, Whoſoever have any Indictments touching this Cauſe, publickly give them in.

My Lord *Coke* delivers in the Indictment of my Lord of *Somerſet* to Mr. *Fanſhaw* indors'd.

Serj. Cryer. O yes, *Walter Lee*, Serjeant at Arms, return the Precept for the Lords, which thou haſt warn'd to be here this day. O yes. [He calls every Lord by his Name, and they ſtand up as they be call'd.]

My Lord High Steward excuſes the Lords *Mounteagle* and *Ruſſel* of their Abſence, in reſpect of their Sickneſs.

Serj. Cryer. O yes, Lieutenant of the Tower, return thy Precept, and bring the Priſoner to the Bar. Which he did, and my Lord makes three Reverences to the Lord High Steward and the Lords.

Mr. Fanſhaw. Robert Earl of *Somerſet*, hold up thy Hand.

He holds it up ſo long until Mr. Lieutenant bad him hold it down. The Indictment is read, containing *Weſton*'s Actions in the poiſoning of Sir *Thomas Overbury*, and his abetting of him, the 8th of *May* 1613.

My Lord of *Somerſet* was apparelled in a plain black Sattin Suit, laid with two Sattin Laces in a Seam; a Gown of Unent Velvet lin'd with Unſhorn; all the Sleeves laid with Sattin Lace; a pair of Gloves with Sattin tops; his George about his Neck, his Hair curl'd, his Viſage pale, his Beard long, his Eyes ſunk in his head. Whilſt his Indictment was reading, he three or four times whiſper'd to the Lieutenant.

Mr. Fanſhaw. Robert Earl of *Somerſet*, What ſayſt thou, art thou Guilty of this Felony and Murder whereof thou ſtandeſt indicted, or Not Guilty?

My Lord of *Somerſet* making an Obeiſance to the Lord High Steward, anſwered, Not Guilty.

Mr. Fanſhaw. How wilt thou be try'd?

Ld Som. By God and the Country; but preſently recalling himſelf, ſaid, By God and my Peers.

Serj. Cryer. O yes, all you that be to give in Evidence againſt *Robert* Earl of *Somerſet*, who ſtands now at the Bar upon his Deliverance, make your Appearance, and you ſhall be heard what you have to ſay againſt him.

My Lord of *Somerſet*, upon his Arraignment, having pleaded Not Guilty, the Proceeding after was thus.

L. H. S. Robert Earl of *Somerſet*, you have been arraign'd, and pleaded Not Guilty; now I muſt tell you, whatſoever you have to ſay in your own Defence, ſay it boldly, without Fear; and though it be not the ordinary Cuſtom, you ſhall have Pen and Ink to help your Memory: but remember that God is the God of Truth; a Fault defended is a double Crime; hide not the Verity, nor affirm an Untruth; for, to deny that which is true, increaſes the Offence; take heed leſt your Wilfulneſs cauſe the Gates of Mercy to be ſhut upon you. Now for you, my Lords the Peers, you are to give diligent Attention to that which ſhall be ſaid; and you muſt not reſt alone upon one piece of Evidence, but ground your Judgment upon the whole. This moreover I would have you remember, that though you be not ſworn as common Juries, upon a Book, yet that you are ty'd in as great a Bond, your own Honour and Fidelity, and Allegiance to the King: and thus I leave the whole Proceeding to your Cenſures. And for you that be of the King's Counſel, free your Diſcourſe from all Partiality, but let Truth prevail, and endeavour to make it appear.

Serj. Mountague. My Lord High Steward of *England*, and you my Lords, this cannot be but a heavy Spectacle unto you, to ſee that Man that not long ſince in great Place, with a white Staff, went before the King, ſhould now at this Bar hold up his Hand for Blood; but this is the Change of Fortune, nay, I might better ſay, the Hand of God, and Work of Juſtice, which is the King's Honour.

But now to the Fact; *Robert* Earl of *Somerſet* ſtands indicted as Acceſſary before the Fact, of the wilful Murder and Poiſoning of Sir *Thomas Overbury*, done by *Weſton*, but procur'd by him; this, my Lord, is your Charge. The Indictment hath been found by Men of good Quality, ſeventeen Knights and Eſquires of the beſt Rank and Reputation, ſome of whoſe Names I will be bold to read unto you; Sir *Thomas Fowler*, Sir *William Slingsby*, and fifteen more; theſe have return'd *billa vera*. Now an Indictment is but an Accuſation of Record in Form thus; *Weſton*, at four ſeveral times, gave *Overbury* four ſeveral Poiſons, the firſt, *May* the 9th, 1613. that was *Roſalgar*, carrying this Poiſon in one Hand, and his Broth in the other; the ſecond was *June* following, and that was *Arſenick*; the third was *July* the 10th following, and that was *Mercury Sublimate* in Tarts; the the fourth was *September* the 14th following, and that was *Mercury Sublimate* in a Clyſter, given by *Weſton* and an Apothecary yet unknown, and that kill'd him. Of theſe four ſeveral Poiſons miniſtred by *Weſton*, and procured by you, the 15th of *September* 1615. *Overbury* dy'd, and the Author is ever worſe than the Actor. The firſt Poiſon laid in the Indictment, that *Weſton* gave Sir *Thomas Overbury*, was the 9th of *May*; and therefore we ſay, That the Lord *Somerſet*, the 8th of *May*, hir'd, counſel'd and abetted *Weſton* to this Fact; and as this Day, my Lord, I do charge you for a King, ſo heretofore King *David* was charg'd in the like Caſe, for the Murder of *Uriah*; and though *David* was under his Pavilion, and *Uriah* in the Army, yet *David* was the Cauſe of his Murder: So though you were

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in the King's Chamber, and *Overbury* in the Tower, yet it was you that kill'd him. It was a ſtronger Hand than *Weſton*'s that wrought this. The Proof, Mr. Attorney, will follow; and I will now conclude with two Deſires to the Peers; Firſt, That they will not expect viſible Proofs in the Work of Darkneſs: The Second is, That whereas in an Indictment there be many things laid only for Form, you are not to look that the Proof ſhould follow that, but only that which is ſubſtantial; and the Subſtance muſt be this, Whether my Lord of *Somerſet* procur'd or caus'd the Poiſoning of Sir *Thomas Overbury*, or no?

L. H. S. That indeed, my Lords, is that which you are to look after, Whether my Lord of *Somerſet* was the Cauſe of his Poiſoning, or not.

Ld Coke. This was very well mov'd by Mr. Recorder, and the Law is clear in this Point, that the Proof muſt follow the Subſtance, not the Form.

The Judges all riſing, affirm'd this to be true.

Sir Francis Bacon's *Speech at the Arraignment of the Earl of* Somerſet.

IT may pleaſe your Grace, my Lord High Steward of *England*, and you my Lords the Peers, you have here before you *Robert* Earl of *Somerſet* to be tried for his Life, concerning the procuring and conſenting to the Poiſoning of Sir *Thomas Overbury*, then the King's Priſoner in the Tower of *London*, as an Acceſſary before the Fact.

I know your Honours cannot behold this noble Man, but you muſt remember the great Favours which the King hath conferred on him, and muſt be ſenſible, that he is yet a Member of your Body, and a Peer, as you are; ſo that you cannot cut him off from your Body, but with Grief: and therefore you will expect from us that give in the King's Evidence, ſound and ſufficient Matter of Proof to ſatisfy your Honours Conſciences.

As for the Manner of the Evidence, the King our Maſter (who amongſt other his Virtues, excelleth in that Virtue of the Imperial Throne, which is Juſtice) hath given us command, that we ſhould not expatiate nor make Invectives, but materially purſue the Evidence, as it conduceth to the Point in queſtion.

A Matter, that (though we are glad of ſo good a Warrant) yet we ſhould have done of our ſelves: For far be it from us by any ſtrains of Wit or Arts, to ſeek to play Prizes, or to blazon our Names in Blood, or to carry the day otherwiſe than upon ſure Grounds; we ſhall carry the Lanthorn of Juſtice (which is the Evidence) before your Eyes upright, and ſo be able to ſave it from being put out with any ground of Evaſion or vain Defence, not doubting at all, but that the Evidence it ſelf will carry that Force, as it ſhall need no Advantage or Aggravation.

Firſt, my Lords, The Courſe that I will hold in delivering of that which I ſhall ſay (for I love Order) is this:

1*ſt*, I will ſpeak ſomewhat of the Nature and Greatneſs of the Offence, which is now to be tried, not to weigh down my Lord with the Greatneſs of it, but rather contrariwiſe to ſhew, that a great Offence needs a good Proof. And that the King, how ſoever he might eſteem this Gentleman heretofore as the Signet upon his Finger (to uſe the Scripture Phraſe) yet in ſuch a caſe as this, he was to put it off.

2*dly*, I will uſe ſome few words touching the Nature of the Proofs, which in ſuch a caſe are competent.

3*dly*, I will ſtate the Proofs.

And, *laſtly*, I will produce the Proofs, either out of Examination and Matters of Writing, or Witneſſes *viva voce*.

For the Offence it ſelf, it is of Crimes, next unto High-Treaſon, the greateſt; it is the fouleſt of Felonies. It hath three Degrees; Firſt, It is Murder by Impoiſonment; Secondly, It is Murder committed upon the King's Priſoner in the Tower; Thirdly, I might ſay, That it is Murder under the colour of Friendſhip; but that is a Circumſtance moral, and therefore I leave that to the Evidence it ſelf.

For Murder, my Lords, the firſt Record of Juſtice which was in the World, was Judgment upon a Murderer, in the Perſon of *Adam*'s Firſt-born *Cain*; and though it was not puniſhed by Death, but Baniſhment, and Marks of Ignominy, in reſpect of the Primogenitors, or the Population of the World; yet there was a ſevere Charge given, that it ſhould not go unpuniſhed.

So it appeareth likewiſe in Scripture, that the Murder of *Abner* by *Joab*, though it were by *David* reſpited in reſpect of great Services paſt, or reaſon of State, yet it was not forgotten. But of this I will ſay no more, becauſe I will not diſcourſe; it was ever admitted and ranked in God's own Tables, that Murder is, of Offences between Man and Man, next unto High-Treaſon, and Diſobedience to Authority, which ſometimes have been referred to the firſt Table becauſe of the Lieutenancy of God in Princes, the greateſt.

For Impoiſonment, I am ſorry it ſhould be heard of in our Kingdom; it is not *noſtri generis*, *nec ſanguinis peccatum*; it is an *Italian Comfit* for the Court of *Rome*, where that Perſon that intoxicateth the Kings of the Earth, is many times really intoxicated and poiſoned himſelf. But it hath three Circumſtances, which make it grievous, beyond other matters.

The firſt is, That it takes a Man away in full *Peace*, in God's and the King's Peace, that thinks no harm, but is comforting of Nature with Refection and Food; ſo that, as the Scripture ſaith, his *Table is made a Snare*.

The ſecond is, That it is eaſily committed, and eaſily concealed; and on the other ſide, hardly prevented, and hardly diſcovered: For Murder by Violence, Princes have Guards, and private Men have Houſes, Attendants and Arms; neither can ſuch Murder be committed, but *cum ſonitu*, with ſome overt and apparent Acts, that may diſcover and trace the Offenders; but for Poiſon, the Cup it ſelf of Princes will ſcarce ſerve in regard of many Poiſons that neither diſcolour nor diſtaſte; it comes upon a Man when he is careleſs, and without ſuſpicion, and every day a Man is within the Gates of Death.

And the laſt is, Becauſe it concerneth not only the Deſtruction of the maliced Man, but of every Man, *Quis modo tutus erit?* For many times the Poiſon is prepared for one, and is taken by another, ſo that Men die other Men's Deaths, *Concidit infelix alieno vulnere*; and it is as the *Pſalmiſt* calleth it, *Sagitta nocte volans*, the Arrow that flieth by Night, that hath no Aim nor Certainty. And therefore if any Man ſhall ſay to himſelf, Here is great talk of Impoiſonment, but I am ſure I am ſafe, for I have no Enemies, neither have I any thing

thing another Man ſhould long for: Why, that is all one, he may ſit next him at the Table, that is meant to be impoiſoned, and pledge him of his Cup: As we may ſee in the Example of 21 *Henry* VIII. That where the Purpoſe was to poiſon one Man, there was Poiſon put into Barm or Yeaſt, and with that Barm, Pottage or Grewel was made, whereby ſixteen of the Biſhop of *Rocheſter's* Servants were poiſoned; nay, it went into the Alms-Basket likewiſe, and the Poor at the Gate were poiſoned. And therefore with great Judgment did the Statute made that Year, touching this Accident, make Impoiſonment High-Treaſon, becauſe it tends to the diſſolving of Human Society; for whatſoever Offence doth ſo, is in the nature thereof High-Treaſon.

Now for the third Degree of this particular Offence, which is, that it is committed upon the King's Priſoner, who was out of his own Defence, and merely in the King's Protection, and for whom the King and the State were a kind of Reſpondent: it is a thing that aggravates the Fault much, for certainly (my Lord of *Somerſet*) let me tell you this, that Sir *Thomas Overbury* is the firſt Man that was murdered in the Tower of *London*, ſave the Murder of the two young Princes, by the appointment of *Richard* the Third.

Thus much of the Offence; now to the Proofs.

For the matter of Proofs, you may conſider that Impoiſonment, of all Offences, is moſt ſecret, even ſo ſecret, that if in all caſes of Impoiſonment, you ſhould require Teſtimony, you ſhould as good proclaim Impunity.

Who could have impeached *Livia* by Teſtimony, for the poiſoning of her Figs upon the Tree, which her Husband was wont to gather with his own Hands? Who could have impeached *Paraſetis*, for the poiſoning of the one ſide of the Knife ſhe carried with her, and keeping the other ſide clean, ſo that her ſelf did eat of the ſame piece of Meat that they did whom ſhe did impoiſon?

Theſe Caſes are infinite, and need not to be ſpoken of the Secrecy of Impoiſonment; but wiſe Men muſt take upon them, in theſe ſecret Caſes, *Solomon's* Spirit, that when there could be no Witneſſes, collected the Act by the Affection: but yet we are not at our Cauſe, for that which your Lordſhips are to try, is not the Act of Impoiſonment, for that is done to your hands; all the World, by Law, is concluded to ſay, that *Overbury* was poiſoned by *Weſton*: but the Queſtion before you is, of the Procurement only, and, as the Law termeth it, as acceſſary before the Fact; which abetting is no more, but to do or uſe any Act or Means which may aid or conduce to the Impoiſonment.

So that it is not the buying, nor the making of the Poiſon, nor the preparing, nor confecting, nor commixing of it, nor the giving or ſending, or laying of the Poiſon, that are the only Acts that do amount unto the Abetment: but if there be any other Act or Means done, or uſed, to give Opportunity of Impoiſonment, or to facilitate the Execution of it, or to ſtop or divert any Impediments that might hinder it, and that it be with an intention to accompliſh and atchieve the Impoiſonment; all theſe are Abetments and Acceſſaries before the Fact. As for Example, If there be a Conſpiracy to murder a Man, as he journieth on the way, by Invitation, or by colour of ſome Buſineſs; and another taketh upon him to diſſuade ſome Friend of his Company, that he is not ſtrong enough to make his Defence; and another hath a part to hold him in talk till the firſt Blow be given: all theſe, my Lords, without ſcruple, are Acceſſaries to the Murder, although none of them give the Blow, nor aſſiſt to give the Blow.

My Lords, He is not the Hunter alone, that lets ſlip the Dog upon the Deer, but he that lodgeth him and hunts him out, or ſets a Train or Trap for him, that he cannot eſcape, or the like. But this, my Lords, little needeth in this Caſe, for ſuch a Chain of Acts of Impoiſonments as this, I think, was never heard nor ſeen. And thus much of the Nature of the Proofs.

To deſcend to the Proofs themſelves, I ſhall keep this Courſe:

Firſt, I will make a Narration of the Fact it ſelf.

Secondly, I will break and diſtribute the Proofs, as they concern the Priſoner. And,

Thirdly, According to the Diſtribution, I will produce them, and read them, to uſe them. So that there is nothing that I ſhall ſay, but your Lordſhips ſhall have three Thoughts or Cogitations to anſwer it.

1ſt, When I open it, you may take your aim.

2dly, When I diſtribute it, you may prepare your Anſwers without Confuſion. And,

3dly, When I produce the Witneſſes, or the Examinations themſelves, you may again ruminate, and re-adviſe to make your Defence.

And this I do, becauſe your Memory and Underſtanding may not be oppreſſed or overloaden with length of Evidence, or with confuſion of Order; nay more, when your Lordſhips ſhall make your Anſwer in your time, I will put you in mind, where cauſe ſhall be, of your Omiſſion.

Firſt therefore, Sir *Thomas Overbury*, for a time, was known to have great Intereſt and ſtrait Friendſhip with my Lord of *Somerſet*, both in his meaner Fortunes, and after; inſomuch that he was a kind of Oracle of Direction unto him, and if you will believe his own Vaunt (being indeed of an inſolent and *Thraſonical* Diſpoſition) he took upon him that the Fortunes, Reputation and Underſtanding of this Gentleman (who is well known to have an able Teacher) proceeded from his Company and Counſel: and this Friendſhip reſted not only in Converſation and Buſineſs at Court, but likewiſe in Communication of Secrets of State; for my Lord of *Somerſet* exerciſing at that time by his Majeſty's ſpecial Favour and Truſt, the Office of Secretary, did not forbear to acquaint *Overbury* with the King's Packets and Diſpatches from all parts of *Spain*, *France*, and the *Low-Countries*: and this then not by Glimpſes, or now and then rounding in the Ear for a Favour, but in a ſettled manner; Packets were ſent, ſometimes opened by my Lord, ſometimes unbroken unto *Overbury*, who peruſed them, copied them, regiſtred them, made Table-talk of them, as they thought good. So I will undertake the time was, when *Overbury* knew more of the Secrets of State, than the Council-Table did; nay, they were grown to ſuch Inwardneſs, as they made a Play of all the World beſides themſelves, ſo as they had Cyphers and Jurgons for the King and Queen, and Great Men of the Realm; things ſeldom uſed, but either by Princes to their Confederates, or, at the leaſt, by ſuch as practiſe and work againſt, or, at the leaſt, upon Princes.

But underſtand me, my Lord, I ſhall not charge you with Diſloyalty at this day; and I lay this for a Foundation, That there was great Communica-

tion of Secrets between you and Sir *Thomas Overbury*, and that it had relation to Matters of State, and the great Cauſes of this Kingdom.

But, my Lords, as it is a Principle in Nature, that the beſt Things are, in their Corruption, the worſt, and the ſweeteſt Wine maketh the ſoureſt Vinegar; ſo it fell out with them, that this Exceſs, as I may ſay, of Friendſhip, ended in mortal Hatred on my Lord of *Somerſet's* part.

I have heard my Lord Steward ſay ſometimes in the Chancery, that Froſt and Fraud end foul; and I may add a third, and that is, the Friendſhip of ill Men, which is truly ſaid to be Conſpiracy, and not Friendſhip. For it fell out ſome twelve months or more before *Overbury's* Impriſonment in the Tower, that the Earl of *Somerſet* fell into an unlawful Love towards that unfortunate Lady, the Counteſs of *Eſſex*, and to proceed to a Marriage with her: this Marriage and Purpoſe did *Overbury* mainly impugne, under pretence to do the true part of a Friend, for that he accounted her an unworthy Woman. But the truth was, *Overbury*, who (to ſpeak plainly) had little that was ſolid for Religion, or Moral Virtue, but was wholly poſſeſs'd with Ambition and Vain-glory, was loth to have any Partners in the favour of my Lord of *Somerſet*; and eſpecially not any of the Houſe of the *Howards*, againſt whom he had always profeſſed Hatred and Oppoſition.

And, my Lords, that this is no ſiniſter Conſtruction, will appear to you, when you ſhall hear that *Overbury* made his Brags, That he had won him the Love of the Lady, by his Letters and Induſtry; ſo far was he from Caſes of Conſcience in this Point.

And certainly, my Lords, howſoever the tragical Miſery of this poor Gentleman, *Overbury*, might ſomewhat obliterate his Faults, yet, becauſe we are not upon point of Civility, but to diſcover the face of Truth, before the face of Juſtice, for that it is material to the true Underſtanding of the ſtate of this Cauſe, *Overbury* was naught and corrupt; the Ballads muſt be mended for that point.

But to proceed; When *Overbury* ſaw that he was like to be Poſſeſſor of my Lord's Grace, which he had poſſeſſed ſo long, and by whoſe Greatneſs he had promiſed himſelf to do Wonders, and being a Man of an unbounded and impudent Spirit, he began not only to diſſuade, but to deter him from the Love of that Lady; and finding him fixed, thought to find a ſtrong Remedy; and ſuppoſing that he had my Lord's Head under his Girdle, in reſpect of Communication of Secrets of State, as he calls them himſelf Secrets of Nature; and therefore dealt violently with him, to make him deſiſt, with Menaces of Diſcovery, and the like: Hereupon grew two ſtreams of Hatred upon *Overbury*, the one from the Lady, in reſpect that he croſſed her Love, and abuſed her Name (which are Furies in Women;) the other of a more deep nature from my Lord of *Somerſet* himſelf, who was afraid of *Overbury's* Nature, and if he did break from him and fly out, he would wind into him, and trouble his whole Fortunes. I might add a third ſtream of the Earl of *Northampton's* Ambition, who deſires to be firſt in favour with my Lord of *Somerſet*, and knowing *Overbury's* Malice to himſelf, and to his Houſe, thought that Man muſt be removed and cut off, ſo as certainly it was reſolved and decreed, that *Overbury* muſt die.

That was too weak, and they were ſo far from giving way to it, as they croſſed it; there reſted but two ways of Quarrel, Aſſault and Poiſon. For that of Aſſault, after ſome Propoſition and Attempt, they paſſed from it, as a thing too open, and ſubject to more variety of Shame; that of Poiſon likewiſe was an hazardous thing, and ſubject to many Preventions and Caution, eſpecially to ſuch a working and jealous Brain as *Overbury* had, except he was firſt faſt in their hands: therefore the way was firſt to get him into a Trap, and lay him up, and then they could not miſs the Mark. And therefore in execution of this Plot, it was concluded, that he ſhould be deſigned to ſome honourable Employment in Foreign Parts, and ſhould underhand, by my Lord of *Somerſet*, be encouraged to refuſe it; and ſo, upon contempt, he ſhould be laid Priſoner in the Tower, and then they thought he ſhould be cloſe enough, and Death ſhould be his Bail: yet were they not at their end, for they conſider'd, that if there were not a fit Lieutenant of the Tower for their purpoſe, and likewiſe a fit Under-keeper of *Overbury*; Firſt, They ſhould meet with many Impediments in the giving and exhibiting of the Poiſon; Secondly, They ſhould be expoſed to Note and Obſervation, that might diſcover them; and, Thirdly, *Overbury*, in the mean time, might write clamorous and furious Letters to his Friends, and ſo all might be diſappointed. And therefore, the next Link of the Chain was to diſplace the then Lieutenant *Wade*, and to place *Elvis*, a principal Abettor in the Impoiſonment; to diſplace *Cary* that was Under-keeper in *Wade's* Time, and to place *Weſton*, that was the Actor in the Impoiſonment: And this was done in ſuch a while, that it may appear to be done as it were in a Breath.

Then, when they had this poor Gentleman in the Tower, cloſe Priſoner, where he could not eſcape, nor ſtir; where he could not feed, but by their Hands; where he could not ſpeak or write, but through their Trunks; then was the Time to act the laſt day of his Tragedy.

Then muſt *Franklin*, the Purveyor of the Poiſons, procure five, ſix, ſeven ſeveral Poiſons, to be ſure to hit his Complexion: Then muſt Mrs. *Turner*, the Lay-miſtreſs of the Poiſons, adviſe what works at preſent, and what at diſtance: Then muſt *Weſton* be the Tormenter, and chaſe him with Poiſon after Poiſon, Poiſon in Salt-meats, Poiſon in Sweet-meats, Poiſon in Medicines and Vomits, until at laſt his Body was almoſt come by uſe of Poiſons to the ſtate of *Mithridates's* Body, by the uſe of Treacle and Preſervatives, that the Force of the Poiſons was blunted upon him; *Weſton* confeſſing, when he was chid for not diſpatching him, that he had given him enough to poiſon twenty Men.

And, laſtly, Becauſe all this asked Time, Courſes were taken by *Somerſet*, both to divert all the true Means of *Overbury's* Delivery, and to entertain him with continual Letters, partly with Hopes and Proteſtations for his Delivery, and partly with other Fables and Negotiations, ſomewhat like ſome kind of Perſons which keep in a Tale of Fortune-telling, when they have a Felonious Intent to pick their Pockets and Purſes. And this is the true Narration of this Act, which I have ſummarily recited.

Now, for the Diſtribution of the Proofs, there are four Heads to prove you Guilty, whereof two are precedent to the Impoiſonment, the third is preſent, and the fourth is following or ſubſequent; for it is in Proofs, as it is in Lights, there is a direct Light, and there is a Reflexion of Light, and a double Light.

The

The firſt Head or Proof is, That there was a Root of Bitterneſs, a mortal Malice or Hatred mixed with a deep and bottomleſs Miſchief, that you had to Sir *Thomas Overbury*.

The ſecond is, That you were the principal Actor, and had your hand in all thoſe Acts, which did conduce to the Impoiſonment, and gave opportunity to effect it, without which the Impoiſonment could never have been, and which could ſeem to tend to no other end, but to the Impoiſonment.

The third is, That your hand was in the very Impoiſonment it ſelf, that you did direct Poiſon, and that you did deliver Poiſon, and that you did continually hearken to the Succeſs of the Impoiſonment, and that you ſpurred it on, and called for diſpatch, when you thought it lingered.

And laſtly, That you did all things after the Impoiſonment, which may detect a guilty Conſcience, for the ſmothering of it, and the avoiding of Puniſhment for it; which can be but of three kinds.

That you ſuppreſſed, as much as in you was, Teſtimony; that you did deface, deſtroy, clip and miſdate all Writings that might give light to the Impoiſonment; and you did fly to the Altar of Guiltineſs, which is a Pardon of Murder, and a Pardon for your ſelf, and not for your ſelf.

In this, my Lords, I convert my Speech unto you, becauſe I would have you alter the Points of your Charge, and ſo make your Defence the better. And two of theſe Heads I have taken to my ſelf, and left the other to the King's two Serjeants.

For the firſt main Part, which is the moral Malice coupled with Fear, that was in you to Sir *Thomas Overbury*, although you did palliate it with a great deal of Hypocriſy and Diſſimulation, even to the very End: I will prove it, my Lord Steward, the root of his Hate, was that which coſt many a Man's Life, that is, fear of diſcovering Secrets; I ſay, of Secrets of a dangerous and high nature: wherein the Courſe that I will hold, ſhall be this.

I will ſhew that a Breach and Malice was betwixt my Lord and *Overbury*, and that it burſt forth into violent Threats and Menaces, on both ſides.

Secondly, That theſe Secrets were not of a light, but of an high nature; I will give you the Elevation of the Pole, they were ſuch, as my Lord of *Somerſet* had made a Vow, that *Overbury* ſhould neither live in Court, nor Country; that he had likewiſe opened himſelf ſo far, that *either he or himſelf muſt die for it*: and of *Overbury*'s part, he had threatned my Lord, that *whether he did live or die, my Lord's Shame ſhould never die*, but that *he would leave him the moſt odious Man in the World*. And further, that my Lord was like enough to repent where *Overbury* wrote, which was in the Tower of *London*; he was a Prophet in that: ſo there is the higheſt of the Secret.

Thirdly, I will ſhew you that all the King's buſineſs was, by my Lord, put into *Overbury*'s hands, ſo as there is work enough for Secrets whatſoever; they write them, and like Princes they had Confederates, their Cyphers and their Jurgons.

And, Laſtly, I will ſhew you that it was but a Toy, to ſay the Malice was only in reſpect he ſpake diſhonourably of the Lady, or for doubt of breaking the Marriage, for that *Overbury* was Coadjutor to that Love, and the Lord of *Somerſet* was as deep in ſpeaking ill of the Lady as *Overbury*: and again, it was too late for that Matter, for the Bargain of the Match was then made and paſt; and if it had been no more than to remove *Overbury* for diſturbing the Match, it had been an eaſy matter to have landed over *Overbury*, for which they had a fair way, but that would not ſerve.

And, Laſtly, *Periculum periculo vincitur*: to go ſo far as an Impoiſonment, muſt have a deeper Malice than Flaſhes, for the Cauſe muſt have a Proportion in the Effect.

For the next general Head or Proof, which conſiſts in the Acts preparatory, or middle Acts, they are in eight ſeveral Points of the Compaſs, as I may term them.

1*ſt*, There were divers Devices and Prejects to ſet *Overbury*'s Head on work, to diſpatch him, and overthrow him, plotted between the Counteſs of *Eſſex*, and the Earl of *Somerſet*, and the Earl of *Northampton*, before they fell upon the Impoiſonment; for always before Men fix upon a courſe of Miſchief, there will be ſome Reflection: but die he muſt one way or other.

2*dly*, That my Lord of *Somerſet* was principal Practiſer, I muſt ſpeak it, in a moſt perfidious manner; to ſet a Trap and Train for *Overbury*, to get him into the Tower, without which they durſt not attempt the Impoiſonment.

3*dly*, That the placing of the Lieutenant *Elvis*, one of the Impoiſoners, was done by my Lord of *Somerſet*.

4*thly*, That the placing of *Weſton* the Underkeeper, who was the principal Impoiſoner, and diſplacing of *Cary*, and the doing all this within the ſpace of fifteen days after *Overbury*'s Commitment, was by the means and countenance of my Lord of *Somerſet*: and theſe were the active Inſtruments of the Impoiſonment, and this was a Buſineſs the Lady's power could not reach unto.

5*thly*, That becauſe there muſt be a Cauſe of this Tragedy to be acted, and chiefly becauſe they would not have the Poiſons work upon the ſudden, and for that the ſtrength of *Overbury*'s Nature, on the very cuſtom of receiving the Poiſons into his Body, did overcome the Poiſons that they wrought not ſo faſt; therefore *Overbury* muſt be held in the Tower, as well as he was laid in: and as my Lord of *Somerſet* got him into the Trap, ſo he keeps him in, and amuſeth him with continual hope of Liberty, but diverted all the true and effectual means of his Liberty, and makes light of his Sickneſs and Extremities.

6*thly*, That not only the Plot of getting *Overbury* into the Tower, and the Devices to hold and keep him there, but the ſtrange Manner of the cloſe keeping of him, being in but for a Contempt, was by the Device and Means of my Lord of *Somerſet*, who denied his Father to ſee him, denied his Servants that offered to be ſhut up cloſe Priſoners with him; and in effect handled it ſo, that he made him cloſe Priſoner to all his Friends, and expoſed to all his Enemies.

7*thly*, That all the Advertiſement the Lady received from time to time, from the Lieutenant or *Weſton* touching *Overbury*'s ſtate of Body and Health, were ever ſent nigh to the Court, though it were in progreſs, and that from my Lady; ſuch a thirſt and liſtening he had to hear that he was diſpatched.

Laſtly, That there was a continual Negotiation to ſet *Overbury*'s Head on work, that he ſhould make ſome offer to clear the Honour of the Lady, and that he ſhould be a good Inſtrument towardsher and her Friends; all which was but Entertain-

ment: For your Lordſhips ſhall ſee divers of my Lord of *Northampton*'s Letters, (whoſe Hand was deep in this Buſineſs) written I muſt ſay in dark Words and Clauſes, that there was one thing pretended, and another thing intended; that there was a real Charge, and ſomewhat not real; a main Drift and Diſſimulation. Nay further, there be ſome Paſſages which the Peers, in their Wiſdoms, will diſcern to point directly at the Impoiſonment.

And now for producing of my Proofs, I will uſe this Courſe: Thoſe Examinations that have been taken upon Oath, ſhall be here read; and the Witneſſes alſo I have caus'd to be here, that they may be ſworn, and to juſtify or deny what they hear read, and to diminiſh or add to their Examinations; and beſides, that my Lord of *Somerſet*, and you my Lords the Peers, may ask them what further Queſtions you pleaſe.

H. Payton, *Servant of Sir* Thomas Overbury, *now of his Father, examined before the Lord Chief Juſtice.*

He ſaw a Letter of his Maſter's, whoſe Hand he knew, to my Lord of *Somerſet*, wherein were theſe Words, *If I die, my Blood lie upon you.* And in that or another Letter there was this Clauſe, *My Lord, you are now as good as your Word, you have kept your Vow to me.* Moreover, that in the Privy-Gallery at *White-Hall*, my Lord of *Somerſet* coming late to his Chamber, met there Sir *Thomas Overbury*; *How now*, ſays my Lord, *are you up yet? Nay*, anſwers Sir *Thomas Overbury, what do you here at this time of Night? Will you never leave the Company of that baſe Woman? And ſeeing you do ſo neglect my Advice, I deſire that to-morrow Morning we may part; and that you will let me have that Portion you know is due to me; and then I will leave you free to your ſelf, to ſtand on your own Legs.* My Lord of *Somerſet* anſwer'd, *His Legs were ſtrong enough to bear himſelf*; and ſo departed in great diſpleaſure. And to his certain knowledge, they were never perfectly reconcil'd again. And being ask'd how he heard this Diſcourſe, he ſaid, It was in the Dead of the Night, and he, being in a Room within the Gallery, heard all that paſs'd.

H. Payton. I acknowledge every Part of this Examination to be true: And more, That my Maſter being in the *Tower*, he ſent a Letter by *Weſton* to me, to carry to my Lord; and withal, to deliver my Lord this Meſſage, That that Powder he had ſent him had made him very ſick, and given him in one Night ſixty Stools, beſides Vomits. This Letter I carried to the Court, and deliver'd to Mr. *Paulins* to carry in to my Lord, who was then in his Chamber. My Lord preſently came out; asked me how my Maſter did. I told him very ſick; and withal, this Meſſage how the Phyſick had wrought with him. My Lord ſmiled, and cry'd *Piſh*; and ſo turn'd him away.

L. Davis, *ſometime Servant of Sir* Thomas Overbury, *now of Sir* Humphrey May, *his Examination before the Lord* Coke.

Saith, That he hath heard his Maſter ſay, That he would have gone Embaſſador, but that my Lord of *Rocheſter* diſſuaded him. He hath ſeen ſome Letters of Sir *Thomas Overbury*'s, wherein he writ that the Lord of *Rocheſter* was even with him: But he thinks he (*i. e.* the Lord *Rocheſter*) never ſaw thoſe Paſſages.

Lord of Som. I pray you, my Lords, note he ſays, I never ſaw thoſe Paſſages.

Mr. Attorney. It is true: For thoſe Letters were loſt; but after found by him, who knew them to be his Maſter Sir *Thomas Overbury*'s Hand.

Sir Thomas Overbury's *Firſt Letter to my Lord* Somerſet.

'IS this the Fruit of my Care and Love to you? Be theſe the Fruits of common Secrets, common Dangers? As a Man you cannot ſuffer me to lie in this Miſery; yet your Behaviour betrays you. All I intreat of you is, that you will free me from this Place, and that we may part Friends. Drive me not to Extremities, leſt I ſhould ſay ſomething that you and I both repent. And I pray God that you may not repent the Omiſſion of this my Counſel in this Place, whence I now write this Letter.

L. Wentworth. How did you know theſe Letters were ſent from him to my Lord of *Somerſet?*

L. Coke. They were found in a Cabinet, among ſome other Things, left in Truſt by my Lord of *Somerſet* with Sir *Robert Cotton*: And thus they were diſcover'd; Sir *Robert Cotton*, fearing Searches, delivers them to a Friend of his in *Holborn*, one Mrs. *Farneforth*; ſhe, to the intent they might be ſafely kept, ſent them to a Merchant's Houſe in *Cheapſide*, where, ſome nine Months before, ſhe had lodged, and deſir'd that they might ſafely be kept for her, pretending they were ſome Writings that concern'd her Jointure. On St. *Thomas*'s Day ſhe her ſelf comes to have them again, ſaying, She muſt carry them to her Counſel to peruſe. He ſaid, *If you will ſuffer me to open it before you, and that there be nothing elſe, you ſhall have them.* But ſhe by no means would conſent to the breaking of it open. Then he anſwer'd, *It is a troubleſome Time; I will go to my Lord Chief Juſtice, and if he find no other Writings than ſuch as concern you, you ſhall have them again.* So coming to my Chamber, and not finding me within, (for I was gone to St. *Paul*'s to the Sermon) he went to my Lord *Zouch*, one of the appointed Commiſſioners for this Cauſe; who himſelf alone would not break it up, but came to St. *Paul*'s to me; where in a By-room we broke it up, and in it found theſe Letters, and divers from my Lord of *Northampton*, beſides many other Papers.

L. Zouch. I affirm this Relation of my Lord *Coke*'s to be true.

Sir Thomas Overbury's *Second Letter to my Lord* Somerſet.

'THIS comes under Seal; and therefore ſhall be bold. You told my Brother *Lidcote*, That unreverend Style might make you neglect me. With what Face could you do this, who know you owe me for all the Fortune, Wit, and Underſtanding that you have? [Here were inſerted ſome borrowed Names.]

Mr. Attorney. Under theſe falſe Names they meant Great Perſons; *Julius* the King, *Dominick* my Lord of *Northampton*, *Unclius* my Lord of *Canterbury.*

The reſt of the Letter.

'And yet pretend the Reaſon why you ſeek not my Liberty, to be my unreverend Style; whilſt, in the mean time, you ſacrifice me to your Woman, ſtill holding Friendſhip with thoſe that

'that brought me hither. You bad my Brother '*Lidcote* keep my Deſire of Liberty ſecret: Yet 'this ſhall not ſerve your turn; for you and I, 'e'er it be long, will come to a publick Trial of 'another nature. I upon the Rack, and you at 'your Eaſe; and yet I muſt ſay nothing! when 'I heard (notwithſtanding my Miſery) how you 'went to your Woman, curled your Hair, prefer-'red *Gibbe* into the Bed-chamber, and in the mean 'time ſend me nineteen Projects, how I ſhould 'caſt about for my Liberty; and give me a long 'Account of the Pains you have taken, and then 'go out of Town. I wonder to ſee how you 'ſhould neglect him, to whom ſuch Secrets of all 'kinds have paſs'd; and ſuffer my Mother and 'Siſters to lie here in Town, expecting my Li-'berty; my Brother *Lidcote* to be in a manner 'quite overthrown, in reſpect of my Impriſon-'ment; and yet you ſtand ſtupid: Nor have 'neither Servant nor Friend ſuffer'd to come to 'me. Well, all this Vacation I have written the 'Story betwixt you and me: How I have loſt my 'Friends for your ſake; what hazard I have run; 'what Secrets have paſs'd betwixt us; how af-'ter you had won that Woman by my Letters, 'that then you conceal'd all your After-proceed-'ings from me; and how upon this there came 'many Breaches betwixt us; of the Vow you 'made to be even with me, and ſending for me 'twice that Day that I was caught in the Trap, 'perſuading me that it was a Plot of mine 'Enemies, to ſend me beyond Sea; and urging 'me not to accept it, aſſuring me to free me from 'any long Trouble. On *Tueſday* I made an end 'of this, and on *Friday* ſent it to a Friend of mine 'under eight Seals; and if you perſiſt ſtill to uſe me 'thus, aſſure your ſelf it ſhall be publiſh'd. Whe-'ther I live or die, your Shame ſhall never die, 'but ever remain to the World, to make you the 'moſt odious Man living.

H. Payton and *L. Davies.* We both, upon our Oaths, know this to be Sir *Thomas Overbury*'s Hand.

Simcock's *Examination before my Lord* Coke, *writ with his own Hand.*

He ſays, That *Weſton* many times, when Sir *Thomas Overbury* was in the Tower, told him, That my Lord of *Somerſet* charg'd him to look to *Overbury* well; for if ever he came out, one of us two muſt die.

L. Som. I would fain know whether *Weſton* were examin'd, or no.

L. Wentworth. How long is it ſince this familiar Acquaintance betwixt *Simcocks* and *Weſton?*

Simcocks. He and I were of antient and familiar Acquaintance long ſince.

Mr. Attorney. *Weſton* had continual Acceſs to my Lord, had Rewards from him: My Lord charg'd him to look to *Overbury* well. It could not be his Marriage that made him ſo much fear; but what the Secrets were that caus'd it, it is not the Work of this Day. Now to ſhew that the greateſt Matters of State were communicated to him, read *Davis.*

L. Davis examined. There was a Packet of Letters, and ſeal'd, which, as he takes, came from Sir *John Digby*, directed to the King; and his Maſter Sir *Thomas Overbury* open'd it, took brief Notes for my Lord of *Somerſet*, and ſealing it again, ſent both the Notes and Packets to him. Another of this he ſaw his Maſter had at *New-Market* from Sir *Thomas Edmundes* to the King, out of which, after he had taken Extracts, he ſeal'd it up again, and ſent both back by this Examinant to my Lord *Somerſet.*

Mr. Attorney. I will not now, my Lords, endeavour to preſs the Greatneſs of this Offence: But I urge it thus, That you may ſee there were no mean Secrets betwixt my Lord and Sir *Thomas Overbury*, that might rather cauſe him to fear him, than the Hindrance of his Marriage: If that had been it alone, his going beyond Sea would have ſerv'd the Turn.

L. of Som. exam. Says, That amongſt many other Characters for Names, that paſs'd between Sir *Thomas Overbury* and him, *Simoniſt* was for Sir *Henry Nevil*, *Wolſy* for the now Lord Treaſurer, *Ductius* for my Lord of *Canterbury.*

Mr. Attorney. In good Faith, theſe two made Plays of all the World beſides themſelves; but tho it were a Play then, it hath prov'd tragical ſince.

A Letter of my Lord of Northampton *to my Lord of* Somerſet.

'NOW all is concluded about the *Form of* 'the *Nonality*, I doubt not but God will 'bleſs the next Bargain. I hope hereafter to find 'better Pen and Ink in this Lady's Chamber. Be 'ſtill happy. Underneath ſubſcrib'd *H. Northamp-'ton*, and I am Witneſs to this Bargain,

Fra. Howard.

This Letter was ſhew'd my Lord of *Somerſet*, and he confeſs'd the Hand.

Mr. Attorney. For the ſecond Branch that I mean to follow; and that is, That you us'd the Means to expoſe him to the Tower, and there to keep him cloſe Priſoner. It is a Chain of eight Links, and ſhall be ſhew'd you upon eight Points of the Compaſs. But before we come to theſe, it is to be conſider'd, that as no Conſultation is ripe in an Hour, ſo no more was theirs; for they purpos'd at firſt to have taken away his Life by Aſſault. And *Franklyn* tells you the Cauſe of this Malice.

Franklyn *examin'd before my Lord* Coke, *but not upon Oath.*

He ſaith, That my Lady *Somerſet* ſaid the Cauſe of this Hatred of Sir *Thomas Overbury* was, that he would pry ſo far into my Lord of *Somerſet*, that he would put him down.

Sir D. Woodes *examined before Lord* Coke.

He ſaith, My Lady *Somerſet* knowing there was ſome Diſcontent betwixt *Overbury* and him, in reſpect of a Suit that he croſſed him in, told him, That if he would kill Sir *Thomas Overbury* he ſhould have 1000 *l.* and beſides, ſhe would make his greateſt Enemy to become his greateſt Friend: And he knew no Enemy he had in Court but my Lord of *Rocheſter.* He anſwer'd, That if my Lord of *Rocheſter* would give him his Hand, or but paſs his Word, if he did it, that he ſhould eſcape, and have his Pardon, he would do it. Upon this ſhe paus'd, and deſir'd ſome time to give her Anſwer; and when he came again to her, ſhe told him that could not be: but promis'd all Favour poſſible unto him, and warranted him to go on upon her Life.

L. of

L. of Som. exam. Saith, It was once reſolv'd ſome body in Court ſhould fall out with *Overbury*, and offer him ſome Affront; but that was not follow'd.

Mr. Attorney. Note, my Lords, he does not ſay it was diſlik'd. And now to the Puddle of Blood: The firſt Link of which is, That the Means to entrap *Overbury* for the Tower, was by the Means of my Lord of *Somerſet*.

Sir Dudley Digs *ſworn.*

Sir *Thomas Overbury* once told me, That he went to undertake the Employment offer'd him to go beyond Sea; but afterwards he ſent me word by Sir *Robert Manſel*, that he had chang'd his Mind. And Sir *Robert Manſel* told me farther, That he ſaw a Letter from the Lord of *Somerſet* to *Overbury*, that diſſuaded him from that Courſe. Seeing Mr. Attorney hath call'd me ſo far out of the Country for this ſmall Teſtimony, I wiſh Sir *Robert Manſel* were here to juſtify it.

My Lord of Somerſet's *Declaration in Writing to the King.*

Being told by my Lord Chief-Juſtice that I was indicted, and was ſhortly to expect my Arraignment, I did not then believe him; for I did not look for that Way. Your Majeſty hath three Kingdoms, wherein to exerciſe the Prerogative of your Power, and but few that taſte of the firſt of your Favours; in which number I did think my ſelf, if not the firſt, yet inferior to very few. And having committed no Offence againſt your Perſon, nor the State, I hope your Majeſty will not for this bring me to a publick Tryal, which for my Reputation's cauſe, I humbly deſire to avoid. Grace truly given may be a Benefit; for it is not enough to give Life, and not to ſave Reputation. But if I muſt come to my Tryal, knowing the Preſumptions may be ſtrong againſt me, in reſpect I conſented to, and endeavour'd the Impriſonment of Sir *Thomas Overbury*, (though I deſign'd it for his Reformation, not his Ruin) I therefore deſire your Majeſty's Mercy, and that you will be pleas'd to give me leave to diſpoſe of my Lands and Goods to my Wife and Child, and graciouſly to pardon her, having confeſs'd the Fact. For my ſelf, being uncertain how I ſhall be judg'd upon Preſumptions, I humbly deſire that in the mean time you will be pleas'd to give my Lord *Hays* and Sir *Robert Carr* leave to come to me.

Mr. Attorney. The ſecond Link is, How that *Elvis* came to be Lieutenant of the Tower by your means: And yet that muſt have a Colour; my Lord of *Shrewsbury* and Lord Chamberlain muſt prefer him to you as their Friend, though it was reſolved before he ſhould have the Place.

Sir *Jervis Elvis* examined, but not on Oath. He ſaith, Sir *Thomas Monſon* told him that *Wade* was to be remov'd; and that if he ſucceeded Sir *William Wade*, he muſt bleed, that is, give 2000 *l.* And ten Days after *Wade* was removed he came into the Place, and paid 1400 *l.* of the Money at his Uncle Alderman *Elvis*'s Houſe to Doctor *Campian.*

Mr. Attorney. You may ſee they had Cyphers for Money, He muſt bleed; a ſtrange Preſage! And as it is impoſſible to ſerve God and Mammon, ſo in that kind it is hard to ſerve a King.

Sir *Thomas Monſon* examined, but not on Oath: Saith, My Lord of *Northampton*, upon the diſplacing of *Wade*, mov'd the King for Sir *Jervis Elvis*; and that he directed Sir *Jervis Elvis* to go to the Lords of *Shrewsbury* and *Pembroke*, to move my Lord of *Somerſet* to ſpeak for him to the King.

Sir *Jervis Elvis's Examinat.* When it was reſolv'd *Wade* ſhould be removed, and he to ſucceed him, then he was advis'd to deſire my Lord of *Somerſet* to move for him; which he did accordingly: But took that only to be but for a Colour, becauſe it was reſolv'd before.

Mr. Attorney. Now the third Link concerns the placing of *Weſton* for his Keeper.

Sir *Thomas Monſon exam.* Saith, He recommended *Weſton* to the Service of Sir *Jervis Elvis*, and to keep Sir *Thomas Overbury*, upon the Counteſs of *Somerſet*'s Entreaty: And farther ſaith, That my Lord of *Northampton* was acquainted with the placing of him.

R. Weſton exam. My Lord and Lady *Somerſet* gave good Words of him to the Lieutenant.

L. of Som. exam. He denies the Knowledge of *Weſton*, either before his coming into the Tower, or ſince.

Simcocks exam. Weſton, during the time Sir *Thomas Overbury* was in his keeping, came often to my Lord, had much Money of him, and wonder'd Sir *Thomas Overbury* had ſo good Opinion of my Lord; and thought he had not ſo much Wit as the World eſteem'd, for there was no Man hinder'd his Liberty but he: And whenever he came to my Lord, he might uſe ſuch Means as *Rawlins* his Man muſt not know.

[In this interim a Scaffold broke, and there was a great Noiſe and Confuſion; but after Silence was proclaim'd, all huſh'd and quiet.]

Mr. Attorney. All the Confeſſions of *Weſton* were taken before Conviction: And theſe two laſt Witneſſes are merely to his denying the Knowledge of *Weſton.* Now for the fourth Link, which is the placing and diſplacing Officers.

Sir *Jervis Elvis exam.* Saith, That *Overbury* was committed *April* the 30th, and *May* the 6th himſelf came to be Lieutenant of the Tower; and that *Weſton* was preferr'd to be Sir *Thomas Overbury*'s Keeper *May* the 7th; and that all this time he ſerv'd he never had Wages from him.

Mr. Attorney. Now the fifth Link or Point of the Compaſs I promis'd to ſhew you, was, That this muſt not be done ſuddenly, but by degrees; and ſo he muſt be poiſoned leiſurely, to avoid Suſpicion. And in the mean ſpace you entertain'd his Father and Mother with frivolous Hopes; and yet indeed hinder'd and made oppoſition (but underhand) to all the Means that were us'd for his Delivery.

Mr. Overbury *the Father ſworn.* After my Son was committed, I heard that he was very ſick; I went to the Court, and delivered a Petition to the King: The Effect whereof was, That in reſpect of my Son's Sickneſs ſome Phyſicians might have Acceſs unto him. The King anſwer'd, That his own Phyſician ſhould go to him: And then inſtantly ſent him word by Sir *William Button* that his Phyſician ſhould preſently go. Upon this I only addreſſed my ſelf to my Lord of *Somerſet*, and none elſe; who ſaid my Son ſhould be preſently delivered, but diſſuaded me from preferring any more Petitions to the King: Which notwithſtanding, I (ſeeing his Freedom ſtill delay'd) did deliver a Petition to the King to that purpoſe; who ſaid I ſhould have a preſent Anſwer. And my Lord of *Somerſet* told me, he ſhould be ſuddenly reliev'd; but

but with this, That neither I nor my Wife muſt preſs to ſee him, becauſe that might protract his Delivery; nor deliver any more Petitions to the King, becauſe that might ſtir his Enemies up againſt him. And then he wrote a Letter to my Wife, to diſſuade her from any longer Stay in *London*.

My Lord of Somerſet's *Letter to Mrs.* Overbury.

'MRS. *Overbury*, Your Stay here in Town can 'nothing avail your Son's Delivery; there- 'fore I would adviſe you to retire into the Coun- 'try, and doubt not before your coming home 'you ſhall hear he is a Freeman.

Mr. Overbury. Then after my Son's Death, he writ another Letter to me.

My Lord of Somerſet's *Letter to Mr.* Overbury.

'SIR, Your Son's Love to me got him the Ma- 'lice of many, and they caſt thoſe Knots on 'his Fortune that have coſt him his Life; ſo, in a 'kind, there is none guilty of his Death but I: 'And you can have no more cauſe to commiſe- 'rate the Death of a Son, than I of a Friend. 'But though he be dead, you ſhall find me as 'ready as ever I was to do all the Courteſies 'that poſſibly I can to you and your Wife, or your 'Children. In the mean time I deſire Pardon 'from you and your Wife for your loſt Son, tho 'I eſteem my Loſs the greater. And for his Bro- 'ther that is in *France*, I deſire his Return, that 'he may ſucceed his Brother in my Love.

Mr. Attorney. By this you ſee my Lord's Diſſimulation. And I think he was a piece of a Lawyer, by his inſinuating with his next Kindred, for fear of Appeals. Now to come to the ſixth Link, which ſhews how light my Lord of *Somerſet* made both of Sir *Thomas Overbury*'s Fortunes and Sickneſs, read *Simcocks*.

Simcoks exam. Saith, That *Weſton* told him he wonder'd Sir *Thomas Overbury* ſhould have ſo great Confidence in my Lord of *Somerſet*, and think that he lov'd him ſo well; for he knew that he could not abide him, and thought of nothing leſs than his Liberty.

Sir John Lidcote ſworn. Saith, He deſir'd my Lord of *Somerſet* that either he or Sir *Robert Killigrew* might have leave to ſee Sir *Thomas Overbury* in his Sickneſs; which my Lord obtain'd from the King: And ſo they had a Warrant from my Lord of *Northampton*, and ſome other Counſellors, to ſee him; and found him very ſick in his Bed, his Hand dry, his Speech hollow. And at this time he deſired me to write his Will: I propos'd to come to him again the next Day. Now being ready to depart, the Lieutenant going out before, *Overbury* ask'd me ſoftly this Queſtion, Whether *Somerſet* juggled with him, or not? But I then told him, as I believed, that I thought not. But the Lieutenant looking back, and perceiving that ſome Whiſpering had paſs'd, ſwore that I had done more than I could juſtify. But afterwards, coming to preſs my Lord of *Somerſet* about Sir *Thomas Overbury*, I peceived he dealt not plainly with him. And once ſpeaking with my Lord about him, he gave a counterfeit Sigh, (as this Deponent conceiv'd it) for at that inſtant he ſmil'd in my Face.

Mr. Attorney. The ſeventh Link is to ſhew you the Manner of his Keeping; which was cloſe Priſoner in the Tower, his Offence being only a Contempt: And who was the Author of this, read Sir *Thomas Monſon*.

Sir *Thomas Monſon* examined, but not upon Oath, ſaith, My Lord of *Northampton* and my Lord of *Somerſet* gave Directions to the Lieutenant of the Tower to keep him cloſe Priſoner.

L. Davis exam. Saith, That he was a Suitor to my Lord of *Somerſet*, that he might wait upon his Maſter Sir *Thomas Overbury* in the Tower, though he were ſhut up with him. But my Lord anſwered, He ſhortly purpos'd to procure his total Liberty, and this might hinder it.

Mr. Attorney. Now the eighth and laſt Link is, In the interim that *Overbury* in the Tower was ply'd with Poiſons, my Lord thirſted after the News, to know what became of him, and continual Poſts went between him and my Lady; and all this while bore him in hand with other Pretences.

Franklyn (but not upon Oath) ſaith, That being with my Lady *Eſſex*, ſhe told him that ſhe had that Day received a Letter from my Lord of *Rocheſter*, wherein he writ, That if *Weſton* did not preſently diſpatch, Sir *Thomas Overbury* would be out.

Sir *Jervis Elvis exam.* Saith, He received divers Letters from my Lady *Eſſex*, wherein ſhe deſir'd to know how *Overbury* did, that ſhe might certify to the Court.

Lord of Som. exam. Saith, That there paſs'd many Letters betwixt my Lady and him, but not concerning *Overbury*. But then deſir'd that this Point might be alter'd; for it might be that ſome Letters concerning *Overbury* might have then paſt betwixt them.

Mr. Attorney. My Lord knew not whether any of theſe Letters were extant, and therefore deſir'd that this might be alter'd.

Loubell, an Apothecary, a *Frenchman*, ſaith, That coming to my Lord of *Somerſet*, he ask'd him of *Overbury*, and how he did? And he ſaid ill. Another time alſo he ſent for him to enquire about *Overbury*; and then he anſwer'd him, That he was ill, but hop'd he might recover. What, ſays my Lord, do you think he would recover if he were at liberty? And he anſwer'd, Yes. Again, my Lord ſent for him a third time; and carrying him into the Gallery at *Whitehall*, ask'd him how *Overbury* did. He anſwer'd, He was very ſick: And farther added, He found him ill before the 25th of *June*, that he came to him.

L. of Som. exam. Denies that ever he ſaw *Loubell* but once at *Tibbald*'s.

Mr. Attorney. Here again you ſee my Lord falſify'd: But it ſeems imagining or not knowing that *Loubell* could ſay more againſt him than he hath done, he denied the Knowledge of him, as he did of *Weſton*.

L. Coke. It was doubted *Loubell* might be a Delinquent; and therefore I durſt not examine him upon Oath, no more than I did *Franklyn*. But when in their Teſtimony they accuſe themſelves, it is as ſtrong as if upon Oath.

Mr. Attorney. Now in reſpect *Overbury* had a working Brain, my Lord of *Northampton* muſt in ſhew negotiate about his Delivery, and the Terms of his coming out, whilſt they intended his poiſoning: That was real, and the other but in pretence.

My Lord of Northampton's *Firſt Letter to my Lord of* Somerſet.

'IN this Buſineſs concerning *Overbury* there muſt be a main Drift, and a real Charge: You may imagine the Meaning.'

My Lord of Northampton's *Second Letter to my Lord of* Somerſet.

'YEſterday ſpent two Hours in prompting the Lieutenant, with as great Caution as I could, and find him to be very perfect in his Part. And I long exceedingly to hear his Report of this Adventure.'

My Lord of Northampton's *Third Letter to my Lord of* Somerſet.

'YOU need not uſe many Inſtruments, ſo long as I am in Town, with the Lieutenant.'

My Lord of Northampton's *Fourth Letter to my Lord of* Somerſet.

'I Cannot deliver with what Caution and Diſcretion the Lieutenant hath undertaken *Overbury*. But for his Concluſion, I do and ever will love him the better; which was this, That either *Overbury* ſhall recover, and do good Offices betwixt my Lord of *Suffolk* and you; which if he do not, you ſhall have reaſon to count him a Knave: or elſe, that he ſhall not recover at all, which he thinks the moſt ſure and happy Change of all; for he finds ſometimes from *Overbury* many Flaſhes of a ſtrong Affection againſt ſome Enemies of his.'

L. of Som. I acknowledge theſe Letters to be my Lord of *Northampton's*; and all thoſe that I ſent to him were deliver'd me after his Death by Sir *Robert Cotton*; all which, the Evening before my Commitment to the Dean of *Weſtminſter's*, I burnt.

Mr. Attorney. Theſe Letters of *Northampton*, were found in the Box Sir *Robert Cotton* gave Mrs. *Farnforth*. And here my Part ends: And that that reſts behind I leave to the two Serjeants.

Lord High-Steward. My Lord, you have heard what hath been urg'd againſt you, and may imagine that there reſts much behind: And therefore you had beſt confeſs the Truth; otherwiſe you will but more and more wind in your ſelf.

L. of Som. My Lord, I came with a Reſolution to defend my ſelf.

After this my Lord High-Steward and the reſt of the Lords retir'd themſelves.

Serj. Mountague. May it pleaſe your Grace, my Lord High-Steward of *England*, it falls to my part to diſcover thoſe Secrets that were concurrent and preſent with the Murder of Sir *Thomas Overbury*. And there be three Things that make evidently that my Lord of *Somerſet* was the principal Procurer: 1. A Powder that was ſent Sir *Thomas* from your own hand, which was Poiſon, and taken by him. 2. Poiſon in Tarts, which you occaſioned to be ſent. 3. That you thirſted after the Succeſs, and wonder'd that he was no ſooner diſpatch'd. How the firſt general Light of this Poiſoning came out, Mr. Attorney yeſterday excellently obſerv'd that it was by a Compliment; ſo now I ſhall ſhew how out of the Compunction of an Offender's Heart theſe came to be diſcover'd: *Franklyn* confeſſes the Poiſons he bought for this purpoſe, and the tryal that he made of them before they were ſent. And, 1. For the Powder, it was ſent in a Letter written with my Lord's own Hand to *Overbury*: And you writ that it would make him a little ſick, (which it did in a high degree;) and that upon this you would take occaſion to ſpeak for him to the King. And this Letter, with the Powder, you ſent to him by *Davis*; and the Powder was Poiſon. 2. For the poiſoned Tarts: At firſt you ſent them good, to diſguiſe the bad; but after came the poiſoned Tarts which you ſent him. And to make this appear that they came from you, continual Poſts ran between you and my Lady; and ſhe writes to the Lieutenant, 'I was bid to tell you, That in the 'Tarts and Jellies there are *Letters*; but in the 'Wine none: And of that you may take your 'ſelf, and give your Wife and Children; but of 'the other not. Give him theſe Tarts and Jelly 'this Night, and all ſhall be well." And it appears that the *Letters* did ſignify Poiſon. 3. The third Charge that I lay upon you, is, That you writ to my Lady that you wonder'd theſe things were not diſpatch'd. She preſently ſent for *Franklyn*, and ſhew'd him your Letters; which he read, and remembers the Words. She then alſo ſent for *Weſton* to diſpatch him quickly; who anſwer'd, That he had already given him as much as would poiſon twenty Men. And in all theſe Things, my Lord, I ſhall prove you as guilty as any whoſoever hath been formerly arraign'd: And *Weſton*, upon his Arraignment, affirm'd all theſe things to be true. Now to the Proof: He ſends a Petition to the Lord *Coke*, to deſire to ſpeak with him, the very Night before *Elvis*'s Arraignment, he knowing nothing of it; and ſays, That his Conſcience troubles him ſo, that he cannot ſleep, and therefore deſires to reveal ſomething to him; and that until he had done it, he could never be at quiet.

Franklyn's Exam. Mrs. *Turner* deſir'd him to buy ſome of the ſtrongeſt Poiſons he could get; which he did, and brought them to Mrs. *Turner* and my Lady; and at that time they both ſwore him to Secrecy. And afterwards he perceiv'd that theſe Poiſons were ſent to the Tower; and amongſt the reſt a kind of white Powder called *Arſenick*, which ſhe told him was ſent *Overbury* in a Letter; and after ſhew'd him, and told him of many more Poiſons that were ſent, and to be ſent by *Weſton* to *Overbury*. And thoſe Poiſons which my Lady ſhewed him, were wrapp'd in a Paper, written with a *Roman* Hand. And they try'd ſome of the Poiſons upon a Cat, or a Dog, which was wonderfully tormented, and died.

Weſton's Exam. My Lady told him that he ſhould be well rewarded; but before ſhe could procure that, the Fact muſt be done: And that he had already given him as many Poiſons as would poiſon twelve Men.

Ld of Som. exam. Saith, That he caus'd a Vomit to be ſent him at his own requeſt, which was a white Powder; and it was the ſame that he had had before of Sir *Robert Killegrew*, and ſent by *Rawlins*; and it may be that this ſecond ſent by *Davis* was in a Letter.

L. Davis exam. Saith, That three Weeks after Sir *Jervis Elvis* came to be Lieutenant of the Tower, my Lord ſent, in a Letter by him, a white Powder to Sir *Thomas Overbury*; and that it would make him a little ſick, ſo he might have the better Opportunity to ſpeak for him to the King; and he

he ſaw this Letter. Next Day *Weſton* told him how ſick *Overbury* had been, and ſhew'd him what loathſome Stuff he had vomited, which he would have had to have carried to the Lord *Somerſet*; but *Weſton* would not let him, ſaying, It was an unfit Sight to ſhew him.

H. Payton exam. Saith, That this Powder gave Sir *Thomas* fifty or ſixty Stools and Vomits for four or five days.

Serj. Mount. Four ſeveral Juries have found that this Powder was Poiſon, and of this Poiſon Sir *Thomas Overbury* died; now for the Proof of the poiſon'd Tarts.

La. of Som. exam. She ſaith, She knoweth of no Tarts were ſent Sir *Thomas Overbury*, but either from her ſelf or my Lord.

Sir Jervis Elvis exam. Saith, By Letters my Lady meant Poiſon, but the word was then us'd to clear his Eyes.

The Lady Somerſet's *Letter to Sir* Jervis Elvis.

'I Was bid to bid you ſay, that theſe Tarts came 'not from me; and again, I was bid to tell 'you, that you muſt take heed of the Tarts, be-'cauſe there be Letters in them, and therefore 'neither give your Wife nor Children of them, 'but of the Wine you may, for there are no *Letters* 'in it; Sir *Thomas Monſon* will come from the Court 'this day, and then we ſhall have other News.

La. of Som. exam. Saith, That by *Letters* ſhe meant Poiſon.

Serj. Mount. Now for my Lord's haſte to ſpur this on, (and here I end) read *Franklin*'s Examination.

Franklyn exam. Saith, In a Letter, which my Lady told him was ſent her from my Lord, there were theſe Words, *That he wondred things were not yet diſpatch'd, and that he thinks was meant about* Overbury, *by reaſon of her then Speeches to him, and preſent ſending for* Weſton.

Serj. Crew. My Part is now to diſcover thoſe Acts that ſucceeded the Fact, and then my Lord begins to ſow Fig-leaves; 1. Practices to ſuppreſs all Teſtimonies. 2. To ſurprize all Letters. 3. To get a Pardon, and deſires a Pattern of the moſt large Pardon. Now for your Practice to ſuppreſs the Teſtimony of *Franklyn*; you come from Court and tell my Lady, that *Weſton* was apprehended; then Mrs. *Turner* ſends to *Franklin* to come to my Lady at one a Clock at Night. Then my Lady tells him, that *Weſton* hath confeſs'd all, and that we ſhall all be hang'd; and at that time did again give him another Oath for Secrecy. And, during this Dialogue, ſhe went into an inner Room, to ſpeak with one, (whom he took to be my Lord of *Somerſet*;) when ſhe came out, then ſhe inſtructs *Franklyn* what to ſay, if he were examin'd, but by no means to confeſs the Knowledge of her, or of Mrs. *Turner*: That the Lords will promiſe him, upon his Confeſſion, hope of a Pardon, but that by no means he ſhould believe their fair Words; for if he did, then they ſhould all be hang'd. Now for the Courſe you took in ſuppreſſing of Letters, *Lawrence Davis*, after his Maſter's Death, made ſuit to ſerve my Lord, then his Suit was rejected; but laſt Summer, fearing this might break out, ſends *Rawlins* to him, profers him all Courteſy, and deſires that he would ſend to him all thoſe Letters, and Copies of Letters, which had paſt between Sir *Thomas Overbury* and him. *Davis* did ſo; and upon this my Lord gave him 30*l.* After *Weſton* and Mrs. *Turner* were committed, there was a Trunk, wherein were many Letters: This Trunk ſtood at the Houſe of *Weſton*'s Son's Maſter. For this Trunk, my Lord (after he was commanded to forbear the Court) makes a Warrant to the Conſtable to break it open, and to ſend unto him thoſe Bundles of Writings that were in it; pretending they were certain Bonds and Writings belonging to Miſtreſs *Hide*, a Siſter of Mrs. *Turner*'s. According to this Direction, thoſe Letters that were in the Trunk were brought unto him. Now for thoſe Letters that paſs'd betwixt my Lord of *Northampton* and you; thirty of thoſe you had ſent him were deliver'd you after his Death by Sir *Robert Cotton*; and all theſe the Night before your Commitment to the Dean of *Weſtminſter* you burnt. For thoſe Letters of *Overbury*'s that you had, Sir *Robert Cotton* advis'd you not to burn, but keep them: And all of them being without Dates, *Cotton* told you there might be ſuch Dates given them as would be much to your advantage: So you gave him Order for that purpoſe, to give Dates to thoſe Letters. According to your Directions he did ſo; but not till after *Weſton*'s Arraignment: And then underſtanding at what Time the Poiſons in the Indictment were ſaid to be deliver'd, he dated ſome of them with a Purpoſe to croſs the Indictment; and ſome of the Letters he razes, ſome paſtes, ſome pares, as they were advantageous or diſadvantageous to him; and all this to obſcure the Fact. My next Aggravation is, That my Lord went about to get a Pardon; and that Precedents ſhould be ſought of the largeſt that ever were granted; and they were brought him. Why ſhould he ſeek this, but to be freed from this Murder? And in the Precedent of *Henry* the VIII's Pardon to Cardinal *Wolſey*, after many Offences were forgiven, both in the Beginning and Ending, then in the Midſt come in all Treaſons and Murders. Laſtly, Now I urge the Declaration you ſent to the King; wherein you ſeem'd to doubt your ſelf, becauſe that you endeavour'd and conſented to the Puniſhment of Sir *Thomas Overbury*; and in reſpect you had formerly been ſo much in the King's Favour, thought you might expect Mercy; and ſeeing you had never done any Offence againſt the King, nor the State, hoped that you ſhould never be call'd in queſtion for this: But if you ſhould, then you implor'd Grace for your Wife; but you never ſought a Pardon for her, as you did for your ſelf. And then, laſtly, you deſire to have leave to diſpoſe of your Lands to your Wife and Child. Now for the Proofs of all this that I have ſaid, firſt read *Franklyn*, for the Suppreſſion of his Teſtimony.

Franklyn's Exam. When my Lord of *Somerſet* came to Town, after *Weſton*'s Apprehenſion, he (*Franklyn*) was ſent for to the *Cock-Pit*; and there my Lady ſwore him again to Secrecy, told him *Weſton* was taken, and that it was likely he ſhould be ſo ſhortly, and that they ſhould all be hang'd. Then retiring into an Inner-room, to ſpeak with one, (whom he verily believes to be my Lord of *Somerſet*) ſhe came again, and told him, That the Lords, if they examin'd him, would put him in hope of a Pardon upon Confeſſion: But, ſaid ſhe, believe them not; for when they have got out of you what they would, we ſhall all be hang'd. Nay, ſaith Mrs. *Turner*, Madam, I will be hang'd for you both.

Mary Erwin's *Examination, (not upon Oath) Mrs.* Turner's *Maid.*

Mrs. *Turner* ſent her for *Franklyn*, to bring him to the *Cock-Pit*, at Ten a-Clock at Night; and is ſure that Night my Lord of *Somerſet* came from Court, and was at the *Cock-Pit* when ſhe came.

Lady Som. exam. She confeſſeth all that *Franklyn* ſaid concerning her Diſcourſe with him; and that my Lord was with her that Night in the *Cock-Pit.*

Mr. Serj. Crew. Next follows the Proof for ſurprizing Letters.

L. Davis exam. Saith, That in Summer laſt my Lord ſent *Rawlins* to him, to deſire that if he had any Letters, either from my Lord to Sir *Thomas*, or from him to my Lord, that he would ſend them by him; which he did: And for this my Lord did afterwards ſend him by *Rawlins* 30 *l.*

George Errat *the Conſtable's Examination.*

Saith, That *Poulter*, a Meſſenger, brought him a Warrant from my Lord of *Somerſet*, to break open and ſearch a Houſe for certain Writings, which were pretended to be one Mrs. *Hide's*, a Siſter of Mrs. *Turner's*; and that he ſhew'd him a part of the Warrant only, but not all; ſo that for that cauſe he would not execute it. Whereupon, *Poulter* got Smiths himſelf to break open the Houſe and Doors, and found in the Cellar a Box and Bag of Writings, where he ſaw the Name of Mrs. *Turner*; and thoſe were carried to my Lord.

L. of Som. For theſe Letters, Sir *Robert Cotton* deliver'd them me back after my Lord of *Northampton*'s Death; and concerning the Dates, you need not trouble yourſelf, for it now grows late, and I ſhall have very little time to anſwer for my ſelf. I confeſs Sir *Robert Cotton* deliver'd me back thoſe Letters I had ſent my Lord of *Northampton*, and that I burnt them; and that ſome Parts were cut off as impertinent.

Sir R. Cotton exam. Saith, My Lord deliver'd into his hands many of Sir *Thomas Overbury*'s Letters; and that he cut and dated them by my Lord's Direction; and that he put in Dates the next Day to ſome of the Letters, after *Weſton*'s Arraignment.

Mr. Serj. Crew. I deſire my Lord will be pleas'd to look upon this Book of *Overbury*'s Letters. And now for the Copy of the largeſt Pardon;

Sir *Robert Cotton* ſaith, That at my Lord of *Somerſet*'s Intreaty, a little before *Michaelmas* laſt, he got him a Draught of the largeſt Pardon, and the Precedent was of one that King *Henry* the Eighth granted to Cardinal *Wolſey*: and if he deſired ſuch a one, I told him the beſt way was to follow Precedents.

The Pardon was read; wherein, amongſt other Offences, before and after, of ſmall account, Treaſon and Murder be foiſted in.

Mr. Serj. Crew. And this was it that made *Weſton* fear that the Net was for the little Fiſhes, and that the great ones could break through.

Alderman Bowles exam. Saith, That after he had perſuaded *Weſton* from ſtanding mute, he told him, That he fear'd the Net was laid for the little Fiſhes, and that the great ones would break through.

Mr. Serj. Crew. The laſt thing I urge, is my Lord's Declaration to the King, which I deſire ſhould be read.

The ſame that were noted before, after he underſtood by my Lord *Coke* that he was to be arraign'd, *&c.*

Mr. Attorney. You ſee, my Lords, in this Declaration of my Lord of *Somerſet* there is a Brink of Confeſſion; I would to God it had a Bottom. He urges that in reſpect he hath formerly been ſo great in the King's Favour, and had never committed any Treaſon, neither againſt his Perſon nor State, that he ſhould never have been call'd to an Account for this Fault, though he had been guilty: That Grace timely given is a Benefit; and that it is not only enough to give Life, but to ſave Reputation. But if he muſt be urg'd, then he deſires his Wife might be pardon'd, having confeſs'd the Fact: And that if he muſt be put upon the Hazard of a Tryal, the King will before give him leave to diſpoſe of his Lands and Goods to the Uſe of his Wife and Child; and that in the mean time he will give my Lord *Hay* and Sir *Robert Carr* leave to come to him.

Mr. Serj. Crew. This Declaration is an implicative Confeſſion.

Mr. Attorney. I think there is none here but wonders, ſeeing that all Poiſons be Works of Darkneſs, how this ſhould ſo clearly appear: But it ſeems, his Greatneſs in Fortune caus'd this Groſſneſs in offending.

L. High-Steward. My Lord of *Somerſet* hath behav'd himſelf modeſtly in the Hearing: And only this, (before you ſpeak for your ſelf) by way of Advice, I will ſay unto you, in giving you two Examples: Your Wife, that yeſterday confeſs'd the Fact; and there is great hope of the King's Mercy, if you now mar not that which ſhe made. On the contrary, *Byron*, who when the King of *France* us'd all the means he poſſibly could, to bring him to the Acknowledgement of his Offence, which if he had done, there was no queſtion to be made of the King's Grace. And I think there never was, nor is, a more gracious and merciful King than our Maſter. But *Byron* ſtill perſiſting in the Denial of his Fact, you know his End.

L. of Som. I am confident in mine own Cauſe, and am come hither to defend it. And in reſpect the King's Counſel have been ſo long in ſpeaking againſt me, that neither my Memory nor Notes will give me leave to anſwer every Particular in order, I will begin with ſome of the laſt Things that they ſeem'd moſt to urge againſt me, and ſo anſwer the reſt that I think do any thing at all touch me. For the Powder that was ſent *Overbury* to make him ſick, that ſo I might have the better occaſion to ſpeak for him to the King for that purpoſe, he himſelf deſir'd it, and upon his Letter I ſent it. And though it be true that I conſented to his Impriſonment, to the end he ſhould make no Impediment in my Marriage; yet I had a care of his Lodgings, that they ſhould be where he might have the beſt Air, and Windows both to the Water and within the Tower, ſo that he might have liberty to ſpeak with whom he would. So you ſee it was againſt my Intention to have him cloſe Priſoner.

Whereas the Breach of Friendſhip betwixt *Overbury* and me is us'd for an Aggravation againſt me; it is no great Wonder for Friends ſometimes to fall out, and leaſt of all with him; for I think he had never a Friend in his Life that he would not ſometime fall out with, and give Offence unto: And this they term'd Inſolence in him; but I give it a better Name.

For the great Truſt and Communication of Secrets between *Overbury* and me, and for the Extracts that he took out of Ambaſſadors Letters, I confeſs this; I knew his Ability, and what I did was by the King's Commiſſion. For other Secrets, there were never any betwixt us.

And for his faſhion of braving both in Words and Writing, there was none that knew it better, nor fear'd it leſs than my ſelf. At that time he was in diſgrace with the Queen, and for that cauſe was enforc'd for a time to abſent himſelf from Court, and this was for ſome particular Miſcarriage of his towards her Majeſty; and though I labour'd his Reconcilement and Return, yet he with main violent Terms laid the cauſe of his Diſgrace upon me. And another time my Lord of *Salisbury* ſent for him, and told him, That if he would depend upon his Favour, he would preſently help him with a Suit that ſhould benefit him 2000 *l.* which preſently *Overbury*, coming to me, told me of: To which I anſwer'd, He did not need to rely upon any body but me; and that, if he would, he might command my Purſe, and preſently have more than that; and ſo he had. And yet afterwards, upon ſome cauſleſs Diſcontent, in a great Paſſion he ſaid, That his Love to me had put him out of my Lord of *Salisbury*'s Favour, and made him loſe 2000 *l.* Whereas it was urg'd that I caus'd him to refuſe the Imployment that was impos'd upon him; it is not ſo; for I was very willing he ſhould have undertaken it, but he not. My Lord of *Canterbury* mov'd him to it, but not without my Privity; for I ſhould have been glad to have remov'd him, both in reſpect of my Marriage and his Inſolence. But *Overbury* came to me, and ſaid, I will tell Sir *Dudley Diggs* I will undertake this Embaſſage, that he may ſo return Anſwer to my Lord of *Canterbury*; but then you muſt write to me not to do ſo, and ſo take it upon you. Whereas it is pretended that I ſhould cauſe poiſon'd Tarts to be ſent him to the Tower; my Wife in her Confeſſion ſaith, That there were none ſent but either by me or her; and ſome were wholeſome, and ſome not: Then it muſt needs follow, that the good ones were thoſe which I ſent, and the bad hers.

L. Liſle. If you had ſent him good Tarts, you ſhould have ſeen them convey'd by a truſty Meſſenger.

L. Compton. My Lady, in her Letter to the Lieutenant, writes, I was bid to bid you do this. Who ſhould bid her?

Mr. Serj. Mountague. The continual Letters between my Lord and her argues that.

L. of Som. If *Franklyn* knew me ſo well, and that I was privy to the Plot, why ſhould then my Wife and I (as he pretends) when he was there, ſpeak ſo cloſely, and always out of his Hearing and Sight? But for *Overbury*, my furtheſt Intent in his Impriſonment was, that he ſhould be no Impediment to my Marriage; and this I communicated to my Lord of *Northampton* and *Elvis*.

Serj. Mountague. You could not couple your ſelf worſe than with them two.

L. of Som. Whereas *Simcocks* ſays, from the Relation of *Weſton*, That he ſo often came to me; I proteſt I never ſaw him till after *Overbury*'s Death, and then *Rawlins* brought him to me.

Serj. Crew. Sir *Jervis Elvis* in his Examination ſaith, That *Weſton* many times told him, that my Lord of *Somerſet* many times ſent for him: And for this purpoſe you ſhall have *Weſton*'s Examination.

Weſton's Examin. Saith, That my Lord of *Somerſet* many times ſent him Directions, before *Overbury*'s going to the Tower, to appoint Meetings betwixt him and my Lady.

L. of Som. This may hold, and yet that I never ſpake to him: So for thoſe Meſſages he ſpoke of, he might receive Directions from me by a third Perſon. And for that which *Payton* alledges about the Powder which I ſent, and made Sir *Thomas Overbury* ſo ſick; that Powder I ſent was one of them which I receiv'd from Sir *Robert Killegrew*.

Serj. Crew. But this, my Lord, was none of the Powders you receiv'd from Sir *Robert Killegrew*, for you had three from him: The firſt was loſt; the ſecond you ſent him by *Rawlins*; and the third your ſelf took at *Buly*: Now a fourth, which was ſent by *Davis*, was that that made him ſo ſick, and gave him ſo many Stools; and that was Poiſon, and ſent three Weeks after that that *Rawlins* carried.

Sir *Robert Killegrew* ſaith, That my Lord deſir'd him to give him Powders, which he himſelf ſometimes us'd to take for a Vomit; but he thought it had been only for himſelf, not that he had had a Purpoſe to ſend it to Sir *Thomas Overbury*; and that my Lord never had of this Powder of him but thrice.

Mr. Rawlins exam. Saith, That the firſt Vomit Sir *Robert Killegrew* gave my Lord, was laid upon a Teſter of a Bed, and loſt; and that then upon that he got another, which my Lord ſent to Sir *Thomas Overbury* by him; and afterwards a third, which my Lord took at *Buly*: But he never heard that Sir *Thomas Overbury* deſir'd my Lord to ſend him any.

Franklyn exam. Saith, That he provided a white Powder, which was Poiſon, for my Lady called it *Arſenick*; which, as my Lady did afterwards tell him, was ſent to Sir *Thomas Overbury* in a Letter.

L. of Som. I do not think you can take *Franklyn* for a good Witneſs. Now for the Antedates which are us'd as a Circumſtance againſt me; Sir *Robert Cotton* mov'd me to it, ſaying, That the Dates might prove uſeful to me at this time. Whereas my Lord of *Northampton* writes in one of his Letters, That he had promoted the Lieutenant; I conceive his Meaning to be, That he ſhould endeavour to make *Overbury* to be a good Inſtrument betwixt my Lord of *Suffolk* and me; and to that end, thoſe whom he thought to be his principal Enemies ſhould be the only Cauſers of his Freedom. And what I underſtand by *Elvis*'s Concluſion, which my Lord of *Northampton* relates in the end of one of his Letters to me, That Death is the beſt Way; I wiſh that my Anſwers to thoſe Letters were now to be ſeen: and if I had ever thought that thoſe Letters of my Lord of *Northampton*'s would be dangerous to me, it is likely I would never have kept them. For the Warrant I made, my Wife deſir'd me to do it for Mrs. *Turner*'s ſake: *Packer* formed it; and told me, I might do it as a Counſellor alone, without other Hands; for I would have had at that time my Lord *Knowles* to have joined with me, but that he was at Council. And when this Warrant was ſent, I was not commanded from Court, as is pretended.

L. High-Steward. All the Council together could not juſtify the making of ſuch a Warrant.

L. of Som. For my endeavouring to get a Pardon; having had many things of Truſt under the King, and the Cuſtody of both the Seals, without particular Warrant, I deſir'd by this means to be exonerated. And for all general Words, the Lawyers put them in without my Privity. And for the Precedent of the largeſt Pardon, which I had from Sir *Robert Cotton*, it was upon this Occaſion: Sir *Robert Cotton* ſaid, In reſpect you have receiv'd ſome

Disgrace in the Opinion of the World, in having past that Pardon which the last Summer you desir'd, especially seeing there be many Precedents of larger; I would have you now get one after the largest Precedent, that so by that Addition you might recover your Honour. And upon this I bad him search for the largest.

Serj. Mount. Sir *Robert Cotton* says otherwise.

Sir R. Cotton exam. Saith, My Lord desir'd to seek Precedents of the largest Pardons.

L. of Som. For the Declaration which I lately sent to the King, and particularly the Word [*Mercy*], which is now so much urg'd against me, it was the Lieutenant's; for I would have us'd another, but he said it could be nothing prejudicial unto me: But when I writ it, I did not think thus to be sifted in this Declaration; for I in that, in all Humility, did so far endeavour to humble and yield my self, that the King might the better express his Grace. And for the Words, [That I did consent to and endeavour the Imprisonment of Sir *Thomas Overbury*]; it is true, for the Reason there alledg'd.

Mr. Attorney. May it please your Grace, my Lord here hath had a most gracious Hearing, and hath behav'd himself modestly and wittily.

L. High-Steward. If you have any more to say, my Lord, you shall be heard at length; we will not straiten you in Time.

L. of Som. For *Loubell*, I never saw him but twice: He affirms the contrary, I deny it; and there is none else that proves it but himself. For Sir *Robert Cotton*, I could wish that he were here to clear many things that now be obscure.

Mr. Attorney. If he were here, he could not be sworn, for Reason of State, being held for a Delinquent.

L. of Som. For Sir *David Wood*, there was a Suit wherein he might have benefited himself 1200 *l.* which I was willing to further him in, conditionally, that *Overbury* should have been a Sharer: But for the not effecting of it, it seems, he took some dislike of Sir *Thomas Overbury*. The Money that is said Sir *Jervis Elvis* gave for his Place, I had no part of it. Whereas the shifting of Offices is urg'd against me, to make the more easy Way for *Elvis*'s Entrance; it is well known, the reason of *Wade*'s displacing was in respect of his Carelesness, in suffering the Lady *Arabella* to have a Key, by which she might have convey'd her self out of Prison. More I cannot call to mind; but desire Favour.

Mr. Attorney. It hath, my Lord, formerly at Arraignments been a Custom, after the King's Counsel and the Prisoner's Defence hath been heard, briefly to sum up what hath been said: But in this we have been so formal in the Distribution, that I do not think it necessary: And therefore now there is no more to be done, but that the Peers will be pleas'd to confer, and the Prisoner to withdraw till the Censures be past.

L. of Som. My Lords, before you go together, I beseech you give me leave to recommend my self and Cause unto you: As the King hath raised me to your Degree, so he hath now dispos'd me to your Censures. This may be any of your own Cases, and therefore I assure my self you will not take Circumstances for Evidence; for if you should, the Condition of a Man's Life were nothing. In the mean time, you may see the Excellence of the King's Justice; which makes no Distinction, putting me into your hands for a just and equal Censure. For my part, I protest before God I was neither guilty of, nor privy to, any Wrong that *Overbury* suffer'd in this kind. A Man sensible of his own Preservation, had need to express himself.

So he being withdrawn from the Bar, my Lord High-Steward briefly reported to the Lords the Proofs against my Lord of *Somerset*. Then the Lords by themselves (and my Lord Steward for his Ease, but returning before the rest) staid some time together; in which Interim they sent for the two Chief Justices. Being return'd, the Serjeant-Cryer Mr. *Fanshaw*, called every Lord by his Name, *Robert* Lord *Dormer*, and so to the rest, before my Lord High-Steward spake.

L. High-Steward. *Robert* Lord *Dormer*, How say you? Whether is *Robert* Earl of *Somerset* guilty of the Felony, as Accessary before the Fact, of the wilful Poisoning and Murder of Sir *Thomas Overbury*, whereof he hath been indicted and arraigned, or not guilty? And so particularly to every Lord, one by one.

L. Dormer. Guilty, my Lord: Standing up, and bare-headed; then sitting again. My Lord *Norris*, when it came to him, said, Guilty of Murder: But being told by my Lord High-Steward that he must say either Guilty, or Not guilty, to the Indictment, he said, Guilty. Then Mr. Lieutenant brought the Prisoner again to the Bar: But he had before taken off his George himself.

Mr. Attorney. My Lord High-Steward, *Robert* Earl of *Somerset* hath been indicted and arraigned, and put himself upon his Peers, who all, without the Difference of one Voice, have found him guilty; I pray Judgment.

Mr. Fanshaw. *Robert* Earl of *Somerset*, hold up thy Hand. Whereas thou hast been indicted, arraign'd, and pleaded Not guilty, as Accessary before the Fact, to the wilful Poisoning and Murder of Sir *Thomas Overbury*, and hast put thy self upon thy Peers, who have found thee guilty; What hast thou to say for thy self, why Sentence of Death should not be pronounc'd against thee?

L. of Som. The Sentence that is past upon me must be just: I only desire a Death according to my Degree. For that *Simcocks* said ——

L. High-Steward. My Lord, you are not now to speak any more in your Defence; but why Judgment of Death should not be pronounced.

L. of Som. Then I have no more to say; but humbly beseech you my Lord High-Steward, and the rest of the Lords, to be Intercessors to the King for his Mercy towards me, if it be necessary.

My Lord High-Steward, taking the White-Staff from Sir *Richard Coningsby*, pronounc'd Sentence.

L. High-Steward. *Robert* Earl of *Somerset*, Whereas thou hast been indicted, arraign'd, and found guilty, as Accessary before the Fact, of the wilful Poisoning and Murder of Sir *Thomas Overbury*; you are therefore to be carried from hence to the Tower, and from thence to the Place of Execution, where you are to be hang'd till you be dead: And Lord have Mercy upon you.

L. of Som. My Lords the Peers, I beseech you, as you have been the Judges of this Day, so you will be my Intercessors.

Then my Lord Steward broke his Staff, the Court dissolv'd, and the Prisoner was carried away.

The

The Countess of *Somerset*'s Pardon.

Jacobus Rex,

REX omnibus ad quos, &c. *salutem. Cum tam justic' misericord' fontes a solio Regis promanare consueverint & debeant ex quibus prior ille justiciæ in memorabili casu mortis & interfectionis* Thomæ Overbury *mil. cursu constanti, & recto a nobis, & cura nostra Regia fluxit, & derivatus est, in nostram & subditorum satisfactionem plenariam: Cumque divers' & multiplices caus', & Motiva clementiæ nost' occurrant, quæ misericordiam nost. regiam erga* Franciscam Carre *nuper Comitiss.* Somerset *promovere possint, præsertim eade illa tot' & tal' exemplis Justiciæ jam antea expiata, præcipue vero duæ, quarum prima ad patrem ejus & amicos spectat, familiamque & prosapiam prænobil. altera ad eam ipsam, quod lib. & spontanee delictum suum confessa sit, se submittendo & prosternendo ad misericordiæ nost' altare, non solum durante tempore incarcerationis suæ, verum etiam publice & in judicio. Cumque* Tho. *Dominus* Ellesmere *Cancellar. nr. Angliæ, & magnus Senescallus nr' Angliæ ea vice existens, necnon omnes pares ejus per quorum judicium convicta fuit ad humil. Petitionem ejusdem* Franciscæ *publice fact' promisso suo ad intercedend. pro misericordia nostra regia erga eam solenniter se obstrinxerint.* Imprimis *autem nobiscum perpendentes natur' delicti ejus unde ipsa indictat' arraignat' convict' & condemnat' fit (viz.) quod non fuer' process. & judicium tanquam de principal. sed de accessoria ante fact' eaq; ipsa procuratio ex conscelerata instigatione hominum quorundam ignobilium originem suscepisse videtur.* Sciatis *quod nos pietate moti de gratia nostra speciali ac certa scienc' & mero motu nost' pardonavimus, remisimus, & relaxavimus, ac per præsentes pro nob' hæred' & succ' nostris pardonamus, remittimus, & relaxamus prefat'* Franciscæ Carre *nuper Comitiss.* Somerset, *seu quocunque alio nomine, cognomine sive additione nominis vel cognominis, dignitatis, loci vel locorum eadem* Franciscæ *sciatur, censeatur, vocetur, sive nuncupetur, aut nuper sciebatur, censebatur, vocabatur, sive nuncupabatur, occisionem, necem, venenationem, intoxicationem, mortem, feloniam, & felonicam interfectionem præd.* Thomæ Overbury *mil. seu quocunque alio nomine, cognomine sive additione nominis vel cognominis loci vel locor' idem* Thomas Overbury *mil. sciatur, censeatur, vocetur sive nuncupetur, aut nuper sciebatur, censebatur, vocabatur, sive nuncupabatur, per ipsam* Franciscam *per se solam sive cum aliqua alio persona, sive aliquibus al' personis quibuscunque, quomodocunque, qualitercunq; quandocunq; seu ubicunq; fact' commiss. sive perpetrat' ac omnes & omnimodas conspirationes, felonias, abettationes, procurationes, incitationes, confortation' manutention' auxiliationes, conductiones, mandat' consilia, crimina, transgressiones, malefacta, offens. & delict' quæcunque præd. mortem, occisionem, necem, venenationem, intoxicationem, feloniam & felonicam interfectionem præd.* Thomæ Overbury *mil. in aliquo tangen. sive concern. ac accessar. eorundem tam ante factum, quam post factum, ac fugam, & fugas superinde fact. licet eadem* Francisca *de permiss. vel aliquo præmissor. indictata impetit. appellat. reclat. vocat. waviat. convict. condemnat. attinct. sive adjucat. per judicium pœrium suorum coram præd. magno Senescallo nostro Angl. vel alr. quomodocunq; existit vel non existit, aut indictari, impetiri, appellari, reclatari, vocari, waviari, convinci, condemnari, attingi, sive adjudicari contigerit in futur. ac omnia & singula indictamenta, judicia, condemnationes, executiones, pœnas, mortis pœnas, corporal. puniciones, ac omnes al. pœnas, & pœnalitat. quascunq; de pro sive concern. mortem, occisionem, necem, venenationem, intoxicationem, feloniam, & felonicam interfectionem præd.* Thomæ Overbury *mil. in sup. vel versus ipsam* Franciscam *hab. fact. reddit. sive adjudicat. aut imposter. habend. fiend. reddend. sive adjudicand. aut quæ nos versus ipsam* Francisc' *pro præmiss. vel aliquo præmissor. habuim' habem' seu impost. habere poterimus, aut hæred. seu suc. habere poterint in futur. (Imprisonament. ad arbitrium nr' regium aut restric. ullo modo ad locum certum, Anglice* confining, *tantum except.) Pardonamus insuper ac per present' pro nob. hæred. & succr. nr' remitt. & relax. præfat.* Franciscæ *omn. & singul. utlagar. si quæ versus ipsam* Francisc. *ratione, sive occasione præmissor. seu eor. alicujus promulgat. fuer. sive imposter. erunt promulgand. ac omn. & omnimod. sect. querel. impetitiones, & demand. quæcunque, quæ nos versus ipsam* Franciscam *pro præmiss. vel aliquo præmissor. habuimus, habem. seu in futur. habere poterimus, Sectamque pacis nostræ, quæ ad nos versus ipsam* Francisc. *pertinet, seu pertinere poterit ratione præmissor. seu eor. alicujus, & firmam pacem nr' eidem* Franciscæ *inde damus & concedimus per præsentes: Nolentes quod eadem* Franc. *per Just. Vic. Escaetor. Ballivos, seu aliquos Minist' nr' occasionibus præd. seu eor. aliquo molestetur, perturbetur, seu in aliquo gravetur; ita tamen quod stet rect. in cur. nr. si quis versus eam loqui voluerit de præmissis vel aliquo præmissor'. Licet eadem* Francisca *bonam & sufficient. securitat. non inveniat secundum formam & effectum cujusdam Actus Parliament. Domini* Edwardi *nuper Regis Angliæ tertii, progenitor. nr. anno regni sui decimo apud* Westm. *tent edit. de se bene gerend. ex nunc erga nos hæred. ad succ. nr' & cunctum populum nr'. Et alterius pro nobis hæred. & succ. nostris de ampliori gratia nostra speciali, ac ex certa scient. & mero motu nostris volumus & concedimus per præsentes, quod hæ Litt. nræ. Paten. pardonationis, ac omnia & singula in eisdem content. bone, firme, valide, sufficient. & effectual. in lege stabunt, & existent, & dehinc nullo modo vacuæ devenient; Quodq; imposter. eadem* Francisca *ullo modo non indictetur, arrectetur, impetatur, vexetur, seu grævetur de pro vel concernend. mort. occisionem, necem, venenationem, intoxicationem, feloniam aut felonicam interfectionem præd.* Thomæ Overbury *mil. qualitercunque seu quocunque modo idem* Thomas Overbury *mil. ad mortem suam devenit. Statut. in Parliament. Domini* Richardi *nuper Regis Angliæ secundi, anno regni sui decimo tertio tent. edit. aut aliquo alio statut. actu, ordination. provisione, sive restrictione in contrar. inde non obstan. In cujus rei, &c. Teste, &c.*

Ex. per *Francis Bacon.*

It may please your excellent Majesty.

THIS Bill containeth your Majesty's gracious Pardon unto the Lady *Frances* late Countess of *Somerset*, for being Accessary before the Fact, of the Death and Imprisonment of Sir *Thomas Overbury.*

It hath inserted, as Motives to your Majesty's Mercy, four respects; that is to say: The respect of her Father, Friends and Family.

Her Voluntary Confession, both when she was Prisoner, and at the Bar.

The Promise made publickly by the Lord High Steward, and her Peers, to intercede for your Majesty's Mercy.

And that the Crime was not of a Principal, but of an Accessary, before the Fact, by the Instigation of base Persons.

The like Pardon formerly passed your Majesty's Signature, and is now amended by your Majesty's special Direction from your Royal Mouth, in two Points: The one is, That Imprisonment in the Tower, or other Confining at your Majesty's Pleasure, is not pardoned. The other, That the solemn

lemn Promise made at her Arraignment by the Lord Steward and the Peers to intercede to your Majesty for your Mercy, is inserted.

Francis Bacon.

The aforesaid Bill translated into English.

James Rex,

THE King to whom, *&c.* Greeting. Whereas the Fountains, as well of Mercy as Justice, are wont and ought to flow from the King's Throne; of which the former of Justice in the memorable Case of the Death and Murder of Sir *Thomas Overbury*, in a constant and right Course, hath flowed and is derived from us and our Royal Court, for the full Satisfaction of our Self and Subjects. And whereas divers and manifold Causes of our Clemency occur, which may move our Regal Mercy towards *Frances Carre*, late Countess of *Somerset*; chiefly, that Murder, with so many and such Examples of Justice, before this time expiated; especially two, whereof the first respecteth her Father, and Friends, and Family, and noble Progeny; the other hath respect to herself, because she freely and willingly confessed her Offence, submitting and prostrating her self at the Altar of our Mercy, not only during the time of her Imprisonment, but also publickly, and in her Tryal. And forasmuch as *Thomas* Lord *Ellesmere*, our Chancellor of *England*, and being our High Steward of *England* in that behalf, and all her Peers, by whose Judgment she was convict, at the humble Petition of the said *Frances* publickly made, solemnly bound themselves by their Promise, to intercede for our Royal Mercy towards her: And first weighing with ourselves the nature of her Offence, upon which she was indicted, arraigned, convicted and condemned, *viz.* that the Process and Judgment were not as of a Principal, but as of an Accessary before the Fact, and that she seemed to have begun by the Procurement and wicked Instigation of certain base Persons; Know ye, that we, moved with Pity, of our special Grace, and of our certain Knowledge, and our mere Motion, have pardoned, remitted and remised, and by these Presents for us, our Heirs and Successors, do pardon, remise, and release to the aforesaid *Frances Carre*, late Countess of *Somerset*, or by whatsoever other Name, or Sirname, or addition of Name, or of her Sirname of Dignity, Place, or Places, the same *Frances* may be known, esteemed, called, or named, or lately was known, esteem'd, call'd or nam'd, the Slaughter, Killing, Poisoning, Bewitching, Death, Felony and felonious Murdering of the aforesaid Sir *Thomas Overbury*; or by whatsoever other Name, Sirname, or addition of Name or Sirname, of Place or Places, the said Sir *Thomas Overbury* may be known, esteemed, called or named, or lately was known, esteem'd, call'd or nam'd, by the said *Frances*, by her self alone, or with any other Person, or any other Persons whatsoever, howsoever, in what manner soever, whensoever, or wheresoever done, committed, or perpetrated; and all, and all manner of Conspiracies, Felonies, Abetments, Procurements, Incitations, Partnerships, Maintainances, Helps, Hirings, Commands, Counsels, Crimes, Transgressions, Wrongs, Offences and Faults whatsoever, the aforesaid Death, Slaughter, Killing, Poisoning, Bewitching, Felony and felonious Murdering of the aforesaid Sir *Thomas Overbury*, in any wise touching or concerning. And the Accessary of them, as before the Fact, as after the Fact, and Flight and Flights made thereupon, altho the said *Frances* of the said Premisses, or any of the Premisses stand, or not stand indicted, impeached, *appellat. vocat. rectat. waviat.* convicted, condemned, attainted, or adjudged by the Judgment of her Peers, before the aforesaid High Steward of *England*, or otherwise howsoever, or thence in time to come shall appear to be indicted, impeached, *appellar. rectari, vocari, waviari*, convicted, condemned, attainted or adjudged. And all and singular Indictments, Judgments, Condemnations, Executions, Pains of Death, Pains of Corporal Punishments, and all other Pains and Penalties whatsoever of, for, or concerning the Death, Slaughter, Killing, Poisoning, Bewitching, Felonies, and felonious Murdering of the aforesaid Sir *Thomas Overbury*, in, upon, or against the same *Frances*, had, made, returned, or adjudged; or hereafter to be had, made, returned, or adjudged, or which we against the same *Frances* may have in time to come (Imprisonment at our Royal Pleasure, or Restraint, confining to a certain Place only excepted.) Moreover, we do pardon, and by these Presents for us, our Heirs and Successors, remit and remise to the aforesaid *Frances*, all and every Outlawries which against the same *Frances*, by reason or occasion of the Premises, or any of them, have been proclaimed, or hereafter shall be proclaimed; and all, and all manner of Suits, Complaints, Impeachments, and Demands whatsoever, which we against the same *Frances*, for the Premises, or any of the Premises, have had, have or in time to come shall have; and the Suit of our Peace which appertained to us against the same *Frances*, or may appertain by reason of the Premises, or any of them. And by these Presents, We do give and grant our firm Peace to the same *Frances*, willing that the same *Frances*, by the Justices, Sheriffs, Escheators, Bailiffs, or any other our Ministers, by the Occasions aforesaid, or any of them, be not molested, troubled, or in any manner vexed; so as nevertheless she stand right in our Court: if any towards her should speak concerning the Premises, or any of the Premises, although the said *Frances* do not find good and sufficient Security, according to the Form of a certain Act of Parliament, of the Sovereign Lord *Edward* the Third, late King of *England*, our Progenitor, held at *Westminster*, in the tenth Year of his Reign, for her good Behaviour from henceforth towards us, our Heirs and Successors, and all our People. And further, for us, our Heirs and Successors, of our more ample special Grace, and out of our certain Knowledge, and our mere Motion, we will and grant by these Presents, That these our Letters-Patents of Pardon, and all and singular the Things contained in the same, shall stand, and be good, firm, valid, sufficient and effectual in the Law, and from henceforth shall by no means become void. And that in time to come, the said *Frances*, by any means, shall not be indicted, arrested, accused, vexed or troubled of, for, or concerning the Death, Murder, Slaughter, Poisoning, Bewitching, Felony, or felonious Killing of the aforesaid Sir *Thomas Overbury*, howsoever, or by whatsoever Means the said Sir *Thomas Overbury* came to his End: The Statute of the Sovereign Lord *Richard* the Second, late King of *England*, in the thirteenth Year of his Reign, or any other

Statute,

Statute, Act, Ordinance, Proviſion, or Reſtriction to the contrary thereof notwithſtanding. In Teſtimony whereof, &c. Witneſs, &c.

Ex. per *Francis Bacon.*

At *White-hall*, *January* the 18th, 1622.

Preſent,

L. Keeper,	*L.* Digby,
L. Treaſurer,	*L.* Brooke,
L. Preſident,	*Mr. Treaſurer.*
L. M. Hamilton,	*Mr. Secretary* Calvert,
Earl Marſhal,	*Mr. Chancellor of the* Exchequer.
L. Viſ. Falkland,	*Maſter of the Rolls.*

'WHereas his Majeſty is graciouſly pleaſed to enlarge and ſet at liberty the Earl of *Somerſet* and his Lady, now Priſoners in the Tower of *London*; and that nevertheleſs it is thought fit that both the ſaid Earl and his Lady be confined to ſome convenient Place: It is therefore, according to his Majeſty's gracious Pleaſure and Command, ordered, That the Earl of *Somerſet* and his Lady do repair either to *Grays* or *Cowſham*, the Lord *Wallingford*'s Houſes, in the County of *Oxon*, and remain confined to one or either of the ſaid Houſes, and within three Miles Compaſs of either of the ſame, until farther Order be given by his Majeſty.

To the King's moſt Excellent Majeſty: The Humble Petition of *Robert* Earl of *Somerſet.*

SHEWETH,

THAT in the Year 1616, after your Petitioner's Troubles were over, the King (your Majeſty's Father) was pleaſed by the Earl of Suffolk, *the Lord Treaſurer, the Earl of* Worceſter, *Lord Privy-Seal, and the Duke of* Richmond, *Lord Steward, to make known to your Petitioner his favourable Intentions towards him, as well touching his Pardon and Inlargement, and the Payment of his Debts, as for his Eſtate, of which they ſhewed him that his Majeſty did mean to take ſome part to the Crown; but would make up to your Petitioner in other Lands to as much in Value: and in particular, that with a Mannor which he had in* Northamptonſhire, *of a Thouſand Pounds* per Annum, *there was Four thouſand Pound of the King's Lands to be given him, which ſhould be improvable, and be eſteemed at Six thouſand Pounds* per Annum. *But your Petitioner, in that he had never taken any Lands of Gift from the King, as for ſome other Reaſons, did delay to take hold of that Offer, deſiring that he might be allowed to keep that Eſtate which he had formerly got, without Prejudice to his Majeſty or any Perſon. In which Hope he reſted, until he found that ſome Pieces of it had been diſpoſed of. Whereupon, being urged by his Wife's Friends, he was content, in the behalf of her and his Daughter, to give way that they ſhould ſue to his Majeſty for the Performance of that which had been proffer'd to your Petitioner; but in that he would not appear therein himſelf, (doubting leſt that might be underſtood to imply an Aſſent on his part to that which had been done with his Eſtate) it was given otherwiſe than as it was at firſt intended. Notwithſtanding whereof, and that your Petitioner continued in the ſame mind, without craving any Reparation therein for the ſpace of eight or nine Years after, yet he found cauſe at laſt to ſue both for his Freedom and Pardon, and for that Part of his Eſtate which reſted in the Crown; which Pardon he had not above four Months before God took the King. And his Majeſty being moved a little before concerning your Petitioner's Eſtate, (he being then at* New-Market) *profeſſed that he would give Order therein at his coming to* White-hall; *which it pleaſed God to prevent.*

Since that time he hath ſued to your Majeſty by the Duke of Buckingham, *the Earl of* Portland, *and afterwards by my Lord of* Canterbury, *my Lord of* Cottington, *and others. At the Marriage of his Daughter with the now Earl of* Bedford, *he was by the Dutcheſs of* Buckingham *and the Earl of* Pembroke *deſired, for Reaſons they then gave him, not to preſs your Majeſty therein at that time; being aſſured by them, that whatſoever he had to demand juſtly of your Majeſty, or ſhould make appear to have been meant of him by your Father, you would do him right in it. Whereupon he went on, and engaged himſelf to the late Earl of* Bedford, *and for his Uſe, in which he ſtands yet bound, to his exceeding great Prejudice: All which notwithſtanding, and that he afterwards did petition your Majeſty for a Reference in this ſame Cauſe, yet he could not then neither obtain any.*

Your Petitioner humbly prayeth, That your Majeſty will be pleaſed to take into your Conſideration this Suit of his, of a nature far differing from all others that are made to you; that which he craves being only the performance of what your Father intended for him, in lieu of ſo much as he had taken of his, and the ſame no otherwiſe in your Majeſty to give him, than as he hath forborn to take hold of it; and for which your Majeſty may conceive there hath been a Cauſe, and that not a common one, which had made him ſo long diſpute with himſelf the Receipt of ſo great a Benefit, and wherein his whole Fortune conſiſted, and all that he had been getting for many Years. However, he being the firſt that hath left in the Crown that which he might have had from it, may well hope that his Confidence will not be imputed to him for a Crime, or that your Majeſty (if he had thereby given you any Advantage) would think fit to make uſe of it, againſt one whom you may have cauſe to find, when it comes to be enquired into, that he hath been more than any truſted by the Crown, and hath more Proofs to ſhew than any other, that he hath deſerved well of the King your Father, of your Majeſty, and of all theſe your Three Kingdoms.

His laſt and humble Suit to your Majeſty is, That in reſpect of the many Croſſes he hath met with in this preſent Cauſe, and that time hath taken away thoſe great Men before mentioned, as alſo the Earl of Carliſle *and others, that were imployed by the King to your Petitioner, or preſent when he received his Meſſage from the Lords, there remaining only now ſome noble Perſons of a greater Number in this Kingdom, that can teſtify ſo much as will give Credit to that which is delivered here; That your Majeſty will therefore pleaſe to be informed by them what your Petitioner hath further to ſay herein for himſelf, and what they themſelves can report touching the Intentions of the King, your Majeſty's Father, towards him in this Particular which is now ſought of you: That after the many Loſſes he hath ſuſtained by his want of Acceſs to your Majeſty, and the Aſſiſtance of thoſe about you, ſuch Courſe may be taken now at length by your Majeſty for the repairing him again, either out of that Eſtate which was his own, or otherwiſe, as may accord with the Purpoſe of the King your Father, with your Majeſty's Juſtice, and is due to the Demand of your Petitioner.*

And he ſhall pray for your Majeſty's

Long and Happy Reign.

After

After my Lord of *Somerſet* had been proceeded with, as is ſhewed in his Petition, the Earl of *Carliſle* was ſent to him by the King, who told him, as from his Majeſty, That he was ſorry for what had paſt; but he could not hinder the Courſe of Juſtice to go on, had it concerned his own Son: And that to repair him again, he would do what he might by Law, or otherwiſe. In a few Days after the Lord Treaſurer and the other Lords came to him, and ſpake to the ſame effect. And, as it is in the Petition, a while after, when ſome Pieces of his Eſtate were paſſed away under the Seals, my Lord *William Howard*, my Lady *Bambury*, and ſome of his own Friends, came and ſhewed him what was done, willing him that he would take care, if not of himſelf, yet of his Wife and Child, and of his Children he might have. Whereupon, he gave way to his Wife to write to my Lord of *Carliſle*, to move the King about that Eſtate which had been tender'd them before in his Majeſty's Name. Which Letter being ſhewed to the King, his Majeſty gave order to the Lord Treaſurer that the ſame ſhould be done accordingly. But this falling out to be not long before the King's going into *Scotland*, it was expreſly delay'd till then; at which time the Lord Treaſurer ſent to him, and lets him know, That he now had order to make ready two Warrants, one of Lands, and another of Fee-farm Rents; and if he would not uſe Means, and that by his own Suit, to have the King put in mind of his firſt Directions, it was like he ſhould have the worſt of them returned to him. But the other apprehending what was meant thereby, would not be induced to make any ſuch Suit, for the Reaſon he gives in the Petition. Wherefore, the King being on his way as far as *Huntington*, the Warrant with the Fee-farms was ſealed with the *Want of One thouſand Pounds a Year*, beſides of the Sum formerly offered to him; which altogether took off of the Value of the whole about the one half. This made ſome of his Court-friends then in *Scotland* with the King to acquaint his Friends here with thoſe Paſſages; whereupon his Siſters and divers of our greateſt Lords went to the King, to whom and to that which was deſired of his Majeſty, he made anſwer.

But after the King's Return into *England*, he continued as before, without moving either for his Eſtate, or any thing elſe, until the King fell dangerouſly ſick at *Royſton*. Then he haſten'd to paſs through thoſe Fee-farm Rents, taking them for a Maintenance in the preſent, or in part of that which was meant for him, attending a fitter time when to move for the reſt; ſince there was nothing could ſet him right, or repair him in all, but a Reverſal of the Judgment; which he ſought no otherwiſe than as the Means whereby he might in his own Perſon be enabled to hold an Eſtate, or ſue for one: For it ſeems he had ſome Hold, which he would not quit, of a Hope of having that which had been his own formerly. But the Times going on to the worſe for him, he found cauſe ſeven or eight Years after to ſeek both for his Liberty and Pardon; which Pardon he had got but four Months before the King died. Immediately after he had his Pardon, he moved for that which reſted of his Eſtate; which Sir *Henry Gibb* acquainted the King withal. But the King (without looking upon the Paper in which the Particulars were to be ſhewed him) told Sir *Henry*, That what *Somerſet* had to demand of him in that matter, he ſhould have it, if he had ſo much Land in *England*. This was at *New-Market*, a little before the King ſickened at *Theobalds*.

So afterwards, when his Majeſty came to the Crown, he did by my Lord of *Buckingham*, and the other Lords he names in the Petition, continue this Suit of his without Intermiſſion: But he could obtain no Anſwer nor Reference, until about the time that his Daughter was to be married. Then by the Dutcheſs of *Buckingham*'s means, the Queen got the King to promiſe; and this my Lord *Cottington* told him of alſo: but it came no further. Only this he benefited thereby, That adviſing with my Lord *Cottington* upon the time of the Reference, for that he had the Teſtimony of a Nobleman to produce on his part, who was then troubled with the Gout, and a hundred Miles off in the Country, my Lord *Cottington* bid him get it in Writing, and it would be as well. And this Lord's Teſtimony, who died ſoon after, we have in a Letter to my Lord *Cottington* yet ſealed; but becauſe the Reference went not on, was never delivered to him. So as here we have this Letter, which makes good that part of the Petition which mentions the Particulars of the King's Gift for the Eſtate, and our Report for that which paſſed here in *Scotland*, ſhews the Continuance of the King in the ſame Mind and Diſpoſition; and Sir *Henry Gibb* is now preſent in this Kingdom, who will teſtify ſo much as hath been delivered here in his Name.

The Tryal of Mervin *Lord* Audley, *(Earl of* Caſtlehaven*) for a Rape and Sodomy, on the 25th of* April, 1631. *in the Sixth Year of King* Charles *the Firſt.*

THERE were three Indictments found at *Salisbury* in *Wiltſhire* againſt the Earl, the *Wedneſday* preceding *Eaſter*, before the Lord Chief Juſtice *Hyde*, the Lord Chief Juſtice *Richardſon*, and Baron *Denham*, Juſtices of Aſſize for that Circuit, and ſpecial Commiſſioners in that matter. One Indictment was for a Rape upon his own Wife; for holding her by Force, while one of his Minions forcibly, againſt her Will, had carnal Knowledge of her: So that he was indicted as *Præſens*, *Auxilians*, and *Confortans*; and therefore a Principal. The other two Indictments were for Buggery with a Man.

The Judges, on *Friday* Morning before the Tryal, being ſent for, all but *Denham* being met at *Serjeants-Inn* in *Fleet-ſtreet*, theſe Queſtions were pro-

propoſed to them by Sir *Robert Heath*, the King's Attorney-General; a Memorial of which a learned Judge, Sir *James Whitlock*, one of the eight hereafter mentioned, ſet down in Writing, to the effect following.

1. Whether a Peer of the Realm might have his Tryal by Peers, and plead he will be try'd by God and the Country?

Anſw. He might not: For his Tryal by Peers was no Privilege, but the Law declared by *Magna Charta*; which if he would not plead to by a Tryal of his Peers, it was ſtanding mute.

2. Whether a Peer might challenge his Peers, as in the caſe of common Jurats?

Anſw. Anſwer he might not; (which I think is ſo, ſaid that Judge) becauſe they were not upon their Oath, but upon their Honour; and a Challenge was try'd whether he ſtood indifferent, as unſworn.

3. Whether a Peer might not have Counſel any more than a Commoner?

Anſw. If Matter of Law appear'd, he might; not for Matter of Fact.

Certain Examinations having been taken by the Lords without an Oath,

It was reſolv'd, Thoſe could not be uſed until they were repeated upon Oath, unleſs of the Party to be try'd; which might be read without an Oath.

4. Whether the Wife in this Caſe might be a Witneſs againſt her Husband for the Rape?

Anſw. She might: For ſhe was the Party wronged; otherwiſe ſhe might be abuſed. In like manner a Villain (Vaſſal) might be a Witneſs againſt his Lord in ſuch Caſes.

5. Whether the Witneſſes might be produced *viva voce*, if the Lord Steward required it, or the Priſoner?

Anſw. If he ſtood mute in the Caſe of Rape or Buggery, he might have his Clergy in either. "How this can be a direct Anſwer to the Queſ-"tion, I confeſs I cannot readily apprehend."

6. Then if he might not be put to a Tryal on the other Indictment, might not he be for a later Buggery, and be deny'd the Clergy?

Anſw. On that he might by 18 *Eliz.* 1.

7. Whether, in caſe one ſtood mute, Evidence might be open'd by the Court's Command concerning the Fact, though the Delinquent was to be preſs'd to death for his Contempt?

Anſw. That was a Matter which lay in the Diſcretion of the Court.

8. Whether in Caſes wherein Clergy was allowable, the Party might pray it before he anſwered, and deny to anſwer otherwiſe?

Anſw. This was a Confeſſion.

9. Whether in a Rape there muſt be Penetration?

The Anſwer was in the Affirmative.

10. The Priſoner having petition'd to be bail'd, whether it might not be granted?

Anſw. The King, as King, was to adviſe about it: The Judges acquainted the Lord Keeper he could not in Juſtice require it; yet he might be bail'd *ex gratia*, which was not fit in that odious Caſe.

At a ſecond Meeting of the Judges in *Serjeants-Inn*, there were other Things conſidered of concerning this Matter.

They made a Difference between Buggery and a Rape, in point of having the Clergy if he ſtood mute: For it was argued he might have his Clergy if he ſtood mute in a Rape, but not in Buggery; becauſe by the Statute 25 *Hen.* 8. Buggery was made Felony, which by the Common Law was not. And in the very Creation of the Offence, Clergy was taken away; whereas Clergy lay for a Rape until it was (ſhould be) taken away by Statute.

It was concluded the Lords might eat and drink before they were agreed; but that they could not ſeparate nor adjourn till they gave their Verdict: That this appeared out of the Lord *Dacres* of *Greyſtock*'s Caſe, who was try'd for Treaſon, and acquitted by his Peers in 26 *Hen.* 8.

It was agreed by the Juſtices in that Caſe of the Lord *Dacres*, That Verdict could not be given by a leſſer Number of Lords than Twelve; and that if twelve were for the King, and thirteen for the Priſoner, the Priſoner ſhould be acquitted: That in an Appeal, if the Defendant ſhould be mute, he ſhould be hang'd; and it was an Attainder, it being not within the Statute of *Weſtminſter, cap.* 12. *De Paine fort & Duer.* No more was Treaſon. *Vid. Stamf.*

It was alſo agreed, That a Lord of Parliament was within the Statute of *Weſtminſter* 1. in caſe of Felony, and ſhould be preſs'd to Death.

Farther, That if the Lord *Audley* ſhould have his Clergy upon his being mute, yet he might be try'd upon the other Indictments of Rape and Buggery, and ſhould not have his Clergy, by the Statute of 18 *Eliz.* becauſe the admitting him to his Clergy would be a Superſedeas to all Indictments of Offences within Clergy, not of thoſe without, by that Statute: For by the Common Law, he that was admitted to his Clergy was diſcharged from anſwering any other Offence; for by Indictment of that Law he was taken out of the power of the Secular Judge, and put into the hands of the Ordinary, whoſe Priſoner he was all his Life after.

It was reſolv'd, from the Lord *Dacres*'s Caſe, That the Lord Steward, after Verdict given, might take time to adviſe upon it, for any Point of Law; that his Office continued to him till his Judgment and Reſolution; and it was but a Commiſſion *pro hac vice* notwithſtanding.

The Arraignment.

The Lord *Coventry*, Lord Keeper of the Great Seal of *England*, was appointed Lord High-Steward for that Day; who, having Orders for the ſaid Tryal from his Majeſty, gave Directions for the ſame.

The Lords the Peers took their Places about Eight of the Clock in the Morning, and were ſeated on Benches on each ſide of a large Table, cover'd with Green Cloth; and below them were the Judges placed, and the King's learned Counſel, and the Officers of the Court. And having diſpos'd of themſelves in their ſeveral Places, the Lord Steward about Nine of the Clock enter'd the Hall uncover'd, with ſeven Maces carried before him by ſeven Serjeants at Arms, and was attended upon by Sir *John Burroughs*, Garter Principal King of Arms, and Mr. *James Maxwel*, Uſher of the Black Rod.

After the Lord Steward had ſaluted all the Lords the Peers, (who ſaluted him again) he preſently aſcended the State; and being ſeated in the Chair, he was preſented with his Majeſty's Commiſſion by one of the Maſters of the *Chancery*, which bore Date the 13th of *April*, 1631.

After he had received the ſaid Commiſſion, he commanded an *O Yes* to be made, by one of the Serjeants at Arms, for a general Silence; and then deliver'd the ſaid Commiſſion to Sir *Thomas Fanſhaw*, Clerk of the Crown, to be openly read. Which being done, Mr. *Maxwell* kneel'd down, and preſented his Lordſhip with a White-Staff Verge of State, which he gave to one of the Serjeants at Arms, who held the ſame up by the Cloth of State on the Right-hand thereof. And after the Commiſſion was read, and the Staff received as aforeſaid, his Grace commanded a ſolemn *O Yes* to be made; and then gave leave to all the Lords the Peers, and the Judges, and to all Privy-Counſellors there preſent, to be cover'd; and Command was given, that none under that Degree ſhould keep on their Hats upon pain of Impriſonment. And then the Peers were ſeverally called by their Names, and each of them anſwer'd particularly, *viz.*

1. *Lord* Weſton, *Lord High-Treaſurer of* England;
2. *Earl of* Mancheſter, *Lord Privy-Seal*;
3. *Earl of* Arundel *and* Surrey, *Earl-Marſhal*;
4. *Earl of* Pembroke *and* Montgomery, *Lord Chamberlain*;
5. *Earl of* Kent;
6. *Earl of* Worceſter;
7. *Earl of* Bedford;
8. *Earl of* Eſſex;
9. *Earl of* Dorſet;
10. *Earl of* Salisbury;
11. *Earl of* Leiceſter;
12. *Earl of* Warwick;
13. *Earl of* Carliſle;
14. *Earl of* Holland;
15. *Earl of* Berks;
16. *Earl of* Denbigh;
17. *Viſcount* Wimbleton;
18. *Viſcount* Conway;
19. *Viſcount* Dorcheſter;
20. *Viſcount* Wentworth;
21. *Lord* Percy;
22. *Lord* Strange;
23. *Lord* Clifford;
24. *Lord* Petre;
25. *Lord* North;
26. *Lord* Goring.

The Judges preſent.

Sir Nicholas Hyde, *Lord Chief Juſtice of the* King's-Bench;
Sir Thomas Richardſon, *Lord Chief-Juſtice of the* Common-Pleas;
Sir Humphrey Davenport, *Lord Chief Baron of the* Exchequer;
Baron Denham;
Judge Jones;
Judge Hutton;
Judge Whitlocke;
Judge Croke.

The King's Counſel.

Sir Robert Heath, *Attorney-General*;
Sir Richard Shelton, *Sollicitor-General*;
Sir John Finch, *Queen's Attorney-General*;
Sir Thomas Crew, *King's Serjeant at Law.*

Officers of the Court.

Sir Thomas Fanſhaw, *Clerk of the Crown*;
Mr. John Keeling, *his Deputy or Aſſiſtant.*

This done, the Lord Steward, after a ſolemn Precognizance, commanded the Indictments to be certified and brought in; and then, by a Serjeant at Arms, the Lieutenant of the Tower was called to bring forth the Priſoner, (who until that time was kept in a little Room by the *Common-Pleas*) and the Lieutenant brought him to the Bar, with divers of the Guard attending on him, where he had a Place in manner of a Pew, lin'd with Green, in which he ſtood; and the Lieutenant had another of the ſame Form for him to reſt in, adjoining to it. And when he had done his Obeyſance to the Lord High-Steward and the Peers, (who all reſaluted him again) the Lord High-Steward ſpake to him in the manner following:

The Lord High Steward's Speech.

My Lord Audley,

THE King hath underſtood, both by Report and the Verdict of divers Gentlemen of Quality in your own Country, that you ſtand impeach'd of ſundry Crimes of a moſt high and heinous nature; and to try whether they be true or not, and that Juſtice may be done accordingly, his Majeſty brings you this day to your Tryal, doing herein like the mighty King of Kings, in the 18th of *Geneſis*, ver. 20, 21. who went down to ſee whether their Sins were ſo grievous as the Cry of them; *Becauſe the Cry of* Sodom *and* Gomorrah *is great, and their Sins be grievous, I will go down* (ſaith the Lord) *and ſee whether they have done altogether according to the Cry of it.* And Kings on Earth can have no better Pattern to follow than the King of Heaven; and therefore our Sovereign Lord the King, God's Vicegerent here on Earth, hath commanded that you ſhall be here tried this day, and to that end, hath caus'd theſe Peers to be aſſembled: and the Deſire of his Majeſty is, that your Tryal ſhall be as equal as Equity and Juſtice it ſelf; and therefore theſe noble Men your Peers (whoſe Hearts are as full of Integrity, Juſtice, and Truth, as their Veins full of noble Blood) are this Day to try you. Wherefore, if you be innocent, ſpeak boldly and confidently, and fear not to juſtify your ſelf, and be aſſur'd, that thoſe that accuſe you (if you be free yourſelf) ſhall not eſcape free. But if you be guilty of thoſe Crimes, I adviſe you to give Honour to God and the King, and confeſs your Fault; for it is not vain Confidence, nor Subtilty, nor ſtanding out in Denial, that can hide the Truth; and all Shifts and Subtilties againſt it are but *Conſilia adverſus Dominum*: Therefore, if Truth touch you at the Heart, and your Conſcience, which is a thouſand Witneſſes, and God's Grace, which is greater than both, ſtand not out againſt it. And if you do, God will put it into the Hearts of theſe noble Perſons to find it out, and to do that which is juſt.

The Lord Audley's *Anſwer.*

May it pleaſe your Grace,

I HAVE been cloſe Priſoner theſe ſix Months, without Friends, without Counſel or Advice: I am ignorant of the Advantages and Diſadvantages of the Law, and am but weak of Speech at the beſt, and therefore I deſire to have the liberty of having Counſel to ſpeak for me.

The

The Lord High Steward's Reply.

FOR your ſo long Impriſonment, it hath been to you a ſpecial Favour; for you have had time enough to bethink your ſelf, and more than ever any Man had that hath been committed for ſuch an Offence, and more Favour than ever any had that came to this Bar; and you ſhall demand nothing, which the Law can allow, but you ſhall have it. But for your Demand, I muſt move it to the Lords the Judges, and they ſhall ſatisfy you in it, or any other thing you deſire.

Then his Grace deſir'd to be reſolv'd of the Judges, Whether this Demand of my Lord *Audley*, to have Counſel to plead for him, might be granted or not?

The Judges anſwered, That, in Criminal Caſes, Counſel is not to be admitted for Matter of Fact; but for Matter of Law they may.

Then the Lord Steward proceeded to the Charge, commanded the three Indictments to be read by Sir *Tho. Fanſhaw*, Clerk of the Crown; two for Sodomy with *Lawrence Fitz-Patrick*, his Footman; the third for a Rape committed on his own Wife, the Counteſs of *Caſtlehaven*.

Then being ask'd, Whether he was Guilty of them, or Not Guilty? He anſwer'd, Not Guilty.

Then he was ask'd, How he would be try'd?

The Earl ſaid, By God and my Peers.

Whereupon the Peers put off their Hats; and thereupon the Iſſue was join'd.

The Lord High Steward's Speech to the Lords.

My Lords,

THE Priſoner ſtands indicted for a Rape, by one Indictment, and of Sodomy by two; and he hath pleaded, Not Guilty to them all: It is my Duty to charge you with the Tryal of it, and you are to judge of it.

The Offences wherewith he ſtands charged, are to be proved by Evidence; and the Crimes that come this Day before us, may in ſome breed Deteſtation, and the Perſon of his Lordſhip in others may breed Compaſſion: I deſire your Lordſhips to ſet theſe two aſide, and let your Reaſon ſway your Judgment, and let that rule your Affections, and your Hearts your Heads; for neither of theſe ought to be put into the Ballance, for a Grain on either ſide may ſway the Scale. You are to give attentive Hearing, and then to weigh equally, that the Scale may lean the right way. The Judges will aſſiſt you in the points of Law, which, if you doubt of, you are to expound it to me, and I to them. And this you are to do without Corporal Oath; for the Law conceiveth you of ſuch Integrity, that you will do that for Juſtice, which others do upon their Oaths; and therefore admit of no Challenge: and God direct you to do as you ought.

Then Sir *Tho. Crew* gave the firſt Charge; and after him Mr. Attorney ſaid as followeth.

My Lord Steward,

MAY it pleaſe your Grace, there are three Indictments againſt *Mervin* Lord *Audley*; the firſt for a Rape, the other two for Sodomy.

The Perſon is honourable; the Crimes of which he is indicted diſhonourable; which if it fall out to be true (which is to be left to Tryal) I dare be bold to ſay, never Poet invented, nor Hiſtorian writ of any Deed ſo foul. And although *Suetonius* hath curiouſly ſet out the Vices of ſome of the Emperors who had abſolute Power, which might make them fearleſs of all manner of Puniſhment, and beſides were Heathens, and knew not God; yet none of theſe came near this Lord's Crimes. The one is a Crime, that I may ſpeak it to the Honour of our Nation, is of ſuch Variety, that we ſeldom or never knew of the like; but they are all of ſuch a peſtilential Nature, that, if they be not puniſh'd, they will draw from Heaven a heavy Judgment upon this Kingdom.

Whereupon (Mr. Attorney digreſſing from the Matter) the Lord *Audley* would have interrupted him, and requir'd to hold him to the Points in the Indictments. But the Lord High Steward deſir'd his Lordſhip to be patient, and aſſur'd him he ſhould be heard in fit time at full. Whereupon Mr. Attorney proceeded again in his Charge as followeth;

May it pleaſe your Grace,

I can ſpeak it with Joy and Comfort, That during all my Time of Service, both in his Majeſty's Father's Time, and ſince he came to the Crown, I had never the like Occaſion to ſpeak in this place againſt a Peer of the Realm before now; and God knows I do it now with Sorrow, and I hope I ſhall never have the like Occaſion to do ſo much again. But his Majeſty, who is the Pattern of Virtue, not only as King, but in his Perſon alſo; in whom it is hard to judge whether he moſt excels in Juſtice or Mercy, (but I rather think in Mercy) would have my Lord *Audley* the Priſoner at the Bar, heard with as much Favour as ſuch a Crime can admit: and when he firſt heard of it, he gave ſtrict Command, that the Truth ſhould be ſearch'd out, that his Throne and People might be clear'd from ſo heavy and heinous Sins; and thereupon he was indicted in his own Country, according to the Law, and by Gentlemen of Worth and Quality. The Bill was found; and now he is perſonally brought to this Bar to be tried by theſe his honourable Peers, ſuch, of whoſe Wiſdom and Sincerity there can be no queſtion, but that he ſhall have juſt and honourable Tryal. And firſt, I ſhall begin with the Indictment of Rape. *Bracton* tells us of King *Athelſtane*'s Law before the Conqueſt: *If the Party were of no chaſte Life, but a Whore, yet there may be a Raviſhment; but it is a good Plea to ſay ſhe was his Concubine.*

In an Indictment of Rape, there is no Time of Proſecution neceſſary; for *nullum Tempus occurrit Regi*: But in Caſe of an Appeal of Rape, if the Woman did not proſecute in convenient Time, it will bar her.

If a Man take away a Maid by Force, and raviſh her, and afterwards ſhe give her Conſent and marry him, yet it is a Rape.

For the *Crimen Sodomiticum*, our Law had no knowledge of it till the 15th of *Hen.* VIII. by which Statute it was made Felony; and in this there is no more queſtion, but only, whether it be *Crimen Sodomiticum ſine Penetratione*; and the Law of 15 *Eliz.* ſets it down in general Words: and where the Law doth not diſtinguiſh, neither muſt we. And I know you will be cautious how you will give the leaſt Mitigation to ſo abominable a

Sin, which brought ſuch Plagues after it, as we may ſee in *Gen.* 17. *Levit.* 18. *Judg.* 19. *Rom.* 1. But (my Lord) it ſeem'd to me ſtrange at the firſt, how a Nobleman of his Quality ſhould fall to ſuch abominable Sins; but when I found he had given himſelf over to Luſt, and that *Nemo repente fit peſſimus*, and if once Men habit themſelves in ill, it is no marvel if they fall into any Sins; and that he was conſtant to no Religion, but in the Morning he would be a Papiſt and go to Maſs, and in the Afternoon a Proteſtant and go to a Sermon. When I had conſider'd theſe Things, I eaſily conceiv'd, and ſhall be bold to give your Grace a Reaſon why he became ſo ill. He believ'd not God; he had not the Fear of God before his Eyes; he left God, and God left him to his own Wickedneſs: and what may not a Man run into? What Sin ſo foul, what Thing ſo odious, which he dares not adventure? But I find in him Things beyond all Imagination; for I find his ill Imagination and Intentions bent to have his Wife naught with the wickedeſt Man that ever I heard of before: for who would not have his Wife virtuous and good, how bad ſoever himſelf be? And I find him Bawd to his own Wife. If ſhe loved him, ſhe muſt love *Skipwith*, (whom he honour'd above all) and not any honeſt Love, but in a diſhoneſt Love; and he gives his Reaſon by Scripture, *She was now made ſubject to him*; and therefore if ſhe did ill at his Command, it was not her Fault but his, and he would anſwer it. His irregular Bounty toward *Skipwith* was alſo remarkable. He lets this *Skipwith* (whom he calls his Favourite) ſpend of his Purſe 500 *l. per Annum*; and if his Wife or Daughter would have any thing, tho never ſo neceſſary, they muſt lie with *Skipwith*, and have it from him, and not otherwiſe; alſo telling *Skipwith* and his Daughter-in-Law, he had rather have a Child by him than any other. But for theſe things, I had rather they ſhould come forth of the Witneſſes Mouths than from me: and thereupon deſir'd that the Proofs might be read.

The Depoſition of Walter Bigg.

Walter Bigg depos'd, That *Amptil* was a Page to Sir *H. Smith*, and had no more Means when he came to my Lord *Audley*, but the Mare he rode on. He entertain'd him as his Page eight Years, and afterwards let him keep Horſes in my Lord's Grounds, by which I think he enrich'd himſelf 2000 *l.* but he never ſat at Table with my Lord till he had marry'd his Daughter, and then gave him to the Value of 7000 *l.*

That *Skipwith* was ſent from *Ireland* to be my Lady's Page; and that his Father and Mother were very poor Folks there. He ſpent of my Lord's Purſe, *per Annum*, 500 *l.* and he gave him at one time 1000 *l.* and hath made divers Deeds of Land unto him.

My Lord was at firſt a Proteſtant; but after, by buying of *Fownthill*, he turn'd his Religion.

That *Henry Skipwith* had no Means when he came to him, and that he had given him 1000 *l.* and that *Skipwith* lay with him when he was ſtraiten'd in Rooms; and that he gave a Farm of 100 *l. per Annum* to *Amptil* that married his Daughter, and at other times to the value of 7000 *l.* and that there was one *Blandina* in his Houſe fourteen Days, and beſtowed an ill Diſeaſe there, and therefore he ſent her away.

The Lord *Audley*'s Examination, taken before the Lord-Keeper, Lord-Treaſurer, Lord-Marſhal, and others: which being ſhew'd to him, ſubſcrib'd with his own Hand, he would not acknowledge, but excus'd it, ſaying, his Eyes were bad; but being perfectly read, he acknowledg'd it.

My Lord-Steward's Advice to my Lord *Audley*.

My Lord,

I would adviſe you not to deny the Things which are clearly prov'd; for then the Lords will give leſs Credit to the reſt you ſay.

The Counteſs of Caſtlehaven's *Examination.*

That ſhortly after the Earl marry'd her, *viz.* the firſt or ſecond Night, *Amptil* came to the Bed's-ſide, whilſt ſhe and her Husband were in Bed, and the Lord *Audley* ſpake laſciviouſly to her, and told her, *That now her Body was his; and that if ſhe lov'd him ſhe muſt love* Amptil; *and that if ſhe lay with any other Man with his Conſent, it was not her Fault, but his; and that if it was his Will to have it ſo, ſhe muſt obey, and do it.*

That he attempted to draw her to lie with his Servant *Skipwith*; and that *Skipwith* made him believe he did it, but did it not.

That he would make *Skipwith* come naked into his Chamber, and delighted in calling up his Servants to ſhew their Privities, and would make her look on, and commended thoſe that had the largeſt.

That one Night, being a-bed with her at *Fountihill*, he call'd for his Man *Brodway*, and commanded him to lie at his Bed's Feet; and about Midnight (ſhe being aſleep) call'd him to light a Pipe of Tobacco. *Brodway* roſe in his Shirt, and my Lord pull'd him into Bed to him and her, and made him lie next to her; and *Brodway* lay with her, and knew her carnally, whilſt ſhe made Reſiſtance, and the Lord held both her Hands, and one of her Legs the while: and that as ſoon as ſhe was free, ſhe would have kill'd herſelf with a Knife, but that *Brodway* forcibly took that Knife from her; and before that Act of *Brodway*, ſhe had never done it.

That he delighted to ſee the Act done; and made *Skipwith* to come into Bed with them, and lie with her whilſt he might ſee it; and ſhe cry'd out to have ſav'd herſelf.

Then *Lawrence Fitz-Patrick* was produc'd; but before his Examination was read, the Earl deſir'd that neither he, nor any other, might be allow'd Witneſſes againſt him, until he had taken the Oath of Allegiance. This was refer'd to the Lords the Judges.

The Judges reſolve againſt him, that they might be Witneſſes, unleſs they were convicted Recuſants.

The Examination of Fitz-Patrick *was then read, the Truth of which he then again confirm'd upon Oath.*

That the Earl had committed Sodomy twice upon his Perſon: that *Henry Skipwith* was the ſpecial Favourite of my Lord *Audley*, and that he uſually lay with him; and that *Skipwith* ſaid, that the Lord *Audley* made him lie with his own Lady; and that he ſaw *Skipwith* in his ſight do it, my Lord being preſent: and that he lay with *Blandina*

in

in his ſight, and four more of the Servants, and afterwards the Earl himſelf lay with her in their ſights.

Then Skipwith *was produc'd and ſworn, and his Examination read, which he again confirm'd upon Oath, and depoſeth,* viz.

That the Earl often ſollicited him to lie with the young Lady, and perſuaded her to love him; and to draw her thereunto, he urg'd that his Son lov'd her not; and that in the end he uſually lay with the young Lady, and that there was Love between them both before and after; and that my Lord ſaid, he would rather have a Boy of his begetting than any other; and that ſhe was but twelve Years of Age when he firſt lay with her, and that he could not enter her Body without Art; and that the Lord *Audley* fetch'd Oil to open her Body, but ſhe cry'd out, and he could not enter; and then the Earl appointed Oil the ſecond time; and then *Skipwith* enter'd her Body, and he knew her carnally; and that my Lord made him lie with his own Lady, but he knew her not, but told his Lord he did.

That he ſpent 500 *l. per Annum* of the Lord's Purſe, and, for the moſt part, he lay with the ſaid Earl.

That the Earl gave him his Houſe at *Salisbury*, and a Mannor of 600 *l. per Annum.*

That *Blandina* lay in the Earl's Houſe half a year, and was a common Whore.

Fitz-Patrick's *ſecond Examination.*

That the Lord *Audley* made him lie with him at *Founthill*, and at *Salisbury*, and once in the Bed, and emitted between his Thighs, but did not penetrate his Body; and that he heard he did ſo with others.

That *Skipwith* lay with the young Lady often, and ordinarily; and that the Earl knew it, and encourag'd him in it, and wiſh'd to have a Boy by him and the young Lady.

That *Blandina* liv'd half a year in my Lord's Houſe, and was a common Whore.

Edmund Scott's *Examination.*

He depoſeth, That *Skipwith* frequently knew the young Lady, and that the Earl knew it, and encourag'd him therein.

Fry's *Examination.*

That *Henry Skipwith* and the young Lady lay often together, and the Earl in Company; and that then the Earl proteſted, that he would fain have a Boy of his begetting.

Then was read the young Lady Audley's *Examination.*

That ſhe was marry'd to her Husband by a Romiſh Prieſt in the Morning, and at Night by a Prebend at *Kilkenny*; that ſhe was firſt tempted to lie with *Skipwith* by the Earl's Allurements; and that ſhe had no Means but what ſhe had from *Skipwith*; but ſhe would not lie with *Pawlet*; he ſollicited her alſo to lie with one *Green.*

That the Earl himſelf ſaw her and *Skipwith* lie together divers times; and nine Servants of the Houſe had alſo ſeen it.

When the Earl ſollicited her firſt, he ſaid, that upon his Knowledge, her Husband lov'd her not; and threatned, that he would turn her out of Doors, if ſhe did not lie with *Skipwith*; and that if ſhe did not, he would tell her Husband ſhe did.

That ſhe being very young, he us'd Oil to enter her Body firſt: and afterwards he uſually lay with her, and it was with the Earl's Privity and Conſent.

Brodway's *Examination, who confeſſeth,*

That he lay at the Earl's Bed's Feet, and one Night the Earl call'd to him for Tobacco; and as he brought it in his Shirt, he caught hold of him, and bid him come to Bed, which he refus'd; but to ſatisfy my Lord, at laſt he conſented, and came into the Bed on my Lord's Side: then my Lord turn'd him upon his Wife, and bid him lie with her, which he did; and the Earl held one of her Legs and both her Hands, and at the laſt (notwithſtanding her Reſiſtance) lay with her.

That the Earl us'd his Body as the Body of a Woman, but never pierc'd it, only emitted between his Thighs.

He hath ſeen *Skipwith* lie with the young Lady in Bed together; and when he had got upon her, the Earl ſtood by and encouraged him to get her with Child: and that he hath made him the ſaid *Brodway* kiſs his own Lady, and often ſollicited him to lie with her, telling him, that he himſelf ſhould not live long, and that it might be his Making; and that he hath ſaid the like to *Skipwith.*

The Counteſs's ſecond Examination.

That one Night the Earl lying in Bed with her at *Founthill*, he call'd for his Man *Brodway*, and commanded him to lie at his Bed's Feet, and about Midnight (ſhe being aſleep) call'd to him to light him a Pipe of Tobacco. *Brodway* roſe in his Shirt, and the Earl pull'd him into Bed to him and her, and made him lie next to her; and *Brodway* lay with her, and knew her carnally, whilſt ſhe made Reſiſtance, and the Earl held both her Hands and one of her Legs the whilſt: whereupon, as ſoon as ſhe was free, ſhe would have kill'd herſelf with a Knife, but that *Brodway* forcibly took the Knife from her and broke it; and before that Act of *Brodway*, ſhe had never done it.

That the Lord delighted to ſee the Act done, and made him come into Bed to them, and lie with her whilſt he might ſee it, and ſhe cry'd out to have ſav'd herſelf.

The Earl's ſecond Examination.

The Earl deſir'd to be pardon'd of thoſe Things whereof he muſt accuſe himſelf, and ſaid, *That Condemnation ſhould not come out of his own Mouth.*

Theſe Teſtimonies being read, Mr. Attorney preſs'd things very earneſtly, and in excellent Method againſt the Earl, and ſaid,

My Lords,

'YOU have ſeen the Clearneſs of the Proofs, and I know your Wiſdoms to be ſuch (as you well know) in ſo dark a Buſineſs clearer Proofs cannot poſſibly be had; for let a Man be never ſo wicked, or never ſo impudent, he will not call Witneſſes to ſee his Wickedneſs, yet you ſee here this Point fully prov'd.

Then

Then he ſhew'd how both the Laws of God and Man were againſt Sodomy, and cited *Levit.* 18. towards the end, *That by theſe Abominations the Land is defil'd; and therefore the Lord doth viſit this Land for the Iniquity thereof.* And then concludes, that God may remove and take away from us his Plagues, let this wicked Man (ſaith he) be taken away from amongſt us.

Then the Earl (after the Lord Steward had told him he ſhould be heard in his own Defence, with as much Patience as was admitted in his Charge) enter'd into his own Defence. But the Lord Steward adviſ'd him to ſpeak pertinently; whereupon he alledg'd, that he was a weak Man, and of ill Memory, and therefore deſir'd that he might not be interrupted.

I. Then he began his Defence with Exceptions againſt his Wife, urging, that ſhe was naught and diſhoneſt with *Brodway*, by her own Confeſſion.

Whereupon my Lord Steward anſwer'd, That this made againſt his Lordſhip; therefore he ought not to alledge for his Defence that Fact, as an Imputation to his Wife, which he forc'd her unto by Compulſion and Violence.

II. Then he objected againſt the Incompetency of the Witneſſes, as the one his Wife, the other his Servants; and they drawn to this by his Son's Practice, who ſought his Life: and deſir'd to know, if there were not a Statute againſt the Incompetency of Witneſſes?

The Judges reſolv'd him, that there was none touching Witneſſes; but in Caſes of High Treaſon, there was a Statute concerning Accuſers.

III. Then he deſir'd to be reſolv'd, whether, becauſe *Brodway* doth not depoſe any Penetration, but only that he emitted upon her Belly while the Earl held her, that ſhould be judg'd Felony as for a Rape?

The Judges reſolv'd it to be a Rape, and ſo conſequently to be Felony.

IV. Then he deſir'd to be reſolv'd, whether his Wife is to be allow'd a competent Witneſs againſt him, or not?

The Judges reſolve, That in Civil Caſes the Wife may not; but in a Criminal Cauſe of this nature, where the Wife is the Party griev'd, and on whom the Crime is committed, ſhe is to be admitted a Witneſs againſt her Husband.

Then the Lord High Steward deſir'd the Lords the Judges to reſolve the Queſtions which Mr. Attorney in his Charge ſubmitted and referred to their Judgments.

1. Whether it were to be accounted *Buggery* within the Statute, without Penetration?

The Judges reſolve, that it was; and that the Uſe of the Body, ſo far as to emit thereupon, makes it ſo.

2. Whether, it being prov'd that the Party raviſh'd were of evil Fame, and of an unchaſte Life, it will amount to a Rape?

The Judges reſolve it to be a Rape, tho committed on the Body of a common Strumpet; for it is the inforcing againſt the Will which makes the Rape; and a common Whore may be raviſh'd againſt her Will, and it is Felony to do it.

3. Whether it is adjudg'd a Rape, when the Woman complaineth not preſently? And, whether there be a Neceſſity of Accuſation within a convenient time, as within 24 Hours?

The Judges reſolve, That inaſmuch as ſhe was forc'd againſt her Will, and then ſhew'd her Diſlike, ſhe was not limited to any Time for her Complaint; and that in an Indictment, there is no Limitation of Time, but in an Appeal there is.

4. Whether Men of no Worth ſhall be allow'd ſufficient Proofs againſt a Baron, or not?

The Judges reſolve, that any Man is a ſufficient Witneſs in caſe of Felony.

Then the Lord Steward ſpake, and ſaid; My Lord, you have been graciouſly dealt with in this Proceeding, for it is not an uſual thing in ſo capital and heinous Cauſes as this, to bring the Party and Witneſſes Face to Face before Tryal: but (my Lord) you have long before this time heard their Examinations, and queſtion'd and oppos'd them Face to Face; and are thereby the bettter enabled to make your Defence; and his Majeſty is ſtill graciouſly pleas'd to continue his Goodneſs towards you, and hath commanded that you ſhould be heard at full: If therefore you have any thing elſe to ſay for your ſelf, ſpeak it.

Whereupon the Earl anſwered, (having firſt made a ſolemn Proteſtation of his Innocency, but nevertheleſs implor'd the Mercy of God and the King) That he had nothing more to ſay, but left himſelf to God and his Peers, and preſented to their Conſideration Three *Woes*:

1. *Woe* to that Man, whoſe Wife ſhould be a Witneſs againſt him!
2. *Woe* to that Man, whoſe Son ſhould perſecute him, and conſpire his Death!
3. *Woe* to that Man, whoſe Servants ſhould be allow'd Witneſſes to take away his Life!

And he willed the Lords to take this into their Conſideration; for it might be ſome of their Caſes, or the Caſe of any Gentleman of Worth, that keeps a Footman, or other, whoſe Wife is weary of her Husband, or his Son arriv'd to full Age, that would draw his Servants to conſpire his Father's Death.

He ſaid further, his Wife had been naught in his Abſence, and had had a Child, which he conceal'd to ſave her Honour.

That his Son was now become 21 Years old, and he himſelf old and decay'd; and the one would have his Lands, and the other a young Husband; and therefore, by the Teſtimony of them, and their Servants added to their own, they had plotted and conſpired his Deſtruction and Death.

And then (being thereunto required by the Lord Steward) he withdrew himſelf from the Bar.

Then the Lord Steward (after ſolemn Proclamation of Silence) addreſſed himſelf to the Lords, and ſaid; My Lords the Peers, your Lordſhips have heard the Proofs, the Priſoner's Defence, all his Doubts and Queſtions reſolv'd by the Lords the Judges; and therefore your Lordſhips (if you pleaſe) may withdraw your ſelves, if you are ſatisfied; becauſe the Priſoner is not to be called to the Bar again, until your Lordſhips are agreed upon the Verdict.

Then

Then the Peers withdrew themſelves; and after two Hours Debate, and ſeveral Advices and Conferences with the Lord Chief Juſtice, whom they ſent for, and conſulted with four ſeveral times; having in that time alſo ſent the Earl of *Warwick*, and Viſcount of *Dorcheſter*, together with the Lord Chief Juſtice, to conſult with the Lord Steward, at the laſt they return'd to their Places: and then the Lord Steward ask'd them one by one, beginning at the loweſt, and ſo aſcending;

1. Whether the ſaid Earl of *Caſtlehaven* was Guilty of the *Rape* whereof he ſtood indicted, or not? And they all gave him Guilty.

2. Whether the ſaid Earl of *Caſtlehaven* was Guilty of the *Sodomy* with which he was charged, or not? And fifteen of the Lords condemned him, and the other eleven freed him.

When the Verdict was thus given, the Lieutenant of the Tower was again commanded to bring the Priſoner to the Bar, to hear his Sentence; and after he was brought in, the Lord Steward ſaid unto him:

Foraſmuch as thou *Mervin* Lord *Audley*, Earl of *Caſtlehaven*, haſt been indicted for divers Felonies, by three ſeveral Indictments; one for a *Rape*, the other two for *Sodomy*; and haſt pleaded Not Guilty to them all, and for thy Tryal thou haſt put thy ſelf upon God and thy Peers; which Tryal thou haſt had, and they found thee guilty of them all: What canſt thou ſay for thy ſelf, why the Sentence of Death ſhould not be pronounced againſt thee?

Whereupon he anſwered, He could ſay no more, but referred himſelf to God and the King's Mercy.

Then the Lord Steward ſaid, My Heart grieveth for that which my Tongue muſt utter; but Juſtice is the way to cut off Wickedneſs, and therefore hear thy Sencence.

Thou muſt go from hence to the Priſon from whence thou cameſt, and from thence to the place of Execution, there to be hang'd by the Neck till thou be dead, and the Lord have Mercy on thy Soul.

The Lord Steward's Exhortation.

Oh think upon your Offences! which are ſo heinous and ſo horrible, that a Chriſtian Man ought ſcarce to name them, and ſuch as the deprav'd Nature of Man (which of itſelf carries a Man to all Sin) abhorreth! And you have not only offended againſt Nature, but the Rage of a Man's Jealouſy! And altho you die not for that, that you have abuſed your own Daughter! And having both Honour and Fortune to leave behind you, you would have had the impious and ſpurious Offſpring of a Harlot to inherit! Both theſe are horrid Crimes. But my Lord, it grieves me to ſee you ſtand out againſt the Truth ſo apparent; and therefore I will conclude with this Admonition, That God might have taken you away when you were blinded in your Sins, and therefore hope he hath reſerved you as a Subject of his Mercy: and as he ſends you to ſee this Day of Shame, that you may return unto him, ſo thereby in a manner he lovingly draws you to him: therefore ſpend the remainder of your Time in Tears and Repentance; and this Day's Work, I hope, will be a Correction from many Crimes and Corruptions.

Whereupon, at laſt, the Earl deſcended to a low Petition to the Lords, and very humbly beſought them to intercede with his Majeſty, that he might not ſuddenly cut him off, but give him Time of Repentance. And then he deſired their Lordſhips Pardons, in that he had been ſo great a Stain to Honour and Nobility.

Then a Proclamation being made by a Serjeant, declaring, That the Lord High Steward's Pleaſure was, that all ſuch as had attended this Day's Service might depart; the Lieutenant of the Tower carried the Earl away, and ſo the Court broke up.

The Tryal, Conviction and Condemnation, of L. Fitz-Patrick *and* T. Brodway, *two Servants of the before-mention'd Earl of* Caſtlehaven.

ON Monday the 27th of *June*, 1631, the Marſhal of the *King's-Bench* brought *Fitz-Patrick* and *Brodway* to the Bar, where was a Jury of ſufficient and able *Wiltſhire* Men, impannel'd to go upon and try them.

The Counteſs of *Caſtlehaven* herſelf was in Court, to give Evidence againſt *Brodway*; and ſhe came in upon the Inſtant, when the Lord Chief Juſtice demanded of her, Whether the Evidence ſhe had formerly given at her Lord's Arraignment was true, and the full Matter of Charge ſhe had then to deliver againſt the Priſoner?

Whereunto ſhe anſwered, It was.

My Lord ſaid; Madam, you have ſworn that *Brodway*, Priſoner at the Bar, hath lain with you by Force, which may be, and yet no Act committed: Did he enter your Body?

She ſaid, That in her former Oath taken, when ſhe teſtified he lay with her by Force, her Meaning was, that he had known her carnally, and that he did enter her Body.

Then was ſhe wiſhed to look on the Priſoner; unto which Motion and Commandment ſhe made a ſhort Reply, That altho ſhe could not look on him, but with a kind of Indignation, and with Shame, in regard of that which had been offered unto her, and ſhe ſuffered by him, yet ſhe had ſo much Charity in her, and ſuch Reſpect to God and his Truth, that ſhe had delivered nothing for Malice; and therefore hoped that her Oath and Evidence thereupon ſhould be credited: and ſo deſired to be believed and diſmiſs'd. Which being granted, ſhe departed with as much Privacy as might be into her Coach.

Fitz-

Fitz-Patrick being asked concerning his Guiltineſs or Innocency, demanded, who were his Accuſers? The Lord Chief Juſtice anſwered, You have accuſed your ſelf ſufficiently. *Fitz-Patrick* replied, That he thought neither the Laws of the Kingdom required, nor was he bound to be the Deſtruction of himſelf; what Evidence he had formerly given, was for the King againſt the Earl, and no further.

The Lord Chief Juſtice reply'd, it was true, the Law did not oblige any Man to be his own Accuſer; yet where his Teſtimony ſerv'd to take away any one's Life, and made himſelf guilty of the ſame Crime, therein it ſhould ſerve to cut him off alſo.

Then the Jury demanded of the Court Satisfaction concerning the Words of the Statute, which run, *To charge him alone to be, and accounted a Felon in Law, that committed a Buggery with Man or Beaſt.* (For which Fact the late Earl was only guilty, and had ſuffered.)

The Lord Chief Juſtice reply'd, That foraſmuch as every Acceſſary to a Felon is a Felon in Law; ſo he being a voluntary Proſtitute, when he was not only of Underſtanding and Years to know the Heinouſneſs of the Sin, but alſo of Strength to have withſtood his Lord, he therefore was ſo far forth guilty.

Whereupon the Jury found the Bill, and the Sentence of Death was paſs'd on them both; and they were deliver'd and committed to the Sheriff of *Middleſex*, who, after he had ſuffer'd them to have ſome Repaſt at Mr. *Hill*'s in the *Palace-Yard*, and Conference with their Friends, carried them to *Newgate*, where they behav'd themſelves civilly and religiouſly.

As ſoon as they were found Guilty, the Judges of the Court wrote this Letter to the Lord Keeper to prepare him for the King.

Right Honourable,

'MAY it pleaſe your Lordſhip to be inform'd, That this day *Giles Brodway* and 'Laurence *Fitz-Patrick* were tried before us in the 'King's-Bench, for the ſeveral Offences of *Rape* 'and *Buggery*, of which they were indicted, and 'they have received Judgment of Death: but 'we forbear awarding Execution, upon a Meſſage 'ſent from your Lordſhip by Sir *Thomas Fanſhaw*, 'of his Majeſty's Pleaſure for the Stay of Execution, until further Direction from his Majeſty: 'but conceiving there is great Cauſe to put the 'Malefactors to Execution, we thought it our 'Duty to acquaint your Lordſhip with the Paſſages of the Tryal, that his Majeſty by your Lordſhip's means being made acquainted therewith, 'may ſignify his further Pleaſure.

'*Brodway*, who was arraigned for the *Rape*, very impudently denied his own Confeſſion, taken 'before the Lords the Peers in the Tryal of my 'Lord *Audley*: He pretended he was amazed and 'knew not what he ſubſcribed, and profeſſed himſelf guiltleſs, with great Execrations. He would 'not be ſatisfied, unleſs the Lady was produced 'Face to Face, which ſhe was; who by her Oath, '*viva voce*, ſatisfied the Auditors, both concerning the Truth of the Fact and his own Impudence.

'*Fitz-Patrick*, who was arraigned for the *Buggery*, confeſſed his Examination to be true; but 'like one very ignorant, or rather ſenſeleſs, would 'have them true againſt the Lord *Audley*, and not 'againſt himſelf, which was impoſſible: He pretended he was promiſed Security from Danger, 'if he would teſtify againſt the Lord *Audley*; and 'ſo fought to raiſe a Suſpicion, as if he had been 'wrought upon, to be a Witneſs to bring the 'Lord *Audley* to his End. They were both found 'guilty, to the full Satisfaction of all that were 'preſent; and we for our parts thought it to ſtand 'with the Honour of common Juſtice, that ſeeing 'their Teſtimony had been taken to bring a Peer 'of the Realm to his Death, for an Offence as 'much theirs as his, that they ſhould as well ſuffer 'for it, as he did, leſt any Jealouſy ſhould ariſe 'about the Truth of the Fact, and the Juſtneſs of 'the Proceedings. But upon receipt of your Lordſhip's Meſſage, we have ſtop'd the Execution 'till his Majeſty's further Pleaſure be known; to 'which we ſhall humbly ſubmit our ſelves, and 'reſt

At your Lordſhip's Command,

N. Hide, W. Jones,
J. Whitlock, G. Croke.

The King by this means being truly informed how things ſtood, ſignified his Pleaſure, that they ſhould be executed, but to have a Week's time for Repentance.

The Tryal of WILLIAM PRYNN *Esq; in the Star-Chamber, in* Hilary-*Term*, 9 Car. I. 1633. *for Writing and Publishing a Book entitled*, Histriomastix, or a Scourge for Stage-Players, *&c. Together with the Tryals of* MICHAEL SPARKES *for Printing, and of* WILLIAM BUCKNER *for Licensing the said Book.*

THE 7th of *February* Mr. *William Prynn*, Utter Barrister of *Lincolns-Inn*, was brought to the Star-Chamber; together with *Michael Sparkes*, *William Buckner*, and four other Defendants, upon Mr. Attorney *Noy*'s Information; which being opened by Mr. *Hudson* of *Grays-Inn*, did set forth, That about 8 *Car. Reg.* Mr. *Prynn* compiled and put in Print a Libellous Volume, entitled by the Name of *Histriomastix*, against Plays, Masques, Dancings, *&c.* And altho he knew well, that his Majesty's Royal Queen, Lords of the Council, *&c.* were in their publick Festivals, and other times, present Spectators of some Masques and Dances, and many Recreations that were tolerable, and in themselves sinless, and so published to be, by a Book printed in the Time of his Majesty's Royal Father; yet Mr. *Prynn*, in his Book, hath railed, not only against Stage-Plays, Comedies, Dancings, and all other Exercises of the People, and against all such as behold them, but further and particular against Hunting, Publick Festivals, *Christmas*-keeping, Bonfires, and Maypoles; nay, against the dressing up of a House with Green-Ivy. And to manifest his evil and mischievous Design in publishing of this Libel, he hath therein written divers Incitements, to stir up the People to Discontent, as if there were just Cause to lay violent Hands on their Prince; and hath expressed in many Speeches against his Majesty, and his Houshold, infamous Terms unfit for so sacred a Person. He hath cast an Aspersion upon her Majesty the Queen, and railing and uncharitable Censures against all Christian People. He hath commended all those that are factious Persons, that have vented any thing in any Book against the State, as the factious Book of Dr. *Leighton*, *Jo. Mariana* a Jesuit, to draw the People from his Majesty's Government, which is of a most dangerous Consequence to the Realm and State. His Book is of above 1000 Pages: and he dealt with one *Michael Sparkes* for the Publishing, Licensing, and Printing thereof, who is a Person that is a common Publisher of unlawful and unlicensed Books; and dealt also with Mr. *Buckner*, another Defendant, for the allowing of it for the Press; and with the other four Defendants to print part of it, and publish the same: and by this means this Volume was allowed and published, to the great Scandal of the whole Realm. And to have this punished according to the Demerit of the Cause, is the end of Mr. Attorney's Information.

Mr. *Atkins* of *Lincolns-Inn* (afterwards a Judge in the Court of *Common-Pleas*) opened Mr. *Prynn*'s Answer, and pleaded; That he the said Mr. *Prynn* taking into his serious Consideration the frequent Resort of sundry sorts of People to common Stage-Plays about the City of *London*; and having read divers Councils, Laws and Statutes of this and other Realms, against the frequenting of common Stage-Plays, and the Judgment and Opinion of several Divines, and other antient Authors, and divers *English* Writers allowed by Publick Authority, and his own Judgment running with those; not intending to reflect, or to have relation to the King, Queen, State, or Government, or your Lordships, did about seven Years ago, compile this Book entitled *Histriomastix*; which is no more but a Collection of divers Arguments and Authorities against common Stage-Plays. That about four Years since, he did commit the same to *Michael Sparkes*, one of the Defendants, to be commended to such Persons as then had Authority to license Books for the Press. *Sparkes* did carry it to Mr. *King*, belonging to the late Archbishop of *Canterbury*; and before he had perus'd this Book, Mr. *Buckner* had Authority to allow of the Books to the Press; *Sparkes* brought this Book to Mr. *Buckner*, who kept it by him three Months, in which time he did fully peruse it. In the interim, he gave part of the Book to *Sparkes* to print, and kept the rest till he had perus'd it, and said, that he should have that also to the Press. In *October* following, he carried this Copy with the Licence, and caused them to be enter'd into *Stationers-Hall*, and did compound with those that had Authority for the printing of this Book. It was printed publickly, and not secretly; and because there were some of the Copies close written, he caused those to be brought again to peruse, to the intent that he might not be deceived in them; and as he saw cause, corrected them accordingly. That in *Easter*-Term was Twelve-month, the Epistle, and the whole first part of the Book was printed; and he had time to examine it between *Easter*-Term and *Trinity*, and then he did make such Alterations as he saw cause, *viz.* in Page 711, *&c.* And afterwards the Second Part, and two Sheets of the Index of the Book was likewise printed, and these were likewise brought to Mr. *Buckner*; so that the whole Book, with the Index, was bound up about *Christmas* following, which was *Christmas* was a Twelve-month. Mr. *Buckner* sent for Mr. *Prynn*,

and the Stationer was desirous that the Book might be published, and that he might send some Volumes to him: but Mr. *Buckner* said, he could wish the word (*Pity*) in such a Page might be left out; and I wish with Mr. *Buckner*, that *Pity* may be added to every Page of the Book. So when Mr. *Prynn* saw all this from him, that had Licence to allow printed Books, he conceived it a sufficient Warrant for his Proceedings. And for that which is alledged in the Information of Mr. *Prynn*'s commending Dr. *Leighton*, for which the Doctor receiv'd a Censure in this Court, in the Quotation whereof, *viz.* his Book, and of others, he adhereth to their Meaning so far as and wherein they are agreeable to the Law: and this Book was printed long before Dr. *Leighton* was question'd in this Court. And as for encouraging of others to be factious or seditious, he saith upon his Oath, That he was so far from Disloyalty, Schism, or Sedition, or Neglect of the King, State, or Government, that he hath with much Joy, Cheerfulness, and Thankfulness to God, ever acknowledged his, and the rest of the King's Subjects Happiness, by the Peace we have under his Majesty's happy Government; and this Answer and Intention is sincere, tho other Construction be made thereupon. He saith, he hath taken his Oath of *Supremacy* and *Allegiance* in the University and Inns of Court, where he hath taken his Degrees. That it never came into his Thoughts to approve of Schism or Sedition: and if any thing in his Book, contrary to his Meaning, hath a Mis-construction towards his Majesty's Government, State, or your Lordships, he doth prostitute himself at his Majesty's Royal Feet, and crave Pardon and Grace. And he doth appeal to your Lordships Interpretations of those Parts of his Book; and doth withal desire your Lordships Favour, and to take it into your Consideration, that he hath been a year Prisoner in the Tower: and this is the substance of his Answer.

Mr. *Jenkins* of *Grays-Inn* opened the Answer for four of the Defendants. First, for the poor Widow he saith, For any manner of Combination, or Knowledge of this Book, or of the Contents of it, *&c.* she knoweth nothing. For the rest, they all say, They being illiterate, were not able to judge whether it were fit to pass the Press, or not; that the Book was licensed to be printed, allowed after it was printed, and before it was published, and it was entred in the *Stationers-Hall*, and the Warden there allowed and subscribed it to be a Book passable. The Book hath been three Years in the Press. All this time was spent before it was printed: there were Searches made during this time, and they came unto the Press. They saw the Book there in a publick way, and not in Corners, or privately printed, as is alledged in the Information; and it was printed and published, and some of the Books sold by *Sparkes*: and *Sparkes* saith, the printing of this Book cost him almost 300 *l.* and saith upon his Oath, he sold not many Books.

And for the Charge upon him, of being a common Printer of unlawful Books, he saith, He hath prospered in his Calling; and some other Stationers having an eye upon him for his Thrift, have envied him in publishing of Books: and leaveth it to my Lords the Bishops, to know what Success he hath had in the High-Commission.

Mr. *Lightfoot* of *Grays-Inn* opened Mr. *Buckner*'s Answer. He saith, That he was Chaplain to the late Archbishop of *Canterbury*, and doth approve of the Church without any scruple, and of all the Ceremonies of *England*. Church-Musick he doth allow of; bowing at the Name of *Jesus*: Plays, Musick and Dancing, he doth esteem them just and lawful. And for those Censures against Ecclesiastical Persons in this Book, he doth, and ever did abhor and detest them. He confesseth he licensed part of the Book, but never gave order to disperse the Book; but when he heard it was published, he did endeavour to suppress it: and to the rest of the Information pleadeth Not Guilty.

Then Mr. *Noy*, Attorney-General, spake as followeth: This Volume of Mr. *Prynn*'s is written by himself, without the help of any Man. There are Passages in it that reflect upon the King, State and Government, *&c.* other things reflect upon the Church and Clergy; but for that there is no Charge in the Information, which I did conceive fitter to be left out, and withal I received a Command for the same: therefore finding the Church so deeply wounded by Mr. *Prynn*, I do leave her to avenge herself of him, and to inflict such Punishment on him as he deserves. I shall be an humble Suitor to the Court, that they would be pleased to commend the Prosecution of those things that concern the Church to the High-Commission. There are divers Particulars wherewith he is not charged within the Information by way of Crime, and so it is not proper now to bring him into question for them. As for mentioning of Ceremonies, *&c.* of Dedicating *Paul*'s to *Diana*; of the Discipline of the Church; the Complaint of new-erected Altars: I wonder what Altars he means, I hope the Church will examine in due time; as also who he means by his *modern Innovators* in the Church, and by Cringing and Ducking to Altars, a fit Term to bestow upon the Church; he learned it of the Canters, being used among them. The Musick in the Church, the charitable Term he giveth it is, not to be a Noise of Men, but rather a *Bleating of Brute Beasts*; *Choristers bellow the Tenor*, as it were *Oxen*; bark a *Counter-point*, as a *Kennel* of *Dogs*; roar out a *Treble*, like a sort of *Bulls*; grunt out a *Bass*, as it were a number of *Hogs*: His Complaint for suppressing Repetitions by way of Conventicles; also his general Censure of all the Bishops, and of all the Clergy; they scorn to feed the Poor; the *Silk and Sattin Divines*; very charitable Terms upon them of the Church! *Christmas*, as it is kept, is a *Devil's Christmas*; nay, he doth bestow a great number of Pages to make Men affect the name of *Puritan*, as though Christ were a *Puritan*, and so he saith in his Index. Then concerning the Images in the Church, he speaketh against them, and putteth that now in Print, which was contained in an Answer in this Court. Also for the *Sabbath-day*, whether to begin on *Saturday* Night, and end on *Sunday* at Six of the Clock. These are things proper to the Examination of the Church; and whatsoever becometh of the rest of the Cause in this Court, yet I commend these things to the Consideration of the Church. I wonder what the Man means to bring these things under the Title of *Stage-Players*; *Pluralities* under the Title of *Stage-Players*. He had an End in it, he had an End in it.

Now concerning the Book itself: This Book, said Mr. *Noy*, it is the Witness, it doth testify what was his Intention, and by the Book he is to be judged.

If

If it had been found in the Street, and of Mr. *Prynn*'s compiling, and brought to this Court, and Conſideration taken of it, the Court would proceed without a Party againſt Mr. *Prynn*. And here Mr. Attorney recited a Precedent of one that wrote a Book, and it was brought to the Council. It was demanded, who was the Accuſer? Anſwer was made, The Book was the Accuſer. Shall the Heretick go unpuniſhed? This Book it is Mr. *Prynn*'s doing, he doth put his Name to it, he ſwears that he did write it all.

Then for the Time of compiling it; ſeven or eight Years ago it was compiled, and is grown ſeven times bigger than at the firſt. Mr. *Prynn*, about eight Years ſince, ſhewed it to Dr. *Goade*, who told him ſo good Cauſes of Diſlike, that might make any reaſonable Man give it over. About ſeven Years ago he came to Dr. *Harris*, to deſire his Opinion of the Book; and he told him, it was unfit and unworthy to come to the Preſs. In the Parliament-time, before the Year 1630. he gave ſome part of it to be printed; but it came not to Mr. *Buckner* till long after. *Sparkes* ſaid, he would print any thing in Parliament-time.

Now we are to conſider two Things, from the firſt compiling and printing of this Book, to the laſt: Firſt, how it grew in Volume; for after it was delivered to the Preſs, it hath grown up with divers things, which then were impoſſible to be known at that time, when it was delivered to the Preſs; which appeareth by this. In 1628 was the Parliament, and in 1631 St. *George* began to look abroad into the World. This Man beſtows eight whole Pages upon St. *George*, for being ſo bold to look out. He ſaith, That St. *George* the *Arian* was a *Cappadocian*, tho born in *Cilicia*, a Part or Province of *Cappadocia*, &c. and that St. *George*'s Advocate was an *Engliſhman*, born in *Glouceſter*; and that St. *Baſil the Great* was Biſhop of *Cæſarea* in *Cappadocia*, the native Country of St. *George* the *Arian*. Certainly he could not tell that St. *George* would then remove himſelf abroad, or in the County of *Glouceſter*, &c. at that time: but this Man did go on according to the Occaſion in 1628. A Woman, in 1628, acted a part of a Stage-Play, at *Blackfryers*; he ſpends many Pages about this.

We all know what Time the Dearth was, three Years ago; he taketh occaſion not to paſs it over. He maketh a long Diſcourſe of Plays, Maſques, *&c.* in the late penurious Times, how they were as expenceful as the Wars were. This is to ſhew how by pieces it did grow bigger from time to time.

All Stage-Players he terms them Rogues: in this he doth falſify the very Act of Parliament, for unleſs they go abroad, they are not Rogues. The ſame Term he giveth unto Scholars acting. Mr. *Prynn* had a Purpoſe, not only in this to fall upon Stage-Plays, but upon the Body of the Commonwealth, and to infuſe it into Mens Minds, that we are now running into Paganiſm and Gentiliſm. He falleth upon thoſe things that have not relation to Stage-Plays, Muſick, Muſick in the Church, Dancing, New-years Gifts, whether Witchery, or not. Witchery, Church-Ceremonies, *&c.* indiſtinctly he falleth upon them; then upon Altars, Images, Hair of Men and Women, Biſhops and Bonfires. Cards and Tables do offend him, and Perukes do fall within the compaſs of his Theme. St. *George* never offended him; but all this is to the end to bring a Belief among the People, that we are returning back again to Paganiſm. His End is therefore to perſuade Men to go and ſerve God in another Country, as many are gone already, and ſet up new Laws and Fancies among themſelves. Conſider what may come of it.

It may be fit enough and lawful to write againſt Plays, by Men that have a Miſſion; and they muſt do their Errand in mannerly Terms, and in the ſame Terms as other Men expect to bear with them.

Mr. *Prynn* had no Miſſion to meddle with theſe things, to ſee whether Men ſhould not return to Gentiliſm; the Terms which he uſeth are ſuch as he finds among the Oyſter-Women at *Billingſgate*, or at the common Conduit. He hath raked up all the vile Terms that could be found.

Now to prove that this is Mr. *Prynn*'s Book, read Mr. *Prynn*'s Examination, Inter. *5th*: (which being read, was to this effect,) That Mr. *Prynn*, without the help of any other, did write, pen and compile the whole Book, called *Hiſtrio-maſtix*, and the Epiſtle before the Book, and the Index and Table following.

Now for the publiſhing of this Book, it doth appear by the Depoſition of Dr. *Goade*, that about eight Years ſince, Mr. *Prynn* did bring a Book to him in Writing, of about a Quire of Paper, concerning Stage-Plays, to have the ſame licenſed, but he held it unfit to be allowed; and doth well remember, that as to his Argument of the Unlawfulneſs for a Man to put on Woman's Apparel, he put Mr. *Prynn* this Queſtion; Suppoſe, Mr. *Prynn*, your ſelf, as a Chriſtian, were perſecuted by Pagans, think you not, if you did diſguiſe your ſelf in your Maid's Apparel, you did well? Who anſwered, That he thought himſelf rather bound to yield to death than to do ſo.

Dr. *Harris* alſo depoſed, That about ſeven Years ago, Mr. *Prynn* came to him to licenſe a Treatiſe concerning Stage-Plays, but he would not allow of the ſame. So this Man did deliver this Book when it was young and tender, and would have had it then printed; but it is ſince grown ſeven times bigger, and ſeven times worſe.

Noy. We ſhall now prove when it went to the Preſs. Read *Auſtin* the Stationer to Interrogatory the 28th, which being read, was to this effect; That the ſaid Book called *Hiſtrio-maſtix*, was given to this Deponent, in or about the laſt Parliament, at which time ſeven Sheets thereof were printed, at this Deponent's Houſe; which this Deponent ſo printed, at the requeſt of Mr. *Prynn* and Mr. *Sparkes*, upon Mr. *Prynn*'s Information, that it was licenſed, and that he would bring the hand of the Licenſer unto it: But this Deponent did refuſe to print any more of the ſame.

Read *Joſeph H.* to prove, that *Sparkes* would ſet upon it unlicenſed in Parliament-time, to Inter. 26. who ſaith, That the Defendant *Sparkes* did, in the time of the laſt Parliament, print, or cauſe to be printed, divers Books without Licence; whereof ſome were Mr. *Prynn*'s, ſome were Mr. *Burton*'s Works: and this Deponent hath heard *Sparkes* ſay, he durſt print any thing in Parliament-time.

Another part of the Charge was managed by Mr. *Maſon* of *Lincolns-Inn*, reckoning up the number of *Epithets* wherewith Mr. *Prynn* had aſperſed all ſorts of People; and he ſaid, that it was a Libel, not only againſt the State, but againſt every particular Perſon; and proved the Charge by divers Paſſages contained in the Book, *Fol.* 201, *&c.*

Afterward Mr. *Noy* proceeded in the farther making good of his Charge againſt Mr. *Prynn*.

May it pleaſe your Lordſhips,

As he hath fallen foul upon all Things, all Perſons, all Sexes; upon the Magiſtrates, upon the Houſhold of the King; ſo he hath not ſpared the King himſelf. I am ſorry I ſhall have occaſion to ſpeak any thing of it; but there is a great deal too much in his Book. My Lords, After he hath made all theſe Complaints as intolerable, he falleth upon all indiſtinctly, and never taketh upon him to diſcern, to make a Diſtinction, that there may be a Toleration, but falleth foul upon every thing, that we are falling into Paganiſm; Men and Women are naught: he ſpareth not the King himſelf, but takes upon him to teach a Remedy; the Remedy is worſe than the Diſeaſe. What hateful Compariſons he bringeth with other Princes? as *Nero*: and ſpeaketh of the conſuming of the Treaſure of the Realm with Maſques, and of the late penurious Times; a baſe Word! a Declaration of Infamy upon Princes, with ſuch-like Concluſions as theſe are. When all this is done, he teacheth the Remedy not by way of Precept, but by way of Example; invites Men to read *John Mariana*, and two grave Authors more, he ſaith Men not cenſured. I am very ſorry I am to ſpeak any thing wherein the King ſhould be named, but he would not forbear it when the Pen was in his Hand; ſome of the Words are ſo naſty that I will not ſpeak them.

After Mr. Attorney-General had ſpoken, he called for theſe Paſſages, amongſt others, in *Hiſtrio-maſtix*, to be read, *viz.*

To his Much-honoured Friends, the Right Worſhipful Maſters of the Bench of the Honourable Flouriſhing Law-Society of Lincolns-Inn.

'HAVING, upon my firſt arrival here in *London*, heard and ſeen in four ſeveral Plays (to which the preſſing Importunity of ſome ill Acquaintance drew me, while I was yet a Novice) ſuch Wickedneſs, ſuch Lewdneſs as then made my penitent Heart to loath, my Conſcience to abhor all Stage-Players ever ſince; and having then likewiſe obſerved ſome woful Experiments of the lewd, miſchievous Fruits of Plays, of Play-houſes, in ſome young Gentlemen of my Acquaintance; who tho civil and chaſte at firſt, became ſo vicious, prodigal, incontinent, debauched (yea ſo far paſt all hopes of Amendment) in half a year's ſpace or leſs, by their reſort to Plays, where Whores and lewd Companions had inveagled them; that after many Eſſays of their much deſired Reformation, two of them were caſt off and utterly diſinherited by their loving Parents; whom I heard oft complaining, even with Tears, that Plays and Play-houſes had undone their Children, to their no ſmall Vexation, (a good Caveat for all young Students to keep themſelves from Play-houſes, by theſe two Youngſters Harms) Hereupon I reſolved, out of a deſire of the publick Good, to oppugn theſe common Vice-fomenting Evils: for which purpoſe about ſeven years ſince, recollecting thoſe Play-condemning Paſſages, which I had met with in the Fathers and other Authors, I digeſted them into one entire written Diſcourſe; which having ſince that time enlarged beyond its intended Bulk, becauſe I ſaw the number of Players, Play-Books, Play-Haunters, and Play-houſes ſtill increaſing; there being above Forty thouſand Play-Books printed within theſe two years (as Stationers inform me) they being now more vendible than the choiceſt Sermons; two old Play-houſes being alſo lately re-edified, enlarged, and one new Theatre erected: the multitude of our *London* Play-Haunters being ſo augmented now, that all the antient Devils Chappels (for ſo the Fathers ſtile all Play-houſes) being five in number, are not ſufficient to contain their Troops; whence we ſee a ſixth now added to them: whereas even in vicious *Nero*'s Reign, there were but three ſtanding Theatres in Pagan *Rome*, tho far more ſpacious than our Chriſtian *London*, and thoſe three too many. Hereupon I firſt commended it, being thus augmented, to the Licenſer, and from him unto the Preſs, where it hath lingred longer than I did expect; which being now at laſt brought forth into the World, in ſuch a Play-adoring Age, that is like to bid defiance to it; I here bequeath it to your worthy Patronage, to whom it was firſt devoted, not caring how it fares abroad, ſo it may do good and pleaſe at home.

In the next place Mr. Attorney *Noy* cauſed to be read out of the Book of *Hſtrio-maſtix*, ſuch Paſſages, as were ſcandalous to the King and Government, as *Fol.* 312, *&c.*

Mr. *Atkins*, in defence of Mr. *Prynn*, ſaid, That the Eloquence of thoſe Gentlemen who argued againſt Mr. *Prynn*, made an Expoſition which was no part of his Intention, in which point he would endeavour to clear him; and the way was by letting their Lordſhips know, that many Paſſages in that Book are only relatively ſpoken, and not poſitive, and moſt of them are but the Affirmations of other Authors of ſeveral Kinds and Profeſſions: as where it is ſaid, that *ſuch incarnate Devils as frequent Plays*, &c. he ſpeaketh by the way of common frequenting of Plays, leſt they prove incarnate Devils; and ſo of Ladies that caſt off their Nature and Modeſty, that is relatively ſpoken by frequenting Plays, laſcivious Dancing, *&c.* and when he ſpeaketh of thoſe in a continual Propoſition, his Argument is thus;

'That which doth ordinarily (if not always) defile the Eyes, the Ears, and Souls both of the Actors and Spectators, by ingendring, by exciting meretricious, luſtful, lewd, adulterous Deſires and Affections in their Hearts, or by inſtigating, by preparing, by inducting them to actual Uncleanneſs, muſt needs be abominable and unlawful unto Chriſtians; but theſe Stage-Plays, *&c.* therefore they muſt needs be abominable.' And there is none but Whores, Panders, or foul incarnate Devils, who dare controul that minor Truth.

My Lords, He doth not condemn New-years-Gifts, but acknowledges them to be as Tokens and Teſtimonies of Favour and Reſpect from Superiors to their Inferiors; and for Dancing (under favour) he doth not condemn it at all; he hath commended the ſame as ſingle, and dancing the Meaſures. And for dancing in great Men and Princes, he doth proteſt it was far from his thought to compare theſe Times to *Nero*'s, under ſo pious and religious a Prince as we have, and by whom we receive ſo much Happineſs. That had been ſo impious and unworthy, that he could by

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no means make any Apology; but as well his Perſon as his Pen ſhould have been deteſtable, if he had made any ſuch Compariſon.

And where he doth ſpeak, that Dancing and Maſquing have been near as expenceful as the Wars, in that he means in *Henry* the VIIIth's Time, and not in theſe Days; as I take it, he ſpeaks there of a Hiſtory, that doth expreſs the great Charge in that time.

I ſhall deſire, as I did begin in the opening of his Anſwer, that he may lay faſt hold upon the Rock of the King's Favour and Mercy, and Compaſſion of this Court; and what his Intentions are, they are beſt known to his own Heart, his Expreſſions known to your Lordſhips. I cannot condemn his Heart, I will not excuſe his Pen.

This, if your Lordſhips will give me leave, I ſhall ſay; I have long known him in a Society of Inns of Court, where he has lived; and for his ordinary Diſcourſes (except the matters in this Book) they have not been factious or ſeditious. But now he is before your Lordſhips, truly for my part, I compare him to the Condition of an Aſtronomer, that fixed his Eyes ſo much upon the Stars, that he did not look to his Feet, and ſo fell into a Ditch: for his Eyes were ſo fixed upon this Subject, upon the common Reſort to Stage-Plays, and the great Abuſe that comes by them, that he forgot to look down to his Hand that guided his Pen, which now bringeth him under your Lordſhips Cenſure.

That I may not offend the Patience of this Court, (the Court is full, and the Expectation is great) I will conclude with all Humility, and wiſh and crave, that he who is the ſupreme Judge, may be with your Lordſhips in this Matter, and may be over all your good Thoughts, Judgments and Sentences this Day, in this Cauſe of this poor Gentleman. And this is all I humbly offer in Defence.

The next Day of Hearing, Mr. *Holbourn*, of Counſel with Mr. *Prynn*, ſpake thus:

My Lords,

I am aſſigned Counſellor with Mr. *Prynn*. The Information is for publiſhing in Print a Libel or Volume of Libels againſt King, Queen, State, *&c.* My Lords, for Mr. *Prynn*, he doth humbly caſt himſelf at your Lordſhips Feet. For the Book, I muſt ſay, he doth humbly ſubmit himſelf to your Lordſhips; yet, my Lords, his Heart will not give him leave to ſay, that he is guilty of thoſe groſs Offences, that are laid to his Charge. He confeſſeth himſelf to be juſtly brought before your Lordſhips for his ill Expreſſions, which may prove an occaſion of Scandal by Miſconſtruction, and ſo ſome dangerous Principle may be infuſed into the Subjects: And he beggeth your Lordſhips to conſider of them, according to the Intentions of his Heart, which were fair and honeſt, tho harſh in Expreſſion, that he may receive a favourable Conſtruction, for that he citeth his Authors, and their Words, and not his own. And for that he meddleth with matters not proper to Stage-Plays, as in mentioning the Sabbath, his Meaning was, Stage-Plays upon the Sabbath-day: his mentioning Habits and Recreations, was in relation to Men putting on Womens Habits, and unlawful Recreation at Plays, and ſo he conceives them not altogether impertinent.

For the Manner of his Writing, he is heartily ſorry, that his Stile is ſo bitter, and his Imputations ſo unlimited and general; yet in this he was led thereunto by Authors in the like caſe, which he offers for his Excuſe: he hopes his Paſſion againſt theſe Abuſes by Plays may a little plead his Excuſe.

Now for the Manner and Matter alledged againſt him out of his own Book, in that he hopes your Lordſhips Favour: He ſaith, that thoſe that are Judges of the Book for Licenſing, they are guilty of the Matter, and he hopeth that this Book doth differ from all the Books brought into this Court; for here are none brought but ſuch as are unlicenſed, and this is licenſed: and he ſubmitteth thus to that Point.

My Lords, as to the general End and Intention of his Book, he ſweareth, that the general Reſort unto Plays was the firſt occaſion, and his End was for the Reformation of the Abuſe of it, and no otherwiſe; and then, my Lords, he hopeth he ſhall not incur your Lordſhips ſevere Cenſure. He did not ſend the Book beyond the Seas to be printed, but printed it here, and it was three years in the Preſs, and licenſed and publiſhed.

And, my Lords, the Declaration to the Information of this Court, ſpeaketh ſomething to his Intentions, *viz.* to whom he dedicated this Book, and he diſperſed it himſelf to Men of known Integrity; and certainly if his Heart had been guilty of thoſe foul Crimes, he would not have preſented one of theſe Books to Mr. Attorney *Noy* himſelf. He did not abſent himſelf as one guilty of ſuch Offences would have done; he was ſo far from having Diſloyalty, that he doth commend the King and State, and that could not be with an intention againſt King and State. And all the Charges that lie upon him for his foul Intentions, are but Inferences upon his Book, and Conſequences, and ſuch of them only that be ſtrained, and not of neceſſity.

The next thing charged upon him is Perjury, for that he ſaid, he ſhewed no part of this Book to any before it was ſhewn to *Sparkes*; yet it was proved by Dr. *Harris* and Dr. *Goade*, that they ſaw it many years ago. As to this he ſaith, they ſpeak only of his Book concerning Plays, containing a Quire of Paper; and that it is true, he did ſhew them ſuch a Book: but that Book was not this Book, tho they be of one Subject and Matter, yet they differ much in Form and Frame.

Then Mr. *Hern* ſpake on his behalf as follows:

My Lords,

We that are aſſign'd Counſel for Mr. *Prynn*, do come with great Diſadvantage, both in Number and Judgments, conſidering the great Ability of the King's Counſel, who have ſpoken againſt us. If the Conſtruction they have made be theirs, then clearly we are (as they would have us) to fall deep by your Lordſhips Sentence.

The Weight of this Cauſe, and the Aggravations upon it by the King's Counſel, made me the laſt day (without deſire of my Client) to crave farther Time, for we durſt not then give any Anſwer. All that I can now ſay, is, That your Lordſhips would look upon the Intentions of his Heart, in that he hath explained himſelf as fair as any Man can do by his Oath: How is it poſſible to make other Proof of the clear Intentions of his Heart, than by his Oath? His Oath is admitted as Proof againſt him, in the Acknowledgment of his Book; and ſhall it not be admitted to him, to clear the Integrity of his Heart? We beſeech your Lordſhips to look upon him, as not writing theſe things

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out of Perverſeneſs of Spirit, but out of the abundance of his Heart tranſported with Zeal againſt the growing Evils, which have befallen many of this Nation, and ſome of his own Acquaintance, by their frequenting of Stage-Plays. We that know him muſt ſay, as far as our Knowledge will give us leave, that in all Paſſages that have fallen from him, to us he hath expreſſed himſelf full of Devotion and Duty to his Majeſty and the Queen; and ſhall humbly take leave to offer ſome Paſſages out of his Book, which do bear evidence, that he doth ſpeak well of both their Majeſties, and of the State; and that by Inferences and Diſtinctions there made: and what is it but Inferences made out of other Paſſages of his Book, which doth reflect upon him? Which Paſſages were opened by the Counſel, but not read.

Three Star-Chamber Days having been ſpent in the hearing of this Cauſe, the Lords ſat the fourth day to proceed to Sentence, which held till four of the Clock in the Afternoon; and they paſſed ſuch Sentence on Mr. *Prynn*, as is expreſſed in the enſuing Speeches, which in effect comprehend all that was ſaid by others.

The firſt was of *Francis* Lord *Cottington*, Chancellor of the *Exchequer*, whoſe turn was to begin firſt to ſpeak, as being in the loweſt degree of Quality by his Place; and commonly he that beginneth, as he openeth the matter at large, ſo he inclineth thereby many Lords to forbear making of Speeches, and only to declare themſelves to concur in Sentence with him that began firſt, or with ſome other Lord that ſpake before, as their Judgments lead them.

My Lords (ſaid my Lord *Cottington*) His Majeſty's Attorney-General hath brought Mr. *Prynn* before your Lordſhips, with other Defendants, *Thomas Buckner*, *Michael Sparkes*, &c. It is for publiſhing a Libellous Book, or Volume of Libels, to the Scandal of his Majeſty and the State. To my underſtanding it may be more properly ſaid, the great and high Malice of Mr. *Prynn* publiſhed and declared in that Libellous Book; a Malice expreſſed in a manner againſt all Mankind, and the beſt ſort of Mankind, againſt King, Prince, Peers, Prelates, Magiſtrates and Governors, and truly in a manner againſt all things. But that which hath been more remarkable, is, his Spleen againſt the Church and Government of it; therefore for that I will not ſentence him, (becauſe Mr. Attorney doth forbear to proſecute againſt him, for that which belongeth to the Church) yet it is an argument of his great and high Malice: and when I conſider of that, which hath been ſo often repeated, that he writ this Book alone, ſurely he was aſſiſted immediately by the Devil himſelf, or rather he hath aſſiſted the Devil. He hath written a Book againſt the due Reverence and Honour, which all Chriſtians owe to our Saviour Jeſus, this doth convince my Judgment againſt him; but the Book (as Mr. Attorney ſaith) declares the Man, it is the Witneſs: And if your Lordſhips obſerve the Particulars and Stile of it, you will ſay it is a ſtrange thing; the very Stile doth declare the Intent of the Man, and that is (as Mr. Attorney ſaid) to work a Diſcontent and Diſlike in the King's People againſt the Church and Government, and Diſobedience to our gracious Sovereign the King. If Mr. *Prynn* ſhould be demanded what he would have, he liketh nothing, no State or Sex; Muſick, Dancing, *&c.* unlawful even in Kings; no kind of Recreation, no kind of Entertainment, no, not ſo much as Hawking, all are damned. The very truth, Mr. *Prynn* would have a new Government, he would have a new Church, he would have new Laws, new Entertainment, Gods knows what he would have; a new King he would have, and have all the People of his mind, to be diſcontented with their King and Government.

Mr. *Prynn* confeſſeth he did write the Book, and it's true he did endeavour the printing of it, and the publiſhing of it, this is proved very well; yea, but Mr. *Prynn* had no other Intention but a Tenderneſs of Conſcience, he meant no hurt to the King or State, (as his Counſel ſaid:) but Mr. Attorney anſwered them, that he is not the Declarer of his Intentions, he muſt be judged by the Book, by his Words, more certainly by the effect; for all good Men do receive Scandal by this Book, and all of Mr. *Prynn*'s humour were glad of this Book. When I conſider what kind of Libel it is, it is not like other Libels: other Libels have been by Perſons diſcontented, ſome poor Rogues, ſcattered up and down; but here's a Libel in *Folio*, and in Print, and juſtifieth itſelf by Authors with an high hand, *That is there*, and *that is there.* And (my Lords) when I conſider thoſe high Paſſages in his Book, I proteſt unto you, they are things to be abhorred; they are not ſpoken relatively (as his Counſel would have it) but poſitively, That *our* Engliſh *Ladies, ſhorn and frizled Madams, have loſt their Modeſty; that the Devil is only honoured in Dancing; that Plays are the chief Delight of the Devil; that they that frequent Plays are damned, and ſo are all that do not concur with him in his Opinion, Whores, Panders, foul incarnate Devils*, Judas's *to their Lord and Maſter*, &c. *Princes dancing in their own Perſons*, his Cenſure of them is infamous, &c. But the fouleſt of all is, *That this was the cauſe of untimely Ends in Princes.*

My Lords, Shall not all that hear theſe things think, that it is the Mercy of the King that Mr. *Prynn* is not deſtroyed? Have we not ſeen Men lately condemned to be hang'd and quarter'd for far leſs Matters? One *Pinchman*, I was my ſelf employed with others in the examining of him; he confeſſed, that the Writing for which he was queſtioned, was a Sermon, that he did intend to preach: the Words were againſt the Perſon of the King, yet he never preached it; yet becauſe he had written it with an intention to preach it, he was brought upon this Point and condemned to die. But this Book is in Print; it is againſt all Magiſtrates, and particularly againſt the King our Sovereign, and his bleſſed Conſort. And yet, my Lords, it pleaſeth his Majeſty to let Mr. *Prynn* have his Tryal here. I will not trouble your Lordſhips with any more parts of the Book: Mr. Attorney noted unto your Lordſhips, that you ſhould ſee how neceſſary it was, that Mr. *Prynn* ſhould be clean cut off, as one that hath a long time endeavoured to move the People to Diſobedience againſt the King, *&c.* So I ſay with Mr. Attorney, it is high time that Mr. *Prynn* may be cut off, ſo far as may go with the Cenſure of this Court. My Lords, Mr. *Prynn* is better dealt withal, than he would have Princes dealt with; he hath had very fair Tryals.

For his Defence, I took notice of it likewiſe: I do remember that all thoſe Gentlemen, that were employed and aſſigned as Counſel for his Defence, every one of them began to crave Mercy of the Court; yet they came with a Defence and Juſtification, ſo far as their Cauſe would bear.

Mr.

Mr. *Holbourn* ſaid, That for *Players they were Rogues by the Statute:* yet Mr. Attorney ſaid, *They are not Rogues by the Statute, unleſs they wander*, &c. My Lords, he ſaid, his Intention was againſt publick and common Plays, yet ſeek all his Book thorow, and you ſhall find it is againſt Plays in Princes Palaces. His Intention now muſt be underſtood by his Book, and by his Words; and that which he doth apply of any Author, is his own. And I think his Defence did aggravate his Offence. As to his Defence againſt the Ladies, he ſaith, he ſpeaketh it relatively and not poſitively, yet he ſaith, *Our* Engliſh *Ladies are ſo and ſo whoriſh*, &c. And for that part of his Book, wherein he condemns Murder, Mr. *Prynn* will have Murder unlawful; but Execution of Princes is not Murder, and therefore that is a lawful Act. Mr. Attorney ſaid well, the End of this Man and *John* * *Mariana*, &c. they are all one, they all cry Malice againſt Princes.

* A Jeſuit.

I ſhall humbly crave Pardon, and diſcharge my Conſcience, and ſhall let your Lordſhips ſee, how I underſtand the Senſe, and that ſo I am to judge, and I conceive it to be as your Lordſhips ſee, that the Malice in this Book is againſt King and State: and, my Lords, with this I ſentence Mr. *Prynn*.

I do in the firſt place begin Cenſure with his Book; I condemn it to be burnt, in the moſt publick manner that can be. The manner in other Countries is, (where ſuch Books are) to be burnt by the Hangman, tho not uſed in *England*, (yet I wiſh it may, in reſpect of the Strangeneſs and Heinouſneſs of the Matter contained in it) to have a ſtrange manner of burning; therefore I ſhall deſire it may be ſo burnt by the Hand of the Hangman.

If it may agree with the Court, I do adjudge Mr. *Prynn* to be put from the Bar, and to be for ever uncapable of his Profeſſion. I do adjudge him, my Lords, That the Society of *Lincolns-Inn* do put him out of the Society; and becauſe he had his Offspring from *Oxford* (now, with a low Voice, ſaid the Biſhop of *Canterbury*, *I am ſorry that ever* Oxford *bred ſuch an evil Member*) there to be degraded. And I do condemn Mr. *Prynn* to ſtand in the Pillory in two Places, in *Weſtminſter* and *Cheapſide*; and that he ſhall loſe both his Ears, one in each Place, and with a Paper on his Head, declaring how foul an Offence it is, *viz. That it is for an infamous Libel againſt both their Majeſties, State, and Government.* And laſtly, (nay not laſtly) I do condemn him in 5000 *l.* Fine to the King. And laſtly, perpetual Impriſonment.

There are other Defendants, *Thomas Buckner*, whom I conceive to be the Chaplain charg'd with the Licenſing of the Book. I obſerve, that Mr. Attorney hath little or nothing proſecuted againſt him. It is ſaid, he did combine with the Writer and Stationer for this infamous Libel. It doth appear that he did licenſe it, or at leaſt 64 Pages thereof; I think it be alſo true, that Mr. *Buckner* did ſee the Book after it was printed. It is ſaid, for his Excuſe, That Mr. *Buckner* was cozen'd and ſurpriz'd by Mr. *Prynn* and *Sparkes*, but it's plain he licenſed it, or at leaſt 64 Pages: therefore I ſhall judge according to the Proof, as it is the uſual Cuſtom of this Court. I muſt judge Mr. *Buckner* to be worthy of a very ſharp Sentence, for certainly there is a very great Inconvenience fallen upon the State, for want of due Examination: To what purpoſe is there an Examination of Books, if there ſhall be a connivance and winking at the Party that doth it? I ſhall think Mr. *Buckner* not only worthy of a ſevere Reprehenſion, but I ſhall cenſure him firſt to have Impriſonment according to the courſe of the Court, and 50 *l.* Fine to the King.

Now, my Lords, the next is *Michael Sparkes*, and he is the third, and he is the Printer of the Book, and Binder, and Publiſher thereof. In his Defence he hath ſhewed your Lordſhips a piece of the Book licenſed by Mr. *Buckner*, and ſaith, it was all licenſed, but that he proves not; but that it was entred in the *Stationers-Hall*, that he proves. But I do find, that he perſuaded Men to buy this Book after it was prohibited; and before it was prohibited he perſuaded Men to buy it, ſaying, *It was an excellent Book, and it would be called in*, and then ſell well. I do fine *Sparkes* 500 *l.* to the King, and to ſtand in the Pillory, without touching of his Ears, with a Paper on his Head to declare his Offence, and it is moſt neceſſary in theſe Times; and for the Pillory to be in *Paul's* Churchyard. (It is a conſecrated Place, ſaith the Archbiſhop of *Canterbury.*) I cry your Grace's Mercy (ſaid my Lord *Cottington*) then let it be in *Cheapſide*. For the other three, I find that Mr. Attorney doth not proſecute them, therefore, my Lords, I do not cenſure them.

The next in courſe that ſpoke after the Lord *Cottington*, was the Lord Chief Juſtice *Richardſon*.

My Lords,

Since I have had the Honour to attend this Court, writing and printing of Books have been exceedingly found fault withal, and have received a ſharp Cenſure, and it doth grow every day worſe and worſe; every Man taketh upon him to underſtand what he conceiveth, and thinks he is no body except he be in Print. We are troubled here with a Book, a Monſter, (*Monſtrum Horrendum, Informe, Ingens!*) It hath been a Queſtion who is the Author of this Book: Surely I am ſatisfied in my Conſcience he is the Author of it; but truly, give me leave, I do not think Mr. *Prynn* is the only Actor in this Book, but that there were many Heads and Hands therein beſides himſelf. I would to God in Heaven, the Devil, and all elſe that had their Heads and Hands therein beſides Mr. *Prynn*, were, *&c.* for I think they are all Ill-willers to the State, and deſerve ſevere Puniſhment as well as Mr. *Prynn* doth. This Book is the Subject of this Day's Work, and it is annexed, by Mr. Attorney, to the very Information it ſelf.

For the Book, I do hold it a moſt ſcandalous infamous Libel to the King's Majeſty, a moſt pious and religious King; to the Queen's Majeſty, a moſt excellent and gracious Queen; ſuch a one as this Kingdom never enjoy'd the like, and I think the Earth never had a better. It is ſcandalous to all the honourable Lords, and the Kingdom itſelf, and to all ſorts of People. I ſay, Eye never ſaw, nor Ear ever heard of ſuch a ſcandalous and ſeditious thing as this miſ-ſhapen Monſter is. How ſcandalous a thing it is, hath appeared already to your Lordſhips, by the King and Queen's Counſel againſt Mr. *Prynn*; I will not for my part repeat.

Yet give me leave to read a word or two, where he cometh to tell your Lordſhips of the Reaſons why he writ this Book: Becauſe he ſaw the Number of the Plays, Play-Books, Play-Haunters, and Play-houſes ſo exceedingly increaſed, there being above *forty thouſand Play-Books*, being now more vendible than the choiceſt Sermons. What ſaith he in the Epiſtle Dedicatory, ſpeaking of Play-Books?

Books? *They are so big a Price, and are printed in far better Paper, than most Octavo and Quarto Bibles, which hardly find so good vent as they; and then come in such abundance, as they exceed all number, and 'tis a year's time to peruse them over, they are so multiplied:* and then he putteth in the Margin, *Ben Johnson*, &c. *printed in better Paper than most Bibles. Now if this be not a Tax upon the Kingdom, to print these Books in better Paper than the Bible it self, for my part I leave it to your Lordships.* This Monster, this huge mis-shapen Monster, I say it is nothing but Lyes, and Venom against all sorts of People. It is a strange thing what this Man taketh upon him: He is not like those Powder-Traitors, they would have blown up all at once; this throweth all down at once to Hell together, and delivereth them over to *Satan*. I beseech your Lordships to give me leave; *Stage-Plays*, &c. (saith he) *none are gainers and honoured by them, but the Devil and Hell; and when they have taken their wills in Lust here, their Souls go to eternal Torment hereafter.* And this must be the end of this Monster's horrible Sentence. He saith, *So many as are in Play-houses, are so many unclean Spirits*; and that *Play-Haunters are little better than incarnate Devils.* He doth not only condemn all Play-Writers, but all Protectors of them, and all beholding of them; and dancing at Plays, and singing at Plays, they are all damned, and that no less than to Hell. I beseech your Lordships to give me leave but in a word to read unto you what he writes of Dancing, &c. *It is the Devil's Profession, and he that entreth into a Dance, entreth into a deviliſh Profession; and so many Paces in a Dance, so many Paces to Hell:* This is that which he conceiveth of Dancing. *The Woman that singeth in the Dance, is the Prioress of the Devil, and those that answer are Clerks, and the Beholders are the Parishioners, and the Musick are Bells, and the Fidlers are the Minstrels of the Devil.* I said it was a seditious Libel; this point of Sedition is the only thing that troubles me, and it is that which I shall offer to your Lordships: For I do know it, the good Opinion, Heart, Will and Affections of the King's People and Subjects are the King's greatest Treasure. Now if this be so, then for any Man cunningly to undermine these things, to take away the Hearts of the Subjects from the King, and to bring the King into an ill Opinion among his People, this is a most damned Offence; and if I were in my proper place, and Mr. *Prynn* brought before me, I should go another way to work. I protest unto your Lordships, it maketh my Heart to swell, and my Blood in my Veins to boil (so cold as I am) to see this or any thing attempted, which may endanger my gracious Sovereign; it is to me the greatest Comfort in this World to behold his Prosperity.

Much hath been spoken concerning these things, and something by my Lord *Cottington* before me; but good my Lords, give me leave to remember you one or two Passages, not yet spoken of. He writeth thus; *That* Nero's *acting and frequenting Plays, was the chiefest Cause that stirred up others to conspire his Death.* Would any Man think, that his acting and frequenting of Plays was the chiefest Occasion?

He writeth in another place worse than this. *Fol.* 465. Tribellius Pollio *relates, That* Martian, Heraclius, *and* Claudius, *three worthy* Romans, *conspired together to murder* Gallienus *the Emperor, (a Man much besotted, and taken up with Plays, to which he likewise drew the Magistrates and People by his lewd Examples) as* Flavius *and others conspired* Nero's *Murder for the self-same Cause*, &c. Now, my Lords, that they should be called three worthy Persons that do conspire an Emperor's Death, (tho a wicked Emperor) it is no Christian Expression.

If Subjects have an ill Prince, marry what is the Remedy? They must pray to God to forgive him, and not say they are worthy Subjects that do kill him: If they were worthy Acts, Mr. *Prynn*, I can tell what you are, (Mr. *Prynn* standing during the Censure behind the Lord Chief Justice *Richardson*, and Archbishop *Neal*.) No Man will conspire to murder a King that can be a worthy Actor; for the very Thought of it is High-Treason. He speaketh of these three, that they were three worthy *Romans* that did conspire to murder *Nero*. This is most horrible, and here can be no manner of Exposition, but in the worst Sense; for his Excuse, he hath made none at all, only it was not his Intention.

Good Mr. *Prynn*, you are a Lawyer. Intention! I know where the Word standeth equal, as that you may take the Intention this way, or that way, with the Right-hand or Left-hand, there in that Case you may speak the Intention; but where the Words are plain and positive, as in your Books, here is no help of Intention in the World: your Words are plain and clear, therefore you can never make any Defence at all out of that. Not to hold your Lordships any longer, my Lords, it is a most wicked, infamous, scandalous, and seditious Libel. Mr. *Prynn*, I must now come to my Sentence, tho I am very sorry, for I have known you long, yet now I must utterly forsake you; for I find that you have forsaken God, and his Religion, and your Allegiance, Obedience, and Honour, which you owe to both their excellent Majesties, the Rule of Charity to all noble Ladies, and Persons in the Kingdom, and forsaken all Goodness: Therefore, Mr. *Prynn*, I shall proceed to my Censure, wherein I agree with my Lord *Cottington*, as he began very well: First, for the burning of the Book in as disgraceful a manner as may be, whether in *Cheapside* or *Paul's Church-yard*; for tho *Paul's Church-yard* be a consecrated place, yet Heretical Books have been burnt in that place. And because Mr. *Prynn* is of *Lincolns-Inn*, and that his Profession may not sustain Disgrace by his Punishment, I do think it fit, with my Lord *Cottington*, that he be put from the Bar, and degraded in the University; and I leave to my Lords, the Lord Bishops, to see that done: and for the Pillory, I hold it just and equal, tho there were no Statute for it. In the case of a high Crime it may be done by the discretion of the Court, so I do agree to that too. I fine him 5000 *l.* and I know he is as well able to pay 5000 *l.* as one half of 1000 *l.* and perpetual Imprisonment I do think fit for him, and to be restrained from writing, neither to have Pen, Ink, nor Paper; yet let him have some pretty Prayer-Book, to pray to God to forgive him his Sins; but to write, in good faith I would never have him: For, Mr. *Prynn*, I do judge you by your Book to be an insolent Spirit, and one that did think by this Book to have got the name of a Reformer, to set up the Puritan or Separatist Faction. I would not have Mr. *Prynn* go without a Recognition of his Offence to the King and Queen's Majesty. I agree to the Sentence on *Buckner* and *Sparkes*.

Secretary Cook. By this vast Book of Mr. *Prynn*'s, it appeareth he hath read more than he hath studied, and studied more than he considered; where-

as,

as, if he had read but one Sentence of *Solomon*, it had saved him from the Danger he is now like to fall into. The *Preacher* saith, *Be not over-just, nor make thy self over-wise, for why wilt thou destroy thy self?* My Lords, it is a Sentence requireth much Study and Consideration. It is most certain, that Righteousness and Wisdom are such Virtues, as they help forward Justice; but when Wisdom is mixed with a Man's own Humours, as for the most part it is with Flesh and Blood, there is danger of straining it too far, and that will tend to the Destruction of him and others. Examples are too pregnant of this, and he may take it from a good Author, even from Christ himself. When his Apostles, out of Zeal to their Master, would have called for fire from Heaven against the *Samaritans* that refus'd to entertain him, the Answer was, *You know not of what Spirit you are.* I would Mr. *Prynn* would have considered this.

There is a good Spirit that is meek, tempered with Modesty and Humility, with Mildness and with Equity; and such a Spirit is always tender, not to destroy, root up, overthrow, but to bind, repair and preserve. But there is another fiery Spirit, which is always casting of Fire, nothing but Damnation and Destruction; certainly such a Spirit ever tends to his own Confusion. And if this be well observed, every Man shall find it true, that such a Spirit ever cometh before Destruction. I wish Mr. *Prynn* were not an ill Example of this. Certainly, my Lords, Vice and Corruption ought not only to be reprehended, but to be punished severely, and that sharply too where it is; but Mr. *Prynn* should have considered, every Man is not a fit Reprehender. He had no Invitation, nor Office, nor Interest to employ a Talent which doth not belong unto him. If Magistrates and Princes should inveigh against all things, and tolerate nothing, we must live no longer among Men; and certainly, if we will be thought to live with them that are wholly virtuous, we must go out of the World; we have a good Author for this. But, my Lords, a Toleration must be used, and that Mr. *Prynn* would have found, if he had consider'd his own Body: Shall a Man upon every light Distemper and Disorder in his Body take Physick? Or shall ill Humours be purged till he purge all out? Certainly he will purge Spirit, Life and all away with it. And as it is in the Natural Body, so it is in the Politick, there must be a Toleration and Connivance; it cannot be govern'd without it, and we have a Warrant for it. Did not Christ himself forbid the cutting out of the Tares, lest they should pluck Corn, and destroy that too? I think if Mr. *Prynn* should have been asked the Question that *Naaman* did to the Prophet, he would not at all have bid *go away in Peace*, he would have threatned Hell and Destruction. There is a Christian Wisdom, and there must be a Toleration in all States. And certainly the Faults that have been tolerated in all times were greater than modest Plays, or modest Dancing. It is not my Intention, neither do I think it is the Intention of any of your Lordships, to apologize for Stage-Plays, much less for the Abuse of them: I wish, and so I think doth every good Man, that the Abuse of them were restrained; but, my Lords, not by Railing, Cursing, Damning, Inveighing, *&c.* not only against the Faults and Players themselves, but against all Spectators, and those that come to them, and that of all degrees, and with such Bitterness and Acrimony, that in all the Authors alledged, which are infinite, there is not to be found an Example. My Lords, I am very sorry he hath so carried himself, that a Man may justly fear he is the *Timon* that hath a Quarrel against Mankind. But I love not too much to aggravate Offences, which of themselves are heavy enough.

He calleth his Book *Histriomastix*; but therein he sheweth himself like unto *Ajax Anthropomastix*, as the *Grecians* called him, the Scourge of all Mankind, that is, the Whipper and the Whip. I cannot but concur with the Censure already begun by my Lord *Cottington*, given against Mr. *Prynn*, *Buckner* and *Sparkes*.

Afterwards the Earl of *Dorset* spake to this effect:

Such Swarms of Murmurers as this day discloses themselves, are they not fearful Symptoms of this sick and diseased Time? Ought we not rather with more Justice and Fear apprehend those heavy Judgments which this minor Prophet, Prophet *Prynn*, hath denounced against this Land, for tolerating indifferent things, to fall upon us for suffering them, like those Mutineers against *Moses* and *Aaron*, as not fit to breathe? My Lords, It is high time to make a Lustration to purge the Air. And when will Justice ever bring a more fit Oblation than this *Achan? Adam*, in the beginning, put Names on Creatures correspondent to their Natures: The Title he hath given this Book is *Histriomastix*, or rather, as Mr. Secretary *Cook* observed, *Anthropomastix*; but that comes not home, it deserves a far higher Title: *Damnation*, in plain *English*, of Prince, Prelacy, Peers and People. Never did Pope *in Cathedra*, assisted with the Spirit of Infallibility, more positively and more peremptorily condemn Hereticks and Heresy, than this doth Mankind. Lest any partial Auditor may think me transported with Passion, to judge of the base Liveries he bestoweth upon Court and Courtiers, I shall do that which a Judge ought to do, *viz.* assist the Prisoner at the Bar. Give me leave to remember what Mr. Attorney let fall the other day. I will take hold of it for the Gentleman's Advantage, That this Gentleman had no Mission; if he had had a Mission, it would have qualified the Offence. Our Blessed Saviour, whom he conversed in this World, chose Apostles, whom he sent after into the World; *Ite, prædicate*, &c. to shew the way of Salvation to Mankind. Faith, Hope, and Charity, were the Steps of this *Jacob*'s Ladder to ascend Heaven by. The Devil, who hates every Man upon Earth, play'd the Divine, cited Books, wrought Miracles; and he will have his Disciples too, as he had his Confessors and Martyrs. My Lords, This Contempt, Disloyalty, and Despair, are the Ropes which this Emissary lets down to his great Master's Kingdom for a general Service. My Lords, As the Tenour of their Commission was different, so are the Ways: These holy Men advanced their Cause in former times by Meekness, Humility, Patience to bear with the Weakness and Infirmities of their Brethren; they taught Obedience to Magistracy, even for Conscience-sake; they divided not their Estates into Factions; they detracted from none, they sought the Salvation of Mens Souls, and guided their Bodies and Affections answerably; they gave to *Cæsar* the things that were *Cæsar*'s; if Princes were bad, they prayed for them, if good, they praised God for them; however, they bore with them: This was the Doctrine of the Primitive Church, and this they did. I appeal to my Lords that have read this Book, if Mr. *Prynn* has not

with breach of Faith, diſcharged his great Maſter's End. My Lords, When God had made all his Works, he looked upon them and ſaw that they were good. This Gentleman, the Devil having put Spectacles on his Noſe, ſays, that all is bad: No Recreation, Vocation, no Condition good; neither Sex, Magiſtrate, Ordinance, Cuſtom, Divine and Human, things animate, inanimate, all, my Lords, wrapt up in *Maſſa Damnata*, all in the Ditch of Deſtruction. Here, my Lords, we may obſerve the great Prudence of this Prince of Darkneſs, a Soul ſo fraught of Malice, ſo void of Humanity, that it gorgeth out all the Filth, Impiety and Iniquity that the Diſcontent of this Age doth contract againſt the Church and State. But it may be ſome Follower of his will ſay, It was the Pride and Wickedneſs of the Times that prompted him to this Work, and ſet his Zeal, through Tenderneſs of Conſcience, to write this Book. My Lords, you may know an unclean Bird by his Feathers; let him be unplum'd, unmask'd, pull off the deceitful Vizard, and ſee how he appeareth: this brittle-Conſcience Brother, that perhaps ſtarts at the ſight of the Corner-Cap, ſweats at the Surplice, ſwoons at the Sign of the Croſs, and will rather die than put on Woman's Apparel to ſave his Life; yet he is ſo zealous for the advancement of his *Babel*, that he invents Legions, coins new Statutes, corrupts, miſapplies Texts with falſe Interpretations, diſhonours all Men, defames all Women, equivocates, lies; and yet this Man is a holy Man, a Pillar of the Church. Do you, Mr. *Prynn*, find fault with the Court and Courtiers Habits, Silk and Sattin Divines? I may ſay of you, you are all Purple within, all Pride, Malice, and all Diſloyalty; you are like a Tumbler, which is commonly ſquint-ey'd, you look one way, and run another way: tho you ſeemed by the Title of your Book to ſcourge Stage-Plays, yet it was to make People believe, that there was an Apoſtacy in the Magiſtrates. But, my Lords, admit all this to be venial and pardonable, this Pigmy groweth a Giant, and invades the Gods themſelves; where we enjoy this Felicity under a gracious Prince with ſo much Advantage, as to have the Light of the Goſpel, whilſt others are kept in Darkneſs, the Happineſs of the Recreations to the Health of the Body, the bleſſed Government we now have: When did ever Church ſo flouriſh, and State better proſper? And ſince the Plagues happen'd, none have been ſent among us ſuch as this Caterpillar is: What Vein hath opened his Anger? Or who hath let out his Fury? When did ever Man ſee ſuch a *Quietus eſt* as in theſe Days? Yet in this Golden Age is there not a *Shimei* amongſt us, that curſeth the Anointed of the Lord? ſo puffed with Pride, nor can the Beams of the Sun thaw his frozen Heart, and this Man appeareth yet. And now, my Lords, pardon me, as he hath wounded his Majeſty in his Head, Power and Government, and her Majeſty, his Majeſty's dear Conſort, our Royal Queen, and my gracious Miſtreſs; I can ſpare him no longer, I am at his Heart. *Oh quantum!* &c. If any caſt infamous Aſperſions and Cenſures on our Queen and her Innocency, Silence would prove Impiety rather than Ingratitude in me, that do daily contemplate her Virtues; I will praiſe her for that which is her own, ſhe drinks at the Spring-Head, whilſt others take up at the Stream. I ſhall not alter the great Truth that hath been ſaid, with a Heart as full of Devotion, as a Tongue of Eloquence, the other day, as it came to his part, (meaning Sir *John Finch.*) My Lords, Her own Example to all Virtues, the Candor of her Life, is a more powerful Motive than all Precepts, than the ſevereſt Laws: no hand of Fortune nor of Power can hurt her; her Heart is full of Honour, her Soul of Chaſtity; Majeſty, Mildneſs and Meekneſs are ſo married together, and ſo impaled in her, that where the one begetteth Admiration, the other Love; her Soul of that excellent Temper, ſo harmoniouſly compoſed, her Zeal in the ways of God unparallel'd; her Affections to her Lord ſo great, if ſhe offend him, it is no Sunſet in her Anger; in all her Actions and Affections ſo elective and judicious, and a Woman ſo conſtant for the Redemption of all her Sex from all Imputation, which Men (I know not how juſtly) ſometimes lay on them; a Princeſs, for the Sweetneſs of her Diſpoſition, and for Compaſſion, always relieving ſome oppreſſed Soul, or rewarding ſome deſerving Subject: were all ſuch Saints as ſhe, I think the *Roman* Church were not to be condemned: on my Conſcience ſhe troubleth the Ghoſtly Father with nothing, but that ſhe hath nothing to trouble him withal. And ſo when I have ſaid all in her Praiſe, I can never ſay enough of her Excellency; in the relation whereof an Orator cannot flatter, nor Poet lye: yet is there not *Doeg* among us, notwithſtanding all the Tergiverſations his Counſel hath uſed at the Bar? I can better prove, that he meant the King and Queen by that infamous *Nero*, &c. than he proves Players go to Hell: but, Mr. *Prynn*, your Iniquity is full, it runs over, and Judgment is come; it is not Mr. Attorney that calls for Judgment againſt you, but it is all Mankind, they are the Parties grieved, and they call for Judgment.

(1.) Mr. *Prynn*, I do declare you to be a Schiſm-Maker in the Church, a Sedition-Sower in the Common-wealth, a Wolf in Sheeps-Clothing; in a word, *omnium malorum nequiſſimus*. I ſhall fine him Ten Thouſand Pounds, which is more than he is worth, yet leſs than he deſerveth; I will not ſet him at liberty no more than a plagued Man or a mad Dog, who tho he cannot bite, he will foam; he is ſo far from being a ſociable Soul, that he is not a rational Soul; he is fit to live in Dens with ſuch Beaſts of Prey, as Wolves and Tygers, like himſelf: Therefore I do condemn him to perpetual Impriſonment, as thoſe Monſters that are no longer fit to live among Men, nor to ſee Light. Now for Corporal Puniſhment, my Lords, whether I ſhould burn him in the Forehead, or ſlit him in the Noſe; for I find that it is confeſſed of all, that Doctor *Leighton*'s Offence was leſs than Mr. *Prynn*'s, then why ſhould Mr. *Prynn* have a leſs Puniſhment? He that was guilty of Murder was marked in a place where he might be ſeen, as *Cain* was. I ſhould be loth he ſhould eſcape with his Ears, for he may get a Perriwig, which he now ſo much inveighs againſt, and ſo hide them, or force his Conſcience to make uſe of his unlovely Love-Locks on both ſides: Therefore I would have him branded in the Forehead, ſlit in the Noſe, and his Ears cropt too. My Lords, I now come to this Ordure, I can give no better term to it, to burn it, as it is common in other Countries, or otherwiſe we ſhall bury Mr. *Prynn*, and ſuffer his Ghoſt to walk: I ſhall therefore concur to the burning of the Book; but let there be a Proclamation made, That whoſoever ſhall keep any of the Books in his hands, and not bring them to ſome publick

publick Magiſtrate to be burnt in the fire, let them fall under the Sentence of this Court: for if they fell into wiſe Mens hands, or good Mens hands, there were no fear; but if among the common ſort, and into weak Mens hands, then Tenderneſs of Conſcience will work ſomething. Let this Sentence be recorded, and let it be ſent to the Library of *Sion*, (meaning a College in *London*) whither a Woman, by her Will, will allow Mr. *Prynn*'s Works to be ſent.

For Mr. *Buckner*, I believe that he had no Intention at all this Work ſhould come abroad; he is ſaid to be a conformable Man to the Church of *England*: I ſhall hardly cenſure him, he deſerveth Admonition.

For *Sparkes*, I concur in all things: The Feodary had his Office taken away from him by this Court; I ſee therefore no reaſon but that he may be barred from printing and ſelling of Books, and kept wholly to binding of Books.

The Tryal of John *Lord* Balmerino, *for a Libel, on the Third Day of* December, 1634. 10 Car. I.

CURIA *Juſticiaria S. D. N. Regis tenta in Prætorio de Edinburgh tertio die menſis Decembris* 1634. *per nobilem & præpotentem Comitem, Willielmum Comitem Erroliæ, Dominum Hay, Magnum Conſtabularium Scotiæ, ac Juſticiarium Generalem ejuſdem, hac in parte ac in criminali proceſſu ſubſequent. contra Joannem Dominum de Balmerino, virtute Commiſſionis S. D. N. Regis, ſub Teſtimonio ſui Magni Sigilli ſpecialiter conſtitut. Curia legitime affirmat.*

Aſſeſſors to my Lord Juſtice-General, Sir *Robert Spotſwood* of *Dunnypace* Knight, Preſident of the College of Juſtice; Sir *John Hay* of *Barro* Knight, Clerk Regiſter; Sir *James Learmonth* of *Balcomy* Knight Baronet.

Intran. *John* Lord of *Balmerino*, delated of Airt and Part, (*i. e.* of his being Contriver and Partner) of the penning and ſetting down of a ſcandalous Libel, and divulging and diſperſing it amongſt his Majeſty's Leiges; at the leaſt of concealing and not revealing of Mr. *William Haige*, and not apprehending of him the ſaid principal Author of the ſaid infamous Libel, as is at length contained in his Dittay (*i. e.* Indictment) following.

Purſuer, Sir *Thomas Hope* of *Craighall* Knight, Advocate to our ſaid Lord, for his Highneſs's Intereſt.

Procurators in Defence, Mr. *Roger Mowat*, Mr. *Alexander Pearſon*, Mr. *Robert Macgill*, Mr. *John Nisbet*, Advocates.

My Lord *Kildryame*, Maſter of *Elphingſtoune*.

The Maſter of *Frazer*.

Sir *Thomas Ker* of *Cavers*.

Michael Elphingſtoune of *Quarrel*.

George Dundaſs Fiar of that Ilk, (*i. e.* of *Dundaſs*.)

Robert Drummond of *Meidhope*.

My Lord Advocate produced his Majeſty's Letter, commanding him to purſue the Pannel, (*i. e.* the Perſon indicted) for the Crimes contained in his Dittay (*i. e.* Indictment) following; together with an Act of Seſſion, nominating the Aſſeſſors foreſaids to be Aſſeſſors to my Lord Juſtice-General: and therewith produced the ſaid Dittay or Indictment, with the Executions thereof, of the whilk the Tenour follows. And firſt the Tenour of his Majeſty's Letter, directed to his Majeſty's Advocate.

To our Right Truſty and Well-beloved Counſellor, Sir Thomas Hope *of* Craighall *Knight and Baronet, our Advocate for our Kingdom of* Scotland.

CHARLES Rex.

TRuſty and Well-beloved Counſellor, we greet you well. After due Conſideration having reſolved to cauſe the Lord *Balmerino* be put to the Tryal of ane Aſſyſe, (*i. e.* Jury;) and to this purpoſe it being neceſſary that you inform yourſelf of ſuch Particulars, as concern your Charge in the legal Proſecution of that buſineſs; it is our Pleaſure, that with all convenient diligence you inſiſt therein, by preparing of ane Indictment fit for that purpoſe, and that you carefully go on in every other thing touching the Proſecution thereof, as you will anſwer to us upon your Truſt: And that by the Advice of the Chief Juſtice you prefix a Day for the ſame, for which theſe Preſents ſhall be your Warrant. Given at our Mannor of *Hampton-Court*, the 14th of *October* 1634.

Follows the Act of Seſſion, nominating the ſaids Aſſeſſors, at *Edinburgh* the ſecond Day of *December*, the Year of God 1634. the which Day the Lords of Council and Seſſion nominate, appoint, and elect Sir *Robert Spotſwood* of *Dunnypace* Knight, Preſident of the College of Juſtice; Sir *John Hay* of *Barro* Knight, Clerk of our Sovereign Lord's Regiſter Council and Rolls; and Sir *James Learmonth* of *Balcomy* Knight Baronet, Senator of the ſaid College of Juſtice; to be Aſſeſſors to *William* Earl of *Errol*, Great Conſtable of *Scotland*, and having Commiſſion from his Majeſty to be Juſtice-General in the criminal Purſuit intentit and depending before the ſaid Juſtice againſt *John* Lord of *Balmerino*.

Extractum de Libro Actorum per me Magiſtrum Alexandrum Hay, Scribam Conſilii ac Deputatum honorabilis Domini Joannis Hay de Barro Militis, Clerici Regiſtri ac Conſilii S. D. N. Regis, ſub meis Signo & Subſcriptione manualibus, ſic ſubſcribitur A. Hay.

Follows the Tenour of the Dittay:

CHARLES by the Grace of God King of *Great Britain*, *France*, and *Ireland*, Defender of the Faith; to our Lovit (*i. e.* Beloved) *James Currie*, *Ormond* Purſevant, Meſſenger, our Sheriff in that part conjunctly and ſeverally, ſpecially conſti-

tute, Greeting. Forſuameikle as it is complain'd and humbly meant to us by our Truſty and Well-beloved Counſellor Sir *Thomas Hope* of *Craighall* Knight Baronet, our Advocate for our Intereſt upon *John* Lord of *Balmerino*, That where albeit by the Common Law, as alſo by the Laws and Acts of Parliament of this Kingdom, and ſpecially by that Act and Statute of Parliament made by our umqhile (*i.e.* late) deareſt Father King *James* VI. of happy and bleſſed Memory, *Par.* 10. *chap.* 10. it is ſtatute and ordained, That all our Subjects continue themſelves in Quietneſs and dutiful Obedience to Us and our Royal Authority, and that none of them preſume or take upon hand publickly to diſclaim, or privately to ſpeak or write any purpoſe of Reproach or Slander of our Perſon, Eſtate, or Government; or to deprave our Laws and Acts of Parliament, or miſconſtruct our Proceedings, whereby any Miſliking may be moved betwixt us and our Nobility and loving Subjects in time coming, under the pain of Death; certifying them that does in the contrair, they ſhall be repute as ſeditious and wicked Inſtruments, Enemies to us and the Commonweal of this our Realm: And the ſaid Pain of Death ſhall be execute upon them with all rigour, in example of others. Likeas by the 205th Act of the 14th Parliament of our ſaid umqhile deareſt Father, in the Month of *June* 1594. the former Act of Parliament, with divers others, againſt Leaſing-makers and Authors of Slanders and Calumnies, is ratified and approven, and ordained to be publiſhed of new again, and to be put to execution in all time coming; with this addition, That whoſoever hears the ſaid leaſing Calumnies, or ſcandalous Speeches, or Writs to be made, and apprehends not the Authors thereof, if it be in his power, or reveals not the ſame to Us, or to any of our Privy-Council, or to our Sheriff, Steward, or Baillie of our Sheriffdom, Stewartry, or Bailliary, Stewarts in Regality or Royalty, or to the Provoſt, or ane of the Ballies within our Burrows, by whom the ſamen may come to our knowledge, or to the knowledge of our Privy-Council; whereby the ſaids Leaſing-makers and Authors of ſcandalous Speeches, may be called, tryed, and puniſhed, according to the ſaids Acts: the Hearer and not Revealer, and not Apprehender, (if it lie in his power) and Concealer and not Revealer of the ſaids Leaſing-makers, and Authors of the ſaids ſcandalous Speeches and Writs, ſhall incur the like Pain and Puniſhment as the principal Offender, as in our ſaids Acts of Parliament at length is conteined. Notwithſtanding whereof, it having come lately to our knowledge, in the Month of *March* laſt by-paſt, that there was a moſt ſcandalous, reproachful, odious and ſeditious Libel, found in the hands of one Mr. *John Dunmure*, Notary in *Dundee*, and divulged and diſperſed in the hands of ſeveral of our Subjects: whilk ſcandalous, odious, infamous, and ſeditious Libel, did not only ſeditiouſly, reproachfully, and outrageouſly tax our Sacred Perſon in our Behaviour at Parliament; but alſo contains many Points and Purpoſes of falſe Calumnies, publick Scandals and Reproaches againſt Us, our Eſtate and Government, depraving our Laws and Acts of Parliament, and miſconſtruing our juſt and glorious Proceedings in our firſt Parliament, holden by us in Perſon in the Month of *June* of before, as doth manifeſtly appear in the hail Tenour of the ſaids infamous Libel; and particularly in the particular Paſſages hereof after following: Inſuafar as albeit by the Law of God and Laws of all Nations, the Perſon of the ſupreme and ſovereign Prince is and ought to be ſacred and inviolable, and he ought to be reverenced, honoured, and feared, as God's Lieutenant on Earth; and that all Subjects are bound and tyed in Conſcience to content themſelves in humble Submiſſion to obey and reverence the Perſon, Laws, and Authority of their ſupreme Sovereign: yet the ſaid unhappy and infamous Libel, in the firſt entry thereof, begins with an outrageous upbraiding and taxing of our ſovereign Lord's Majeſty of a point of Injuſtice or Indiſcretion in our Behaviour at Parliament, for putting of Notes (as the ſaids infamous Libel alledges) upon the Names of a number of our Subjects, who did vote contrair to the Acts of our Church-Government, paſt in Parliament. Whilk is ane fearful thing in ane Subject to pry into the Geſture of his Sovereign in his ſupreme Court: And upon a Geſture, without Speech, to infer a ground of Exprobration and Reproach to the ſovereign Prince. Next, the ſaid infamous Libel reproaches Us for refuſing to receive from ſome of our Subjects their Reaſons for diſ-aſſenting from the ſaid Acts, before their publick Hearing in Parliament: whilk is a Point no ways compatible with the humble Obedience of a good, quiet, and peaceable Subject; but carries with it the Signal and Token of Diſcontentment, and rubs upon our Sacred Perſon and Proceedings matter of Reproach and Scandal, tending, if it were poſſible, to diminiſh the glorious Opinion and Eſtimation of our Royal Perſon, Equity, and Juſtice, in the Hearts of our Subjects. Thirdly, the malicious Heart of the Penner, not content with the firſt Aſperſion laid upon us for putting Notes upon theſe who diſaſſented, does ingeminat the ſamen in ane moſt bitter Invective and viperous Style, in affirming that ſuch a thing was never of before cenſured by a Prince of ſo much Juſtice as our Sacred Majeſty: whilk in effect is to reproach us of manifeſt Injuſtice, for doing of that, the like whereof was never done by a juſt Prince. And the Libeller, not content with theſe Reproaches, moſt villanouſly and deſpitefully belcht and vomited furth againſt our Sacred Perſon, proceeds to a moſt fearful and dangerous undermining of our Honour, Credit, and greateſt Happineſs, in affirming that there is now a general Fear of ſome Innovation intended in Eſſential Points of Religion: albeit (bleſſed be God) it be certainly known to all our good Subjects, that We are, and in all our Actings have ſhowen Ourſelves to be a moſt devote and religious Prince, hating and abhorring in Heart and Affection all Papiſtical Superſtition and Idolatry. And the Libeller (out of a deviliſh Humour) not content to reſtrain his Pen within the Limits of this our Kingdom of *Scotland*, as if it were too little for the compaſs of his curious and furious Brain, he enters to pry into our Eſtate of *England*, and aſſures that there is Reports of allowance of reprinting of Books of Popery and Arminianiſm in *England*, and of the reſtraint of Anſwers made to them: and then returning to *Scotland*, moſt falſly affirms, that Arminianiſm is preached there without Cenſure. After that, he goes to the Eſtates of the Parliament, and affirms moſt falſly and calumniouſly, that divers Papiſts were admitted to Parliament, and upon the Articles, who by the Law of the Realm can be no Member of any Judicatory. Albeit it be conſtant and nottour, that none of theſe who were admitted to Parliament and upon the Articles, was profeſſed Papiſts, as will appear by the Roll

Roll of the Names of theſe who were upon the Articles. And farder, the unhappy Penner of that curſed Libel proceeding to ane higher point of taxing and miſconſtructing of our Proceedings, he affirms that the Grievances allowed to be proponed in Convention in *Anno* 1625, were altogether ſlighted in this our firſt Parliament: which is a manifeſt Lye and Untruth, there being nothing concerning the Publick moved at Parliament, which was not either determined by our Eſtates, or remitted to our Council. And thereafter it is as falſly affirm'd, that the Meetings of the Gentry, which were appointed for repreſenting the Grievances of the Country in the Matter of Coin and Increaſe of Theft, were interrupted in our Name: which is a manifeſt Lye and Calumny. Likeas thereafter it is moſt ſcandalouſly and ſeditiouſly affirmed, that we denied Liberty to our Nobility to meet and conveen with the Lords of the Articles, againſt the Conſtitution of a Free Parliament under ſuch a juſt and lawful Prince: albeit it be nottourly known, that our Nobility did enjoy all the Privileges of a free Eſtate, which pertained to them and their Predeceſſors. And ſicklike thereafter it is affirm'd ignorantly, fooliſhly, aud falſly, That againſt the Cuſtom of this our Kingdom, the Biſhops did chuſe the Articles of the Nobility; albeit before the Parliament in *Anno* 1609, the Nobility did ever chuſe the Articles themſelves: which is notoriouſly falſe, and contrair to the fundamental Laws and Practices of all preceding Parliaments, whereby it is conſtitute, that ever the Clergy did chuſe the Articles of the Nobility. And thereafter he affirms, That the Biſhops did chuſe ſuch of the Nobility on the Articles, as either were Popiſhly affected, or had ſmall Knowledge of the Eſtate and Laws of this our Country: which is an impudent malicious Calumny and Falſhood; theſe who were choſen on the Articles (as will appear by their Names) being of the moſt antient of the Nobility, and moſt expert in the Laws and Cuſtoms of this our Kingdom. Thereafter the curſed and unhappy Libeller returns to his nipping and checking Style; and moſt preſumptuouſly challenges our Sacred Self upon our Speeches in Parliament, and upon our Proclamations made upon our Revocation; which was intended for Augmentation of our Patrimony, and for disburdening of our Subjects of Taxation; and that yet nevertheleſs huge and great Taxations were impoſed, againſt the Counſel given by our umqhile deareſt Father of bleſſed Memory in his *Baſilicon Doron*, and againſt the Practice of our deareſt Predeceſſor King *James* I. who remitted to his Subjects a great part of the Taxation granted for his Ranſom: which is a peart and miſchievous Exprobration to our Sacred Perſon, who out of the Love and tender Affection which We bear to this our antient native Kingdom and Country, vouchſafed that Grace and Favour to viſit it in our Royal Perſon, without ſparing of Coſt and Charges for our Journey, and other Neceſſaries belonging to our Coronation; which is well known far to exceed the Taxations voluntarily offered to Us by our Eſtates, in teſtimony of their humble and thankful Gratitude for ſo great a Bleſſing as the perſonal Preſence of us their Sacred Lord and Sovereign, within this our native Soil and antient Kingdom. And as we did never enjoin nor urge any Taxation, ſo the ſame being voluntarily and humbly offer'd to us by our loving and faithful Subjects, as the Mite of their humble Affection, far within and beneath the Reſpect of ſo glorious a Benefit, yet we were pleas'd out of our Love to accept it graciouſly. And yet this ſo gracious Acceptance cannot paſs the Pen of this unhappy Libeller, but muſt be caſten up, (*i. e.* reflected upon) with a falſe and deſpiteful Exprobration, as done againſt Promiſe, Proclamation, and the Practice of K. *James* I. which is falſly and villainouſly affirm'd. And when the infamous Libeller has ſpent his unhappy Breath and Pen in reviling and malediciing the glorious Name of us, his gracious Sovereign, in our Perſon and Proceedings, he thereafter challenges us for applying our former Taxations to a wrong uſe, in beſtowing the ſamen upon Parties and Perſons, whoſe Waiſtrie (*i. e.* Extravagance) and Wimes, our Subjects are not oblig'd to ſupply. And with this beſides, by the way, he upbraids our Servants and Counſellors for Malverſation, in the guiding and imploying thereof: And is ſo peart and impudent in his deviliſh Stile, that he ſpares not the Name of our ever-glorious deareſt Father King *James* of Bleſſed Memory; but moſt falſly caſts up (*i. e.* mentions) a Promiſe alledg'd to be made by his Majeſty or his Commiſſioner, in the Parliament holden in *Anno* 1621. for diſcontinuing of the extraordinary Taxation in all time to come. And then in the end, as a venomous Waſp, he cloſes with an impudent Reproach towards us, in that which is moſt commendable in a Sovereign Prince, by taxing us in our Beneficence and Liberality to the Lords of our Seſſion, in providing honourable Maintenance to them, and in beſtowing Penſions upon our Officers; and leaves nothing within this our Kingdom, which is not drawn in within the Scourge of his deviliſh and malicious Pen and Tongue: So that it is to be wonder'd and admir'd, that any Perſon, living under ſuch a gracious, pious, and juſt a Prince, could degenerate into ſo monſtrous a Contempt of our Government, as to dare and preſume upon to think, let be (*i. e.* much leſs) to ſpeak and write ſuch deviliſh, reproachful, ſcandalous, and ſeditious Thoughts, which infeſts the very Air, and can have no other end but the breeding in the Hearts of our good and loving Subjects, a fearful Jealouſy and Diſlike, and in the end Contempt of our juſt Government. And albeit all our good Subjects be bound in Conſcience, as alſo by the Laws of this our Kingdom, to cruſh this Cockatrice in the Egg, and to abhor it as a peſtilentious Clout; yet the ſaid deviliſh Libel was found in the hands of the ſaid Mr. *John Dunmure*, Notary in *Dundee*, and was divulg'd and diſpers'd amongſt our Subjects about the forſaid Month of *March* laſt paſt: which coming to our Notice and Knowledge, we then gave power for examining of the ſaid Mr. *John Dunmure* how the ſame came to his hands; who depoued, That he had the ſamen from the ſaid *John* Lord of *Balmerino*. Which *John* Lord *Balmerino* being alſo examin'd, he granted the ſamen to be of Verity, and therewith affirm'd, that he had the ſaid Libel from one Mr. *William Haig*, whom he thought alſo to be the Penner and Author thereof. Of the which ſcandalous Libel, the ſaid *John* Lord *Balmerino* himſelf was, and is, Author, Deviſer, Conſulter, Adviſer, Airt and Part (*i. e.* Contriver and Partner) in the penning, writing, and drawing up thereof; at the leaſt is guilty of the hearing thereof, and of the concealing and not revealing of the ſaid Mr. *William Haig*, whom he affirms to have been Author of the ſame, and alſo is moſt guilty of the not apprehending of the ſaid Mr. *William Haig*, it being in the ſaid *John* Lord *Balmerino* his power to have taken and apprehended the ſaid

Mr.

Mr. *William*; and, laſtly, is guilty and culpable of the divulging and diſperſing of the ſaid ſcandalous and ſeditious Libel amongſt our Subjects, in ſo far as the ſaid *John* Lord *Balmerino* knew of the penning of the ſaid ſcandalous Libel by the ſaid Mr. *William Haig*, and advis'd and gave his Opinion anent (*i. e.* about) the making of the ſamen; and in token thereof, interlin'd a part of the ſaid infamous Libel in divers Parts thereof with his own hand, which is yet extant to be ſeen by ocular Inſpection; and which interlining the ſaid *John* Lord *Balmerino* has confeſs'd to be his own Handwriting. Likeas immediately after the forming of the ſaid moſt infamous Libel, the ſaid *John* Lord *Balmerino* receiv'd the ſame from the ſaid Mr. *William Haig*, and deliver'd it to the Earl of *Rothes*, of purpoſe to have the ſamen preſented to us, and caus'd Mr. *Robert Dalgliſh* his Servant copy the ſaid infamous Libel; which Copy he deliver'd to the ſaid Mr. *John Dunmure*, in whoſe hands the ſamen was found, by occaſion whereof the ſaid infamous Libel was divulg'd and diſpers'd amongſt our Subjects, and openly read and expos'd to their view; to the Prejudice and Derogation of our ſacred and glorious Name, by the infamous, ſcandalous, and ſeditious Paſſages and Articles contain'd therein. Likeas the ſaid Lord of *Balmerino* kept and detain'd the ſaid infamous Libel in his hands continually, from the time of the cloſing of the Parliament about the end of *June*, 1633. until the 9th of *June* 1634. laſt paſt, at which time he was challeng'd for the ſame, and did exhibit the ſaid infamous Libel, in preſence of the Lords appointed by us for his Examination. Likeas the ſaid *John* Lord *Balmerino* having conferred with the ſaid Mr. *John Dunmure*, after his firſt Examination, which was in *March* 1634. and avowing that which he had done concerning the delivering of the ſaid infamous Libel to the ſaid Mr. *John Dunmure*, and diſperſing thereof, deſir'd the ſaid Mr. *John Dunmure* to go and tell the Earl of *Traquair*, one of the Examinators, that better Men then the ſaid *John* Lord *Balmerino* himſelf would ſet their Faces to (*i. e.* juſtify) the ſaid Libel, at the leaſt knew of the ſamen. And albeit the ſaid *John* Lord *Balmerino* be a Nobleman of good Learning and Underſtanding, and ſo preſum'd to have the knowledge of the Laws and Acts of Parliament of this our Kingdom, was bound in all Duty, after receiving of the ſaid infamous Libel from the ſaid Mr. *William Haig*, and reading thereof (which in the hail Strain and Tenour of the ſamen was of the nature of a ſcandalous and ſeditious Libel, prohibited by our Acts of Parliament) as he would have eſchewed the Danger of our Laws and Puniſhment therein contained, as Author thereof, to have revealed the ſame to us, or to ſome of our Privy Council: And alſo to have apprehended the ſaid Mr. *William Haig*, whom he affirms himſelf to have been the Author and Penner thereof; yet the ſaid Lord *Balmerino* did no ways apprehend the ſaid Mr. *William Haig*, nor yet reveal the ſaid ſcandalous Libel, it being in his power to have apprehended the ſaid Mr. *William Haig*, who was but a ſingle Perſon, and the ſaid Lord *Balmerino* being a Nobleman of Power and Credit: But the ſaid Lord, notwithſtanding thereof, did ſtill haunt and converſe with the ſaid Mr. *William Haig*, and did keep, detain, and retain the ſaid infamous Libel in his hands. Likeas the ſaid Lord *Balmerino*, after he was cited to compear before the Lords appointed for his Examination, which was upon the 7th of *June* laſt; he compearing before the ſaids Lords Examinators upon the ſaid 7th of *June*, being Saturday, he craved earneſtly of the ſaid Lords to have his Examination anent (*i. e.* about) his Knowledge of the Authors of the ſaid infamous Libel, to be continu'd (*i. e.* delay'd) till Monday next thereafter, which was the 9th of *June*; which being granted to him by the ſaids Lords, and he thereupon being demitted from them upon the ſaid 7th of *June*, being Saturday about twelve a Clock, he immediately thereafter met with the ſaid Mr. *William Haig*, and ſhew'd to him the Warrant of his Citation. At which time the ſaid Lord of *Balmerino* having the ſaid Mr. *William Haig* in his own Houſe, and ſo in his power, did not apprehend him, whom he knew and affirmed to be the Author of the ſaid ſcandalous Libel; but by his ſhewing to him of his ſaid Warrant of Citation, which bore the ſaid Lord *Balmerino* to have been conveened before the ſaids Lords Examinators, to make anſwer anent the ſaid ſeditious Libel, found in the hands of the ſaid Mr. *John Dunmure*, he thereby gave occaſion to the ſaid Mr. *William Haig* to eſcape out of the Country, and become fugitive. Likeas the ſaid Mr. *William Haig*, immediately after the ſight of the ſaid Warrant ſhewn to him upon the ſaid 7th of *June*, being Saturday, eſcaped and fled out of the Country, and became fugitive, and remains out of the Country continually ſince ſyne, (*i. e.* ſince that time.) Likeas the ſaid *John* Lord *Balmerino* being incarcerat (*i. e.* impriſon'd) within the Caſtle of *Edinburgh*, after his firſt and ſecond Examination, as Author, Airt, Part, or Acceſſory of the ſaid infamous Libel, received ſeveral Letters from the ſaid Mr. *William Haig* furth (*i. e.* out) of the *Low Countries*, and other Places to which he eſcaped; which Letters the ſaid *John* Lord *Balmerino* kept by him, without acquainting the ſaids Lords Examinators, until the time he was challeng'd. In the which Letters, and in other Letters ſent by the ſaid Mr. *William*, and intercepted by the Lords, it is affirmed and avowed by the ſaid Mr. *William*, that he had the Approbation and Allowance of the ſaid *John* Lord *Balmerino* to the making and penning thereof. By the which particular Deeds, Circumſtances, and other vehement Preſumptions particularly above expreſſed, it is clearly evinced, that the ſaid *John* Lord *Balmerino* was Author, Deviſer, Outſetter (*i. e.* Publiſher) Adviſer, Airt and Part of the penning and forming of the ſaid infamous Libel, at the leaſt Concealer and not Revealer thereof; and is alſo culpable of the not apprehending of the ſaid Mr. *William Haig*, whom he affirm'd to be the Author of the ſaid infamous Libel: As alſo of the diſperſing and divulging of the ſaid infamous Libel, in manner particularly above-declared; incurring thereby the Pain and Puniſhment of Death, ſpecified and contained in our ſaids Acts of Parliament, which ought and ſhould be inflicted upon him with all Rigour, in example to others to attempt the like. Our Will is herefore, and we charge you ſtraitly and command, that incontinent thir (theſe) our Letters ſeen, ye paſs, and in our Name and Authority, lawfully ſummon, warn, and charge the ſaid *John* Lord *Balmerino* preſently in Ward, within the Caſtle of *Edinburgh*, to compear before our Juſtice and his Deputs within the Tolbooth of *Edinburgh*, the 3d Day of *December* next to come, in the hour of Cauſe (*i. e.* when the Court is met) and there to underly our Laws for the Crimes above-written: To the effect that upon his Tryal and Conviction, as culpable thereof, Juſtice may be miniſtred upon him conform to the Laws of the

Realm; and that ye ſummon an Aſſize (Jury) not exceeding the number of 45 Perſons, whoſe Names ye ſhall receive in a Roll ſubſcribed by our Advocate, ilk (each) Perſon under the pain of 200 Marks, according to Juſtice. Given under our Signet at *Edinburgh* the 11th Day of *November*, and of our Reign the tenth Year, 1634. *Ex deliberatione Dominorum Conſilii, ſic ſubſcribitur John Bannatine.*

Follows the Execution of the ſaid Summons.

UPON the 14th Day of *November* 1634. I *James Currie*, *Ormond* Purſevant, and one of the Sheriffs in that Part within conſtitute, paſt at Command of thir (theſe) our Sovereign Lord's Letters within written, and by virtue thereof charged the within written *John* Lord *Balmerino* perſonally apprehended in the Caſtle of *Edinburgh*, and delivered to him a juſt and authentick Copy of theſe his Majeſty's ſaids Letters, to compear before his Majeſty's Juſtice and his Deputs in the Tolbooth of *Edinburgh* the 3d Day of *December* next to come, in the Hour of Cauſe, and there to underly his Majeſty's Laws for the Crimes within written; to the effect, that upon his Tryal and Conviction as culpable thereof, Juſtice may be adminiſtred upon him, conform to the Laws of this Realm: And this I did after the form and tenor of our Sovereign Lord's Letters in all points, before theſe Witneſſes, Mr. *Archibald Geddes*, Conſtable of the ſaid Caſtle of *Edinburgh*, and *John Malcome*, Herald. And for the further Verification of this my Execution ſubſcribed with my Hand, my Stamp is affixed. *Sic ſub. Ja. Currie*, *Ormond* Purſevant.

Thereafter my Lord Advocat produced with the Summons above-written, the Copy of the infamous Libel which was found in the hands of Mr. *John Dunmure*, Notary in *Dundee*; bearing in the end thereof, that the ſaid Mr. *John* being examined thereupon, he, by his Depoſition, has granted it to be the ſamen Libel which was in his hands: of the which Copy, the Tenour follows.

To the King's moſt excellent Majeſty, the humble Supplication of a great number of the Nobility and others Commiſſioners in the late Parliament;

Humbly Sheweth,

THAT the Notes which your Majeſty put upon the Names of a number of your Supplicants in voting about theſe Acts, which did imply a ſecret Power to innovat the Order and Government long continued in the Reformed Church of *Scotland*; and your Majeſty's refuſing to receive from ſome of your Supplicants their Reaſons for diſſenting from the ſaids Acts before your Majeſty, and in your Hearing in Parliament, do breed a Fear of our becoming obnoxious unto your Majeſty's Diſlike, if your Highneſs ſhould ſtill remain unacquainted with the Reaſons of our Opinions delivered concerning the ſaid Acts: Seeing your Supplicants are confident, that your Majeſty vouchſafing to take notice of the ſaids Reaſons, would be pleaſed to acknowledge that no want of Affection to your Majeſty's Service, but a careful Endeavour to conſerve unto your Majeſty the hearty Affections of a great many of your good Subjects that are tender in theſe Points of Novation, covertly thruſt upon this Church, did induce our Wiſhes and Voices to appear in oppoſition to the ſaid Acts; and that a predominant Deſire in us to have all your Royal Deſigns here to proſper without Interruption, did abſolutely command us to forbear any Reaſons that could have been propounded againſt many of the Concluſions in the late Parliament.

We do therefore humbly beſeech your Majeſty graciouſly to ponder the Conſiderations afterwritten, ſo ſhall we be encouraged (as in Duty bound) to continue our humble Prayers for your Majeſty's long and happy Reign.

Firſt, we humbly beſeech your Majeſty to conſider, That tho theſe Acts, as they are conceived, and may concern your Majeſty's Prerogatives, and the Liberties of the Church, had never been moved or concluded (as they are) your Majeſty would have ſuffered no Prejudice in your Benefit, Honour, nor Power: That your Supplicants are much more free from all Suſpicion of private Ends in diſ-aſſenting, than the Contrivers of the ſaids Acts, in offering them to the hazard of Contradiction, or ſolliciting an Aſſent thereto: That in deliberation about matters of Importance, either in Councils or Parliaments, Opinions do often differ; and they that have been of contrary mind to a Reſolution carry'd by the Plurality of Votes, have never hitherto been cenſured by a Prince of ſo much Juſtice and Goodneſs as your Majeſty.

We do alſo moſt humbly beſeech your Majeſty to believe, that all your Supplicants do, in moſt ſubmiſſive manner, acknowledge your Royal Prerogative in as ample manner as is contained in the Article 1606. made thereanent (thereabout;) and withal to conſider, that the long Experience and incomparable Knowledge your Royal Father had, in matters of Government, as well in Church as in Common-wealth, is the very Cauſe expreſſed in the Act 1609, for giving Power to his Majeſty to preſcribe Apparel to Kirk-men, with their own Conſent. And ſince in all the time of his Life and Government, for the ſpace of ſixteen Years thereafter, he did forbear to make any Change upon their former Habits; we are bold to preſume, that in his great Wiſdom he thought fit, that the Apparel uſed in time of Divine Service ever ſince the Reformation of Religion till his Death, and to this day, ſhould be continued, as decent in the Church, and moſt agreeable to the Minds of his good Subjects in this Nation. We do alſo beſeech your Majeſty to conſider, That under the Act entitled, *A Ratification of the Liberty of the Church*, the Acts ratifying the Aſſembly of *Perth* in Parliament 1621, were declared to be comprehended: That moſt part of us being then in Parliament, did oppoſe the ſame; that Experience hath ſhewed how much theſe Articles of *Perth* have troubled the Peace of this Church, and occaſioned innumerable Evils and Diſtractions in it: That there is now a general Fear of ſome Novations intended in eſſential Points of Religion; and that this Apprehenſion is much increaſed by the Reports of Allowance given in *England* for printing Books of Popery and Arminianiſm, and the Reſtraint of Anſwers made to them; and by preaching Arminianiſm in this Country, without Cenſure; by the Admiſſion made of divers Papiſts to the Parliament and upon the Articles, who by the Laws of this Realm can be no Members of any Judicatory in it; that the Minds of moſt of your good People being in this Perplexity, your Supplicants have great reaſon to ſuſpect a Snare in the ſubtile

ſubtile Junction of the Act 1609, concerning Apparel, with that of 1606, anent your Royal Prerogative; which by a ſophiſtical Artifice ſhould oblige us either to vote undutifully in the ſacred Point of Prerogative, or unconſcionably in Church-Novations, [* A.] which bleſſed King *James* would never have confounded, as appeared evidently in the Parliament 1617, honoured with his gracious Preſence; where his Majeſty, by the Biſhops Inſtigation, tryed, urged, and paſt in Articles a Ratification of his Royal Prerogative enacted in the Parliament 1606, with addition of an Article authorizing all things that thereafter ſhould be determined in Eccleſiaſtick Affairs by his Sacred Majeſty, with the Conſent of a competent number of the Clergy, to have the Strength and Power of Law. When this Act came to be heard in open Parliament, his Majeſty gave order to read only the Rubrick of the Act; which being done, he was then pleaſed in his fatherly Compaſſion over the tender Affections of his loyal Subjects (well known to his Majeſty, as fluctuating betwixt Love and Fear) publickly from his own mouth to declare his princely Love and Pleaſure, for Reaſons known to himſelf, to have that Act ſuppreſs'd, tho paſt in the Articles: Becauſe his Royal Prerogative being of itſelf inviolable, was already eſtabliſhed ſufficiently; and in the depth of his Wiſdom he would abſolutely prefer the Peace of the Church to the Appetite of Church-men. And ſince we are fully perſuaded of your Majeſty's unfeigned Affection to the true Religion, and ſo do preſume that none of theſe things lawfully rejected at the Reformation [* B—— ——C] thereof in this Kingdom, ſhould be introduced again without Conſent of our Clergy lawfully aſſembled; and fearing that a forcible and colourable intruding thereof, would diminiſh in the Hearts of many of your loyal Subjects that Affection which is founded on their Opinion of your Majeſty's Goodneſs and Wiſdom:

* *The Pannel's Interlinings you will find in the other Copy hereof.*

* *Interlined* [B. of Religion C.] *in the other Copy by the Pannel.*

We do therefore diſ-aſſent from the foreſaids Acts, as importing a Servitude upon this Church unpractiſed before, and giving ground for Introduction of other new indefinite Devices.

We do further offer unto your Majeſty's Conſideration, that albeit our juſt and heavy Grievances allow'd of in the late Convention of Eſtates 1625, & 1630, to have been repreſented to your Majeſty, in hopes of Refreſhment to the Country's Sufferings, have been altogether ſlighted in this your firſt Parliament; albeit your Majeſty denying your Nobility their Freedom by Authority to meet with the Lords of the Articles, may ſeem againſt the Conſtitution of a free Parliament (under ſuch a juſt and lawful Prince, and contrair to the Cuſtom of your Anceſtors) which before the Parliament held in *Anno* 1609, did always elect and chuſe the Lords of the Articles from among them of their own Rank and Quality; there having been no Parliamentary Biſhops from the Reformation of Religion till then, nor were they ſuch as now do cull and ſingle out ſuch Noblemen either Popiſhly affected in Religion, or of little Experience in our Laws, as having had their Breeding abroad, and ſo none of the ableſt to be upon our Articles, but fitteſt only for the Clergy's myſtical Ends. Whereas the former Practice was ſuch, as ſeemeth moſt agreeable to Reaſon, and what every Eſtate ſhould do, that ſo they may communicate their Minds with the reſt of their Body; ſince none but Men very preſumptuous of their own Knowledge, or ſenſleſs in themſelves, will adventure to truſt their firſt Conceptions in Matters of ſo great Importance as are the Concluſions of Parliament. Albeit the humble Supplications of the Miniſtry to your Majeſty and Eſtates of Parliament, deliver'd to the Clerk Regiſter, (and that your Majeſty was in all due Humility petition'd by the Miniſters of this Kingdom, both Conformiſts and Nonconformiſts, to give them a Hearing) have been ſuppreſs'd: albeit the Meeting of the Gentry, and happily of the Burrows too, in a joint Purpoſe to have repreſented to your Majeſty our unſpeakable Sufferings by the Abuſes of the Coin (the Maſtery of the Mint being a thing merely Regal) and Increaſe of Theft and Oppreſſion of divers Parties, and other things worthy your Majeſty's Conſideration, were in your Majeſty's Name interrupted: and finally, albeit your Majeſty was graciouſly pleaſed by your former and later Speeches in the Parliament-Houſe to declare (anſwerable to your ſeveral Proclamations, bearing that the Courſe taken by your Revocation for ſettling the Patrimony of your Imperial Crown, was, that ye ſhould not be burdenſome to your People) that your Majeſty had no purpoſe at this time to lay any Burden upon this Nation, according to the wiſe Counſel of King *James* in his *Baſilicon Doron*, treating of the right Uſe of Subſidies: albeit that the preſent Condition of your Subjects is worſe, and the Patrimony of the Crown greater, than when King *James* I. remitted to his People a great part of his Taxations, granted even for that good King's Ranſom; yet have we all as one Man conſented to all your Majeſty's Demands, and more, even to have Taxations multiply'd, without repreſenting how the former have been, or theſe may fall to be, beſtowed upon divers Parties, whoſe Waſtes and Wants your good Subjects are not obliged to ſupply; without objecting that ſome of them have been granted extraordinarily for Supplies of the *Palatinate*, which being now by the Mercy of God in a better Condition, they might have pleaded in reaſon to be thenceforth diſcontinued; without foretelling that ſome of the Subſidies are like to be means of more Proceſſes (or Suits) betwixt your Majeſty's Subjects and the Treaſurer, than matter of Profit to your Treaſury; without putting your Majeſty in remembrance of the Impertinencies you have ſuffered by Mens Ambition after the publick Places of Judicatories, which none have heretofore refuſed by reaſon of the ſmall Fees due to them; without contradicting the Exceptions of your Officers Penſions, or alledging their Fees to be as ſufficient for maintaining the Dignity of their Places now, as they were before your Majeſty's Father ſucceeded to the Crown of *England*. And all this have we done implicitly, only to teſtify our ingenuous Affection to your Majeſty, and our obſequious Reſolutions to give you full Content in every thing that makes not a Breach in our Religion and Laws, or occaſioneth not Offence to the weaker ſort in the way of God's Worſhip here eſtabliſhed; and albeit we were not acquainted with any of theſe Statutes before the publick voting of 'em in Parliament. Therefore we are confident that your Majeſty finding ſuch a Harmony in our Affections to your Service in preſerving our Religion and Liberties, will be unwilling, upon any Suggeſtion of ſuch as are (or hope to be) Sharers of our voluntary Contributions,

tions, to introduce upon the Doctrine or Diſcipline of this your Mother-Church, any thing not compatible with your Majeſty's Honour, your good Peoples Conſciences, or that hath been rejected by Acts and publick Practice of this Reformed Church.

Follows the ſaid Mr. *John Dunmure*'s Depoſition, written upon the end of the ſaid Copy.

Apud Edinburgh xiv Martii 1634. conveened *St. Andrews*, *Traquair*, Biſhops of *Edinburgh*, *Roſs*, Clerk of Regiſter.

I Mr. *John Dunmure*, Notary in *Dundee*, being examined in preſence of the Lords of his Majeſty's Secret Council above-written, depone and confeſs, That this Supplication within written, is all written with my own Hand, and is that which I delivered to Mr. *Peter Hay* of *Naughtoune* about *Lambas* laſt. And farder I depone and confeſs, That this is the juſt and true Copy of the Paper delivered to me by *John* Lord *Balmerino*, ſhortly after the end of the late Parliament, within *Edinburgh*; and that then my Lord of *Balmerino* (I being with him) ſaid to me, *Becauſe ye have given me many Papers, I will let you ſee this, and have your Judgment of it; but let it be* tibi ſoli, *as ye reſpect my Credit.* And that I keeped it four or five days, and copied it, and then delivered the ſame back again. I further depone, That the Paper contained the Supplication within written, in the ſame Words and Senſe: and it is not by my Lord *Balmerino*'s Hand, but by ſome other Hand.

Sic ſubſcribitur, Joan. Dunmure.

Written on the back of the ſaid Copy, *For the Kirk and Country in the Parliament*, 1633.

My Lord *Balmerino* produces two Warrands of the Lords of Seſſion, by their Lordſhips Deliverance of the ſeveral Dates under-written, ordaining the Procurators therein contained, to compear and defend my Lord in the criminal Proceſs above; and the ſaids Lords by their Deliverance, of the Date the 19th of *November* 1634. The Lords having conſidered the Deſire of the Supplication, *&c.* and appointed the Perſons therein condeſcended on by my Lord to be his Advocats for his Defence, *viz.* Sir *Lewis Stewart*, Mr. *Thomas Nicolſon*, *Walter Hay*, and Mr. *John Nisbet*. And by the Deliverance on the end of another Supplication given in by my Lord to the ſaid Lords, craving (upon ſome of the former Advocats refuſal) more Advocats, they by their Deliverance thereon, of the Date the 25th of *November* 1634, appoint and ordain Mr. *Roger Mowat*, Mr. *Alexander Pearſon*, and Mr. *Robert Macgill*, Advocats; and ordains, *&c.* Upon the production and reading of the which Warrands, the ſaid Lord *Balmerino* took Inſtruments.

Thereafter it was objected by my Lord's Advocats, that my Lord Regiſter could not ſit as ane Aſſeſſor to my Lord Juſtice-General in this Proceſs, becauſe not only my Lord Regiſter has been one of the Judges of the particular Committee appointed for Tryal and Examination of the Pannel, before whom he has oftentimes compeared and been examined; but alſo my Lord Regiſter has given partial Counſel, and has been upon the Counſel of the adviſing and libelling of the Dittay now produced and read, and has aſſiſted in the ſame at ſeveral occaſions: and ſo by giving Information and Advice in that kind, has behaved himſelf as Party in effect, and therefore cannot be Judge nor Aſſeſſor to the Juſtice-General. And after Anſwers and Replies, the Lords by their Interloquitor repelled the firſt part of the Alleadgance, bearing that my Lord Regiſter cannot be Aſſeſſor, becauſe he was a Member upon the Committee: And as to the ſecond Member thereof, declares that they will have my Lord Regiſter to make his Judicial Declaration, and that judicially thereupon, in preſence of the Pannel, before any Anſwer be given thereto; which accordingly my Lord Regiſter does.

The Pannel, in reſpect of my Lord Regiſter's Declaration Judicial, is content that my Lord Regiſter remain Aſſeſſor to the Juſtice-General: whereupon my Lord Advocat asked Inſtruments.

Thereafter the Pannel produced a Supplication to the Lords of Privy Council, with Deliverance thereon, craving the Depoſitions made by the Earl of *Rothes*, Mr. *John Dunmure*, and Mr. *Robert Dalgliſh*, from the Clerk, to be ſeen by his Procurators; and their Lordſhips, by their Deliverance thereon, dated at *Edinburgh*, 28 *November* 1634. the Lords remit to the Juſtice the anſwering of the Deſire of this Supplication. *Sic ſubſcribitur*, *St. Andrews.*

Accordingly my Lord Advocate, at the Juſtice Ordinance, (*i. e.* by order of Court) gave up to Mr. *Roger Mowat*, one of the Pannel's Procurators, two Depoſitions of Mr. *John Dunmure*, one of Mr. *Robert Dalgliſh*, one of the Earl of *Rothes*, one of Mr. *Peter Hay*; together with four miſſive Letters, ſent by Mr. *William Haig* to the Pannel, to be reproduced Friday next, at which time they were accordingly reproduced.

Thereafter upon the ſaid *Decemb.* 5. the Dittay and infamous Libel was read, as ſpecified in the Dittay.

It is firſt alledged by Mr. *Robert Macgill*, as the Pannel's Procurator, under Proteſtation for himſelf and the reſt of his Brethren, with an Apology that he nor they allows not the leaſt ſort of inordinate Speech againſt his Majeſty, but only to free the Innocent, as they who are commanded by the Lords of Seſſion, and take Inſtruments upon the firſt Article of the Acts imprinted in our Sovereign's firſt Parliament, anent the ſurveying of the Laws; does alledge the Dittay cannot be inferred againſt the Pannel, upon the firſt Act ſpecially and at length ſet down (therein:) becauſe it has not been the Mind of the Legiſlator there to inflict the Pain of Death upon ſuch Reproaches as are contained in the Dittay, and alledged to be contained in the Supplication or Petition ſtyled by the Dittay *Calumnious*. For the main cauſe of making that 20th Act, Parl. 10. holden in *December* 1585. (our dread Sovereign, and his Honour, being ever propoſed) was not only to ratify the Grace given and extended to theſe Noblemen, who a little before came in at *Stirling*, as may be ſeen by the particular Acts of Parliament unprinted anent the reſtoring of theſe Noblemen, with their Followers; but much more to ſtrengthen the Nobility (as reaſon was, and the time required) againſt Captain *James Stewart*, who then had fled, and was the cauſe of their former Baniſhment; and feared by them, that he might wrong them again, if he had regained his Majeſty's Ear, becauſe that they came in in ſuch a manner. And to ſtrengthen alſo the Nobility againſt any other, who ſhould take in hand the like, as to come in betwixt the Tree and the Rind; I mean, betwixt his moſt Sacred Majeſty and his Favour *& ſuos Comites*, for his Nobles are ſo called,

and has their Names as they who ſhould be ever accompanying his moſt Sacred Perſon. For the Deeds done *contra aliquem & Comitatu vindicantur ut Crimen Læſæ Majeſtatis, Leg. quiſquis, Cod. ad Legem Juliam Majeſtatis,* by the time.

The Strain of the Act carries alſo this, to wit, Reproaches of his Majeſty's Eſtate or Government, or depraving his Laws and Acts of Parliament, or miſconſtruing his Proceedings: but anſwering to the Queſtion, *In quem finem* ſhould theſe Reproaches have been written, whereby any Miſliking may be moved betwixt his Majeſty and his Nobility and loving Subjects? Where the word *his Nobility* is very emphatick, and the two laſt words expounds the ſamen, being exegetick of the former by a gracious Praiſe, teſtifying by the word *loving* the forgetting of the former Slip, which had been more by miſreport than in verity. Compare alſo this Act with that which was made during the ſaid Captain *James* his Grandeur, a little more than a Year preceding, *Parl.* 8. *cap.* 134. *Jac.* 6. in the which, as it were *conſulto Conſilio,* the Noblemen are omitted *ibi*; to the Reproach of his Majeſty's Council and Proceedings, to their great Prejudice who were then put away by his [*i.e.* Captain *James*'s] Counſel, and holden away by his Detractions, until they peartly enough (yet encouraged by their own Innocency) came in at *Stirling:* and incontinent did procure that tenth Parliament to be holden, in which was made the ſaid tenth Act, no more Days intervening betwixt their Return and its Sitting but the Days of Citation. And is yet more clear by the words, *Deprave his Laws and Acts of Parliament:* meaning *Act* 25. *Jac.* 2. *Parl.* 6. againſt the Apprehenders of his Majeſty's Perſon, as the Act bears; the literal Senſe whereof might infer a Dittay againſt the Committers, if it were not to deprave the Laws, if the Mind of the Legiſlator were not look'd unto. So that this tenth Act cannot well be underſtood as convenient to infer the Dittay, eſpecially ſeeing he was not the Author or Penner of that alledged infamous Libel; but Mr. *William Haig,* who has clearly taken it upon him by his own Letter, as was conſtant (*i.e.* evident) to the Lords of the Committee, and is acknowledged in the Dittay by theſe words, *At the leaſt guilty of the Hearing:* wherein the Pannel's part was not much worſe than others who heard it, and yet not revealed the ſame. As alſo although that Remonſtrance by way of Supplication now alledged to be ſcandalous, but then to be preferred to his Sacred Majeſty, and was offered to be given; *ergo* the Dittay cannot be inferred in this Act.

And as to the ſecond Act libelled expreſly, *Jac.* 6. *Parl.* 14. *cap.* * 209. containing divers Acts anent Leaſing-makers; we repeat the forſaid Proteſtation, and ſay, If all ſorts of inordinat Speeches (whilk let it be ſpoken with all Humility and dutiful Reverence, as not allowing any, but to ſhew the Pannel's Innocency) againſt his Majeſty our dread Sovereign and his Government, even thoſe which by Interpretation or Miſconſtruction may be inferred upon a Man's Speech, by (*i.e.* contrary to) his Mind; and not only the Author of the ſame, but alſo the Hearers, not Revealers, and not Apprehenders, are underſtood to be puniſhed with Death in our Law, in the Addition of that Act, and ſo are all to be comprehended therein: then we ſhould make our Law to commit an Abſurdity, which no municipal Law ought to do; but rather an Interpretation ſhould be taken out of the Common Law and Reaſon. *Gailus ad Longum, lib.* 2. *Obſervatione trigeſima tertia, quo modo Statutorum Interpretatio facienda ſit.* The Abſurdity is, that there ſhould be Equality of Pains, and ſo Equality of Crimes, committed in Speeches (in moſt ſubmiſſive manner be it ſaid) againſt his moſt Sacred Majeſty, not only by the Authors, but alſo by the Concealers and not Apprehenders, whatever the ſcandalous Speech be. But he that hears and not reveals a higher Speech, ſhall be puniſhed as he who hears Treaſon. The Connection is cleared by this, *Quod Delictum majus a parvo dignoſcitur ex Pœna qualificata. Tractatu incerti Authoris de Læſæ Majeſtatis Crimine, quæſt.* 11. *num.* 5. *Et paſſim in Jure ut comprobat Baldus in Capitulo primo, prima Nota ad Titulum* 38. *lib.* 2. *Feudorum de Vaſſallo qui contra Conſtitutionem Lotharii.* And the Opinion of the Civilians is exploded long ſince, *ut fontica dignum horribili flagello.* For there are ſundry ſorts of inordinat Speeches and Contumelies againſt the Prince and the Eſtate; as theſe that are ſpoken againſt his Majeſty's Perſon and Blood outrageouſly, or in a Conſpiracy againſt the Country, underſtood in ſome manner by *Clarus, paragrapho Læſæ Majeſtatis, num.* 1. *in fine.* And here it is only that the Lawyers find the Hearers and not Revealers, and not Apprehenders, to be puniſhed by Death: *Clarus, paragrapho ultimo, quæſt.* 87. *num.* 2. *Punctus in fine.* And yet he requires *ut adſit Tractatus.* Such were the Speeches uttered betwixt *Catiline* and his Complices; *Et non nuda Verba ab Authoris Animo detorta.* In which caſe it is well ſaid, *Quod Crimen Majeſtatis a Judicibus non in occaſionem ob principalis Majeſtatis Venerationem habendum ſit, Leg.* 7. §. 2. *F. ad Legem Juliam Majeſtatis.* The ſecond ſort are where *directis verbis Animo injuriandi viciis improperat,* to a Prince for lack of Virtue. Where the Lawyers remit the Author, *Lege unica Cod. ſi quis Imperatori maledixerit;* (it not being yet condeſcended fully amongſt them, what is meaned by the word *Remittendum.*) But anent the Hearers, not Revealers, and not Apprehenders, not a mum. but on the contrary, *quod nulla Pœna teneantur:* As *in omni delicto niſi Caſibus dictis, Clarus* ſays, *num.* 3. *Verſiculo quod tamen, dicta quæſtione* 87. Far leſs can the Hearers, not Revealers, and not Apprehenders of the Authors of the third ſort of Speeches be concluded under Death with the firſt; and that third ſort (in all Humility I ſay) where Vice and Lack of Virtue is not *improperat directis verbis, (tantum abeſt ut ſit animus injuriandi.)* But as a Flower or flouriſhing Weed may afford both Honey and Venom, ſo Speeches written to ane good End, by ane miſconſtructing Illation may be interpret in ane evil Senſe; as the Informer of the Dittay makes the alledged Supplication to be a contumelious and infamous Libel: which cannot be done (in all Humility and Submiſſion I ſay it) to infer the Dittay againſt this Pannel, upon the ſaid Addition in the Act 205, as Hearer, not Revealer, not Apprehender, without a manifeſt Abſurdity againſt the Law and Reaſon, as ſaid is. For even in Speech, *quamvis dixit Dominum ſuum eſſe Dominum Hominum & Beſtiarum, quod non debet Author puniri;* concluded remiſſive. *Cæſar Orcellus in advocatione ad deciſionem Mathei de afflictis* 265. *num.* 68, 69. *& idem advocatione in deciſionem* 307. *num.* 15. *Quod verba ſunt civiliter capienda & ad bonum moderanda; itidem in dicto Tractatu incerti Authoris dicitur diſtinguendum inter verba narrativa & ſimpliciter enunciata quaſi prætereundo, ne alia verba diſpoſitiva ſeu poſitiones affirmatas, ut ex illis non liceat Argumentum ſumere, ex his vero liceat.*

* *In ſome Editions 'tis* 205.

liceat. Quæſt. 6. num. 13. ibi nunc videndum. But of the Particulars, and even of this General, more falls to be ſaid hereafter.

Only againſt Delators of Speeches, called *Frumentarii & Otacuſtai*, let it be remembred to the Juſtice, that ſome good Emperors (*quos infinitis illuſtriſſimus & ſacratiſſimus Imperator noſter præcurrit paraſangis*) uſed theſe Folks to know what the People thought of them, and how to amend any Slips, if any were. *Capitolinus in Antonino Philoſopho* ſays, *Erat famæ ſuæ curioſiſſimus, requirens ut verum quiſque de ſe diceret, emendans quæ bene reprehenſa viderentur, & paſſus ſe impune cavillando perſtringi, dicitur civiliter ſe egiſſe.* *Xiphilin* reports the ſame of *Titus*; *Imo Tiberius deprecatus eſt apud Senatum nimis precipites verborum pœnas.* Yea, to this tendit King *James* V. of worthy Memory, his diſguiſing himſelf for ſuch another Inquiry; as alſo *Goran*, one of our dread Sovereign's moſt worthy Progenitors, is commended for the ſame by *Hector Boyes*. In reſpect qhereof, the Dittay is not relevantly inferred upon the two Acts of Parliament libelled.

It is farder alledged by Mr. *Roger Mowat* for the Pannel, That the ſaids two Acts of Parliament mentioned in the Dittay, and qhereupon the ſamen is founded, can be no ground in Law for this criminal Purſuit; in reſpect the ſaids two Acts, and many others of that kind, but ſpecially the laſt of the ſaids two Acts, and the Additions ſubjoined thereto, have never been in Obſervance, Cuſtom, or Practice heretofore, againſt any alledged Contraveeners thereof: and therefore cannot now receive a beginning againſt this Pannel, being a Nobleman, known by the hail Courſe of his bygone Life to have been ane ſtrict obſequious Keeper and Obſerver of his Sacred Majeſty and his moſt noble Progenitors their Acts and Statutes; in ſuch ſort, that it can never be verified that ever the Pannel has been ſo much as once denounced Rebel, and put to his Majeſty's Horn, (Outlawry) for any Action or Cauſe, Civil or Criminal, whatſomever; and ſo is not preſumed to have contraveened any of the ſaid two Acts, albeit the ſame had been in cuſtom and practice, as they have not. And that the ſaid two Acts, ſpecially the ſaid Addition of the laſt Act, are fallen in deſuetude, and never heretofore practiſed, is clear and evident, becauſe the contrary cannot be ſhowen: And it has been received as a moſt laudable and warrantable Cuſtom amongſt wiſe and judicious Politiques, that Laws in deſuetude and out of cuſtom are not to be introduced at an inſtant, without ſome new Intimation thereof, when neceſſity is found for re-eſtabliſhing of the ſaid Laws; but ſpecially ſuch Laws and Acts, as carry with them the Pain of Death, Forfaulture, or ſuch-like: Likeas ſome ſtrict Acts of Parliament of this kind, containing the like or more grievous Pains, being ratified by ſubſequent and poſterior Acts, the ſaid poſterior Acts have ordained Intimation to be made to the Leidges of the ſaid former Acts, Pains, and Severity thereof, before the ſaid Pains ſhould be inflicted upon the Contraveener. And it is clear, that not only the ſaid two Acts mentioned in the Dittay are not of cuſtom, and have not been practiſed, but many more, containing ſome leſs and ſome greater Pains, in the moſt part of all preceding Parliaments: For which I will only adduce ſome few, to verify and inſtance this part of my Alleadgance, (Allegation.) And firſt I alledge the 105th Act of the 7th Parliament of King *James* V. of worthy Memory, intituled, *Pains of them committing Fraud in Alienations*; which bears, about the end of the ſaid Act, That the Perſon Seller or Giver ſhall be declared infamous, and ſhall be puniſhed in his Perſon and Goods at the King's Will. And it cannot be denyed, but that this Act hath been many times contraveened, by many of good ſort, in points of double Alienations, and yet was never heretofore practiſed againſt the ſaids Contraveeners.

There is another Act of Queen *Mary's*, of happy Memory, *Par. 5. cap. 16.* made againſt them that ſwears abominable Oaths; whilk Act is ratified by King *James* VI. of ever-bleſſed Memory, *Par. 7. cap. 103.* both the ſaid Acts bearing in expreſs words, That for the fourth Fault, Prelats, Earls, or Lords contravening, ſhall be baniſhed or put in Ward Year and Day, at the Will of the Prince. Theſe Acts have been contravened, yet no Purſuit for the ſaids Pains has followed thereupon.

The 2d Act of the 16th Parliament of moſt bleſſed King *James*, bears, That the ſlaying of Salmond, Smolts, Kipper or Black-Fiſh, ſhall be a Crime of Theft in time coming, and to be puniſhed as Theft in every Quality. Which Act, if it ſhall receive force, and be put in practice upon a landed Man, (as queſtionleſs it may) it ſhall import him, or any landed Man Contraveener thereof, no leſs than Tinſel (Loſs) and Forfaultry of Life and Goods; becauſe by the 50th Act of the ſaid 11th Parliament, landed Men convict of Theft or Receipt thereof, commits Treaſon: *ergo* landed Men, Slayers of Salmond, Smolts, *&c.* in forbidden time, commits Theft, and conſequently Treaſon; which (as the Act bears) is declared to be Tinſel and Forfaulture of Life, Lands, and Goods.

Theſe and many other of this kind, every where to be found amongſt the ſaid Acts, does evince, that with reaſon the ſaid Acts libelled in the Dittay, and others of that kind, which never have been practiſed of before, cannot be received againſt the Leidges (Subjects) without a preceding Intimation; whereby good and loyal Subjects may be *in mala fide*, in caſe they be found after the ſaid Intimation to have contraveened. And ſo the ſaid two Acts, ſpecially the ſaid Addition mention'd in the laſt Act, cannot be found nor ſuſtained as warrantable Grounds in Law againſt this Pannel; being a Nobleman, not only known to be ane Obſerver and not Braker of his Sacred Majeſty his noble Progenitors their Laws, Acts, and Statutes, to draw upon him for alledged hearing, concealing, and not revealing and not apprehending of the Authors of the alledged infamous Supplication, the Pains contained in the ſaid Acts and in the ſaid Dittay, which is the Tinſel and Loſs of his Life.

It is alledged farther by Mr. *Alexander Pearſon* for the Pannel, in fortification of the Exception propounded, *Quod Leges pes deſſuetudinem tacito conſenſu cenſentur abrogatæ, expreſſa Lege 32. §. 1. F. de. Ita ut ſecundum ipſas non firmatas judicare non liceat, firmantur autem Leges cum moribus utentium approbantur, Canone in iſtis tertio diſtinctione 4ta. Et ſi hoc obtinet in Civilibus, quanto magis in Criminalibus, ubi tanto cautius agendum eſt, quanto magis periculum vertitur. Unde illud Papæ qui decrevit ut generaliter Clerici in Quinquageſim. a carnibus & deliciis jejunent, quia moribus utentium approbatum non eſt, aliter agentes tranſgreſſionis reos, non arguit Canone ſupra citato.*

citato. And therefore the Acts of Parliament whereupon the Propositions of the Dittay are founded, none of them, at the least the last thereof, never having been in observance at no time since the making thereof, now by the space of forty Years, even since the last Act; the Acts foresaid, specially the last, cannot sustain the Dittay, nor inferr the Pains therein mentioned.

It's answered by my Lord Advocat, That all the Alledgances ought to be repelled, in respect of the Acts of Parliament, whereupon the Dittay is founded; and that there runs no Prescription against Laws, and specially against Laws prohibitive of Crimes, which are also prohibit and punished by the Common Law; of the nature whereof are these two Acts whereupon the Dittay is founded. And the Alledgance, *Quod Leges tacito consensu abrogantur*, is only *per contrariam Consuetudinem idq; in contradicto Judicio*, which is that which the Law calls *tacito Consensu*; and all the Arguments adduced in the contrary, are *ab Incommodo quod non solvit.* And the Indulgence of the Prince in the overseeing the Punishment of Crimes in bygone time, cannot be adduced to warrant a Crime when it is pursued; and specially when the Crime is of the nature of Rebellion against the Prince, in his Person, Estate, and Government. And albeit this be a clear and sound Answer, and that no more is necessar; yet it is constant and nottourly known, that these Laws has been put in Execution this 34 Years bygone; as namely, against *Francis Tennant*, in the Year of God 1600. and against Mr. *Thomas Rosse* in *Anno* 1618. and lately against Mr. *George Nicol* his infamous Libel.

It is duplyed (said again) for the Pannel by Mr. *Alexander Pearson*, That where it is alledged by my Lord Advocat, that Desuetude cannot be obtruded against Acts of Parliament, which has Warrant from the Common Law; it is answered, that the Acts anent Crimes by Desuetude rather loses their Vigour than Acts of Civil Business, because in Acts Criminal there is greater Hazard, as Loss of Mens Honour and Life. As to any Precedent in Civil Law giving Warrant to the Addition of the last Act of Parliament, it cannot be alledged, *Quia non est Lex statuens pœnam mortis, contra* Hearers, Concealers, and not Revealers, which is the Addition of the Act. And where it is alledged by my Lord Advocat, that Desuetude of Laws is only *per contrariam Consuetudinem in Judicio contradicto.* It is answered, That Desuetude of Laws is clearly expounded otherwise by the Citations above-rehearsed: so that *Leges quæ nunquam in usum forensium productæ sunt & quæ moribus utentium approbantur*, are become in Desuetude, *licet non sit Consuetudo in foro contradicto in contrarium.*

It is further duplyed by Mr. *Robert Macgill:* Not to dive any further into the Acts of Parliament, but respecting the Distinction already said, I alledge, that the Addition of the Act 205, cannot be thought to be *in viridi observantia* in this our Case; because if so ought to be, it should much more have been practised against the Havers, Hearers, Readers and Seers of any using Mr. *George Buchanan's* Books: But this hath never been used yet, Act 134, Parliament 8th, albeit there has been many. But so it is, that this has not been used in its own Case; *ergo* it ought not to be begun to be put in use against this Pannel, who let be his other Virtues, has been ever a Patron of dutiful Obedience to his and our most gracious and sacred Sovereign. The Connection is clear, because that Book, as sundry reports it who has read it out of the Country, *ipsum regiminis Cardinem nititur convellere, & impingit in Regiam Prerogativam.* Further, if all sort of Speeches (let me say it in all due Reverence) against his Majesty and Government, come under the Acts ratified here, with the Addition against Havers, Hearers, Revealers, and not Apprehenders, and were *in viridi observantia*, who should not be brought before this Judicatory, and under the compass of the said Act? for as we live all in one Family, every Man in his own, and talk thereof, so live we also in a Common-wealth, whereof to talk sometimes bitterly (which is not to be allowed) tho foolish: And so the most part thinks that they have their own Interest, and will force as it were the Wiser, nill they will they, to hear them. And anent that which my Lord Advocat says, *quod non valeat Argumentum ab incommodo*, it ought to be repelled in respect of the Place alledged out of *Gailus, Libro secundo, Observatione* 33. where he concludes, that the Argument is good against the Municipal Law to make it to be ruled according to the Civil Law, and to common Reason. And further, that our own Municipal Laws ought to receive Limitation according to Reason, I repeat the foresaid 25 Act *Jac.* 2. Item by the said Act 134 *Par.* 8. *Jac.* 6. it is made capital to meddle in his Highness's Affairs and Estate, either present, bygone, or to come; saying further, That none of his Subjects of whatsoever Function, Degree, or Quality, presume in time coming to meddle as said is, without any Exception: then shall a Nobleman, who is born as it were by our Laws to meddle in such Affairs as concern the Common-wealth and Country, not have so much Liberty as to petition his Majesty most humbly in Matters of Government, for the Weal of all, as may seem to him, while his Reasonings be discussed, no not in Parliament; yea, even *extra Parliamentum* his sacred Majesty was petitioned after his Majesty's Revocation, howsoever it was conceived, and in whatsoever Terms: So that Punishment of Speeches anent Government, and the Laws must receive their right Sense. Wherefore till they be surveyed (which has been most royally begun long since by his most sacred Majesty, and now enacted in his first Parliament) the Rigour of the said Addition ought not to be practised upon this Pannel; *Pars enim precipua Legis est Voluntas, & verborum dicitur Prerogativa, Lege non dubium. Codice de Legibus.* And *Menochius passim de arbitrariis Judiciis*, gives exception from municipal Laws, according to Equity and Reason.

It is farther duplyed by Mr. *Roger Mowat*, to that part of my Lord Advocat's Answer anent the Instances and Practices alledged for proving of the Custom and Consuetude of the said two Acts of Parliament, to wit, *Francis Tennant*, Mr. *Thomas Ross*, and Mr. *George Nicols*; That the said Practices or Instances cannot be respected, because they are not produced: and if they were produced (as they are not) it should be clearly shown, that they met not in (did not suit) this Case, either because they are not founded upon the said Acts of Parliament, and specially upon the said Addition contained in the said last Act, or else because the Crimes are not alike: for the first Crime of *Tennant's* was ane Cokiland (Libel) bearing and pro-

proporting expreſs poſitive Scandals and Reproaches, whereof he was condemned to have been the Actor and Author. And ſo whether he was purſued and convict upon the Acts or upon the Common Law, his Dittay was moſt relevant. As for Mr. *Thomas Roſs*, his Crime was alſo a moſt abominable Speech written by himſelf againſt the hail Nation *directis verbis*, qhereof he confeſſed himſelf (being upon Pannel) to be the Penner, Former, Deviſer, and Divulger; and Copies of his moſt infamous Libel affixed upon publick places with his own hand: and ſo cannot be obtruded as a Practick or Precedent in this Caſe. As for Mr. *George Nicol* his Crime, it needs not to be anſwered, becauſe he was not pannelled nor convict; and ſo his Proceſs intented againſt him cannot be adduced as ane Practick to rule the like Caſes thereafter: and the Pain inflicted upon him was by Warrand of Council, and ſo none of the ſaids Practicks can be reſpected. In reſpect qhereof, the Argument founded upon the Deſuetude of the ſaid two Acts, and the Danger that may follow hereafter upon other Acts of that kind, *&c.* which have not heretofore been practiſed, ſtands relevant. And it's craved, that the Dangers which may enſue to good Subjects upon the Practice of the Acts before alledged, may be adverted unto, and the dangerous Sequels prevented.

Secundo, It is alledged for the Pannel by Mr. *Alexander Pearſon*, under Proteſtation forſaid, That the Writing whereupon the Subſumption of the Dittay is foundit, is not an infamous Libel *quoad accuſatum*, neither in the Pannel's part in the Particulars libelled againſt him ſeditious and calumnious; neither can he be preſumed to have had any ſuch Intention. Firſt, not ane infamous Libel *quoad accuſatum*, but an humble Supplication of ſome Lords and Commiſſioners of the late Parliament, offered to his Majeſty himſelf; whereunto the Supplicants were induced in love and tendering of his Majeſty's Honour, and in fear of their Offence to his Majeſty by their voting anent ſome Acts of the late Parliament. For removing whereof, and for ſatisfaction to his Majeſty, they did humbly beſeech his Majeſty to be graciouſly pleaſed to ponder their Reaſons for diſ-aſſenting from the ſaids Acts; and to conſider the Supplicants hearty Obſequiouſneſs to his Majeſty in other matters of the ſaid Parliament, wherein they did forbear to repreſent any thing to the contrary thereof, for teſtification of their ingenuous Affection to his Majeſty. This Doing of the Supplicants is no Crime, *ſed de natura boni*; and far from any culpable Commiſſion, in meddling with things not belonging to them. And it is hard, that any Supplicants deprecating humbly his Majeſty's Offence, ſhould by ſo doing incur his Majeſty's Offence, and the Crime of Capital Puniſhment: ſpecially the Supplicants having no private Reſpects, but for the Publick, wherein they had Intereſt and ſpecial Charge; and for Conſervation of themſelves in his Majeſty's good Favour, the Loſs whereof, or the Fear of Loſs, ſhould be moſt grievous to any loyal Subjects; *Cujus Reipublicæ tantus ubique favor ut proclamant Leges quod Reipublicæ venerandæ cauſa ſecundum bonos mores ſit, etiamſi ad Contumeliam alicujus privati pertinet, quia tamen non ex mente Magiſtratus facit ut injuriam faciat, ſed ad vindictam Majeſtatis Publicæ reſpiciat, actione injuriarum non tenetur. Leg.* 13. *F. de Injuriis & famoſis Libellis.*

Eſt ergo quoad accuſatum Libellus ſupplex, & ſi Libellus ſupplex poſtulat Juri contraria, hujuſmodi poſtulata ab omnibus Judicibus refutari præcipiunt Leges, & Supplicantem iterum ſuper eadem cauſa non audiendum. Leg. 3, 5, *&* 7. *Codice de precibus Imperatori offerendis. Sed non ideo ſupplicans reus eſt ſcelevis, quia Libellus continet refutanda; nec Libellus ſupplex ideo famoſus, cum hæc fuit* ετερόγενεα.

Non Libellus famoſus quoad accuſatum quia non ad infamiam, ſed favoris conciliationem, ut ſupra: Item non clanculum & ſecreto, ſed profeſſo & reapſe domino Regi oblatus. Atque ideo nullo modo quoad accuſatum detractatorius aut calumnioſus, cum detractio ſit ſeminatio mali occulte, & calumnia ſit adverſus abſentem; neutrum autem committitur cum is cujus intereſt proponat querelam coram eo cujus partes ſunt de ea cognoſcere; de eo cujus intereſt Reipublicæ ejuſque ſalutis cauſa duntaxat.

Non Libellus famoſus quoad accuſatum, quia non conſtat directis aſſertionibus in quibus venit verum aut falſum, quod omnino requirit Libellus famoſus. Leg. unica, Codice de famoſis Libellis. Sed poſtulatis in quibus conſiderandum venit bonum, juſtum, & qui verum & falſum non agnoſcunt cum non fuit enunciatio.

Farder, the Pannel cannot be preſumed to have had any other Intention than the Strain and Tenour of it, as a Supplication does imply, and which is moſt beſeeming thereto; to wit, to the Voice of ane humble Supplicant. *Ea ſententia accipienda eſt ſemper, quæ rei gerendæ aptior eſt, & in ambiguis orationibus maxime ſententia ſpectanda eſt ejus, qui eas protulit. De Regulis Juris.* And it is always diſagreeing to a humble Supplicant to tax of calumniat, and therefore it cannot be ſo expounded, but ſhould be interpreted the beſt way the words may admit: *Quia de Jure in dubiis & obſcuris, quod minimum & benignius eſt ſequimur. Leg.* 9. *F. ibidem.*

Item, The Writing aforeſaid, as in form of Supplication, was uſed alſo as a Supplication, and ſo delivered by the Pannel to the Earl of *Rothes*, to be preſented to his Majeſty, as affirmed by the Dittay itſelf, and indeed offered to his Majeſty: which, howſoever his Majeſty did not accept of then, and take the ſamen to his Conſideration; yet the Supplicants did think that the very Preſentation thereof did ſeem to aſſure the Nature of the Writing to be a Supplication: and ſcarcely even could the wiſeſt conceive ſo of the Pannel's having the Writing, as it is now interpret, againſt his Majeſty; but think that his Majeſty had paſt all Offence thereof, as the Law ſpeaks of Action of Injury, whereof the preſent Accuſation is a kind. *Leg.* 2. §. 1. *F. de Injuria, Verba Legis injuriarum, actio ex bono & æquo eſt & diſſimulatione abolitur, ſi quis enim injuriam dereliquerit, hoc eſt ſtatim paſſus ad animum ſuum non revocaverit, poſtea ex pœnitentia remiſſam injuriam non potuit recolere.* By the which it appears, that the Pannel had no ſuch Mind or Intention, as the Dittay would rub (fix) upon him in all the Progreſs of the Matter libelled againſt him. And I ſuppoſe that none will think, that by the Preſentation of the Supplication at the firſt to his Majeſty by the Supplicants, that they then by ſo doing were culpable of a Capital Crime, if the ſame had been immediately thereafter deſtroyed, and never more ſeen nor heard. And if they then were not culpable, ſhall any ſupervenient Act make them culpable, or more culpable? *minime nunquam enim creſcit ex poſt facto prætériti delicti eſtimatio. Leg.* 130. §. 1. *de Regulis Jur. Multo minus ex poſt facto oritur novum delictum, quod ab initio non fuit quoad accuſatum, aut ubi offenſa ſi qua fuit diſſimulatione abolita ſit.*

It is eiked (added) by Mr. *Robert Macgill*, If it had been leiſome (lawful) to this Pannel, as a born Counſellor, in that great Council and Parliament,

and

and other Noblemen, to propound to his moſt Sacred Majeſty the things contained in that Supplication alledged to be ſcandalous; which are not Affirmations, but as it may ſeem, Grievances, Remonſtrances, and Expedients: then it was alſo leiſome to the Pannel, and others, to repreſent even out of Parliament to his moſt Sacred Majeſty, our dread Sovereign, what they could have propounded then, but did abſtain (therefrom) for the Reverence they carried to his Majeſty; ſpecially when they did it in moſt ſubmiſſive manner, as the hail Strain thereof bears, and out of a moſt loyal Affection. *Et prius eſt verum, ergo & poſterius.* The Verity of the Minor is plainly embraced by *Bodin, qui eſt acerrimus Regiæ Majeſtatis propugnator, Cap.* 1. *Lib.* 3. *ubi de Senatu & quod Senatori de Republica loquendum ſit, præſertim de omnibus fere capitibus in Supplicatione hac contentis.* As to the Connection, it depends firſt on the Duty of a good Counſellor here, to whom as God has given to be endowed with Reaſon, ſo our moſt Sacred Sovereign and his Progenitors have given to be a wiſe Man and Counſellor even from his Birth. That he may learn to exerciſe his Reaſon from his Birth, for the benefit of the Commonweal; which is the firſt Place of Honour, as *Cicero* ſays, and is that which we call Nobility; ſhall he not have as it were a Magazine of Reaſons, as may ſeem to him good, and even communicate them with others, for trying of the ſame? eſpecially at this time of ſurveying of the Laws, that according to the Time, and other Circumſtances, he may furniſh to his Majeſty his beſt Counſel in every thing that he thinks may concern the Weal of the Country wherein he lives, as by Duty even from his Birth he is bound: like to the Labourer, to whom in a rainy Day, *quæ mox Cœlo properanda ſereno maturare datur.*

Next, It depends upon the good Mind to the Commonweal, qhereof his moſt Sacred Majeſty is the Head; *ut non teneatur injuriarum qui quicquam Reipub. cauſa faciat.* Neither is that thought to be an Injury, *Lege Injuriarum* 13. §. 1. *Lege quod Reip. F. de Injuriis juncti Leg. neminem 9 Cod. ex quibus cauſis irrogetur infamia, & Lege ex varia quarta de Delatoribus, Lib.* 2. *Cod.*

Thirdly, It does depend upon the Conception of the Words, which is by way of moſt humble Supplication. *Et verba propter adjunctum mutant naturam ſuam, Carvetta ad deciſiones: afflicti neque tam refert qualia ſunt quæ intra noſmet compoſuimus quam quomodo efferantur. Ac Quintilianus, Lib.* 2. *Et ut in aliis rebus ita in ſermone, forma dat eſſentiam ſermoni;* for even good Words may be uſed in an evil ſenſe, *ut, Heus bone vir!* But this is worthy of all Praiſe: *Et ſi non dederis Cæſar, permitte rogari, offendunt nunquam thura preceſque Deum.* Kings are Gods on Earth; and albeit by *Bodin extrema Provocatio* be counted *inter Jura Majeſtatis*, that from a King himſelf there is no Appellation, (Appeal;) yet he commends the ſort of Appellation *a Philippo ad Philippum*, and alledges it to be the Opinion of *Baldus, ad Legem primam & ultimam Cod. de Relationibus, & Leg.* 1. §. 1. *F. de Appellationibus, viz.* to his Majeſty.

For ſeeing the alledged ſcandalous Petition was offer'd to his moſt Sacred Majeſty to be read, but not received nor read, nor after due Conſideration condemned by his Majeſty; it was not thought ſo dangerous (let me ſpeak it with Reverence) as to come under the compaſs of the Acts of Parliament, and ſo as it ought not to have been divulged: I mean, in that quiet manner, as it might not be imparted to Mr. *John Dunmure, ſub Sigillo Taciturnitatis*, and not to have been copied. And farder, the Pannel ought to be excuſed and aſſoilzed (abſolved) from the Dittay, *ſi delictum dici debeat, quod cum loquimur in delictis in quibus dolus eſt de ſubſtantia delicti, tum credulitas & ſive juſta ſive injuſta ſit cauſa, excuſet, nam videtur ceſſare animus delinquendi. Clarus §. final. Quæſt.* 60. *num.* 22. *Et in delictis voluntas non finis attenditur. Gailus Lib.* 2. *Obſer.* 99. *num.* 6. *At hic nullus exitus niſi bonus, idem Obſervatione undecima, Quod in delictis principium non finis attenditur, num.* 18. *Ubi de homicidio perpetratur & conſilium convitia tenditur. Lege ſi non, quinta Cod. de injuriis, & cauſatur hæc actio ex affectu inferentis. Pharma. Quæſt.* 105. *Inſpect.* 3. *num.* 3. *ex Lege illud tertia, §.* 2. *Leg. non ſolum* 2. *in princip. ſi quis ſervum* 26. *de injuriis ubi Pharmacius, Quod lata culpa his dolo æquiparetur & locutis multa de preſumptione doli in utramque partem, & de juramento purgationis ſubdit. Num.* 118. *dicta Inſpectione, quod verba debent impropriari ad fugendum delictum & malum animum, præſertim cum in publico dicta ſunt.* Which we ſay, when it was not concealed, but offered to be given to his moſt Sacred Majeſty; neither is it preſumed that any Man has a mind to defame his Neighbour. *Pharm. dicta Inſpect.* 2. *num.* 418, *& ſequent.* And were he not to be thought more than mad, who would draw up, inſtead of a Supplication, a Libel full of Detractions againſt his Sacred Sovereign Lord, or who would keep the ſame beſide him, let be to offer to give it to his dread Sovereign? And in the Crime of Leſe Majeſty, *Dolus malus eſt de ſubſtantia criminis;* it being ever ſaid in the *Digeſtis, Cujus opera dolo malo quid factum ſit in Rempublicam.* What ſhall it not be *de ſubſtantia delicti*, in this alledged Crime of detracting, not ſo evil as is alledged in the Dittay? But as the ſame agrees with a remonſtrative Supplication (let me ſay it with Reverence) wrong gloſſed, as it may concern the Pannel, (where he had ſo many probable Cauſes inducing him thereto) *Quæ qualitates & circumſtantiæ conjecturæ, cum nulla delinquendi Conſuetudine probatæ relevant contra dolum preſumptum etiam propter prohibitionem. Carerius, fol.* 104, 105. *viz.* That theſe things might have been propounded in Parliament; That he was a Counſellor of Eſtate; That other Noblemen thought then alſe (as) well of it as he; That it was for the Weal (at leaſt ſo apprehended by them) of the Country in this time of ſurveying the Laws; That it was offered to be given to his Majeſty, and that under the form of a moſt humble Supplication; That other hard Supplications concerning the Eſtate had been received graciouſly by his Majeſty; That it was not then taken notice of, nor upon Conſideration condemned. And it might have been, that if any here had perchance lighted on it, they would have done worſe with it than the Pannel. For as *Quintilian* ſays, *Conſilium & Ratio quædam acti, petita & plura perpendens, ac comparens latentibus rebus & dubiis adhibenda.* Now no Right nor Vertue in itſelf can be ſeen but *quaſi facies*, as *Plato* ſays; yea, Verity, Equity, and Utility, are lain hid in the Draw-Well of *Democritus: Et ut quiſque altiſſima mente eſt, ita ex altiſſimo Democriti puteo quaſi ſubmerſas Veritatem, Equitatem, & Utilitatem, nititur haurire.* Yet ſo is the Reaſon of Man obfuſcat (darken'd) ſince his Fall, that he cannot penetrat to that Deep, for the Darkneſs; which by Diſceptation of contrary Reaſons, like two Flint-Stones ſtricken upon other, ſome Sparkles of Light flee out, for letting ſee to draw forth theſe Vertues. Wherein conſider alſo the Pannel's Carriage and his Life by-paſt; and if any thing tending

ing to Sedition, was ever heard of him, or even what effect has followed. *Qualitas enim facti ex perſona facientis preſumitur, Gloſſa finali Canone non omnis 5. Queſt. 5. & dicta Lege ſeptima §. 1. F. Ad Legem Julii Majeſtatis. Ubi ait Modeſtinus, nam & Perſona ſpectanda eſt, an facere potuerit, an ante quid fecerit, & an cogitaverit juſta, & jam cauſa excuſat a ſeditione quæ jam erupit. Boerius Tractatu de ſeditioſis premiſſo 4. num. 2. Ubi utitur exemplo Moiſis & Iſraelitarum ad Aquas Miriba.* And ſhall the Pannel, who had ſo many Reaſons for him, be thought puniſhable as one ſeditious in that mean Matter of divulging as ſaid is, of a Remonſtrative Supplication? whereof but by Illation and Miſconſtructing, (*ſalva pace dixerim*) it is gathered, far from the Pannel's Mind, that Sedition might have been moved. No, no, that Man is only ſtiled ſeditious, who, by direct Speeches, draws the People in Factions, and going madly before one of them, cries out the Word (*Vivat*) *ſcilicet hæc aut illa factio, Boerius dicto Tractatu Premiſſo 2. numb. 2. Et Carerius Fol. 10, 31. Pag. 2. numb. 3 in fin. ubi etiam dicunt, Quod in iis quoque qui jam ſeditionem excitarunt puniendis requiritur, & ſtudioſe rumorem & tumultum conciliarent voci ferationc.* Which things, ſeeing they are ſo far from the Nature of the Pannel, and from his Doings, his Intention and Mind ought to be juſtified, and conſequently he ought to be aſſoilzed from the Dittay produced.

The 6th of December 1634.

It is alledged by Mr. *John Nisbet* for the Pannel, That the Dittay is no ways relevant, becauſe nothing is libelled to infer a ſeditious and ſiniſtrous Intention of the Pannel, in contriving, concealing, or imparting of the Piece challeng'd; neither is it libelled, that the Pannel knowing the alledged Libel to be ſeditious and infamous, concealed or divulged the ſame: but to the contrair, it is libelled, That the Pannel, immediately after the receipt thereof, delivered it to my Lord *Rothes* to be preſented to his Majeſty, which clears the Candor of his Intention, and the Opinion he had of the Nature of the Piece, and of the uſe he thought might be made of it to propitiat his Majeſty, and not to traduce his ſacred Perſon or Government to his Subjects. And therefore, albeit he had concealed it, and divulged it, he cannot be obnoxious in the Pains of the Acts of Parliament, which are only againſt ſeditious Contrivers of ſlanderous Writings, and malicious Concealers of Writings, nottourly and to their knowledge ſeditious, expreſly compiled by Incentives and Firebrands of Sedition, and expoſed to the view of the Subjects for that effect. For the Words of the Acts of Parliament (*To the Reproach of his Majeſty's Perſon, Eſtate and Government, ſteering up Sedition, tending to ſteer up the Hearts of the Subjects to Hatred*) implieth Intention. And the Civil and Canon-Law requireth *dolum generale in omni actione injuriarum tanquam ſubſtantiale requiſitum. Gailus Lib. 2. Obſervatione 99.* And expreſly both in the compiling and divulging of ſeditious and infamous Libels, *Leg. Lex Cornelia §. 1. F. de Injuriis, Cum dolus non adeſt, niſi dolo malo quis fecerit, (viz.) Librum ad infamiam alicujus pertinentem ſcripſerit, compoſuerit, vel ediderit. Leg. illud §. ſane eodem titulo, Impubes & furioſus non poſſunt facere injuriam, quia neuter eſt doli capax; nam hi ſolent pati Injuriam, non facere: cum enim injuria ex effectu facientis non conſiſtit, conſequens erit dicere, hos ſive pulſant, ſive convitium dicunt, injuriam feciſſe non videri. Leg. 34. F. de Obligationibus & Actionibus, Injuria ex effectu ſit, Inſtitutionibus de Injuriis, §. 1. Leg. 5. §. ultima, F. ad Legem Aquiliam; Ubi dicit Julianus, Actionem (injuriarum non competere, quia non faciendæ injuriæ cauſam fecerit, ſed monendæ, & Injuria non factum queritur, ſed cauſa faciendæ expreſſa. Leg. 39. de Furtis decreti ſecunda parte, Cauſa 5. Queſt. 1. Canone 4. Verba ſunt (ſi vim Chartarum quæ jamoſæ ſunt) Scilicet doloſe manifeſtaverit, ſi ad ſe quaſi authorem hujuſmodi delicti capitali ſententia ſubjugandum. Turre Cremata & alii Doctores in verbo doloſe. Baldus conſil. 230. in fin. Lib. 3. conſil. 443. in fin. Lib. 5. Dolum in injuria requirit, ſine quo illata dici non poteſt. Idem concil. 277. Num. 2. Volumine 5. Reſpondet totam culpam quæ alicui dolo æquiparatur non ſufficere continet. Cravetta, concil. 419. num. 1. idem concilio, num. 36. Ait agens actione injuriarum debet allegari dolum & omnia jura clamitant, injuriam non fieri ſine animo injuriandi. Leg. ſi non convitii, Codice de injuriis; verba ſunt, ſi non convitii concilio probare potes, te aliquid injurioſum dixiſſe, fides veri a calumnia defenderet. Leg. 5. §. 1. F. de Furtis; Maleficia voluntas & propoſitum delinquentis diſtinguit. Leg. 14. F. ad Legem Corneliam de Sicariis; In maleficiis voluntas ſpectatur non exitus. Leg. unica Codicis, ſi quis imperatori maledixerit, ubi petulans & improbum mendacium; quo imperialia nomina laceſſuntur, non ſtatim injuria cenſetur, & eo nomine punitur; ſed diſtinguitur an ex levitate proceſſerit & ſic contemnitur, an ex inſania, & miſeratione digna cenſetur, an ex injuria & ſic remittenda declaretur. Sic injuria confunditur & reciprocatur cum animo injuriante. Omnes Doctores, Menochius concil. 197. Lib. 12. per totum.* The Caſe debated by the Doctor is coincident with the preſent, but not ſo pregnant in favour. *Arguebatur Senator ſcripſiſſe injurioſe de principe in hunc ſenſum, quod cum Senatorum Numerus utili ſanctione coarctatus fuiſſet, poſtea eſſet ampliatus importunitate & ambitione poſtulantium, mentem principis impellente, & cum rurſus nova Conſtitutione conſultum fuiſſet, & numerus Senatorum imminutus, deniq; aut demum auctus fuit, & in immenſum crevit magna cum ſupremi ordinis jactura & inutili intenſa, totiuſque ſtatus incommodo addiderat, hoſpitationibus tota die Patriam maxime gravari & forenſes nimis remanere gravatos.*

Menochius conſultus num injurioſe ſcripſerit, reſpondet, Qui Injuriarum & Male-dicentiæ accuſationem inſtituit, duo debet probari, alterum verba eſſe injurioſa, alterum prolata eſſe animo injuriandi. Et hæc Methodo oſtendit verba non eſſe injurioſa, quia laudem ducis continent cum ejus Conſtitutio dicatur optima, & potius bono zelo & pro celſitudinis utilitate prolata videntur. Deinde arguit Senatorem pœnam non incidiſſe, quia verba injurioſa etiam de ſua natura puniuntur, tantum cum animo injuriandi proferuntur, & preſumptio Juris ſtat pro eo qui protulerit aliqua verba quæ videntur injurioſa, ut dicatur ea dixiſſe abſque animo injuriandi. Ergo, ſatis ſuperque fundata eſt intentio Senatoris quod ſcripſerit prædicta, non modo non animo offiendi injuria ſereniſſimum principem, ſed potius laudandi & ſimilia verba a ſubdito bene merito de principe preſumitur prolata potius bono zelo. Secundo, quia quando verba ſunt dubia, ſtandum eſt declarationi ejus qui ea dixit; & quando ſunt dubia, ſimiliter Declaratio ab aliis verbis præcedentibus vel ſubſequentibus, vel ab utriſque. Et in caſu dicit Senatorem principem laudaſſe, cum dixerit fuiſſe in arbitrio ſuæ celſitudinis, num Senatorum numerum augeret. Addit, quod injuria requirit dolum, ſine quo illata dici nequit, & in Caſu conſtat omnem dolum abfuiſſe, quia dolus non preſumitur commiſſus contra perſonam bene meritam; non preſumitur in homine probo, non preſumitur in eo qui pro beneficio Patriæ aliqua verba protulit,

protulit, quæ principis perſonam videntur afficere; non preſumitur in ſubdito, quia nihil unquam contra principem molitus eſt. Quæ preſumptio multo magis comprobatur, quando verba voce vel ſcriptis directa ſunt ad principem: & ſi hæc in homine privato vera ſunt, quanto magis in Senatore gravi & illuſtri, qui alioqui ex his verbis conſciſſet ſibi contingere grave detrimentum. Cravetta in ſimili caſu dicit Judeos Chriſti inimicos, in dubio non preſumitur, aliquid dixiſſe ad injuriam Chriſti, quanto minus debet preſumi crimen injuriæ in ſubdito contra ſuum dominum. Idem ibid. numb. 26. Conjunctus non preſumitur injuria, conjunctum animo injuriandi intra ſeptimum gradum, Gloſſa in Leg. veſtes, F. de Injuriis. Multo minus preſumendum eſt ſubditum velle injuriare dominum ſuum: & Conſil. 6. Non eſt ſimile quod vir facultatibus plenus adeo ſtultus fuerit, ut prodigus eſſet perſonæ & æris, & quod dolus non ſolet committi contra tantum principem ſine cauſa. Idecius, Conſil. 256. Abſolvit quendam Paridem ſeditionis inſimulatum, quum nullo animo injuriandi dixerit alta voce quod princeps quidam male faciebat, & facere non poterat, quia ad ita dicendum poterit bono zelo moveri, & in dubio preſumendum eſt ut delictum excludatur, & quia preſumptio delicti removetur propter bonam famam & opinionem Paridis. By all which Preſumptions, more pregnantly concurring than in any Caſe extant in Law, the Pannel's Innocency is cleared abundantly. And nothing farder can be exacted but his Declaration by Oath, which he offers moſt willingly; and by the univerſal and uncontroverted Practick of all Nations, ſeconded with like Preſumptions, importeth Abſolution: *Quia probatur animus non injuriandi, juramento ejus qui injuriam intulit. Guido, Conſil. 223. num. 2. in fine. Menoch. de preſumptionibus, Lib. 5. Preſump. 40. num. 32. Idecius, Conſil. 256. Qua intentione reus verba dixerit ab ejus animo pendet, & ideo ejus declarationi cum juramento ſtandum eſt, quia dependentibus ab animo ſtatur juramento ejus de cujus animo dubitatur. Leg. 1. Codic. de Sicariis & aliis Legibus ab eo citatis. Godofredus ad Legem ſi non convicii, Codice de injuriis, Reo purgationis juramentum cauſa cognita defertur habita ratione perſonæ, qui injurioſus natura ſua verbis uſa eſt. Gailus, Lib. 2. Obſerv. 106. Notum eſt injuriam abſq; animo non committi, & innocentiam cum animo conſtat juramento probari poſſe, & ita in Camera judicatum refert.* And therefore in reſpect of the Premiſſes, the Dittay is no ways relevant, both becauſe *Dolus* is not libelled, and becauſe the Dittay bears that the Pannel gave the Piece challenged to my Lord of *Rothes*, of intention to be preſented to his Majeſty: Whereby the Innocency of his Intention is evidenced, and of his Acceſſion in having or divulging the Piece aforeſaid, ſince he was ſo far from thinking the Piece injurious to his Majeſty, in that he had ventured, by my Lord *Rothes*'s means, not only to acquaint his Majeſty therewith, but to preſent it, as a fit Apology, to his Majeſty; as is acknowledged by the Dittay, which we accept in that part.

It is farder alledged for the Pannel, That the Hearing, Having, and not Reporting, is not relevant to infer a Concealing after the Pannel's Knowledge that the King was acquainted therewith, becauſe *celanus eum qui ignorat, Leg. 1. F. de Actionibus empti & venditi.* And the Reaſon expreſſed in the Act of Parliament why the Reporting is injoined, is, that ſeditious Pieces of that nature may come to his Majeſty's knowledge. After which time, the Pannel was not obliged to importune his Majeſty with ſuperfluous Reports, ſeeing it is acknowledged by the Dittay, that immediately it was delivered by him to my Lord *Rothes*; and ſo acquitted himſelf of all that was incumbent to him in Duty anent the point of Revealing.

It is likewiſe alledged for the Pannel, That the Points of the alledged Libel quarrelled as outrageous to Churchmen, or to Noblemen, is not relevant to infer the Crime and Pain of infamous Libelling, becauſe they are not challeng'd by the Parties intereſted, and of the Law, *Volenti non fit injuria, & injuria diſſimulatione abolebur ſi quis deliquerit, & ad animum non revocaverit.* Secondly, There is no Act of Parliament irrogating capital Puniſhment upon the Authors of infamous Writings, reflecting againſt Subjects, but only againſt his Majeſty's ſacred Perſon, Eſtate, and Government.

It was thereafter alledged, under Proteſtation *ut ſupra*, by Mr. *Roger Mowat* for the Pannel, That the Dittay is not relevant to infer the Pain libelled upon, becauſe ane humble Supplication in Name of a Number of his Majeſty's loyal Subjects, for removing of the Prejudices which his Majeſty had or might conceive againſt them as Supplicants, and for conciliating his Majeſty's gracious Favour towards them, is not ſuch ane infamous Libel as falls under the compaſs of the Acts of Parliament upon which the ſaid Dittay is founded: but the Supplication quarrelled, whereupon the Pannel is accuſed *quoad eum*, and the reſt of the ſaid Noblemen, is an humble Supplication in their Names, as a Number of his Majeſty's moſt loyal Subjects, to remove his Majeſty's Prejudices, and to conciliat his Highneſs's Favour; *ergo* no infamous Libel falling within the compaſs of theſe Acts, *quoad eos*, and the Pannel. The Major is clear by the Definition, Nature, and Qualities of ane infamous and ſcandalous Libel, (where there muſt be Maligning, Detraction, and Calumny) and by the Definition of an humble and ſubmiſſive Petition and Supplication, which differs far from an infamous Libel, and altogether heterogeneous. The Aſſumption, *viz.* that the quarrelled Supplication, whereupon the Pannel is accuſed, is an humble Petition to remove Prejudice, and to conciliat his Majeſty's gracious Favour, is evinced in the ſaid quarrelled Supplication itſelf, in the Inſcription, in the Intention of the Supplicant; and laſtly, in the humble Deſire of the Supplication, which is the Subſtance, Life, and Quinteſſence of all Petitions: the Intention and End of the Supplicants being the Eſſence of the Petition, and the harſh or hard Expreſſions of the ſaid quarrelled Supplication (being ſubmiſſive and modeſt in the Inſcription and Deſire thereof, as ſaid is) cannot infer Guiltineſs againſt the Pannel, who is not Author nor Writer thereof. And alſe any Petition, formal by a Secretary, a Lawyer, or a Writer, to be given and preſented to his ſacred Majeſty, (even tho the Deſire thereof might ſeem juſt) being hard and difficile, or containing hask (harſh) Expreſſions not eaſy to be underſtood by every Reader, ſhall infer Guiltineſs and Puniſhment of Death upon the Supplicants mentioned therein, who perchance may be abſent out of that part of the Kingdom where the Petition was founded. And if the Harſhneſs of ſome Expreſſions, contained in the ſaid quarrelled Supplication, can infer the Guiltineſs libelled, and Puniſhment of Death, upon this Pannel, the Supplication and Remonſtrance made and preſented to his moſt ſacred Majeſty by a great many of the Nobility, who then were afraid at the large Extent of his Majeſty's late Revocation and Reduction, would likewiſe fall under the compaſs of theſe Acts of Parliament. But that Supplication and Remonſtrance was ac-

cepted by his Royal Majeſty, and his Majeſty was pleaſed with it. And ſince the ſame has tended to his Majeſty's Honour and Benefit, in the Matters of Surrender, Annuity, and Plantation of the Kirks, with competent Stipends, the Connexion is proven, becauſe the humble Supplication and Remonſtrance was no leſs expoſtulative nor this, which may be eaſily cleared by peruſing the ſaid Remonſtrance it ſelf; *ergo*, &c.

It is anſwer'd by my Lord Advocat, That the ſecond Alleadgance, and all the Members thereof, and Additions made to it by the Pannel's Procurators, ought to be repelled, in reſpect of the Dittay, which ſubſumes relevantly upon the two Acts of Parliament, Word by Word, as the ſame are conceived. And where it is alledged, that the infamous Libel cannot be eſteemed infamous or reproachful, *quoad accuſatum*, becauſe it is conceived under the form of a Supplication, and contains not *Infamiam* or *Injuriam*, but tends to pacify his Majeſty, whom the Supplicants ſuppoſed to be offended; and that it contains nothing *poſitive vel enunciativè circa verum vel falſum, ſed via poſtulati circa bonum vel malum*: And likewiſe where it is alledged that the Dittay is not relevant, there being nothing libelled to infer the Libel quarrelled to be ſeditious, and that the Pannel knew the ſame to be ſeditious; and that there is no *Dolus* libelled: It is anſwered, That all theſe Alleadgances ought to be repelled in reſpect of the Dittay, which is qualified according to the Qualification of the Acts of Parliament. And the Deſignation of a Supplication alters not the nature of the Libel in the Points where it is challenged as reproachful and ſcandalous; but theſe Points being of their own nature ſcandalous and ſeditious, cannot be excuſed under the Veil and Pretence of a Supplication, eſpecially where the Reproaches are emitted againſt his Majeſty's ſacred Perſon: *Quia in minima pulſatione ſacræ & ſupremæ Majeſtatis nulla admittitur excuſatio, ut ait Horoudus, Lib* 8. *de Libellis defamatoriis: tanta eſt atrocitas Libellorum famoſorum; & Imperator Auguſtus Libellos famoſos in principem tractaverit ſub ſpecie læſæ majeſtatis, & citat. Ciceronem, Lib.* 4. *de Republica, ubi ait noſtræ duodecim tabulæ cum per paucas res capite ſanciviſſent in his, hanc præcipue ſanciendam putaverunt, ſi quis hoc tentaviſſet ſive carmen condidiſſet quod infamiam faceret flagitiumve alteri; & multo magis ubi quis modeſtiæ neſcius, & pudoris ignarus, improbo petulantiq; ſtilo ſacræ Majeſtatis nomen crediderit laceſſendum.* And this Crime is ſo odious and heinous, that there needs no *Dolus* to be libelled, *quia dolus preſumitur.* And for the colouring of the Supplication, it is altogether impertinent; becauſe that would elude the Law, ſeeing every Man who reſolves to abuſe the ſacred Perſon of the ſovereign Prince, has it in his power to give what Name he pleaſes to his ſcandalous and odious Conceptions, whether to deſign them by ane Epiſtle, by ane Hiſtory, by a Petition, by an Admonition, and laſtly, if he pleaſes, by a Vow, to cover his Crime under the Mask of Piety. And for Supplications, the Law is clear, That albeit they be offered to the ſupreme Prince, yet if they contain a Reproach and Scandal to a Subject, they are puniſhed, *Lege apud Labionem, F. de Injuriis & famoſis Libellis*, §. 29. *cujus hæc ſunt verba; Si quis libello dicto principi famam alienam fuerit inſectatus tenetur Injuriarum.* And therefore much more, where a Subject dares preſume to make offer to his ſovereign Lord of a Supplication; and in it preſume to tax or reproach his Majeſty's Perſon, his Geſtures, his Speeches, his Promiſes in his ſupreme Parliament, and to lay Aſperſions upon his glorious Honour, Majeſty, and Dignity; which, with the reſt of the Points of the Libel, there repeated, are as many aggravant Qualities to infer the Atrocity of this infamous and ſeditious Libel. And *Pharma*, in his 30 *Concil. num.* 34, 35, 37, & 62. diſputes at length this Queſtion, *An ſub ſpecie voti Libellus famoſus excuſetur?* And concludes, *Quod queſitus color infamiæ ſub velamine petitionis magis aggravat & injuriam & animum injuriandi.* And no Man can be able to deny but the Definition of ane famous Libel is moſt competent to this particular Caſe, which is *ubi vel delictum, vel vitium, vel defectus improperatur alieni perſonæ.* And not only one, but all theſe concur in the particular Qualifications contained in the Dittay; and of the Law, *Actus ſumunt denominationem a potentiori, præcipue in actu mixto.* And read this infamous Libel, it ſhall be found in the Strain of it, and the moſt powerful Poſitions, to aim ſtill at his Majeſty's Perſon, Eſtate, and Government; which are ſo much more inexcuſable, that they were needleſs; and not only needleſs, but contrary and deſtructive of the Narration and Concluſion, which ſeems to tend for pacifying his ſacred Majeſty. For if the Purpoſe of the Supplicants had been to propitiat his Majeſty, their Sorrow and Grief for his Majeſty's ſuppoſed Offence, and an humble Deprecation of his Majeſty's Wrath, had been fit and uſeful means to procure their wiſhed Deſire: But in place of theſe, to enter irreverently and outrageouſly upon the Geſture of the Prince, upon his Acts and Geſtures in Parliament, upon the cenſuring and miſconſtruing of his Proceedings, and drawing the hail Body of the Eſtate under the Aſperity and Atrocity of their ſeditious Speeches; it is a Thing without Example. And where it is alledged, That this Petition was preſented to his Majeſty by the Earl of *Rothes*; and if any Injury was therein, it was removed by Diſſimulation: it is anſwered, That Diſſimulation never removes Injury, but upon preceding Knowledge. But there is no notice thereof to his Majeſty, becauſe refuſed: And, as I am credibly informed by theſe who have heard it out of his ſacred Majeſty's moſt gracious Mouth, his Majeſty has declared that his Majeſty remembers well the time that the Earl of *Rothes* made offer of that Supplication to his Majeſty; and that his Majeſty's Anſwer to him was, *My Lord, ye know what is fit to you to repreſent, and I know what is fit to me to hear and conſider; and therefore do, or do not, upon your Peril.* And the Circumſtance of preſenting to his Majeſty can have no place to extenuat, but rather to aggravat the Crime; becauſe the Pannel in his own Depoſitions has declared, that after reading thereof by the Earl of *Rothes* and him, it was thought of ſuch a Strain as was not to be repreſented to his Majeſty: And therefore the repreſenting, after it was diſallowed, increaſes the Offence. And where it is alledg'd, if his Majeſty had received it, that no Crime nor Puniſhment might have been inferred againſt the Preſenter; 'tis formally contrair, in reſpect of the odious and ſeditious Conception thereof, which would have deſerved the Puniſhment of Law in greater meaſure: in reſpect whereof, the ſaid hail Alleadgances ought to be repelled.

It is duplyed by Mr. *Alexander Pearſon* for the Pannel, That where it is replyed by my Lord Advocat, That the alledged and infamous Libel, tho under the Title and Form of Supplication, yet the ſame

ſame being indeed ſcandalous and reproachful, that it cannot eſcape under that Cover: It is anſwered, That the alledged Libel cannot be thought ſcandalous, *quoad Supplicantes*, neither doth it affirm the Particulars libelled by the Dittay *cum hoc in ſe non habent*; being a Supplication which of its own nature ſpeaks not but as it ſeeks, and no more than it ſeeks: and whatever Reaſons or Motives it proports to perſuade, it ends in a humble Requeſt for a gracious Anſwer from his Majeſty: That it cannot be ſaid to affirm directly, which ane infamous Libel of its own nature requires, *Dicta Lege unica Codice de famoſis Libellis.* The Words of the Law is, *Si ejuſmodi aſſertionibus fides veri opitulata non ſit:* Therefore requires Aſſertions direct, which is not in the alledged Libel; but proports Reaſons and Motives laying out the ſame to the View and Conſideration of his Majeſty, if thereby graciouſly and favourably it may obtain its Deſire. Where it is replied by my Lord Advocat, That *Dolus* needs not be libelled, *Quia delictum & injuria preſumitur facta animo injuriandi & ſic doloſe*; it is anſwered, That giving, and not granting the ſame, *Injuria preſumitur animo injuriandi in dubio tantum, & niſi probetur contrarium. Clar. §. Injuria, num.* 17. But to the preſent Caſe it is by the moſt evident Preſumptions, above rehearſed in the Defences made for the Pannel, clearly manifeſted, That there was no mind in the Supplicants and Pannel of Injury or Wrong; therefore cannot be preſumed to have offered any injurious and ſcandalous Libel to his Majeſty, or done any thing thereanent with that mind.

And where it is replied by my Lord Advocat, That if the Supplicants had a purpoſe of deprecating his Majeſty's Offence, and intreating his Majeſty's gracious Favour, they had made choice and uſe of fit Means to come to that End, and not by ſcandalous Speaking or Reproaching:

It is anſwered, What fitter means can a Supplicant uſe for intreating of Favour, than by humble Supplication? And that which my Lord Advocat calls ſcandalous Reproaches in the alledged Libel, is Grievances, and Remonſtrances thereof, humbly preſented to his Majeſty, and not aſſertive Reproaches, *ut ſupra.* And where it is alledged, That Diſſimulation removes not Injury, but upon preceding Knowledge; and that his Majeſty did not read nor take to Conſideration the Supplication foreſaid preſented: it is anſwered, That the Supplication offered to his Majeſty, altho his Majeſty took not the ſame to Conſideration, ſeems to aſſever the Nature of the Writing to be a Supplication, and was a great Inducement to the Supplicants to think that his Majeſty had paſſed all Offence thereof conceived. And where it is alledged by my Lord Advocat upon the Pannel's Depoſition, wherein it is alledged that the Pannel and the Earl of *Rothes* together, after the reading the Supplication, thought it not fit that it ſhould be preſented to his Majeſty; it is anſwered, That the Pannel's alledged Depoſition proports not the Earl of *Rothes* and his together reading of the Supplication; likeas it is of truth, that the ſaid Supplication was offered to his Majeſty by the Earl of *Rothes*, before the Pannel and the Earl of *Rothes* had any thoughts or purpoſe of ſuppreſſing of it: and howſoever the Pannel had had once a mind of ſuppreſſing the ſame, yet he thereafter knowing that it was indeed offered to his Majeſty, was a great Inducement to the Pannel to eſteem and think of it as ane Supplication.

It is further duplyed by Mr. *John Nisbet*, for the Pannel; Where it is replyed by my Lord Advocat, That it is ſubſumed relevantly, and the Dittay is qualified according to the Qualifications in the Acts of Parliament; that Dole being eſſentially required in all Actions of Injury, albeit Acts of Parliament, by reaſon of their Shortneſs, are not ſpecifick in the Expreſſion thereof; they muſt be interpret conform to the common Strain of Law, *Quia in Statutis pœnalibus aliquid delictum capitaliter, etiamſi quod de dolo non fiat mentio, dolus requiritur, & non ſufficit lata culpa. Phar. Quæſt.* 86. *Num.* 15; 25. *pro qua opinione citat & quamplures doctores, qui aiunt ſe liberaſſe aliquos a pœna mortis, & eſſe mente tenendum ad Confuſionem Judicum Imperatorum, qui credunt non eſſe recedendum a verbis Statuti: & ſubjungit, num.* 27. *Ibid. Multo magis cum Statutum imponit pœnam pro eo quod de Jure communi non punitur.* As the preſent Caſe, the Points of not reporting, and not apprehending, are puniſhable by no other Law in the World; and that the Siniſtrouſneſs of the Intention is neceſſary to be libelled, it is conſiſtent with Reaſon, becauſe the Crime conſiſts thereof; *Et ideo oportet ponere in Libello, quia non probat hoc eſſe quod aliquando contingit abeſſe. Codice de Probationibus Leg. Neq;* as the preſent Caſe. A ſeditious Concealing or Having, is not relevantly libelled by the having of a Piece alledged ſeditious, becauſe a Man may have a ſeditious Piece, and yet not be a ſeditious Concealer, becauſe he may be of opinion that it is not ſeditious. And it were hard in Law or Reaſon, upon the Errors of Opinion, to infer the Guilt of ſo atrocious a Crime, which, as all Crimes, requires ane expreſs Conſent. And by the Law, *Nihil eſt tam contrarium conſenſui, quam error, F. de Juriſdictione omnium judicum Leg. ſi per errorem & errantis nulla eſt voluntas, Codice de Juris, & Facti Ignorantia.*

And where it is replied by my Lord Advocat, That the Deſignation alters not the Nature of the alledged Libel, it is duplied, that the Deſignation of the foreſaid Libel, joined with the Strain and Faſhion of it, vindicates the Pannel's Innocency in the conceiving and uſing of it; becauſe it would appear to any Man to be a Supplication, and not an infamous Libel, ſeeing it is addreſſed to his Majeſty, whoſe royal and exceſſive Goodneſs excludes all Preſumption of Injury, and of the Law, *Subditi contra principem ſuum fraudem committi voluiſſe non preſumitur. Menoch. concil.* 404. *num.* 27. *Cravetta concil.* 309. *num.* 6. It beginneth at ane humble Supplication of his Majeſty, and concludeth with a hopeful Aſſurance, that his Majeſty will liſten thereto: And therefore, *cum ex ordine principii interpretemur finem. Baldus in Leg. quinta Codice de Commiſſis. Multo magis ex principio & fine reliqua interpretanda ſunt; & ex extremis media preſumuntur. Menoch. de Preſumptionibus, Lib.* 6. It contains ample Elogies of his Majeſty's Royal Goodneſs, and Juſtice of his bleſſed Father, and their Predeceſſors. *Et ideo verba debent intelligi de Actu uniformi, non difformi; id eſt, uniformiter in Laudem, & Decus, & non partim in laudem, partim in vituperium. Cravetta concil.* 9. *num.* 27. *& Verba debent potius impropriari & intelligi ſecundum fictionem Juris, delictum fugiatur. Ibid. & Pharm. Quæſt.* 105. So that it is clear, that the Supplication proves not a naked and tranſparent Veil of Deſignation, but probable Grounds reſulting upon the Strain of the Piece it ſelf. Whereas my Lord Advocat aggravates the Circumſtance of the Perſon injured, being his ſacred Majeſty, the Laws adduced convinces

convinces the Odiouſneſs of the Crime, when it is nottour; but extenuats the Preſumption, that the Pannel ſhould have been tainted therewith, becauſe ſo ſacrilegious a Crime is not preſumed: *& maxime petulans & improbum mendacium*, convinces not ane injurious Intention againſt a Prince. And the Emperors have left place to prove the Candor of Intention, notwithſtanding the moſt expreſs and formal Injuries of Words. *Leg. unica Codice, Si quis Imperatori maledixerit.* And where it is replied by my Lord Advocat, that *Dole* is preſumed; it is duplyed, *Quod animus Injuriandi non preſumitur; & incumbit injuriato eum probare. Jacobus de Bello Viſu, Lib.* 1. *Cap.* 3. *Actor habet neceſſarium ponere in Libello quod animus injuriandi interceſſerit.* And all the *Pretorian* Edicts require formally *Dolum Malum, F. de ſervo corrupto, Lib.* 3. *& Edictum contra corrumpentem album, F. de Juriſdictione omnium Judicum. Leg.* 7. §. *Doli Mali. Edictum de vi publica qui Dolo Malo, F. ad Legem Juliam de vi publica, Leg.* 10. *Et in Crimine Majeſtatis ad Leg. Juliam Majeſtatis. Et ceſſat Dolus quia non preſumitur, Leg. Dolum, Codice de Dolo. Pharm. Queſt.* 105. *Inſpectione* 3. *&* 121. *In Libello debet exprimi, Quod Injurians animo Injuriandi fecerit, quando ſumus in Perſonis in quibus malus injuriandi animus non preſumitur. Salicelus in Leg. ſi non convitii Codice de injuriis, num.* 4. *diſtinguit utrum is qui injuriam feciſſe dicatur, talis ſit Perſona qui Preſumptionem injuriæ faciat ceſſare, an vero talis qui non facit.* And far more when the Perſon that is injured concurs to exclude the Preſumption of Injury. *Princeps qui tranſcendit omnem Injuriæ effectum & affectum. Cravet. concil.* 9. *Etiam Judæus non preſumitur aliquid dixiſſe ad injuriam Chriſti.*

Whereas it is replied by my Lord Advocat, That if the Deſignation of a Supplication ſhould be admitted to palliate ane injurious Intention, the Law would be eluded, *Quæſtio Colore infamiæ ſub velamine Petitionis*; it is duplyed, That the Inconveniency cannot be obtruded in this Caſe, becauſe the like Preſumptions of Innocency will not be concurrent.

Where it is replied by my Lord Advocat, That the impudent Preſumption in preſenting a Piece of that Strain to his ſacred Majeſty, aggravates the Crime; It is duplyed, That the Citation adduced by my Lord Advocat, aggravates only the Intention, *& animum injuriandi*, when it is conſtant; but infeebles the Preſumption, that Noblemen of their Quality and Wiſdom ſhould have adventured to preſent a Piece that they thought of that nature; ſeeing it cannot be preſumed, that they ſhould have thought that the Name of a Supplication would have ſatisfied or eluded the King's Majeſty's Sagacity, and make them to eſchew due Puniſhment.

The Lord Juſtice-General continued the Court till *Tueſday* next the 9th. At which time, when it was replied by my Lord Advocat the laſt day of the Proceſs upon the Law, *Item apud Labionem*, That the Nature of a ſeditious or infamous Libel is not compatible with the preſenting to his Majeſty, *Quia Libellus poteſt dare principi, & nihilominus in eo fama aliena laceſſit:*

It is as yet duplyed thereto by the ſaid Mr. *John Nisbet* for the Pannel, That the Caſe meets not, becauſe the Law adduced is of a Libel preſented to the Prince, and reflecting upon ane other Perſon than the Prince himſelf: and it has never been heard that any has been ſo inconſiderate as to preſent his own Dittay to a Prince.

Whereas it is replied by my Lord Advocat, That the moſt of the alledged Libel adduced by the Supplicants, to enforce their Intention in propitiating His Majeſty, is impertinent and deſtructive of the Concluſion it ſelf; and therefore, *Denominatio ſumenda eſt a potentiori, præcipue in actu mixto:*

It is duplyed, That in Law, Words deſtructive of a Proteſtation, *Relevantur per Proteſtationem (Verbi gratia.)* The word *Mentiris, ſalvo honore, ſi ſubeſſent conjecturæ per quas talis proteſtatio adjuvaretur, quod ſcilicet proteſtans non haberet animum injuriandi. Clarus*, §. *Injuria, num.* 13. And albeit in Matter of Notion and Form, *Concluſio ſequitur deteriorem partem Syllogiſmi*; yet *in practico Syllogiſmo*, the Concluſion being the To πρακτικον, *tranſmittit ab intellectu practico*, to be eſpouſed and embraced by the Will, is moſt conſiderable; and the Impertinence of *Midſes* uſed to enforce the ſame, is acknowledged by all Moraliſts to be an Eſcape of Imprudency in the Pre-election, and not of Guilt in the Intention. And whereas my Lord Advocat contends, *Quod denominatio ſumenda eſt a potentiori*; it is anſwered, *quod expreſſa Elogia* are more powerful than ſtrain'd Conſequences. And an expreſs Supplication contained in the hail Strain of the Piece, ſhould preponderat ſome incident Glance: *Et quando verba injurioſa non principaliter, ſed in conſequentiam prolata ſunt, etiam quando ſunt de ſua natura injurioſa* (as is not in this preſent Caſe) *preſumuntur dicta vel ſcripta ſine animo injuriandi. Mur. Conc.* 107. *num.* 10.

Whereas it is replied by my Lord Advocat, That the Definition of the infamous Libel, is quadrant againſt the Piece quarrelled:

It is duplyed, That albeit a Piece, *ubi delictum vel vitium vel defectus improperatur alicui*, be materially infamous; yet formally and in relation to a Guilt and a Crime, *Dolus malus* is neceſſarily required, as an eſſential Ingredient in the Definition of an infamous Libel. *Damhauderius in practica, cap.* 138. *num.* 1. *Scriptis fit injuria cum doloſe & malicioſe componuntur & ſcribuntur Cantilenæ, Rythmi, Libelli, Comædiolæ aut Cantiunculæ, quibus alterius laceratur nomen & fama; & libellus famoſus & compoſitio facta in ſcriptis in infamiam alicujus, ejus quod quis probare non vult, & in publico jactat, vel in loco ubi inveniatur. Phar. Quæſt.* 105. *Inſpect.* 2. *num.* 1. *Et ad eſſentiam libelli famoſi videtur requiri, quod fuerit poſitus in publico, vel loco ubi inveniatur. Ibid. num.* 485. *& Canone, Cauſ.* 5. *Queſt.* 1. *Qui in alterius famam publicæ ſcripturam aut verba contumelioſa confinxerit flagelletur.* And albeit in Law *calumniari* materially *eſt falſa crimina intendere, ad Senatus conſultum, Turpillianum, Leg.* 1. §. 1. nevertheleſs *non utiq; qui non probat quod intendit protinus videtur calumniari, nam ejus rei inquiſitio arbitrio cognoſcentis committitur, qui reo abſoluto de accuſatoris conſilii incipit quærere qua mente ductus ad accuſationem proceſſerit, F. ad Senatus Conſultum, Turpilianum, Leg.* 1.

Where it is replied, That the preſenting of ſuch a Piece aggravats the Crime, and the odious Conception thereof is puniſhable notwithſtanding the Preſentation; it is duplyed for the Pannel, That the preſenting of it by ſo worthy a Nobleman put thePannel, *in bona fide*, to think it not a Piece of that Nature whereof it is alledged to be, and to overpaſs, at the leaſt to miſtake the Odiouſneſs of the Conception of it, if there be any.

It is eiked (added) by Mr. *Robert Macgill* for the Pannel, with Proteſtation, as ſet down from the begin-

beginning, not repeating that which I have ſaid; but remitting the moſt honourable and wiſe Judges (*quia via jam eſt præmunita*) to theſe Things ſet down before by me, touching every Particular, as they have been worthily replied by my Lord Advocat.

And, Firſt, anent the Qualification contained in the Acts of Parliament.

It is anſwer'd, Firſt, That the firſt Act libelled is only againſt Delators, as ſaid is, and expounds the Act, 83 *Jac.* 5. *Parl.* 6. as might be cleared by the Time wherein that Act was alſo made: But he remits it to the Conſideration of the Judges. Secondly, It is anſwer'd, That there being no Qualification ſet down in this firſt Act of Parliament, but a general Law, that general Law ought to receive the Qualification according to the Diſtinction propounded by me, in all Humility, of inordinat Speeches againſt a Prince, in the laſt part of my firſt Exception, in reſpect of the Abſurdity of the Parity of Crimes, and Pains which would follow, if it were not ſo limited: And remits, as before, to *Gailus*, anent the Interpretation of municipal Laws. And what ſhall the general Rules of the Law (miſcalled by ſome *Regulæ Lesbiæ*) receive their own Exceptions according to Reaſon; and the municipal Laws, which even in the moſt ſubſtantial Points of the Commonweal, will alter three or four times in an Age, according to the Circumſtances, (*nam ex moribus Leges*;) ſhall they, ſay I, ſtand good in a general Senſe contrary to Reaſon? Which I count to be the Judgment of the Lawyers. See in the laſt part of my Duply, ſtrengthening my firſt Exception; where it is ſhewn that the word *Government*, in the 134th Act, and ſo in this Act, ought not to be underſtood againſt Counſellors and Lords of Parliament: which is followed out largely in my ſecond Exception, and ſo ought not to be underſtood in any other Act, to make them Contraveners, where they had *optimum animum*, and according to their Opinion only might be thought to have erred, *quod humanum eſt*, as was alledged by Mr. *John Nisbet*; *Neq; id prius quam rationes ad veritatem eliciendam inter ſe confligant.*

The Second is anent the Colour or Mask of Supplication; remits that to the Practicks alledged by Mr. *John Nisbet* out of the *Conſultus* of *Menochius*, touching Government, ſet down ſo rudely, *ut ſit addita ſupplicatio*, and, as it were, dropp'd out of the Gall of Bitterneſs. And yet notwithſtanding the Lawyers Verdict was to abſolve the Nobleman. Remits alſo to the laſt part of my firſt Exception in the end, anent the Expoſition of Words and Sentences, taught likewiſe in the ſecond Exception, and anent the Form of Speaking and Prayer, eſpecially where *contra preſumptionem doli.* It is clearly evinced that the Pannel had not *animum doloſum*, but rather a very good Will and Intention, which he (as we ſay in a Proverb) wiſhes moſt humbly might be taken in part of Payment. And remits that anent Preſumption of Dole, which my Lord Advocat ſaid in the fourth Place to my ſecond Exception, *Parte ſecunda*, That whether it be neceſſar to libel, or not, yet ſeeing it is *de ſubſtantia delicti, & credulitas a cauſa ſive injuſta excuſet a delicto, quia abeſt animus delinquendi*, as *Clarus* has there alledged; *ergo*, to be aſſoilzed as Author, *&c.*

And to the Third, adduced by my Lord Advocat, anent the Definition of an infamous Libel, and the Puniſhment of Injuries againſt private Perſons, and far more againſt Princes; we diſallow altogether ſuch inordinate Speeches, and ſay, That they ought to be puniſhed as the Lawyers have defin'd, according to the Mind of the Speaker or Penner. But that the Definition of an infamous Libel cannot agree herein, ſo far as concerns the Pannel, it is not to be thought; *quia directis & conceptis verbis, malicioſe & perditiſſimo animo*, muſt Injuries be impropriat: which, in all Humility, the Pannel thinks not to be here; and remits to my ſecond Exception. And that a capital Pain ought to be inflicted upon all ſort of inordinate Speeches or Writings, and all ſorts of Speakers and Writers, and upon the Havers, Hearers, and not Revealers, indiſtinctly, even againſt Princes; let me ſay it, with all Reverence, as my Lord Advocat would inſinuate by the Places adduced, it is not the Lawyers Mind.

The Fifth, alledged by my Lord Advocat, goes back again upon an alledged Diſguiſing. But we deny that any thing adduced either anent Supplication or Vow agrees with our Caſe, where nothing can be ſaid to be *improperat directis verbis*, (elſe the Pannel had been a mad Man:) But by a wreſting way (*ſalva pace dixerim*) may be thought by ſome to infer Injury. And here again remits to theſe parts of my Exceptions, *ut ſupra*, anent the Expoſition of Words.

The Sixth is anent our moſt ſacred Sovereign his Refuſal; wherein remits to that part of my Exception anent the appealing from a Prince to himſelf, eſpecially by a Counſellor; *Donec intelligatur quid velit ſupplicatio, & rationes hinc inde adductæ, quaſi ex adverſo acies manum inter ſe conferant.* As to his Majeſty's own Declaration, the Pannel ſeals his Mouth with the Finger of *Harpocritus*, and reverences his Majeſty's Sayings as Oracles, and, in all Humility, accepts them as an Acknowledgment of the Offer made.

The laſt, I think, are the Pannel's own Depoſitions; wherein diſtinguiſh the Diſallowing and the Times, and all ſhall agree. He diſallowed of it firſt, as that of the General; it was rejected by his moſt ſacred Majeſty: but the Pannel thought that it might have been keeped till a more convenient Time, according to the Appellation alſo mentioned, and till *cauſa audita* it had been condemned. And the Pannel depones, That before ever the Principal came back, the Copy was ſurreptitiouſly purchaſed by Mr. *John Dunmure*, in falſifying his Promiſe.

It is triplyed (replied the third time) by my Lord Advocat, That the Duplies in the whole Parts and Members thereof are impertinent; becauſe the Exception was founded upon the Form and Deſignation of the infamous Libel, That being deſigned a Supplication, it could not contain Matter of ane infamous Libel; which Exception was anſwered with this Reply, That the Dittay is directly ſubſumed upon the Acts of Parliament, *viz.* That this, which they call a Supplication, is a Writing containing Reproaches and Scandals againſt the Perſon, State, and Government of our gracious Sovereign, as the Dittay bears; and no more was neceſſarly to be replied but upon the Acts of Parliament. And yet, for informing the Mind of the Judge, it was cleared both by the expreſs Text of the Civil Law, and by the Judgment of the beſt Juriſts, and verſed in Criminals, That the Deſignation purges not the infamous Speeches conceived in a Supplication to the Prince, being to the Infamy of ane Subject, much leſs to the Diſhonour of the ſupreme and ſovereign Prince. And this is not pertinently anſwered by

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no part of the Duply; but both the Acts of Parliament and Civil Law concurring, ſtand in full force to elide the Exception. And the Points urged by the Duply, has nothing to do with the Exception, but are Points extraneous, founded upon Intention, libelling of Dole, Preſumption in favours of the Pannel, and others in whoſe name it was alledged the ſaid Supplication was drawn up; which I may juſtly term Preſumption: For whatſoever diſtinction they have in their Quality from others, it is from the Bounty and Favour of their ſupreme Prince and Sovereign, who is the Fountain and Source of all Honour and Dignity. And good reaſon that they bruik (enjoy) all their Privileges, in all Cauſes with all Perſons, except where they come in conteſtation with their ſupreme Sovereign: and there, as *Godofhred* writes, *ad Legem Juliam Majeſtatis, ubi Majeſtas pulſata, defenditur nulla dignitas; nullum Culmen, nulla Fortuna eſt immunis.* And in this caſe, where Reproaches, Scandals, and Aſperſions are laid upon our gracious Sovereign, the Excuſe of Nobility, that it may be preſumed that they did it not *malo Animo*, is rather an Accuſation than an Excuſe; becauſe no Subject is ſo bound to know the true Reſpects of Humility, and Reverence, and Obedience due to the Sovereign Prince, as thoſe to whom his Majeſty hath communicated a Shadow of his glorious Honour. And as to the Inſtance adduced out of *Menochius*, we have nothing to do with it; for it is likely, he that anſwered ſo, had not ſuch a Law as we have. And as to the Inſtance adduced out of *Lex Unica, ſi quis Imperatori maledixerit*, that by that Law there is no place left to the Accuſed to purge himſelf of his evil Intention, that is true in the Caſe of the Law, but has nothing ado with us, *ubi non eſt lubricum linguæ quod facile ad pœnam non eſt trahendum*; but a malicious and ſeditious Writing, compiled of purpoſe to the Reproach of their Gracious Sovereign. And in Writings of this kind, as *Haroudus* expreſſes in his 18th Title, fol. 208. there is no worſe Reproaches and *Convitia* (ſays he) than thoſe which are done by Writing, than thoſe which are done upon manifeſt Deliberation; becauſe the ſame proceeds upon ane evil and ſeditious Purpoſe, and pierces deeply, and abides longer than the Injury by Words. And for all the reſt of the Inſtances and Authorities of the Civil Law, I oppone the two Acts of Parliament, which are the only grounds of this Libel; in ſo far as it concerns the Authors of the infamous Libel, the not apprehending the Authors thereof, the concealing and not revealing of the ſame. And as to the mention made in the entry of the Dittay of the Common and Civil Law, the ſame is wholly in reſpect of the divulging and diſperſing of the ſaid infamous Libel, whereof our ſaid Acts of Parliament make no expreſs mention. And where we have our own Laws and Acts of Parliament, as we have in this Caſe, theſe muſt be the only Rule of judging. And the Exception and Duply, albeit they have many Quotations of the Common Law, yet all needleſs and impertinent; ſince they are not adduced to purge that part of the Dittay which is founded upon the Common Law. But in the Points diſputed we have good warrand to adhere to our own Acts of Parliament, (except in ſo far as we are forced by the Objections made by the Pannel's Procurators to clear the doubtful and ambiguous Terms of their Exception and Duply) becauſe by Act of Parliament made by King *James* I. *Par.* 3. *cap.* 48. and by King *James* IV. *Par.* 6. *cap.* 79. it is ſtatute and ordained, That all the Leidges be governed by the King's Laws, and no others. And his Majeſty's Advocat offers, whenever it ſhall pleaſe my Lord Juſtice-General to command him, to clear any Speech that is founded upon the Common Law, that he ſhall do the ſame by word.

It is quadruplyed (pleaded the fourth time) by Mr. *Alexander Pearſon*, for the Pannel, That where my Lord Advocat triplies a part of his Lordſhip's Reply to have received no Anſwer by the Duplies made for the Pannel; to wit, that part thereof, which bears, that the Writing quarrelled, although in Form and Title a Supplication, yet does contain reproachful Speeches, *&c.* it is anſwered, That the alledged infamous Libel, in ſo far as it concerns the Pannel, cannot be eſteemed but as a Supplication, in reſpect of the Duply and the Reaſons contained therein, which I need not repeat here.

Where it is triplyed by my Lord Advocat, that our Duply is impertinent; it is quadruplyed, That if there be any Impertinency, his Lordſhip is to be blamed therewith, for having occaſioned it by ane unneceſſary Reply. And for the Points urged by us for the Pannel, to clear his Intention, and to vindicate him from the Preſumption of Injury, in compiling or being acceſſory to the Piece quarrelled, not extraneous, both becauſe the Acts of Parliament require Intention, by the intentional words *to the Reproach, ſteering of Sedition*, &c. And albeit they ſhould contain nothing thereof, a ſiniſtrous Intention being required in the Eſſence of the Crime, it muſt neceſſarily have been libelled conform to the Paſſages already cited in our Duply.

Whereas my Lord Advocat triplyed, That the Character of Nobility accuſed *non excuſat* in this caſe; it is quadruplyed, That that is only where the Crime is conſtant, (*i. e.* evident:) And that eminent Quality ever wants the Preſumption, that any inveſted therein ſhould injure their ſacred Prince; whereof they are not only a Shadow, but noble and myſtical Members, as is cited already.

Where it is triplyed by my Lord Advocat, that the Caſe adduced out of *Menochius*, is not pertinently adduced here, becauſe there was no Law; it is quadruplyed, That the Queſtion reſulted upon the Common Law, which ordains due Puniſhment upon the Authors of infamous Libels, and chiefly againſt Princes. And the Caſe was not ſo pregnant in favour of the Party whom he abſolves, becauſe he was the Author, and had expoſed to the view of all the World the Piece there challenged. And we adhere to the Author's Opinion; and inſtances, how it has never been found to be an undutiful part in Juriſconſults and Advocats, to vindicate Pieces quarrelled to be injurious.

And where it is triplyed by my Lord Advocat, that the Inſtance *Lex Unica* quadrats not; it is quadruplyed, That the Inſtance of the preſent Caſe is more pregnant, becauſe the Caſe of the Law adduced, *improba & petulantia Mendacia*, are challenged: And in the preſent Caſe the Piece challenged is not expreſly injurious; and all that can be inferred upon the Pannel, is ane indirect and imprudent Acceſſion thereto.

And where it is triplyed by my Lord Advocat, that the Allegations of the Duply are impertinent, becauſe not alledged for the Points of the Common Law not expreſſed in the Acts of Parliament; 'tis quadruplyed, That there are alledged in our Duplies for all, and refers ourſelf to our Duplies.

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To the whilk it is quintuplyed (anſwered the fifth time) by my Lord Advocat, That the Words of the Act of Parliament has no reſpect to the Intention of the Perſon, but only expreſs the Effect of the Reproaches which tend to move Diſlike betwixt his Majeſty and his good Subjects. And it is granted in the Quadruply by Mr. *John Nisbet*, That they are materially reproachful, and not formally.

It is ſextuplyed by Mr. *John Nisbet* for the Pannel, That the Words *To the Reproach*, implies Dole and Intention; becauſe the Crime prohibited by the Act of Parliament conſiſts eſſentially thereof, and is cleared by all the Allegations adduced, and more expreſly by other Acts of Parliament of that nature, as the 60th Act of Queen *Mary*, *6 Parl.* whereof the Words are *Tending to ſtir the Hearts of the Subjects to Hatred*, which are emphatically Words of Intention. And whereas my Lord Advocat would inforce an Acknowledgment of material Injury in our Quadruply, we diſclaim it, and maintain that it cannot be evinced therewith; and albeit it were, there reſts a relevant Defence in Law upon the Innocency and Candour of Intention.

Thirdly, It is alledged by Mr. *Roger Mowat* for the Pannel, for a third principal Defence to that part of the Subſumption of the Dittay, Qualifications, and Condeſcendings thereof, bearing that the Pannel himſelf was and is Author, Deviſer, Conſulter, Adviſer of the infamous Libel, and Airt and Part of the penning, writing, and updrawing thereof; at leaſt is guilty of the hearing, and of the concealing, and not revealing the Author thereof; and moſt guilty of the not apprehending of Mr. *William Haig*, whom the Pannel affirmed to be the Author of the ſaid Libel, it being in his power to have apprehended him; and alſo is guilty of the divulging and diſperſing thereof, in ſo far as the ſaid Pannel knew of the penning of the ſaid Libel, gave his Opinion to the making thereof, and in token thereof interlined a part of the ſame in divers Parts with his own Hand, which by ocular Inſpection is to be ſeen, and which the Pannel has alſo confeſſed by his Depoſition under his Hand, as the ſaid Dittay in that part bears, *&c.*

That the Pannel ought and ſhould be *ſimpliciter* aſſoilzed (abſolved) therefrom: And 1ſt, That the ſaid Pannel cannot be criminally purſued as Author and Deviſer of the ſaid Libel; becauſe by the Pannel's own Depoſition, taken by the Lords of the Committee on the 9th of *June*, 1634, the Pannel has deponed, That the ſaid Mr. *William Haig* was the Author of the ſaid Libel. Likeas the ſaid Mr. *William* his miſſive Letter, all written and ſubſcribed with his own Hand, dated at *Camphire* the 27th Day of the ſaid Month of *June*, which Letter was directed to the Pannel, and exhibited by him before the ſaid Committee, bears the ſaid Mr. *William* his Grant that he was the Penner of the ſaid Supplication or Libel; and takes the Crime upon him in ſolliciting his Friends by his other Letters and Miſſives, likewiſe produced to the ſaid Lords of Committee, to deal for purchaſing and obtaining to him a Remiſſion for the ſaid alledged Crime. And ſo the ſaid Mr. *William* having not only confeſſed himſelf to be Author, but having dealt with and ſollicited his ſaid Friends for a Remiſſion, as ſaid is, the ſaid Dittay can never be ſuſtained againſt the Pannel as Author and Deviſer thereof; which miſſive Letters are in the Purſuer's own Hand. *Item*, The ſaid Pannel ought likewiſe to be abſolved from that part of the ſaid Dittay, bearing to be Conſulter, Adviſer, and Airt and Part of the penning, writing, and drawing up of the ſaid quarrelled Libel; becauſe the ſaid two Acts of Parliament, whereupon the ſaid Dittay is founded, make no mention of Conſulters or Adviſers. And Acts of Parliament, ſpecially in this kind, are ſtrictly to be taken, and ſuffer no Extention beſide that which is expreſly ſet down therein. 2dly, Giving (granting) the ſaid Acts might be extended to Conſulters and Adviſers, (as they cannot) yet *Abſolvitur* ought likewiſe to be granted from the alledged Conſulting and Adviſing by the Pannel, and his being Airt and Part of the penning, writing, and drawing up of the ſaid Supplication now quarrelled; becauſe the ſaid Pannel being examined by the ſaid Committee upon the ſaid 9th of *June* laſt, and being then interrogat who was Author and Penner of the ſaid Libel, not only has deponed, *ut ſupra*, That it was the ſaid Mr. *William Haig*, who gave the ſaid Libel to him, and who (as he thought) was the Author thereof: but being thereafter interrogat upon another Interrogator the ſame Day, if the ſaid Mr. *William* had any Command to draw up the ſaid quarrelled Supplication or Libel, or if the Pannel, or any of his Knowledge, was at the forming thereof, the Pannel has alſo deponed upon his ſaid great Oath to the ſaid Interrogators, That the ſaid Mr. *William Haig* had no Warrant from him, nor knew he of any Warrant given to the ſaid Mr. *William*, or that any was preſent at the forming thereof. Which clearly evinces and manifeſts that the Pannel was neither Author, Deviſer, Conſulter, Adviſer, nor Airt and Part of the penning and writing of the ſaid Libel; ſeeing the ſaid Pannel being brought before the ſaid Committee, and urged by them to give his Oath upon the ſaid Points, he has given the ſame, he has deponed, *ut ſupra*, denying all the ſaid ſeveral Points. After the giving of the which Oath of Verity, and ſubſcribing the ſame, as the ſame produced by my Lord Advocat bears, no Dittay or Purſuit, criminal or civil, can now or hereafter be ſuſtained againſt the Pannel upon theſe Points, whereupon already he has given his ſaid Oath; becauſe no other manner of Probation can be received againſt him, to prove contrair to his ſaid Oath, given before the ſaid Committee in manner foreſaid. And where it is libelled in the ſaid Dittay, and Qualifications thereof, That the Pannel is Author, Adviſer, Conſulter, Adviſer, Airt and Part of the penning and writing, at the leaſt guilty of the hearing, concealing, *&c.* not revealing, not apprehending, *&c.* in ſo far as the Pannel knew of the penning thereof by the ſaid Mr. *William Haig*, adviſed and gave his Opinion anent the making of the ſaid Libel, and in token thereof interlined it in divers Parts with his own Hand, *&c.*

It is alledged, That the Pannel ought to be *ſimpliciter* abſolved from the ſaid Qualification libelled in theſe Words, in ſo far as the Pannel knew of the penning of it, adviſed and gave his Opinion anent the making of the ſame; becauſe that is likewiſe directly contrair to the Pannel's Depoſition foreſaid, proceeding upon the ſaid Interrogator, mov'd by the ſaid Committee wherewith he was interrogat, If Mr. *William Haig* had any Warrant or Command from him to draw up the ſaid Libel, and if the Pannel, or any of his Knowledge, was at the forming thereof. Whereunto the Pannel has made anſwer, and upon his ſaid great Oath deponed, That Mr. *William Haig* no had Warrant from him, nor knew he of

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any given to him, or that any was present at the forming thereof. And so the Pannel by his Deposition, upon his said Oath, having deponed, That Mr. *William Haig* had no Warrant from him, nor knew he of any Warrant given to him, or that any was present at the forming thereof; the said criminal Pursuit can never be sustained to infer thereby that the Pannel is Author, Consulter, Deviser, Adviser, Airt and Part of the penning, writing, and drawing up; because that is altogether denied by the said Pannel, as his said Deposition clearly bears. And being denied upon his great Oath, as said is, that part cannot be sustained upon the said Qualification and Inference libelled; it being impossible, *per rerum naturam*, that the said Dittay in these Points can any way be proven by any other Probation whatsoever, after giving his said Oath.

Court adjourn'd till to Morrow the 10*th Instant.*

Intrant. *the said* 10*th Day.*

The Pannel and Procurators (as before) compear'd the said Day.

Quarto, It was alledged by Mr. *Roger Mowat* for the Pannel, As for his fourth principal Defence against that part of the Dittay, bearing, That the Pannel knew of the said alledged infamous Libel, advised and gave his Opinion to the making of the same, and in token thereof interlined a part thereof in divers parts with his own Hand, as may be seen by ocular Inspection, and as his Confession in the Deposition bears; that *Absolvitur* should be granted from that part, bearing that the Pannel knew of the penning thereof, because that is directly contrair to the Pannel's Deposition, before repeated, which does contain an express Denial of his Knowledge of the forming of the said Libel, or that any was present at the forming thereof. And to that part of the Qualification libelled, bearing, That in token that the Pannel knew of the penning thereof, he interlined a part with his own Hand; it is alledged, *Nullo modo relevat*, unless it had been relevantly libelled in the Dittay, that the Pannel interlined the said Lines the time of the forming of the said Libel, or shortly thereafter, which is not said: For mending and interlining to be a token against the Mender or Interliner of a Writing, that he knew of the penning thereof, and gave Opinion to the making of the same, must necessarly be libelled to have been at or immediately after the writing of the same. Which cannot be urged upon the Pannel in this Particular, because by his Deposition, given upon the 16*th* of *June*, 1634, upon an Interrogator wherewith he was interrogat, whether he had interlined some Lines in the said quarrelled Supplication, which was exhibited by him before the Lords of Committe, and whether he did the same before he shew'd it to Mr. *John Dunmure*, or to the Earl of *Rothes*, has deponed, That the said Mr. *John Dunmure* never saw the said interlined Libel, but only the Copy, which was cast in the Fire after the redelivery thereof; and deponed, That the said interlined Copy lying then before the said Lords, and now in my Lord Advocat his Pursuer's hands, was that Copy which was delivered by the Pannel to the Earl of *Rothes*, but was not interlined till long after the Earl of *Rothes* redelivered the same; and deponed, That never one saw it since the said interlining. And so it being that Copy which should have been presented to his Majesty, and which was offered to be presented, it is not likely nor probable, and with reason cannot be affirmed to have been interlined before the time of the said Offer of presenting. And so the said interlined Libel cannot be counted a token (as the Dittay bears) of the Pannel's Knowledge of the penning of the said Libel, and of his advising and giving his Opinion to the making thereof. Likeas, *in rei veritate*, the said Interlining was after the said Mr. *John Dunmure* was first questioned in *March* last, by the space of nine Months, or thereby, after that the said Supplication was offered to have been presented to his Majesty. And so a private Interlining of the said Copy by the Pannel, by adding or mending some few Words, which neither in Matter nor Form can be quarrelled, being so long after the intended Offer thereof made to his Highness, cannot be a token against the Pannel, as is libelled, to make him to have been upon the Knowledge of the penning, and to have given his Advice and Opinion to the making thereof; *Hoc attento*, That the said interlined Copy was never seen by any, but by himself, after the said Interlining, which simply he produced the same to the said Committee, which in Law he could never have been compelled to do, if he had expected that any such Advantage had been taken thereupon, to his heavy Prejudice. For the Pannel did never fear nor suspect that the said Committee would have desired or induced him to have exhibit and produced before them a Paper, the Production whereof might have imported no less to him than the Probation of the alledged Crime, contained in the Dittay, to make him thereby guilty and punishable by Death. And it is nottour that the Pannel did, at the saids Lords Desire, produce the same to them, upon their Promise that it should not ensnare the Pannel, seeing in Law he was neither obliged to produce any Writing, nor to declare, nor to give his Oath upon any Interrogators demanded of him; neither would he have done it, if he had known (as now in Experience he finds) that it might and would have brought upon him the said alledged Crime and Punishment of Death.

It is added by Mr. *Alexander Pearson* for the Pannel, in fortification of the said fourth Exception propounded for the Pannel; First, For that Part thereof, bearing, That the Pannel the 9th of *June* last deponed, upon his great Oath, that Mr. *William Haig* had no Warrant of him for drawing up of the said Supplication, and that he knew nothing of the forming thereof; that the Pursuer cannot be heard now upon that part of the Dittay, to pursue the Pannel, because of the Pannel's Oath and Declaration foresaid, which cannot in Law and Reason be called again in question; *propter juris-jurandi religionem, quod speciem transactionis continet, majoremque habet authoritatem quam res judicata & dato jurejurando, non aliud queritur quam juratum fit. Leg.* 1, 2, *&* 5. §. 2. *F. de Jurejurando.* Where it is alledged by the Dittay, That by the Letters sent by Mr. *Haig* to the Pannel, it is affirmed by Mr. *Haig* that he had the Allowance of the Pannel to the making and penning thereof, *non relevat*, because Mr. *Haig* being Author and Penner of the alledged infamous Libel, by his own Grant in his missive Letter, dated 27 *June*, and also acknowledged so by the Dittay, Mr. *William Haig*'s Declaration foresaid (no ways granting the same) can no ways be respected, or have force against the Pannel; *Quia de jure socius aut particeps criminis adversus socium fidem*

non

non facit, Leg. Quoniam, Cod. de Teſtibus. Leg. Si Filium, Cod. de Liberati Cauſa.

It is alledged by Mr. *John Nisbet*, That the Dittay is not relevant, inſo far as it qualifies the Pannel to be Author of the Piece challenged by the Interlining thereof; becauſe the Interlining in one Point only, convinceth that he hath not been Author of the reſt. *Secundo*, The Interlining has no Contingency with the Point challenged, but is a ſmoothing of ſome apparent Shrewdneſs in Conception. And in a word, the Dittay is no ways relevant in ſo far as it qualifies any Acceſſion by the Pannel's Depoſitions; becauſe it is affirmed by the Pannel, that he was induced to depone, upon aſſurance that he ſhould not be enſnared. And of the Law, *Confeſſio emanata ſub ſpe impunitatis non importat Condemnationem; Clarus, §. final. Quæſt. 55. num. 8, & 9. Ubi afferit opinionem Imolæ id aſſerentis, eſſe æquiorem; Pharm. Quæſt. 81. num. 280. Confeſſio emanata ſub promiſſione impunitatis non ſufficit ad condemnandum, nec in foro conſcientiæ, nec contentioſo; & confitentem non afficit: Eadem Quæſtione, num. 42. Hiplitus in §. Poſtquam, num. 15.*

It is anſwered by my Lord Advocat, That the Exceptions proponed againſt that part of the Dittay, bearing the Pannel to be Author, Adviſer, Conſulter, Adviſer, and Airt and Part of the penning, writing, and drawing up of the infamous Libel, ought to be repelled in the hail Members thereof.

And firſt, where it is alledged, that my Lord is not Author, becauſe that he has deponed, that *Haig* is Author, and *Haig* by his Letter has granted himſelf to be Author; becauſe that is not a Defence, but a Denial: for both *Haig* and the Pannel might be Authors and Contrivers of an infamous Libel. And therefore the Dittay in this Point is relevant, and conſequently muſt be put to the Knowledge of ane Aſſize, (Jury) before whom the Probation and Verification of the Dittay is to be uſed; and before whom it is eaſy to ſhew and clear, that neither the Pannel's Depoſition can liberat him, nor yet *Haig*'s Letter, who in the Defence is granted by the Procurators to be *Socius Criminis*. And giving (granting) the Juſtice would take the Diſpute of this to himſelf, which is proper to the Aſſize; yet if any Moment ſtood in *Haig*'s Letter, it muſt be taken *complex*; for by the ſame Letter he affirms, that the Pannel was Adviſer of the ſaid ſeditious Libel.

And where it is alledged, that Deviſer, Conſulter, and Adviſer, are not contained in the Acts of Parliament whereupon the Dittay is founded, ought to be repelled in reſpect of the Act of Parliament of King *James* VI. his Majeſty's gracious Father of eternal Memory, *Parl. 12. cap. 151.* wherein it is declared, That all criminal Libels ſhall contain the Parties complained upon to be Airt and Part of the Crimes libelled: which is in this Caſe *per expreſſum* libelled; and the words of Adviſer, Conſulter, Deviſer, *ſunt ſynonyma & ὁμολογα.*

And where it is alledged, that the Pannel in his Depoſition has denied that he was either Author or Adviſer, that is a Denial *ut ſupra*, and not a Defence againſt the Relevancy. And where it is alledged, that the Pannel having deponed by Oath, that no other Probation can be uſed *contra Jusjurandum*; it is anſwered, That it is againſt all Law, Reaſon, and Cuſtom, to oppone *Jusjurandum in Criminalibus*. For then after Examination by the Judge, which is ever taken upon Oath, no Criminal ſhould paſs the Knowledge of ane Aſſize; and it were a Proclamation of univerſal Impunity, if Oath ſhould determine the Tryal.

But that which is alledged by the Pannel and his Procurators *ſuper Jurejurando*, has only place *in Civilibus & in Jurejurando delato per actorem*, which cannot have any reſpect in this Caſe. And it is nottourly known, that *Anchindrine* and *Garrarie* not only deny'd upon Oath, but abode by the Denial in the Torture and Queſtion; and yet notwithſtanding their Oath, and Denial by Oath, were put to the Knowledge of an Aſſize, and convicted. And where it is alledged, againſt the Specification in the Libel of this firſt Point of Author, that Knowledge, Adviſing, and Interlining, are not relevant; I declare that I adhere in the firſt place to the general Subſumption of the Dittay upon the Act of Parliament, whereby it is ſubſumed that the Pannel is Author, Adviſer, Conſulter, Deviſer, and Airt and Part of the ſeditious Libel; and proteſt, that notwithſtanding of whatſomever Defence is or ſhall be propounded againſt the Qualifications, (albeit the ſame might be found relevant, which cannot be in Reaſon and Juſtice) That the ſaid General ſhall paſs to the Knowledge of ane Aſſize, as relevant *per ſe*. Under which Proteſtation, I proceed to make anſwer to the Defences made againſt the Qualifications.

And firſt, where it is alledged that this Clauſule, bearing the Pannel knew of the penning of the ſaid ſcandalous Libel by *Haig*, and adviſed and gave his Opinion anent the making thereof; that the ſamen is contrair to the Pannel's Depoſitions, given by him upon Oath, (as ſaid is;) I anſwer, That this impugns not the Relevancy of the Dittay concerning the Qualification, and therefore muſt paſs to the Knowledge of an Aſſize. And as to the Pannel's Depoſitions, whether they be conform or diſconform to the Libel, *non eſt hujus loci*; becauſe neither is the Dittay founded upon them, nor are they uſed by me as Purſuer, neither as a Part of the Libel or Proof of the Libel.

And where it is alledged, that that Part of the Qualification anent the Pannel's Interlining is not relevant, except it be condeſcended *quo tempore* interlined, if *in ipſo actu vel ſtatim poſt actum*; it is anſwered, That this part of the Qualification is uſed jointly with the reſt. And there is no neceſſity of condeſcending, becauſe *quocunque tempore* interlined, it is a ſufficient Evidence of the Concurſe, Conſent, and Adviſing to *Haig*, Maker thereof; eſpecially in reſpect it was drawn up by him, *viz. Haig*, in name of the Pannel, and others having Intereſt in that Writing, which is truly an infamous Libel, and termed in a ſiniſtrous Notion by name of a Supplication: Likeas the Pannel his Procurators has in their ſecond Defence maintained this Action of Law, That *Principium & Finis tanquam duo Extrema includunt Medium.* And therefore the Pannel's Knowledge, as the firſt Imitation of that infamous Libel, and his receiving the ſame from *Haig* immediately after the penning thereof, and receiving to be preſented to his Majeſty to their uſe who were alledged Supplicants, and the Interlining thereof *ex poſt facto*, (albeit not interlined before the Delivery thereof to the Pannel) is relevant in Law with the reſt of the Members of the Qualification *per ſe*, by and attour (over and above) the General, to ſuſtain this Dittay, to make the Pannel Author, Adviſer, Deviſer, Conſulter, and Airt and Part of the penning and drawing up of the ſaid infamous Libel:

ſpecially ſeeing it will be conſtant (*i.e.* evident) by the Depoſitions, when the ſame ſhall be uſed before the Aſſize, that the ſame was not interlined *longo intervallo* after delivery thereof by *Haig* to the Pannel, but very ſhortly after *in tempore quaſi continuo*. And where it is alledged, That this Interlining was not till after nine Months after the Receipt thereof from *Haig*, that is not, nor cannot be verified, nor has no warrant in the Depoſitions. And where it is alledged, That this interlined Libel cannot be uſed againſt the Pannel, becauſe it was never delivered to *Dunmure*, nor never ſhewn to any, till the Pannel produced it before the Committee, and it was produced under Promiſes that it ſhould not be uſed to the Pannel's prejudice; and that the Pannel was not obliged to anſwer, neither to have produced the ſame before the Committee: It is certain the Committee urged nothing from the Pannel but by good Warrant, and to which the Pannel was obliged to anſwer upon his Alleadgance; and the Denial to give ane Anſwer to his Majeſty's Commiſſioners, who had Warrant under his ſacred Hand and Seal, which was exhibited to the Pannel, would have inferred againſt the Pannel a more dangerous Crime than that he is now accuſed upon, by declining of his Majeſty's Judgment, and of his Majeſty's Commiſſioners. And for the Committee, they urged nothing from the Pannel but a plain, true, ſincere, and ſpeedy Declaration of his Knowledge of the Author and Contriver of the ſaid ſcandalous Libel, which, as it was incumbent for the Committee in obedience to his Majeſty's Warrant to them, ſo it could breed no Snare nor Prejudice farder nor he did burden himſelf by his own Confeſſion; in reſpect whereof, the Exceptions ought to be repelled.

It is duplyed by Mr. *Roger Mowat* to my Lord Advocat his Reply, made to the Defences proponed againſt that part of the Dittay whereby it is alledged, That the Pannel cannot be convened as Author, Conſulter, Adviſer, *&c.* but that the ſaid Defence ought to be repelled, and the hail Members thereof. And firſt, That the ſaid firſt part of the Defence is not a Defence, but a Denial of that part of the Dittay; and that the Denial muſt be referred to an Aſſize, and diſputed there, and not here; and that the ſame is not relevant, becauſe albeit the Pannel has alledged another Author, yet they might be both Authors of the ſaid Libel. It is anſwered, That the ſaid Alleadgance ſtands relevant, notwithſtanding the Reply, becauſe the ſaid Defence in that part is not ſimply a Denial, but is a Denial very pregnant, inſtantly verifying that the Pannel cannot be ſaid to be the Author, and ſo criminally to be purſued; becauſe by his Depoſition before the ſaid Committee, he has not only denied upon Oath that he is the ſaid Author, but has likewiſe inſtantly verified the ſame, condeſcended upon the true Author; and not only has ſimply condeſcended upon the ſaid Author, but has likewiſe inſtantly, verified the ſame: which Verification being proponed with the ſaid Defence, is both relevant and competent now only to be decided before my Lord Juſtice, and not before the Aſſize, ſeeing it is a peremptor Exception inſtantly verified. And whereas the ſaid Reply bears, That the ſaid Author Mr. *William Haig*'s Letter, bearing that the Pannel was Adviſer, is to be taken complex, there is no ſuch Speeches nor Words mentioned or contained in the ſaid Letter, which muſt now be produced, becauſe it has been ſeen by the Pannel, that it may ſay for it ſelf. And whereas my Lord Advocat alledges, That the Aſſize is only Judges to the Probation, and that he prove before them that the Pannel was Author, Adviſer, *&c.* of the ſaid alledged infamous Libel; that ought to be repelled in reſpect of the Alleadgance propounded for the Pannel, founded upon his Depoſitions and *Haig*'s Letter: which Depoſitions and Letter being all already produced, and delivered to the Pannel, and uſed, and Liberty granted to propound his Defences thereupon, the Defence is ſo proponed, that it may be either found relevant or repelled. And it cannot but be found relevant, becauſe a Pannel being purſued for a Crime, as Author thereof, this is a moſt uſual and relevant Defence that he cannot be convened as Author. But he muſt be abſolved from that Point, becauſe he offers him inſtantly to prove ane other Author: Upon whom he likewiſe inſtantly condeſcends; and not only condeſcends, but inſtantly verifies and proves. And ſo the Exception being relevantly propounded, and inſtantly verified, as ſaid is, it muſt be here found relevant, and likewiſe proven, and cannot be referred to the Inqueſt. And where it is replied by my Lord Advocat, That that part of the Defence founded upon the Pannel's Depoſitions, bearing that he has confeſſed ane other Author, and giving his Oath thereupon cannot be reſpected, being but his own Depoſitions and Declarations, and cannot work in his own favours; it is duplyed, That that part of the ſaid Anſwer and Reply ought to be repelled, in reſpect of the ſaid Defence founded thereupon; eſpecially ſeeing the ſaid Depoſitions were given before the ſaid Committee, who were appointed by his Majeſty for tryal of the ſaid Author. And the ſaid Depoſitions being a part of the ſaid Tryal, the Purſuer cannot be heard to quarrel them, eſpecially ſeeing they are uſed by the Purſuer againſt the Pannel, and are now as his Evidence. And if the Purſuer uſe them againſt the Pannel, it is lawful for the Pannel to make his uſe thereof, ſo far as makes for him, in reſpect whereof the Alleadgance ſtands relevant in that part founded upon the ſaid Depoſitions. Which, together with the ſaid miſſive Letter written by Mr. *Haig*, and which the Pannel propounds *conjunctim*, to prove his Alleadgance, verifies clearly that part thereof: And ſo being both relevant and proven, is ſufficient to elide (quaſh) that part of the Dittay, That the Pannel ſhould not be found convenable as Author. And whereas my Lord Advocat in his Reply anſwers, That the ſaid firſt Defence, or firſt part thereof, is not relevant, bearing that it is alledged for the Pannel, That he cannot be convened as Author, ſeeing there is another Author condeſcended upon, and proven; becauſe it is replied that they might both be Authors of the ſaid alledged Libel: It is duplyed, That that part of the ſaid Reply ought to be repelled, in reſpect of the Dittay it ſelf, wherein it is not libelled that they are both Authors, but only that the Pannel is Author; and when it ſhall be ſo libelled, it ſhall have an Anſwer. And where it is replied by my Lord Advocat, That that part of the Defence, bearing that Conſulters and Adviſers are not contained in the Acts of Parliament, upon which the Dittay is founded, ought to be repelled in reſpect of the 151ſt Act of the 12th Parl. of King *James*, of happy Memory, wherein it is declared, that all criminal Libels contains Airt and Part: To that it is duplyed, That the Defence ſtands relevant notwithſtanding of the ſaid Anſwer; and that the Pannel can no ways be drawn

within the compaſs of the ſaid two Acts, except upon that which is ſpecially contained therein; and Conſulters and Adviſers are not contained therein. And as to that contained in the other Act of Parliament, cited anent Airt and Part, it is anſwered, That they are different: And if they be alike, Airt and Part ſhould only be mentioned in the Dittay, and not in the other with Conſulting and Adviſing, which are clearly ſeveral Points, and muſt be ſeverally elided; in reſpect whereof, that part of the ſaid Alleadgance ſtands relevant. And where it is replied, That the Pannel's Depoſitions, alledged in the Exception, to verify that he was not Conſulter, Adviſer, *&c.* becauſe that the ſaid Depoſitions bears that he knew not of the penning, and gave no Advice thereto, that that Part of the ſaid Alleadgance is likewiſe denied *ut ſupra*, and not a Defence: It is triplyed, That as my Lord Advocat repeats his Reply againſt the Denial, ſo for the Pannel the ſaid Defence and Duply, made in fortification thereof, are here repeated; eſpecially that part of the Duply founded upon the ſaid Depoſitions, bearing that the ſaid Depoſitions are uſed by my Lord Advocat againſt the Pannel, and therefore muſt work in his favour alſo. Where it is replied to that part of the Alleadgance, bearing that the Pannel cannot be convened as Author and Deviſer, becauſe he has given Advice, and in token thereof has mended and reformed a part of the ſaid Libel; that that cannot be reſpected, becauſe of the Reaſon contained in the ſaid Exception, bearing that it is contrary to the Depoſitions, and that it impugns not the Relevancy: It is anſwered and duplyed to the ſaid Reply, That the ſame ought to be repelled, in reſpect of that part of the Alleadgance which is founded upon the Pannel's Depoſition, and needs not impugn the Relevancy, becauſe it is peremptor for that part; and as it is relevant, ſo it is inſtantly proven by the ſaid Depoſitions, and elides that Member of the Dittay, being peremptorly proponed, and inſtantly verified and proven by the ſaid Depoſitions. And albeit it be replied by my Lord Advocat, That the ſaid Depoſitions are not uſed by him neither as Part nor Proof of the Libel, yet it is contrair, becauſe they are mentioned in ſome part of the Libel, and ſo uſed. And as for Proof, they cannot be yet uſed as ſuch, till the Relevancy be diſcuſſed. But albeit my Lord Advocat ſhould not uſe them, yet the Pannel uſes the ſame; and the ſaid Depoſitions may be found a lawful Probation to him of any thing that he ſhall found thereupon.

And where it is alledged by my Lord Advocat in his Reply, That that part of the Defence uſed by the Pannel againſt the Interlining libelled, that the ſame is not relevant, becauſe not libelled when interlined, as that part of the ſaid Alleadgance bears; and it is anſwered by my Lord Advocat, That that part of his Lordſhip's Qualification is uſed jointly with the reſt; and that *quocunq; tempore* interlined is an Evidence of the Pannel's Concurſe with *Haig*, in reſpect it was done by *Haig* in name of the Pannel and the reſt of the Supplicants: To that it is duplyed, That that part of the Alleadgance proponed for the Pannel ſtands relevant, notwithſtanding of that part of the Reply made thereto; and that it is yet contended for the Pannel, That it is no ways relevant to alledge *quocunq; tempore* interlined thereupon, to infer againſt the Pannel that he was Author, Deviſer, and Airt and Part of the penning: for common Senſe evinces, that to be Airt and Part of the penning or deviſing of a Writing, muſt be done either the time of the forming of the ſaid Writ, or very ſhortly after, otherwiſe Interlining can never infer Author, Deviſer, or Airt and Part of the penning. And it is clearly ſet down in the ſaid Alleadgance, that great time intervened betwixt the Author's penning and deviſing of the ſaid Libel, and the Pannel's interlining of it; for it is clear and nottour to my Lord Advocat and the Lords of the Committee, by clear Depoſitions before them, that the ſaid interlined Libel was that ſame which was intended to have been preſented to his Majeſty by the Earl of *Rothes*, and that it was not interlined during the hail time the ſaid Earl had the ſame, and for a long time after. And ſo that part of the ſaid Dittay is no ways relevant to infer the ſaid Pannel to be Author for the ſaid Interlining, becauſe the time of the ſaid Interlining is not libelled *quando*, and that it was at the time of the penning, or immediately after.

And where it is anſwered, That the ſaid Libel was done by *Haig* in name of the Pannel and the reſt, that part of the Anſwer ought to be repelled, as altogether irrelevant, not bearing that it was done at their Command; for to do any Deed in name of another Perſon, cannot be counted that Perſon's Deed in whoſe name it was done. And where it is replied, That the General is relevant, without that part of the Qualification anent the Interlining after that the Pannel received it from *Haig*, eſpecially ſeeing it will be conſtant by the Depoſitions, when they will be produced before the Aſſize, that there was no interlining *longo intervallo*, but ſhortly: To that it is duplyed, It ought to be repelled in reſpect of the Alleadgance, and the Qualifications therein contained, bearing clear and undeniable Circumſtances of the time of the interlining; and likewiſe in reſpect of the ſaid Depoſitions, whereupon that part of the ſaid Alleadgance is founded, and which now the Purſuer uſes by propounding his Reply thereupon. And ſeeing both the Purſuer and the Pannel condeſcends upon the ſaid Depoſitions as a Probation of that part, that part of the Dittay cannot be referred to the Aſſize, to be proven before them, anent the time of the ſaid Interlining; but as the Defence is relevant, as it is proponed, and ought and ſhould be ſo found, ſo the Depoſitions may be preſently received as the Probation thereof, being inſtantly verified and proven, as ſaid is. And where it is anſwered, That the nine Months, contained in the Alleadgance, alledged to have intervened betwixt the penning and interlining, is not verified; it is duplyed, That, firſt, Relevancy muſt precede Probation: *Secundo*, That the ſaid Space and Time may be gathered out of the Circumſtances contained in the ſaid Alleadgance and Depoſitions: And laſtly, The Pannel's own Declaration muſt be taken thereupon, ſeeing the Purſuer ſhews nothing in the contrary. And this Judicatory admits no Dyet to prove any thing that is found relevant, which is not proven *inſtanter*. And where it is alledged againſt that part of the Pannel's Alleadgance, bearing, That the ſaid interlined Copy was never ſeen before it was produced before the Committee; and that the Pannel had Promiſe not to be ſnared, and needed not to have produced it, except he had pleaſed; and that it is replied by my Lord Advocat, That all that was urged from the Pannel by the Committee was by good Warrant, whereunto he was obliged to anſwer upon his Allegiance; and that the Denial to anſwer before them would have inferred againſt the Pannel a more dangerous Crime, if he had refuſed; and the Committee only urged a true Declaration anent the Author: It is duplyed,

That

That the Pannel is not to diſpute now anent the Warrands of the ſaid Committee, and upon the Crime that might have followed if he had denyed to anſwer, and whether he might have declined them or not. But this he duplies in fortification of that part of the Alleadgance, That albeit he had neither declined the ſaid Committee (as he did not) nor had oppoſed in any caſe their Powers or Warrants; yet he might have lawfully proponed before them this Defence, which to his great and heavy prejudice he did omit, That of Law and Reaſon he was not obliged, nor could not been urged to have made any Depoſitions, nor given Anſwers to Interrogators anent any Demand concerning the ſaid Libel quarrelled; becauſe his Anſwers and Depoſitions might have been the Ground of a Criminal Purſuit againſt him (as now it is.) And ſo with reaſon he might have been ſilent, and the ſaids Lords of Committee could have taken no exception againſt him for his ſaid Silence. And therefore that part of the ſaid Pannel's Alleadgance ſtands relevant, notwithſtanding of the Anſwer bearing that he could not have been compelled to have made any Depoſition either upon his Oath or Declaration, if he had remembred, and had alledged the Danger that was to follow and enſue thereupon. In reſpect whereof, the ſaid Replies, and every one of them, ought to be repelled, in reſpect of the ſaid Alleadgances and Duplies made in fortification thereof.

It is farder duplyed for the Pannel by Mr. *Alexander Pearſon*, That where it is replyed by my Lord Advocat to that part of the laſt Defence, bearing that Mr. *William Haig*, the Author and Penner of the alledged Libel, by his own Grant in his miſſive Letter, and alſo acknowledged by the Dittay, that his Declaration that the Pannel gave his Allowance to the penning and forming of the ſaid alledged Libel, cannot be reſpected, nor have any Faith, *quia Particeps Criminis adverſus Socium fidem non facit*; whereupon my Lord Advocat infers a Grant againſt the Pannel, of his giving Allowance to Mr. *Haig* in the forming of the alledged Libel: To which it is anſwered, That the Inference and the Conſequence is not good, and has no force; becauſe the foreſaid Defence does no ways inforce a Grant of Allowance by the Pannel to the forming of the alledged Libel, but does only import that Mr. *William Haig*, the Author and Penner thereof, that his Declaration (not granting any) bearing the Pannel to have given Allowance to him in forming the alledged Libel, cannot be reſpected, nor have any Faith at all againſt the Pannel, himſelf being clearly the Author and Penner thereof; *quia Particeps aut Socius Criminis adverſus alium, fidem non facit.*

It is alſo farder duplyed for the Pannel by the ſaid Mr. *Alexander Pearſon*, That where it is replyed by my Lord Advocat, that it is againſt Law and Reaſon to oppone *Jusjurandum in Criminalibus*, and that the Oppoſition of an Oath given has only place *in Civilibus*; it is anſwered, that the contrair is true in Law, to wit, That Cauſes Criminal are ſometimes even decided by Oath of Party by clear Law. Firſt, *Leg.* 25. §. 5. *F. de Jurejurando: Verba Legis, Si quis juraverit ſe non capuiſſe, non debet adjuvari hoc Jurejurando in actione Furti, quia aliud eſt Furtum feciſſe, quod vel clam fieri poteſt. Et Leg.* 6. §. 5. *F. de his qui notantur Infamia: Verba Legis, Sed & ſi Jurejurando delato juraverit quis non deliquiſſe, non erit notatus; nam quodammodo Innocentiam ſuam Jurejurando approbant, quibus luce clarius eſt. Et in Cauſis Criminalibus Juramentum deferri, ergo etiam Cauſas Criminales per Juramentum delatum decidi.* And it is alike, *utrum Juſjurandum a Judice an a parte delatum ſit, utrumque enim deciſorium eſt Litis; expreſſa Leg.* 1. *F. de Jurejurando: Verba, Maximum Remedium expediendarum Litium in uſum venit Jurisjurandi Religio, quia vel ex pactione ipſorum litigantium, vel ex authoritate Judicis deciduntur Controverſiæ: & Ratio quia Judex non defert Juramentum niſi in ſupplementum, & ubi res aliter probari non poteſt.* And therefore that part of the Defence foreſaid ſtands good and relevant, notwithſtanding of the Reply.

It is likewiſe duplyed by Mr. *John Nisbet* for the Pannel: Where it is replyed by my Lord Advocat, that the opponing of the Pannel's Depoſitions, wherein he diſavows that he is Author, Deviſer, conſcious or acceſſory to the framing of the alledged Libel, is not a Defence, but a Denyal; it is duplyed, That ſundry Points of the Dittay being qualify'd by the Pannel's Depoſition, there reſults to him a relevant Defence in Law, upon the Indiviſibility and complex Taking of his Depoſitions, *quia Confeſſio non poteſt pro parte acceptari, & pro parte ſperni: Bartol. in Leg. Aurelius, §. Idem quæſit, num.* 2. *F. de Liberatione Legata. Pharm. Quæſt.* 81. *num.* 168, *& aliis numer. Quando eſt Preſumptio quod qualificato confitente occiderit ad ſui defenſionem, ut parte ſi occidens ſit vir probus, nullamque occidendi & offendendi cauſam habebat, & quia occiſus erat homo rixoſus; talis qualificata Confeſſio non poteſt dividi, nec pœna extraordinaria imponi, & ſic confitens omnino abſolvendus eſt.*

Whereas it is replyed by my Lord Advocat, that the Relevancy of the Qualification, and the Conformity and Diſconformity of the Pannel's Depoſitions, is not proper to be debated here, but muſt be remitted to the Aſſyze; it is duplyed, That all Diſpute and Debate of Law muſt be decided by the Judge, and is not pertinent to be agitated before the Aſſyze, who are only Judges *Facti, & Quæſitores* to make inquiry into the Verity of the Deed.

Whereas it is replyed by my Lord Advocat, that Interlining *vel in actu ipſo, vel poſt actum quocunque tempore*, of a Piece drawn up for the uſe of the Pannel and others intereſted, evidences the Pannel's acceſſory Concurſe in the forming and deviſing the Piece; it is duplyed, That it is moſt unreaſonable, becauſe it ſhould follow, that Interlining of any Piece or Book ſhould import Concurſe in the firſt framing of it, which is contrair to Reaſon.

Whereas it is replyed by my Lord Advocat, That *Principium & Finis tanquam duo Extrema Medium includunt*; as is acknowledged by us in the Uſe of that Maxim; and conſequently that the firſt Intimation of the Pannel's Knowledge, and the immediate receiving of the Piece challenged, and Interlining *ex poſt facto*, are relevant to make the Pannel Author, or Airt and Part: it is duplyed, That that Maxim is uſed by us in the Interpretation of ſundry Paſſages of a Piece done *unico Contextu*, which therefore muſt be preſumed to be done *uno Animo & uno Stilo*, by the Analogy of the two Extremes interpreting the Midſt; and can never be uſed to make diſparat Acts, to join prepoſterouſly, to prove Acceſſion in forming and deviſing, ſeeing the firſt Imitation alledged by my Lord Advocat is of Knowledge, which preſuppoſeth a thing to be done.

Where it is replyed by my Lord Advocat, that the Libel produced before the Lords of the Committee

mittee with the Pannel's Depoſitions, notwithſtanding Promiſe and Aſſurance that they ſhould not be uſed, may be uſed by my Lord Advocat, and that the Procedure of the Lords of Committee is moſt warrantable, that the Pannel was obliged to anſwer by his Alleadgance; it is duplyed, That the warrantable Procedure of the Committee is not conteſted, nor cannot be; and that the Pannel, albeit he could not decline his Majeſty's Commiſſioners, might very well in Reaſon and Law have refuſed to depone his own Dittay. And we adhere to the former Citations, averring that the Aſſurance given by Judges ſhould ſecure Pannels againſt any uſe that could have been made of their Depoſitions.

It is added to the Duplies by Mr. *Robert Macgill*, That where my Lord Advocat has replyed, that the Oath of a Party to be indicted may be urged in Criminals, *quod hoc vix ſit auditum in Jure, Clarus, §. ult. Quæſt. 63. & Quæſt. 45. num. 9.* And if it hath been practiſed in ſome parts, as likewiſe in this Country in the Examination of theſe who are to be indicted, *Conſuetudo illa eſt vetuſtas erroris quæ non adeo ſuo momento valitura, aut ut Legem vincat aut Rationem. Apud Gregorium, & Codice Juſtiniano, quæ ſit longa Conſuetudo.* The Reaſon of the Law is, that the maintaining of our Life is ſo natural, that what will we not ſay for the defence of it? *Et ſupra omnia evitandum eſt Perjurium.* And the Reaſons of the Practicians is nothing, which is leſt Crimes ſhould be unpuniſh'd: for upon Probation by Writing, Witneſſes or other Confeſſion, *quæ non eſt jurata*, or upon Preſumptions *luce meridiana clariores*, an alledged Criminal may be put to the knowledge of ane Aſſyze; or otherwiſe the Queſtion may be uſed *ad eliciendum veritatem.* And where Celerity of Puniſhment may be objected rather or a Man perjure himſelf, *vindictæ Tarditas Supplicii gravitate compenſetur.* But accepting the Practique to be ſo, I ſay, that *in Confeſſione jurata nullo pœnæ metu proper Impunitatem promiſſam.* The Maxim of the Law muſt be here received, *quod approbo, non reprobo*; eſpecially ſeeing the Pannel was ſo ſimple and careleſs in reſpect of his Innocency, that he remitted the forming of his Depoſitions to the Lords of Committee themſelves, he being then removed the time of the dyting and writing of them, and did ſubſcribe them *fide implicita.*

Where it is replyed, that adviſing and deviſing may be attributed or qualified by any ſubſequent Deed to the alledged Crime; it is anſwered by that of *Saluſt, Et antequam incipias conſulto, &c.* and ſo it is *in Mandato.* And as to the Ratihabition, *eſt fictio Juris*; and it is to be underſtood *in Criminibus manifeſtis, & non ubi quæritur de nomine Criminis*; as in our Caſe. And remits to the Diſtinction alledged in the hinder part of the firſt Exception.

It is duplyed by Mr. *Roger Mowat* to the two Practicks of *Auchindrane* and *Carrarie* alledged by my Lord Advocat, That they ſuit not this Caſe, ſaying that Depoſitions ſhould not prove in favour of the Pannel, becauſe if any Depoſitions were given by theſe two Perſons (not granting the ſame) they were given after their Indictment for the Crimes of Murder; but here the Depoſitions are given before any Crime known. Secondly, If any Depoſitions were given, they were the voluntary Depoſitions of the Party, not demanded by the Judge. Thirdly, It is not replyed, that theſe Delinquents proponed any Defence upon their Depoſitions, and craved their ſaid Depoſitions to verify the ſaid Diſpute. Laſtly, It was not there alledged and offered to be proven, That there was ane other Author of the ſaid Murder, which was their Crime; whereupon if they had condeſcended and offered to prove the ſame, their Depoſitions would have been further reſpected. In reſpect of which clear Differences of theſe Delinquents from this Caſe, no reſpect can be had to the Practicks alledged.

The Dyet continued till to-morrow the 2d Inſtant.

Curia legitime affirmata, *the ſaid 2d of* December 1634. *Parties and Procurators as before.*

The King's Majeſty's Advocat having heard the Duplies made to his Lordſhip's Reply, declares that he finds nothing worthy therein to be anſwered, except one Point of Law moved very impertinently anent the Diviſion of Confeſſion in Criminals, and another made *in facto* anent the Challenge made to the Committee in an alledged Promiſe made to the Pannel at the time of his Examination. And for the firſt, which is diſputable *in jure*, if it had been pertinent to the purpoſe, his Majeſty's Advocat declares he would have triplyed thereto in writing, and is ready, upon my Lord Juſtice's Deſire, to clear it to his Lordſhip. And as to the other part *in facto*, 'tis more pertinent to be cleared before the Aſſyze. And therefore he ſuperſedes his Anſwer, except he be enjoined thereto by my Lord Juſtice-General.

Quinto, It is alledged by Mr. *Roger Mowat* for the Pannel againſt the ſecond Alternative of the Dittay, That the Pannel ought to be aſſoilzed, and cannot be put to the knowledge of an Aſſyze, for alledged hearing, concealing, and not revealing, and not apprehending of the Author of the alledged infamous Libel, and alledged divulging and diſperſing thereof, as the Dittay bears: becauſe giving, and not granting, that the foreſaid Supplication quarrelled might be found ſcandalous againſt Mr. *William Haig*, the known Author thereof; yet *quoad* this Pannel, who is not, nor cannot be found the Author, it cannot be ſo declared, becauſe the Addition of the Act 1594, militats only againſt ſuch Writings as are manifeſtly, clearly, and without doubt or difficulty evident and ſeen, and known to be infamous Libels, and at the very firſt ſight may appear ſuch unto every ordinary Underſtanding. But the quarrelled Supplication being of a dutiful ſtrain, and ſuch as might be miſtaken even by very underſtanding Readers and Hearers, the addition of the ſaid Act can no ways be extended to the Hearers, Concealers, not Revealers and not Apprehenders. But ſo it is, that the ſaid quarrelled Supplication was delivered by the ſaid Author to the Pannel as an humble Supplication, and given by him to the Earl of *Rothes* as an humble Supplication, and returned to him under the ſame name: likeas the Pannel is content to make Faith anent his Knowledge and Conception thereof, that he received and retained the ſame *eo nomine*; and therefore cannot be put to an Aſſyze upon theſe Points, ſeeing they are Points that cannot in reaſon be found capital by the Common and Civil Law, but by the ſaid Addition, which was made in turbulent Times, and never took effect, but in continual deſuetude, as has been ſaid before. And it were very hard, upon ſuch ane

Act,

Act, never practiſed heretofore, to make Noblemen and others his Majeſty's good Subjects obnoxious to a Capital Crime. And albeit the ſaid quarrelled Supplication might now be found to be infamous, yet the finding it now to be ſuch, ought not, nor cannot be drawn back to infer the Pain of Death upon thoſe who *bona fide* did not think it ſuch, as now it is ſaid to be by the ſaid Dittay; they having *juſtam & probabilem Ignorantiam*, by doing that which truly they did, thereby not to have incurred the hard and rigorous Cenſure of the ſaid Act of Parliament. Secondly, It is alledged, that *Abſolvitur* ought to be granted *ut ſupra* to the Pannel, becauſe the Supplication quarrelled was never declared heretofore infamous: and before it had been declared infamous and ſcandalous, and by the ſaid Declarator the Pannel had been certified of the Danger, the alledged Having and Hearing thereof cannot be now ſuſtained as a relevant Ground to infer this Criminal Purſuit and Pains of Death againſt him. And with reaſon it ſhould have been firſt ſo declared againſt him, that he and others his Majeſty's loyal and good Subjects being lawfully warranted by the ſaid Declarator, might have thereafter eſchewed to have offended in that kind. Thirdly, *Abſolvitur* ought to be granted, becauſe the ſaid quarrelled Supplication was intended and offered to be preſented to his Sacred Majeſty; which intended Offer of the ſaid Supplication by the Earl of *Rothes*, put the Pannel *in tuto*, that he could never have ſuſpected any Crime or Puniſhment for hearing, keeping, *&c.* to have followed after the ſaid intended Offer: and ſo was thereby *in optima fide* to hear, keep, and not to reveal any thing thereanent. The making of the which Offer to his Royal Majeſty, in the Pannel's Judgment, did then vindicat him that he thought nor conceived not the ſaid Supplication ſcandalous or ſeditious; ſeeing it is preſumed that no Man of Judgment or ordinary Senſe and Reaſon, would be ſo fooliſh as to offer his own Dittay to his Prince.

And that the Pannel's Innocency may farther appear, and that his Opinion and Judgment of the ſaid quarrelled Supplication, as he offers to declare the ſame then to have been, may be truſted above all other Preſumptions that can be adduced in the contrair; it is to be remarked, and gravely and wiſely conſidered by the Judges, that the Purſuer in effect has no other Evidence nor Probation of the ſaid Particulars libelled in the ſaid Dittay againſt the Pannel, but ſuch as proceed from his own Depoſitions made before the ſaid Committee: which Point is ſo conſiderable, that in reaſon no advantage ſhould ariſe thereupon againſt him, ſeeing he was not obliged thereto, but of his own accord. And as in Law a Perſon accuſed criminally cannot be compelled either to depone or declare at the command of the Judge, ſo the Depoſitions given by this Pannel before the ſaid Committee, ſhould not be reſpected, in ſo far as the ſame may be made ane Ground of the ſaid Dittay, which concludes and infers no leſs againſt the Pannel not the Pain of Death. And for the Point of concealing and not revealing the ſaid Writ, *de facto* the ſame was revealed by the Pannel to the Earl of *Rothes*, in ſo far as the ſame was appointed to be preſented to his Sacred Majeſty, and thereby to have been revealed to his Highneſs: likeas accordingly the Earl of *Rothes* did offer to preſent the ſame, as ſaid is. In reſpect whereof, *abſolvitur* from the ſaid concealing and not revealing; *abſolvitur* likewiſe for not apprehending, becauſe, as is ſaid before, the Pannel is ready to declare, that in his Judgment and Conception he did not think the ſaid quarrelled Supplication to be ſuch as it is libelled by the Dittay, for the Reaſons before adduced. And in that reſpect it was hard for him as a private Man to take upon him to apprehend the Author of a Writing, which before he had not conceived to fall within the compaſs of the ſaid Act of Parliament. For albeit in Matters of Treaſon all good Subjects are obliged in Duty under all higheſt Pain to diſcover and delate Authors and Practiſers thereof; yet in other Matters, in Writing, and ſuch-like, wherein are doubtful and ambiguous Expreſſions, which may ſuffer divers Interpretations and Conſtructions according to the Humours, Capacities, and Conceptions of the Readers; there is no ſuch Neceſſity poſed by the ſaids Acts of Parliament libelled, nor by the Makers of the ſame, that a Writing coming to a Man's hands, whereof he makes not the right Senſe and Meaning as others do make thereupon, that the ſaid Writing not rightly underſtood by him, ſhall thereupon be a Ground of a Criminal Purſuit to make him loſe his Life for not taking, or not apprehending, or not revealing the Author of the ſaid Writ. The Preparative ſeems dangerous and ſingular; it would therefore be carefully adverted unto, ſpecially at this Time, and in this Caſe; whenas the putting of the ſaid Act in practice, ſeems to have the firſt beginning upon this Pannel. And the taking and apprehending of Leidges has heretofore been dangerous to ſundry Apprehenders; and is inſtanced by the Earl of *Queensberry* and the Laird of *Geichtis* Practices, for taking of Leidges at their own hands.

It is anſwered to that part of the ſaid Dittay anent Mr. *Haig*'s apprehending of his own Danger upon the ſimple ſight of the Committee's Letter by the Pannel, that that cannot make the Pannel acceſſory to his Eſcape, no more nor his own Conſent anent the penning of the ſaid quarrelled Supplication can make the Pannel Airt and Part of the forming and penning thereof; ſeeing the ſaid Pannel's ſecond Depoſition bears that he was neither upon the Counſel nor Knowledge of his Eſcape, and knew not of it till three or four days after he was gone. That part of the Dittay anent the Pannel's receiving of Mr. *Haig*'s Letter, is no way relevant to infer the Pain and Crime libelled againſt the Pannel. Firſt, Becauſe this is not a Matter of Treaſon, wherein receiving and writing of Letters are prohibit. Secondly, The Pannel was not prohibit by the Lords of Committee to receive any Letters. Thirdly, The ſaid Letters are produced and delivered to the ſaids Lords, which in Rigour of Law he needed not to have done. Fourthly, Being produced, they prove nothing againſt the Pannel, but are clearly in his favour; becauſe Mr. *Haig* profeſſes himſelf therein to be Author and Penner of the ſaid Supplication. And where it follows in the ſaid Dittay, that it is affirmed and avowed in ſome of the ſaid Miſſives, That Mr. *Haig* had the Pannel's Approbation and Allowance to the making and penning of the ſaid Supplication, that is altogether irrelevant, as having no Warrand from the ſaid miſſive Letter, which contains no ſuch Affirmation as is libelled. And the Pannel craves the Letter, bearing that Paſſage, preſently to be read, ſeeing it is in my Lord Advocat's hands; which Deſire ſhould be granted, becauſe the Pannel has ſeen it, with the reſt of his ſaid Miſſives, by Warrand from my Lord Juſtice and his Aſſeſſors.

It

It is added by Mr. *Alexander Pearſon* to the Exception, That the Pannel is not guilty of concealing, not revealing and divulging of the alledged infamous Libel, becauſe the Writing quarrelled being in form of a Supplication, and uſed as a Supplication by Offer made thereof to his Majeſty, who then gave no Signification of any Offence therewith, the Pannel is not, nor cannot be counted formally a Concealer, not Revealer, or Divulger of an infamous Libel, there being no ſuch Knowledge nor Opinion anent the Writing foreſaid of the Pannel: *Quia injuriam poteſt facere nemo, niſi qui ſcit ſe injuriam facere. Leg.* 3. §. 3. *F. de Injuriis. Sed accuſatus non habebat hanc ſcientiam, ſed juſtam cauſam credendi,* to think of it otherwiſe as a Supplication, for the Reaſons above rehearſed. And as when any is accuſed of Theft, it is a good Defence to ſay, *Quod domini voluntate & conſenſu rem contrectant, ſaltem putavit dominum conſenſurum, ſive id falſo, ſive id vero putet; expreſſa Leg.* 46. §. 7. *de Furtis, maxime dum ſuberat infra cauſa ita credendum.* So by the like Reaſon in the matter of meddling with the infamous Libel, it muſt defend the Pannel, That he had no Knowledge or Conſcience of ane infamous Libel, and that he had juſt and probable Cauſes to think of it as a Supplication, *ſive id falſo ſive id vero putavit, & generaliter ubi de obligando queritur, propenſiores eſſe debere nos (ſi habeamus occaſionem) ad negandum, ubi deliberando ad liberationem, ait Arianus, Leg.* 47. *de Obligationibus & Actionibus: ergo in re præſenti rapienda eſt occaſio ad liberationem accuſati.* Specially anent the Divulging, becauſe this Point of Dittay anent Divulging, is not founded upon any Acts of Parliament, but only upon the Common and Civil Law, and therefore ſhould be decided by the ſaid Law; by which the Defence now alledged for the Pannel is very relevant. Farder, that part of the Dittay, bearing that the Pannel by ſhowing to Mr. *Haig* of the Warrant of his Citation, did thereby give him occaſion to eſcape furth of the Country, is not revelant; becauſe that which of it ſelf is good, may give occaſion to Evil: And the Pannel's ſhewing the Warrant of his Citation, is no more nor if being verbally cited, he had told Mr. *Haig* of his Citation, which is no Crime.

It is added by Mr. *John Nisbet*, that the Dittay ſubſuming concealing of the Piece quarrelled, is contrary to it ſelf, bearing the imparting of it to my Lord *Rothes*, of purpoſe to preſent to the King's Majeſty.

It is added, that the not apprehending the Author of an infamous Libel, is not relevantly qualified, by the not taking of *Haig*; ſeeing it is not libelled, that the alledged Libel was declared to be of that nature, or conſpicuouſly or nottourly, at leaſt to the Pannel's knowledge, an infamous Piece; and that it was in the Pannel's power to apprehend the Author, without incurring any hazard of Law, for the injurious Interpellation or Apprehending of any Perſon, whom he was not able to convince to be Author: ſpecially ſeeing the not apprehending of the Author of a treaſonable Piece cannot import any Guilt againſt the not Apprehender, who is not able to convince the Author of the Crime by lawful Probation, and therefore not obliged to apprehend, ſince he cannot do it without the danger of Retaliation, in caſe he ſuccumb; *James* VI. *Par.* 2. *cap.* 49. And in Law, *Qui injurioſe interpellit in Judicio civili tenetur Injuriam, F. de Injuriis, Lege* 19. *Et ſi Liber pro Fugitivo apprehenſus ſit, apprehendens punitur.* And by the like Reaſon the Apprehender of a Party, whom he cannot convince by lawful Probation, is puniſhable: And in the Civil Law, he is obnoxious in the Pains of *Lex Julia de Vi publica*, and of *Lex Cornelia de Injuriis.*

Secondly, The apprehending injoined by Act of Parliament is only ſubſidiary, when a Party is declared Author, and cannot be well apprehended by the Judge: And a Party that is ready to delate the Author of an infamous Piece, to the end that he may be apprehended by the Judge, he is not obliged to apprehend him ſummarly.

Thirdly, The not apprehending of the foreſaid Author is excuſable; becauſe the Pannel was enjoined by the Lords of the Committee not to divulge the Buſineſs whereupon he was convened, and to keep all things ſecret until his Depoſition.

It is farther eiked by Mr. *Robert Macgill*, anent the not apprehending, That the Pannel ought to be aſſoilzed therefrom, becauſe Freedom is ſo natural and favourable, that even amongſt the *Romans* many of their Magiſtrates had not *Prehenſionem*; and that which the Tribunes of the People had, it was alſo for the People's Freedom. *Gellius, lib.* 13. *cap.* 12. Wherein it is certain of the Law, *quod nec magiſtratibus licet aliquid injurioſe facere, quin injuriarum teneantur. Leg. nec Magiſt.* 32. *F. de Injuriis. Unde etiam Captura debet eſſe ex decreto Judicis & Judicia, quæ reſultant ex proceſſu generalis Inquiſitionis debent eſſe ſufficientia ad Capturam, decerniturque Captura ex facti qualitate, & debet proceſſus eſſe informatus licet reus, qui capiendus eſt, non citatus ſit: Clar. §. ultima, Quæſt.* 28. *& Quæſtione* 20. *num.* 2. *Quod in delictis enormibus id ita hodie ſervatur.* If then it be ſo, *in Magiſtratibus Capturam jubentibus*, can it be thought that any municipal Law can command Apprehenſion, *niſi in caſibus de Jure, & rationi competentibus?* And ſo *in Criminibus Decorum enormitate jam ſatis conſtat* (where the Pannel profeſſes before God) *& Juſjurandum purgativum de Jure recipitur. Leg. Lex Cornelia* 5. §. 8. *de Injuriis.* That he never remembred of ſuch an Act, he could never have imagined at that time the Piece quarrelled to have been of ſuch a ſort, much leſs to be treaſonable; and remits here to the Diſtinction of Crimes propounded in the laſt part of my firſt Exception, where Crimes and Pains ought to be ruled in Reaſon even in municipal Laws; and except in ſuch ſeditious Speeches, which is the firſt ſort of inordinat Speeches againſt a Prince, *Ubi & tractatus adeſſe debet, ut in Conjuratione Catilinæ*; no Lawyer did ever think the Haver, Hearer, and not Revealer, not Apprehender, to be puniſhable by Death; *& ut videtur abſurdum.* All municipal Laws ought to receive their own Limitations according to Reaſon: and remits here to the ſecond Part of my Duply, in fortification of my firſt Exception, grounded upon *Gailus, lib.* 2. *Obſervatione* 33. anent the Interpretation of municipal Laws; and to the Limitation exponing the Act 134. which forbids any Man, of whatſoever Quality, to ſpeak in time coming anent the Government: which would be abſurd, if it received not its own Limitation to ſpeak (about it) in Council and Parliament. And repeats here again the gracious Acts of our dread Sovereign anent the ſurveying of the Laws.

It is anſwered by my Lord Advocat to the fourth Exception propounded againſt that part of the Dittay, whereby the Pannel is indicted, and is puniſhable by

by Death; and that by the Act of Parl. 94. for not apprehending of *Haig* the Author of the infamous Libel, and for not revealing of the ſame, ought to be repelled in the hail Members thereof. And notwithſtanding the ſame, the Dittay in that part is ſeverally and *per ſe* relevant, ought to be put to the Knowledge of an Aſſize; becauſe it is ſubſumed in the Dittay preciſely, according to the Words of the Act, That the Pannel, who knew *Haig* to be Author, did not apprehend, but concealed him and it, and not revealed them; and alſo gave occaſion to *Haig* of his Eſcape; and ſince his Eſcape, received divers Letters from him, which were concealed till the Pannel was interrogat thereupon by the Committee. And where it is alledged in the Exception, That the Dittay is not relevant in this point, not condeſcending that the infamous Libel was declared to be an infamous Libel; and in particular, that the Dittay in that part is contrair to it ſelf, which bears the Pannel to be guilty of concealing; and yet bears alſo that he delivered it to the Earl of *Rothes*, to be preſented to his Majeſty: It is anſwered, That the Dittay is relevant, becauſe it ſubſumes directly according to the Act of Parliament, which ſpeaks not of an infamous Libel declared to be ſo, but of an infamous Libel of Speeches, which are ſo really in the ſelf. And there is no Contrariety in the Dittay, becauſe giving to the Earl of *Rothes* is concealing, except it were qualified that the Earl of *Rothes* were ſuch a Perſon to whom the Act of Parliament ties the Hearer to reveal, which he is not, not being of his Majeſty's Secret Council. And where it is alledged that the true Meaning and Senſe of the Act is only to be underſtood of Reproaches and infamous Libels, which are certainly, conſpicuouſly, and nottourly ſo, and not of ſuch Speeches and Libels which are of a doubtful and ambiguous, or indifferent nature, which at the firſt View and Hearing could not appear to all Men to be infamous and ſcandalous: It is anſwered, That *ubi Lex non diſtinguit, nec nos diſtinguere debemus.* And ſeeing the Act comprehends Reproaches and ſcandalous Libels, which are ſo really, *& non opinone*, the Judge and Aſſize are obliged to judge and proceed according to the nature of the thing prohibited, as it's ſo really, and not to leave place to fruſtrate the Execution of the Law under the Veil of Opinion. And of the Law, *ignorantia juris neminem excuſat ne quidem in delictis, licet ſit ignorantia probabilis præcipue in atrocioribus*; of which nature this is. Neither can the Pannel pretend excuſe upon the Incertainty, Obſcurity, or Ambiguity of the infamous Libel; becauſe this infamous Libel, by the firſt View, Reading, and Inſpection thereof, might and ſhould have appeared to him to have been of that nature. And no Nobleman, or whatſomever Subject of whatſomever Quality, being of the Pannel's Knowledge, Learning, and Underſtanding, can or could juſtly pretend any Doubt or Scruple; but that the ſaid infamous Libel was, in the firſt View and Reading thereof, of the nature of a ſcandalous Libel, puniſhed by death. And albeit in infamous Libels againſt Subjects there might be ſome Shadow of Excuſe, by reading and looking upon the ſame, and receiving thereof either for Curioſity, or to learn the Quickneſs of a Wit evil ſet in the penning of ſuch infamous Libels: But ſuch Excuſes are damnable in infamous Libels which touch with the leaſt Aſperſion or Blame the Honour, Credit, and glorious Eſtimation of our gracious Sovereign. Likeas the Pannel cannot pretend Ignorance, in ſo far as he granted in his Depoſitions, that after his receiving thereof from *Haig*, when he did communicate the ſame with the Earl of *Rothes*, that they found the ſame of ſuch a Strain as ought not to be preſented to our gracious Sovereign. And where it is alledged that this Act of Parliament 94. in the Points of the Addition anent not apprehending and not revealing, are not of Crimes puniſhable to death by the Common Law; and that the ſame has been in long deſuetude, and out of uſe; that ought not to be reſpected, becauſe we are ruled by the Laws of the Kingdom, by the Acts made by King *James* the Firſt and King *James* the Fourth, before alledged; and there is no Preſcription in Law. And where it ſeems to be adduced to infer *probabilem ignorantiam*, it is anſwer'd, *Quod omnis ignorantia juris eſt improbabilis & punibilis.* And where it is alledged the Pannel *habebat ignorantiam facti eamq; probabilem quæ excuſat in delictis*; in ſo far as albeit this infamous Libel was puniſhable to death in the Perſon of the Author, yet it cannot be puniſhable to death in the Pannel, not being Author, as he alledges, becauſe it was delivered to him as a Supplication, to be preſented to his Majeſty; and that he preſented it to the Earl of *Rothes*, who made offer thereof to his Majeſty, and after returned it to the Pannel, which (as the Pannel alledges) put him *in tuto & in bona fide* not to apprehend *Haig*, nor to reveal it to any of his Majeſty's Council as a ſcandalous and infamous Libel, becauſe he did not conceive it to be ſo; and is content to depone upon his great Oath, That he did not know, nor apprehend the ſame to be an infamous Libel: It is anſwered, That the Nature and Strain of the infamous Libel muſt be the Rule of Puniſhment or Impunity, and not the Opinion of the Pannel; the Reproaches, Exprobrations, and ſcandalous Aſperſions thereby put upon his Majeſty's ſacred Perſon, Eſtate, and Government, being ſo nottour, evident, and conſpicuous, that neither the Pannel, nor none of his Knowledge and Judgment, could pretend Excuſe or Ignorance in the reading thereof; *Et eſt ignorantia maxime inexcuſabilis neſcire hoc quod omnes ſciunt*: but ſpecially in the Pannel, who adverted to it narrowly, and heard it not ſimply ſpoken, but had it delivered to him in Writing, which he keeped, copied, and adviſed with, and found the Strain thereof of that nature, as was not fit to be preſented to his Majeſty. And where it is alledged, That the Pannel cannot be puniſhable to death for not apprehending of *Haig*, and not revealing of him and his infamous Libel, except it had been declared to have been infamous, and *Haig* to have been the Author thereof; and that the apprehending of *Haig* in a matter ſo obſcure and doubtſome, would have been dangerous to the Pannel *per* Τοιαυτοπαθίαν or Retaliation, ordained by the Act of Parliament of King *James*, his Majeſty's bleſſed Father, of happy Memory, *Parl.* 2. *cap.* 49. It is anſwered, That Act of Parliament requires no other Declarator but the real Nature and Quality of the Speeches and infamous Libel; neither could there have been Danger in apprehending, being warranted by the Law. And where it is alledged, That all depends upon the Pannel's Depoſitions, which he made voluntarly for Satisfaction of the Lords of Committee, and that therefore he muſt have yet place to clear his own Depoſitions; and that for clearing thereof, he is ready to depone, by his great Oath, that at the Receipt of the ſaid infamous Libel, he received the ſame as a Supplication, and ſo keeped it, and retained it: It is anſwered, That the moſt ſubſtantial Part of the Dittay is founded upon the nature of the infamous Libel, and not

not upon the Pannel's Depoſitions; wherein his Denial of Knowledge upon Oath cannot liberat him from the Puniſhment of Death contained in the Act of Parliament.

And where it is alledged, that albeit the Juſtice ſhould find this Libel to be infamous now, yet it cannot be drawn back to the time of his Receipt from *Haig*; it is anſwered, That it needs no Declaration of Judge, and conſequently is not to be drawn back, but was ſo from the beginning.

And where it is alledged, that albeit in Matters of Treaſon all Subjects are obliged to delate, yet not in Matters which are doubtſome, but certain; it is anſwered, That this is certain *& de jure & de facto: de jure*, becauſe commanded to apprehend under the Pain of Death; *de facto*, becauſe of the ſaid infamous Libel, which is really and of the own nature ſo.

And where it is alledged, that *Credulitas in Furtis præbet cauſam probabilem*, for the which the Text of the Laws are adduced; it is anſwered, *Quod illa Credulitas probanda eſt aliter quam per Juramentum rei.*

And where it is alledged, that *proniores eſſe debemus ad liberandum*; it is anſwered, That this has no place *in atrocioribus*, and which are ſo clear and manifeſt as this.

And where it is alledged, that the Pannel ought to be aſſoilzed for not apprehending and not revealing, becauſe he did reveal it to the Earl of *Rothes*, who did make offer of it to his Majeſty; it is anſwered, *Quod nullo modo relevat*, in reſpect of the Act of Parliament which ordains the revealing to be to a Counſellor, which *Rothes* was not. And the Offer to his Majeſty by the Earl of *Rothes non relevat*, except it be alledged, that the Earl of *Rothes* offered it to his Majeſty as a ſcandalous Libel, to be puniſhed conform to the Act of Parliament; which is not nor cannot be alledged. And ſuppoſing that this revealing by the Earl of *Rothes* to his Majeſty might be ſuſtained as lawful for procuring Impunity from the Act, which is not granted; yet the Pannel is puniſhable to death upon the other Member, for not apprehending of *Haig*, whom he in his Depoſitions declared to have been the Author thereof, and whom he might have apprehended, both at the time of receipt thereof, and alſo at the time when the Pannel ſhewed to *Haig* the Warrand of his Citation before the Committee, he having him then in his power. And where it is alledged, that he could not apprehend him then, in reſpect of the Command given to the Pannel by the Committee, to acquaint no Perſons with the Cauſes of his Warning; that cannot be adduced for an Excuſe, but rather makes the Pannel inexcuſable, becauſe he tranſgreſſed the Command of the Committee in ſhowing of the Warrand to *Haig*, and yet did not apprehend him; but ſhowing of the Warrand, gave him occaſion to eſcape. And where it is alledged, that giving of occaſion is not relevant, and alſo that receiving Letters from him (not being in a Matter treaſonable) is not puniſhable; it is anſwered, That theſe Circumſtances are not eſſential Parts of the Dittay *per ſe*, but uſed as Adminicles to aggravat the Pannel's Crime in not apprehending of *Haig*, and entertaining with him Correſpondence after his flight.

And where it is alledged the Letters, if they were produced, would prove nothing againſt the Pannel, but in his favours, *non eſt hujus loci*, becauſe now we are only upon the Relevancy of the Dittay. But when they ſhall be uſed in the proper Place before the Aſſize, it will be clear, that the ſame make rather againſt than for the Pannel, in reſpect whereof the ſaid fourth Exception, and hail Members thereof ought to be repelled.

It is duplyed by Mr. *Roger Mowat*, in fortification of the Defence proponed for the Pannel, bearing, that giving and not granting that the foreſaid Supplication quarrelled, might be found ſcandalous againſt *Haig* the Author; yet *quoad* the Pannel cannot be found, becauſe the Addition of the Act 94 militats only againſt clear Writings, clearly known to be infamous; and at the firſt this appears not ſo, being of a doubtful Strain, as the Exception bears.

Whereunto it is replied, that the hail Members of the Dittay, anent hearing not revealing, not apprehending the Author, are ſeverally relevant, in reſpect of the Act of Parliament; whereupon it is ſubſumed, that the Pannel knew *Haig* to be the Author, and did not apprehend him, but concealed and revealed neither him nor the ſaid alledged Libel, and ſicklike occaſioned his Eſcape, and received Letters from him ſince. It is duplied, that the ſaid fourth Alleadgance proponed for the Pannel, ſtands relevant in the hail Members thereof, notwithſtanding of the ſaid Reply founded upon the ſaid Act of Parliament; and the Pannel refers himſelf to the ſaid Exception and hail Members thereof, to be judicially pondered and conſidered. And farther alledges, that the ſaid Reply is not relevant, bearing, that that Part of the Subſumption of the Dittay is founded upon the ſaid Act, bearing, that the Pannel knew *Haig* to be the Author, and did not apprehend him: Becauſe albeit the Pannel knew him to be the Author, as his Depoſition bears in theſe words, that he took him to be the Author; yet it followeth, not by good Conſequence in Law or Reaſon, that he took him to be the Author of this as a ſeditious and ſcandalous Libel, as my Lord Advocate in his Replies bears hardly upon us, which were to take *Controverſum pro Confeſſo:* And ſo the Pannel ſtill abiding by his former Defence, acknowledges, that if he had known the Libel to have been infamous, he was tied to the ſtrict Obſervance of the Act of Parliament made againſt Libels of that nature and kind. But ſeeing the Pannel has ſtill denied all ſuch Knowledge as is inforced upon him by the Dittay and Reply, and that it is againſt Reaſon that any furder Knowledge of a Writing ſhould be inforced upon a Party, otherwiſe than he declares himſelf, and has declared *ab initio*; for he has ſtill affirmed, and yet does affirm, that he never conceived that quarrelled Writ to have been infamous, or to have carried or rubbed any Aſperſions upon his ſacred Sovereign; which if he had perceived, he would rather have loſt his Life before he had concealed one jot thereof, as he was bound in Duty. And ſo ſeeing the Gloſs and Commentar of his Knowledge of the ſaid Libel, muſt always be referred to himſelf, and not by the Gloſs made in the Dittay, importing no leſs than the Loſs of his Life; the ſaid Reply ought to be repelled, unleſs it were alledged that the Pannel, by his Knowledge and by his Underſtanding, had perceived the ſaid Libel to be as the Dittay bears, which he profeſſes he never did. For if this Ground hold, that all Men reading Writings ſhould have alike Knowledge thereof; and that any reading a Writing ſhould underſtand all the Senſe or Commentaries that could be made thereupon, or elſe to incur ſuch Pains as might follow; this Inconvenience might enſue, that Bairnes, or mere Ignorants

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rants or Fools, reading Writings of this kind and nature, might incur the ſelf-ſame Dangers; which is a great Inconvenience, for certainly they know no better: and by their Knowledge they apprehended not the Danger, which wiſer and more learned Men prying more narrowly thereinto, did perceive and find out. For it has pleaſed God to give every Man his own particular Knowledge, and not all Knowledge to one. And except it were replyed, that the Pannel either by Word or Writing had ſignified or expreſſed any other Knowledge or Conception of the ſaid quarrelled Writing, which may verify againſt him that he acknowledged the ſame to be ſcandalous, as the Dittay bears, the ſaid Reply ſhould be repelled as irrelevant. And the Conception and Knowledge of the ſaid Writing muſt neceſſarly be referred to the Pannel's own Declaration, whoſe Life and Fortune cannot be taken away upon another Man's Expoſition of a Writing, which the Pannel is content to make Faith that it never entered in his Judgment or Senſe to know that to have been the Meaning; which if he had known, he could not but at the firſt view have fulfilled and obeyed the Law ſet down in the ſaids Acts, as his Diſpoſition, and his Carriage, and his bygone Actions clearly evince, and needs no further queſtioning. In reſpect whereof, the ſaid Reply ought to be repelled, as altogether irrelevant, for the Reaſons before alledged.

And where it is replyed by my Lord Advocat, That the giving of the ſaid infamous Libel by the Pannel to the Earl of *Rothes*, is *de facto* concealing, except the ſaid Earl were ſuch a Perſon to whom the Act tyes the Hearer to reveal; which he is not, becauſe he is not ane Counſellor: to that it is duplyed, That the ſaid Reply is no ways relevant, becauſe albeit the ſaid Act of Parliament expreſſes a number of kinds of Perſons in place, to whom the Crimes prohibit by the ſaid Act are to be revealed; yet it excludes not other Perſons, but that ſuch Crimes may be revealed to them as well as to the Perſons contained in the Act: and the revealing thereof to other Perſons would be counted good Service, and not taken for a Fault in the Revealer. Secondly, The ſaid Earl, to whom the ſaid Writ was revealed, albeit he be not Privy Counſellor, yet by the Laws of this Country he is born a Counſellor, and was ſo at the making the ſaid Act, as all the Earls in *Scotland* were then: and therefore the revealing to the ſaid Earl may be eſtimat to have been done conform to the ſaid Act. Thirdly, The ſaid Earl is ane Sheriff, and by the Act of Parliament the ſaids Crimes are ordained to be revealed to Sheriffs, as one of the Perſons mentioned in the ſaid Act: and therefore the Delivery of the ſaid quarrelled Writ to the Earl of *Rothes* by the Pannel, is clear revealing, and not concealing; at the leaſt is ſuch revealing, that in Law and Juſtice ſhould liberat and free the Pannel from the Crime libelled in the Dittay, and from the heavy Pain that follows thereupon, being no leſs than the Loſs and Tinſel of his Life.

And where it is replyed by my Lord Advocat to that part of the ſaid Defence, bearing that the Act of Parliament is of notorious and known ſeditious Libels, and not of doubtſome and ambiguous Writs, which in reading may ſuffer divers Senſes and Conſtructions, of the which laſt kind it is alledged that the Writ quarrelled is: to the which it is replyed, *Ubi Lex non diſtinguit, neque nos diſtinguere debemus.* And ſeeing the Act comprehends Reproaches and ſcandalous Libels, which are really ſo, *& non in Opinione*; the Judge and Aſſyze ſhould proceed according to the thing prohibited, and not leave place to the Veil of Opinion: To that part of the ſaid Reply it is duplyed *ut ſupra*, That albeit the ſaid Act comprehends reproachful and ſcandalous Libels, which are really ſo; yet it follows not, for the Reaſons adduced in the firſt Duply made to my Lord Advocat's firſt Reply immediately preceding, which I here repeat *brevitatis cauſa*: for here is all the Controverſy, Whether my Lord Advocat's Opinion in the Dittay, or the Pannel's Opinion in the Defence againſt the Dittay, ſhall carry the greateſt force, ſeeing they are both different Opinions. And it ſeems moſt favourable and moſt reaſonable, that a Nobleman's Life being quarrelled and drawn in queſtion and hazard upon the Interpretation and Commentary, that the Pannel ſhould have the preference anent the Interpretation, for preſervation of his Life, Honour, and Eſtate; eſpecially in reſpect that it is not only ſimply offered, that he ſhould declare the true meaning, which he always knew and underſtood, of the ſaid Writing, but likewiſe offers to make Faith thereupon. And as this is moſt reaſonable, ſo it ought to be favour'd upon the Pannel's part in this Caſe, ſo heavy and ſo dangerous to him; for it is not denyed, but the Act prohibits the hearing, having, concealing, *&c.* of infamous and ſcandalous Writings; but this Writing *quoad eum* cannot be called ſo: neither prohibits the Act, that Readers of ſuch Writings ſhould otherwiſe read, know and underſtand the ſame, nor according to the Knowledge that it has pleaſed God to give them.

And to that part of the Reply, bearing that the Pannel cannot pretend Excuſe upon the Uncertainty and Ambiguity of the ſaid quarrelled Writing, becauſe by the firſt view it might and ſhould have appeared to him to have been of that nature; albeit in Libels againſt Subjects there might be ſome Excuſe by reading, retaining, and looking upon 'em; yet the Pannel cannot pretend Ignorance after the receiving thereof from *Haig*, and communicating the ſame to the Earl of *Rothes*, that they found it of ſuch a ſtrain, as ſhould not be preſented: It is duplyed, That this part of my Lord Advocat's Reply doth unwillingly force the Pannel to fall upon the Expoſition of the Words of the ſaid Libel; which cannot be eſchewed, in reſpect of that part of the Reply, bearing that by the firſt view it might and ſhould have appeared to him to have been of the nature of a ſeditious Libel: which the Pannel flatly refuſes, and is formally contrair, becauſe he never took it to be ſo; for the firſt words of the ſaid quarrelled Writ are thir, (theſe) *To the King's moſt Excellent Majeſty, the humble Supplication of the Lords and others Commiſſioners of the late Parliament, humbly ſheweth*, &c. And theſe being the firſt words of the ſaid Writing, if in reaſon it may be affirmed that the Pannel cannot pretend Excuſe, becauſe by the firſt view that Writing containing theſe words; if, I ſay, it might and ſhould have appeared to him to have been a ſeditious Writing, the Pannel remits himſelf about it to the wiſe and judicious Deliberation of the Judges and noble Auditors. For as it has been oft ſaid before, and now not to be repeated, the Pannel declares that he never took the ſaid Writing in his Opinion and Judgment for any other kind of Writing or Libel, but for ane humble Supplication and Remonſtrance, in all humility to have been preſented to his Sacred Majeſty; and which accordingly was deli-

vered to the Earl of *Rothes*, to have been preſented and by him offered to his Majeſty, and refuſed in manner contained in my Lord Advocat's own Declaration of his Sacred Majeſty's own Speech and Words uttered to the ſaid Earl of *Rothes*, the time of the offering thereof: whereupon the Pannel takes Inſtruments. And ſo the ſaid quarrelled Writing not being at the firſt view ſeditious, as is libelled in the Dittay, and contained in the Reply, but in the ſaid firſt words being a moſt humble Supplication; the Pannel moſt juſtly pretends Excuſe, that ſeeing *de facto* the ſaid firſt words are not ſeditious at the firſt view, that therefore he ought not to be convened by this Dittay, as Haver, Hearer, and Concealer of the ſaid ſeditious Writing; but ought to be ſuffered and permitted to make his own Interpretation, that he never thought it ſo; and therefore cannot be purſued criminally upon his Life therefore, as the Dittay bears.

And to that part of the Reply, bearing that albeit in Libels againſt Subjects there might be ſome Excuſe by reading, receiving, and looking upon the ſame; yet the Pannel cannot pretend Ignorance, in reſpect of his Depoſitions, after receiving from *Haig*, by communicating the ſame to the Earl of *Rothes*, that they found it of ſuch a ſtrain as ſhould not be preſented: to that it is duplyed, That the ſaids Depoſitions make nothing againſt the Pannel; for the Pannel did never deny the Receipt of the ſaid quarrelled Writing from *Haig*, nor that he did communicate the ſame to the Earl of *Rothes*, and that they found it of ſuch a ſtrain as ſhould not be preſented. But the Times being diſtinguiſhed, the Doubt is ſoon ſolved: for the Depoſitions apparently expreſs not the Times. For the Pannel did not depone, That before delivery of the ſaid quarrelled Writing to the Earl of *Rothes*, and before the Earl of *Rothes* his intended Offer thereof to the King's Majeſty, that they found it of ſuch a ſtrain as ſhould not be preſented: but that Conference betwixt the Earl of *Rothes* and the Pannel, was long after the intended Offer and Refuſing. At which time, upon the occaſion of the Harſhneſs and Miſconſtruction of ſome words, that Speech was uttered betwixt them; and from that time furth, nothing further followed. And therefore the Pannel's Depoſition makes nothing for the ſaid Argument, That the Pannel could not pretend Ignorance: in reſpect whereof, the ſaid Reply, and hail Members thereof, ought to be repelled.

It is farther duplyed by Mr. *Alexander Pearſon*, That where it is replyed by my Lord Advocat, that the Pannel's Opinion of the Writing, and the alledged probable Cauſe of his Ignorance to be a ſcandalous Libel, adduced, cannot defend the Pannel from concealing, *&c.* becauſe the Writing in itſelf is really ſcandalous, and at the firſt view might and ſhould have appeared in that nature to any Man of the Pannel's Underſtanding; and who can pretend Opinion *neſciendo hoc quod omnes ſciunt?* It is anſwered, That the Pannel's Opinion of the Writing, and the probable Cauſes of his Ignorance of the ſame to be ſcandalous, does defend the Pannel from the Crimes libelled, not only for the Reaſons and Laws already adduced, in the matter of Injury and other Crimes, which are moſt pregnant; but alſo becauſe no Capital Crime whatſoever is or can be committed *ſine dolo*, whereof the Pannel is altogether free in all ſorts thereof; *Et a dolo vero & a dolo præſumpto ex qualitate facti. A dolo vero*, which the Pannel's innocent Intention evinceth in the Defences proponed for him in the ſecond Exception; and there he is purged abundantly, for the Reaſons contained therein, which are here repeated *brevitatis cauſa.*

The Juſtice and Aſſeſſors continues this Dyet till to-morrow, the 12th Inſtant.

Curia legitime affirmata, *the ſaid 12th of* December, 1634, *&c.*

It is alledged by the ſaid Mr. *Alexander Pearſon*, and duplyed by the Pannel, *Secundo*, That the ſaid Pannel is free *a dolo præſumpto, quia tunc præſumitur dolus ex qualitate facti, ubi quis facit quod ſcit vel ſcire debet ſe non debere facere: At in propoſito noſtro nulla ſcientia nec conſcientia criminis in accuſato, nec ignorantia ejus quod omnes intelligunt.* But moſt juſt and probable Cauſe of Ignorance of the Writing to be ſcandalous, which would have affected even the wiſeſt and moſt ſagacious then; although now *ex poſt facto*, by Pregnancy and Vivacity of Spirit, the Writing quarrelled being ſearched unto exactly, the ſame being interpret by the Dittay, and urged upon the Pannel as ſeditious; which Interpretation now of it, cannot make damnable the Eſtimation and Opinion of the Writing quarrelled, which it had of before amongſt Men of common Underſtanding, to make culpable of capital Crime: *Quia Injuriarum Eſtimatio non addit tempus quo judicatur, ſed ad id quo facta eſt referre debet; Expreſſa Leg.* 21. *F. de Injuriis. Et nunquam creſcit ex poſt facto præteriti Delicti Eſtimatio.* And it is hard that the Pannel, upon Error of Judgment, ſhould incur capital Puniſhment.

Where it is replyed by my Lord Advocat, That the Pannel cannot pretend Ignorance of the Writing quarrelled, becauſe by his Depoſition the 7th of *June*, he has declared that he thought it not fit to be preſented to his Majeſty; it is anſwered, That the Reply is not relevant, and that the Pannel then thinking it not fit to be preſented, hinders not but the ſaid Writing being thought fit by others to be preſented to his Majeſty, and indeed offered to his Majeſty, the Pannel thereby was confirmed the more to think of it as a Supplication, and may make the Defences thereupon, upon his Credulity foreſaid.

Where it is reply'd by my Lord Advocat, *Quod omnis Ignorantia juris eſt improbabilis & punibilis*, and that the Pannel can pretend no probable Ignorance thereof; it is anſwered, That the addition of the Act of Parliament 94, anent Concealers, whereupon this part of the Dittay is only founded, had never Strength nor Vigour of Law, (never being yet practiſed againſt any ſince the firſt making thereof) but being as it were by deſuetude aboliſhed, *ut ſupra* in our firſt Exception, ſhews that the Ignorance thereof is neither improbable, nor puniſhable againſt the Pannel.

Where it is replyed by my Lord Advocat to that part of the fourth Exception, bearing *quod Credulitas in furtis præbet cauſam probabilem*, and that by parity of Reaſon it ſhould have place alſo in the matter of infamous Libels; to the which it is replyed, *Quod illa Credulitas aliter probanda eſt quam per Juramentum Rei:* It is anſwered, That the Pannel urges not his Credulity of the Writ quarrelled upon his own Declaration only, but alſo upon other Circumſtances, Evidences, and Preſumptions, already adduced in the ſaid fourth Exception and former Defences; which clearly evinces the Pannel's Credulity, and the Juſtneſs thereof.

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Where it is replyed by my Lord Advocat to that part of the Exception, proporting the Words of the Law where it is ſaid, *Ubi de obligando & liberando quæritur, propenſiores eſſe debemus ad liberandum*; to the which it is replyed, That the Law cited has no place in clear and manifeſt Crimes, as this is: It is anſwered, that the Reply takes *Controverſum pro Confeſſo*, That the Crime whereupon the Pannel is accuſed is clear and manifeſt, which it is not; but in the Notion of a Crime (if any there be, which we do not grant) the ſame is moſt abſtruſe and obſcure: and if any Clearneſs be, it is for the Pannel's Innocency; in reſpect whereof, the Exception ſtands relevant, notwithſtanding of the Reply.

It is further duplyed by Mr. *Roger Mowat*, to the Reply made by my Lord Advocat to that part of the ſaid fourth Defence, bearing that the Pannel is not puniſhable for not apprehending and not revealing, upon an Act become in deſuetude, becauſe the Leidges are ruled by the Laws of the Kingdom, as the Acts of K. *James* I. and K. *James* IV. bears; and that there is no Preſcription in Laws, and that *omnis Ignorantia juris eſt improbabilis & punibilis*: It is duplyed, That albeit the Leidges are and ſhould be ruled by his Majeſty's Laws, yet where Laws are become in deſuetude, and have never been practiſed, the Leidges ought to be certified thereof, and new Intimation ought to be made, as in the firſt Defence at length is contained. And neither of theſe can be alledged in this preſent Caſe; and therefore the dangerous Conſequence of this and the like Laws ought to be prevented before the ſame be practiſed, which is the Mind of the Law-giver. And to that, bearing that there is no Preſcription in Laws; it is duplyed, That Deſuetude muſt be eſtimat equipollent to the Preſcription of Laws obſcure, or that are not in daily cuſtom. And where it is replyed againſt probable Ignorance, *Quod omnis Ignorantia juris eſt improbabilis & punibilis*; it is duplyed, That *Ignorantia juris in damnis vitandis non nocet*: and this is our Caſe. And where it is replyed to that part of the ſaid fourth Defence, bearing that the Pannel had probable Ignorance, the Defence ought to be repelled, becauſe the Nature and Strain of the quarrelled Writing muſt be the Rule of the Puniſhment or Impunity, and not the Opinion of the Pannel; *Et quod eſt Ignorantia maxime inexcuſabilis neſcire hoc quod omnes ſciunt*: It is duplyed to the ſaid Reply, That the Pannel ſtill contends that the Nature and Strain of the Supplication quarrelled may be the Rule of his Puniſhment and Impunity, according to his Opinion of the right Meaning and Senſe that he made thereof, for the Reaſons already adduced in the former Duplies immediately preceeding; wherein the Pannel contends, that with reaſon he himſelf muſt be the only Trucheman and Interpreter of the ſaid Writing, in caſe any other Commentar or Interpretation be made thereof, containing ſuch a Senſe and Meaning, as being received and admitted, will bring upon him the Puniſhment of Death: which Duply is here repeated *brevitatis cauſa*.

And where it is replyed, That the Reproaches and Exprobrations therein contained are ſo nottour, that the Pannel nor none of his Judgment could pretend Ignorance on the reading thereof; it is duplyed *ut ſupra*, That the Pannel refuſes his having knowledge of any ſuch Reproaches, and profeſſes his Ignorance thereof; albeit he read the ſame, and others likewiſe of better Judgment than himſelf, who did never obſerve nor find out the like, according to their Judgment and Underſtanding. Which Reproaches and Scandals, if they had perceived and remarked, (as they did not) would have touched them as near as any other of his Majeſty's Subjects whatſoever of their Quality or Degree: but ſeeing the Pannel, and the reſt of the Hearers and Havers of the ſaid quarrelled Supplication, pretend their Ignorance foreſaid of any ſuch Knowledge, as is now expreſſed in the ſaid Dittay; the Purſuer can never be heard to force any other Knowledge upon them, to that end that they may be found guilty of the Crime libelled, and Puniſhment of Death therefore.

And where it is replyed, That it is *Ignorantia maxime inexcuſabilis neſcire hoc quod omnes ſciunt*; it is duplyed, That my Lord Advocat will do well to apply that Rule to the preſent Caſe, and ſhow *quid ſit hoc quod omnes ſciunt*. For if his Lordſhip means by his Dittay, then that Rule can have no place here, becauſe no Man knew any ſuch Gloſes or Interpretation of the ſaid Supplication, but the Purſuer himſelf, before the coming furth of the ſaid Dittay. And if before that time many were of another opinion, concerning the meaning of the ſaid Supplication; then my Lord Advocat cannot be heard to ſay, that it was *Ignorantia maxime inexcuſabilis* in the Pannel *neſcire hoc quod omnes ſciunt*, ſeeing no Man knew that which was ſet down in the ſaid Dittay, but my Lord Advocat himſelf: and many knew, and yet know, that the ſaid quarrelled Supplication in their Judgments and Conceptions carried with it no ſuch Meaning or Conſtruction.

And where it is replyed, That the Pannel's Defence, founded upon his Depoſitions which he made voluntarly for ſatisfaction of the Committee, cannot be reſpected, becauſe the moſt ſubſtantial parts of the Dittay are founded upon the ſaid quarrelled Supplication, and not upon the Pannel's Depoſitions; and that his Denial of Knowledge by Oath, cannot liberat him from the Pain of Death: It is duplyed, That albeit many ſubſtantial Points of the ſaid Dittay be founded upon the ſaid Supplication, yet they are founded upon the Pannel's Depoſitions alſo. And albeit the ſaid Dittay quarrels and impugns the ſaid Supplication in ſundry Paſſages, which the Pannel doth not maintain as they are expreſſed in the Dittay, becauſe when he and the other Supplicants read and heard the ſaid Supplication, they found no ſuch meaning in it; and they leave the Defence of that Commentary to the Author himſelf, and declare *ut ſupra* by their Judgment they found it not of ſuch a ſtrain as the Dittay bears: The Declaration ought now to be received, for clearing of the Pannel and remanent Supplicants from all Suſpicion of ſuch Knowledge as the Dittay bears upon them, for the Reaſons foreſaids, contained in the former Defences and Duplies. In reſpect whereof, the ſaid Reply ought to be repelled, in reſpect of the ſaids Depoſitions already given, and of the Pannel's Declaration upon Oath, which he now offers to give.

Where it is replyed to that part of the ſaid Defence, bearing that albeit the ſaid alledged Libel ſhould be now found to be infamous, yet cannot be drawn back, That there needs no Declarator of the Judge; conſequently may be drawn back, becauſe it was infamous from the beginning: it is duplyed, That the Defence ſtands relevant notwithſtanding the Reply. Which Defence bears expreſly that the Pannel and other Supplicants received the ſaid Libel (now quarrelled) as an humble Supplication; and in token of their ſaid Know-

ledge addreſſed the ſame to be preſented to his Sacred Majeſty, as the ſaid Defence bears. And ſo what has been found out ſince to be therein by the Purſuers, and thoſe of deeper Wit and Knowledge than the Pannel and other Supplicants, cannot be laid to their charge; for whom all Preſumptions are moſt clear and evident, that the Pannel had never ſo much as one Thought or Opinion, as is contained in the Dittay.

Where it is replyed to that part of the Exception founded upon the Inſtance of Treaſon, as the ſame bears; it is duplyed, That my Lord Advocat in that Anſwer takes *Controverſum pro Confeſſo*, ever taking this for a ground that the Supplication is ſeditious and ſcandalous, and ſo to be reputed and holden againſt the Pannel and others in the like Caſe, which is ſtill denyed, for the Reaſons before adduced. Where it is anſwered by my Lord Advocat, That that part of the ſaid Defence anent the revealing to the Earl of *Rothes* is not relevant, in reſpect of the Act of Parliament; it is duplyed, and ought to be repelled in reſpect of the former Duplies anſwering this Point, That Earls, the time of making the ſaid Act, were born Counſellors; and that the Earl of *Rothes* was a Sheriff, which the Act allows.

And where it is replyed, That the Offer to his Majeſty *non relevat*, except it were alledged that he offered it as a ſcandalous Libel; it is duplyed, That the ſaid Reply is no ways relevant, becauſe it was ſufficient by preſenting it to his Royal Majeſty to reveal the ſame in that manner: And it cannot be now known whether it would have been ſo thought by his Sacred Majeſty, albeit he refuſed the ſamen; but it is certain that the Pannel and the Preſenter would never have preſented the ſame, if they had thought it ſcandalous. And that part of the Defence, bearing that it was revealed by the preſenting, needs not to bear that it was offered to be preſented as ſcandalous, for that was not their End, neither had they any ſuch Meaning by the ſaid preſenting; their Intention being, as is contained in the ſaid Defence, to have it preſented as an humble Supplication, to receive a gracious Anſwer, as other Remonſtrances had gotten before. And ſo there is no neceſſity to alledge it was to be preſented as a ſcandalous Libel.

And where it is replyed, That (granting) the ſaid Revealing to his Majeſty might have been ſuſtained as lawful, yet the Pannel is guilty of Death for not apprehending; it is duplyed, That the ſaid Reply is not relevant, becauſe if the ſaid revealing was lawful, *ergo* there was no neceſſity of apprehending; for the words of the Act of Parliament anent the Prohibition are alternative. And albeit, as it is anſwered before, that the Pannel thought Mr. *Haig* to be Author, yet in reſpect of this Conception of the ſaid Libel, he thought him not to be ſuch an Author as merited Apprehenſion, becauſe the ſaid Libel in his opinion fell not within the ſaid Act of Parliament. And repeats his former Anſwer, and the two Practicks about the apprehending of free Heidges; adding thereunto the late Lord *Marwal*'s Practick, who having apprehended by virtue of a Commiſſion, was notwithſtanding forefaulted therefore.

To the Reply, bearing that my Lord Advocat granted that the Circumſtances of the Receipt of *Haig*'s Letter are not eſſential Parts of the Dittay *per ſe*, but uſed as Adminicles to aggravat the Pannel's Crime of not apprehending, and giving him occaſion to eſcape, and entertaining of Correſpondence with him thereafter: it is duplyed, That the Pannel and his Procurators accept of the ſaid Anſwer, and proteſt that no reſpect be had thereto, as ane eſſential part of the Dittay. And the alledged Correſpondence is no ways relevant, not bearing that the Pannel did write Letters to *Haig*: for Correſpondence muſt be mutual, otherwiſe it can be no Correſpondence.

Where it is replyed, *quod non eſt hujus loci* to produce *Haig*'s Letter; it is duplyed, That 'tis *maxime hujus loci* to be produced, if that part of the Dittay founded upon it be found relevant, becauſe they were already produced by Warrand of my Lord Juſtice; and being now produced, nothing ſhall be found in them to carry any Warrand for that part of the ſaid Dittay. And being produced to the Pannel, and his Procurators for their Information and Defence, muſt yet be produced to be compared with the ſaid Dittay. For if they ſhall find that the Dittay and the Letter do not agree, then that part of the ſaid Dittay founded upon the ſaid Miſſive will not be ſuſtained, and ſo cannot be put to the knowledge of an Inqueſt. In reſpect whereof, the hail Replies and all the Members thereof ought to be repelled.

It is duplyed by Mr. *John Nisbet*; Where it is replyed by my Lord Advocat, That the Diſpute againſt the Relevancy of the Qualification is ſuperfluous, becauſe the general Subſumption conform to the Act of Parliament is *per ſe* relevant: it is duplyed, That the General is not relevant, *quia non oportet in Criminibus vagari, Leg. Libellorum, F. de Accuſationibus: Et Locus, & Tempus, & Minutia Delicti exprimenda ſunt; alioqui Accuſatio ipſo jure eſt nulla. Clarus, §. final. Quæſt.* 12. *num.* 8.

Whereas it is replyed by my Lord Advocat, That the Dittay is not contrair to itſelf, becauſe of the acquainting his Majeſty by my Lord *Rothes*'s means does not expiat and purge the concealing, my Lord *Rothes* not being one of theſe Perſons to whom the Delators of ſuch Pieces, and Authors thereof, is appointed by the Act of Parliament: it is duplyed, That theſe Perſons are only ſpecified for receiving of ſuch Delations *in ſubſidium*, where the Revealer knows not any other ſummar and ſecret way to acquaint his Majeſty; and not to tye them to an unneceſſary Circuit, where by a more compendious way his Majeſty may be acquainted, and the Authors ſuppreſt. And we repreſent the Inconvenient to enſue, if Parties by whoſe means his Majeſty has been acquainted with Pieces of that kind, ſhall be obnoxious to the Pains of the Act for not ſeeking a Bailly or Sheriff, to tell unto them that which by other and more direct means is ſhown to his Majeſty.

Whereas it is replyed by my Lord Advocat, That the Acts of Parliament require not a judicial Declarator of the nature of ſuch Pieces, nor the former Knowledge of the Party challenged, but without diſtinction puniſh the not Revealers and not Apprehenders of the Authors of Pieces materially ſeditious; *Et ubi Lex non diſtinguit, nec nos diſtinguere debemus*: it is duplyed, That Statutes being particular Concluſions of Law, preſuppone *Principia univerſalia & prima*, and imply intrinſecally the common Notions of Law and Reaſon. And therefore ſeeing in Reaſon there cannot be a Crime of concealing, unleſs the Piece or Author alledged to be concealed were either declared to be, or to the Pannel's knowledge were ſuch as he ought to reveal, becauſe *celare* is relative to knowledge; it is not relevantly ſubſumed that *Haig* was Author of ane Piece materially ſcandalous, and

that

that the Pannel revealed him not, unleſs a former Knowledge were aſſumed likewiſe. And the Law it ſelf furniſheth a Ground for this Diſtinction, becauſe the Word *Concealing* importeth Knowledge: *Et ſtatuta punientia delicta capitaliter non habent locum niſi dolo interveniente, etiam quod de dolo non fiat mentio. Paulus de Caſtro in Lege Nemo, num. 5. Codice de Epiſcopis & Clericis, Ubi perſtringit imperitiam judicum qui verbis ſtatutorum mordicus inherent, & multo magis cum dolus requiritur, vel expreſſe vel tacite, tunc enim nec lata culpa ſufficit, tacite autem requiritur dolus, cum ſtatutum utitur verbis, nullus audeat vel preſumat.* Which are expreſly in the Act of the 10th Parliament; and muſt of neceſſity be conſidered to underſtand the Addition contained in the Act of the 14th Parliament; *Idque multo magis in delictis quæ de ſua natura requirunt dolum prout eſt falſum injuria & ſimilia. Phar. Quæſt. 87, per totam.* Whereas it is replied, *Quod Judex debet procedere ſecundum naturam rei prohibitæ*, and ſhould not leave place to elude the Law *ſub velo opinionis*; it is duplyed, That by all Statutes of that nature Crimes are only obviated and prohibited: And the Judge ſhould proceed to try whether Crimes be committed, or not, and not to condemn Eſcapes or Errors of Judgment, which are not arbitrary to the Will to ſhun, but depend upon the Diſpoſition of Organs, and Repreſentation of Fantaſms, which are exhibited *ab intellectu agente*, and neceſſitate *intellectum patientem* to ane Aſſent, where it is furniſhed with no probable Grounds to elide the ſame; as is known even to the Novices in Philoſophy by that trivial Maxim, *Intellectus per aſſenſum premiſſarum convincitur ad aſſentiendum concluſioni, ſaltem quoad ſpecificationem.* And where my Lord Advocat would expoſe the Weakneſs of the Pannel's Judgment in not diſcovering the nature of ſeditious Pieces, to inforce the Puniſhment of a Crime, it is duplyed, That the Law is not eluded by the ſlender Pretence of Opinion; but the Pannel's Conception of the Piece, verified by his Oath, and by all poſſible Preſumptions, which we have at length deduced, muſt liberat him from the Guilt and Pain of the Crime, ſeeing in Law *carent animo injuriandi ex quo crimen conſiſtit*, verified by the Oath of the Party; and any aſſiſting Preſumption imports *abſolvitur*, as is already ſhewn by the forecited Laws, and the Harmony of Doctors. And whereas it is replied, *Quod ignorantia juris non excuſat in delictis atrocioribus*; it is duplyed, That *ignorantia juris* being at the moſt *lata culpa, æquiparatur dolo, & non excuſat in actionibus deſcendentibus ex contractu, vel quaſi, ſed excuſat in criminibus vel delictis, quia voluntas quæ maleficia diſtinguit ſpectatur, non veritas vel exitus. Leg. Divus Hadrianus, F. ad Legem Corneliam de Sicariis. Phar. Quæſt. 87. Ubi regulariter dolum requirit, & ubi abeſt dolus, pœnam aſſerit ceſſare, idque etiam in crimine Læſæ Majeſtatis, num. 10. & per totam.* And the Atrocity of the Crime excludes not a probable Excuſe, *Quia cauſa quælibet, etiam levitas, credulitas excuſat a dolo regulariter. Phar. Quæſt. 90. num. 1. Et non ſolum ſi ſit levis ſed colorata & irrationabilis imo etiam temeraria & beſtialis. Idem ibid. num. 3. Ubi refert doctores concordantes Claudius Battandiæ, Reg. Si fatua credulitas a dolo excuſat cum vehementibus preſumptionibus probatur, num. 1, & 2. Et cauſa levis excuſat in crimine injuriarum, & ad excuſandum ſufficit error verus vel preſumptus. Phar. dicta Quæſt. num. 29. Et levis cauſa excuſat etiam in crimine Læſæ Majeſtatis. Ibid. num. 26. Et multo magis in iis qui de ſua natura nec de jure civili reprobata ſunt:* As is the Points of not apprehending and concealing. *Ibi enim dolus non preſumitur, & ſi quis ſic egerit ſine dolo & animo delinquendi creditur agentis aſſertioni ex quo habet pro ſe juris preſumptionem. Num. 14. & num. 90. Et ignorantia juris excuſat a dolo. Num. 91. Et cruſſa ſupina & affectata excuſat ex opinione. Baldi & Tiraquelli, quo citat Num. 99. Niſi ſint circa ea quæ ſint de jure naturali gentium & divina prohibita.* Whereas it is replied, That the Pannel cannot pretend Ignorance in reſpect of the Piece conſpicuouſly infamous, and of the Pannel's Sufficiency and Qualifications, and in reſpect of the Perſon injured, being his ſacred Majeſty; and therefore excludes all Excuſe upon Curioſity, or any other reſpects, excuſable by the Law, and, at laſt, in reſpect of the Pannel's diſapproving of the Piece in his own Depoſitions: It is duplied, That the Piece is not nottourly infamous for the Reaſons adduced. And here we proteſt, That my Lord Advocat's odious decyphering of the Piece, neceſſitates us to vindicate not it ſelf, but the Conception that the Pannel had, and that any Man may have, that is not pre-occupied with the unnatural Gloſſes of the Dittay. And for the Pannel's Qualifications, it evinceth that he would not have delivered a Piece nottourly infamous to be preſented to his Majeſty, as is acknowledged by the Dittay, and ſo to have indangered his Honour and Life, if he had had any ſuch Conception of it. And for the Pannel's diſproving of the Piece, it convinceth not his ſiniſtrous Intention in uſing or having a Piece diſprovable, becauſe it is not deponed that he diſproved it as ſeditious or infamous, but *quando verba confeſſionis ſunt dubia, poſſunt & debent declarari & interpretari per confitentem, & in meliorem partem. Phar. Quæſt. 81. num. 38. Et confeſſio dubia & incerta interpretatur in bonam partem in favorem confitentis, & ſecundum illius intentionem. Bald. in Leg. unica num. 23. Codice de Confeſſis.* And the Pannel declares that he diſproved it not as ſeditious, but fit to be ſuppreſs'd, in reſpect of his Majeſty's Will expreſſed to my Lord *Rothes* anent Pieces of that Strain. Whereas it is replied by my Lord Advocat, That the Defect of the Common Law, in the Points of concealing and not apprehending, cannot be obtruded, and that there can be no Preſcription of Laws; yet there is Antiquation and Deſuetude, as we have before ſhewn: And the Defect of the Common Law is adduced as a probable Candour of the Deſuetude in Points debording from the Common Law. Whereas it is replied by my Lord Advocat, That the nature of the Piece muſt rule, notwithſtanding of the Pannel's Conception thereof, becauſe it is only required that the Piece ſhould be really ſeditious; it is duplyed, That in matter of Crime the Intention and Conception is moſt conſiderable, as is already inculcat; and when there is a Queſtion anent the Credulity of the Party, his Credulity is probable by Oath, *Barad. §. Recte Lege inter omnes, F. de furto*; eſpecially where there concur ſome Preſumptions. Whereas it is replied, That *ignorantia eſt inexcuſabilis neſcire quod omnes ſciunt*; and that the Pannel's narrow Advertency and Canvaſſing of the Piece challenged, in reading, copying, adviſing, interlining, join'd with his Opinion anent the Preſentation thereof, excludes all Preſumptions of Ignorance: it is duplyed, That it cannot be ſaid *quod omnes ſciunt*, ſeeing my Lord *Rothes*, a Nobleman of eminent Quality and Sufficiency, made offer, at leaſt mention thereof, as a Supplication to his Majeſty, for the Pannel's Opinion. It is already anſwered for his perpending of the Piece; it is ſo far from aggravating or convincing his Knowledge of the Piece to be of that nature, that he is confident that indifferent and impartial Judgments, the more they advert

vert to the Strain of it, they will be the more edified of the Nature of it, that it is not ſo nottourly injurious. And therefore the Pannel proteſts that his Procurators may vindicate his Conceptions of it, and remonſtrate the ſtrange Inferences that the Dittay makes of it. Where it is replied by my Lord Advocat, That apprehending is warranted and enjoined by the Acts of Parliament, and therefore not dangerous; it is duplied, That apprehending is warranted, when Parties are able, by lawful Probation, to bind upon the Perſons apprehended the Guilt of the Crime for which they delate and apprehend them. And that even in the Crime of Leſe Majeſty there is no Warrant to apprehend Parties, albeit known to the Apprehenders guilty of the Crime, unleſs they be able to quality and prove the Guilt under the Pain of Τοιαυλοπαθία and Retaliation in caſe they ſuccumb. Where it is replied, That the moſt material Parts of the Dittay are founded upon the nature of the Piece it ſelf, and not upon the Pannel's Depoſitions; it is duplied, That howſoever there reſults a relevant Defence in Law upon the Pannel's *Abſentia animi*, which is probable by his Oath, aſſiſted with Preſumptions; and is admitted in the moſt ſtrict Inquiſitions, as is conſtant by the uniform and conſtant Harmony of all Criminaliſts. Whereas it is replied by my Lord Advocat, That there needs not a Declarator of the Judge to be drawn back; it is duplyed, That in all Countries where the concealing of Heretick Books is puniſhed, a judicial Declarator is neceſſarly required; and the private Opinion and Miſtaking of Parties before Declarator was never cenſured, much leſs puniſhed.

Whereas it is replied by my Lord Advocat, That the Maxim, *Proniores debemus eſſe ad liberandum non habet locum in atrocioribus & delictis contra Principem*; it is duplyed, That we retort this Anſwer, *ubi lex non diſtinguit nec diſtinguere debemus. Et non delinquit qui in dubio contra fiſcum reſpondet, F. de jure fiſci; & turpe eſt & principi injurioſum credere inventum qui principem omnibus benefacientem, neminem ledentem, injuria velit efficere; & quavis excuſatio etiam leviſſima & maxime fatua in criminibis atrociſſimis admittitur.*

It is added by Mr. *Robert Macgill* to the preceding Duplyes, That where my Lord Advocat replieth, that *Juris ignorantia non excuſat*; that the ſaid Rule may be underſtood *in Jure, quod uſu invaluit*: For even if in theſe petty Statutes anent the inflicting of pecunial Pains contained in the 9th Act, *Parl.* 21. 1612. a new Intimation of them is thought fitting to put the Leidges in *mala fide* before they be practiſed, what then in this Act, and ſome others, under the compaſs whereof ſundry here may fall, ſhall there not an Intimation be required where Life, Honour, and Lands, are in danger, and a capital Pain to be inflicted for to put the Leidges *in mala fide? Item*, Where it is replied, *Quod nec ignorantia facti excuſat propter præſumptum dolum*; it is anſwered, That the Pannel's *Ignorantia facti* is *ab omni doli preſumptione aliena*; who could never think that under the general Law, contained in the Addition, could come in all ſort of inordinate Speeches, and all ſort of Hearers, Concealers, and not Apprehenders. And for the excuſing of any Dole that can be preſumed, he adduces the Knowledge of Law and Reaſon, which ought to expone all municipal Laws, *ut evitetur abſurdum*; which is, that all ſorts of inordinate Speeches or Writs, even againſt a Prince, and all Concealers and not Apprehenders, ſhould be puniſhed alike: For the *Prætor* ſays, *Si quis adverſus ea fecerit, prout quaque res erit animadvertam. Leg. item apud Labeonem* 15. *G.* 251. 28. *Ubi de pœnarum diſtinctione ex circumſtantiis juxta Legem aut facta* 16. *in principio, F. de pœnis, quam conſideratione affectus & animus facientis maximum habet momentum, Leg. illa* 3. §. 1. *dicta Leg.* 15. §. 38. *Lege ſi quis certum* 26. *in fine, F. de injuriis.* So that my Lord Advocat's Reply anent Credulity, that it excuſes not, and that it is not a ſufficient Warrant *ad juramentum purgativum*, and that it ought not to be here received; the ſame ought to be repelled, becauſe *Credulitas ſive juſta ſit Cauſa ſive injuſta excuſat ubi dolus requiritur*, as in our Caſe. *Clarus*, §. *finali*, *Quæſt.* 60. *num.* 22. *Et quod recipiatur juramentum purgativum concurrentibus aliis ad animi boni probationem indiciis conſtat per Phar. Quæſt.* 105. *Inſpect.* 3. *poſt num.* 111. *Leva vero judicia ſufficere, ait Alexander, Conc.* 115. *Columna penultima, Volumine quarto. Et a delicto etiam conventicula, & malæ congregationes, cauſam vel levem excuſare ait Cravetta, Conc.* 4. *num.* 26. But ſo it is, there may be many good Reaſons alledged, wherefore the Pannel had a good Mind, as that all which is in this quarrelled Petition, might have been proponed in Parliament. And the reſt of the Reaſons adduced in my ſecond Exception, *adeo ut dolus hic non ſit præſumendus* againſt the Pannel; neither is the Argument good that the Pannel diſallowed it, or thought it not fit for a time, *ergo* he thought it ſeditious *negatur ſequi.* And becauſe my Lord Advocat, in all the Members almoſt of his Reply, returns upon this, That the Piece of it ſelf is really ſeditious; and that Obſcurity and Ambiguity of Words may receive Evaſion and Excuſe among Subjects, but not in the Caſe of the Pannel: I anſwer, That the Exception ſtands good, notwithſtanding of the Reply, in reſpect of the Examples and Caſes following. And, firſt, I confeſs that ſuch inordinate Speeches and Writings as were uttered betwixt *Catiline* and his Complices againſt a Government, and againſt a Prince's Progenitors, or his Perſon, in that ſort are puniſhable both in the Perſon of the Speaker and Penner, as alſo of the Hearer, not Revealer, and not Apprehender; wherein the Caſe of this Addition is verified; and no others are Hearers, not Revealers, and not Apprehenders. *Clarus*, §. *ultima*, *Quæſt.* 87. *num.* 2, & 3. But mark in a ſecond Caſe, *Quod nobilis qui directis verbis & aſſertionibus dixit, ait, ſcripſit, principem ſuum non habere animum remunerandi*; by *Matheus*, *De Afflictis, deciſione* 307. *num.* 27. is not thought puniſhable by the ordinary Judge: but *remittendus, ut in Leg. unica, ſi quis principi maledixerit ubi tamen improperatur defectus liberalitatis, quæ eſt præcipua virtus in principibus*; as our Saviour himſelf affirms, *Luke Chap.* 22. Ἐυεργέται, Bountiful. The third Caſe is of him who ſpake or writ that which by Interpretation might be miſconſtructed to ane evil Senſe, as was ſaid in the ſecond Part of my firſt Exception: And remits alſo to that Comment of *Menochius*, adduced by Mr. *John Nisbet.* And where my Lord Advocat would eſchew, by ſaying that *Menochius* had not ſuch a Law as we, and that we ought to be governed by our own Laws; remits to the end of my firſt Exception anent the Expoſition of all municipal Laws, according to Reaſon. *Ubi Gaylus* expones the Maxim, *Ubi Lex non diſtinguit nec nos diſtinguere debemus, & ut vitetur abſurdum paritatis*; our Laws may be ſo expounded. *Ergo* if the Authors of theſe laſt Speeches and Writings be ſcarcely puniſhed, far leſs ought the Hearers, not Revealers, and not Apprehenders; for even in Apprehenſion, *quæ eſt captura oportet ut conſtet de criminis enormitate*, which is not here.

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It is triplyed by my Lord Advocat, That he finds no neceſſity to triply. But if the Juſtice, and his Lordſhip's Aſſeſſors, require any thing to be explained in that which is duplyed, upon ſignification of their Pleaſure, he ſhall be ready to exped all Doubts *verbo*, which he did.

The Juſtice-General continues this Dyet till to-morrow the 13th.

The ſaid 13th of December, 1634. *the Juſtice continued the Dyet till the 16th of* December, 1634.

Curia legitime affirmata, &c. *and Procurators in Defence, as before.*

Mr. *Roger Mowat*, as Procurator for the Pannel, repeats only the former Defences, and Duplies of them, anent the revealing by the Pannel to the Earl of *Rothes* of the Supplication or Petition contained in the Dittay, and the Earl of *Rothes* his offering thereof to the King's Majeſty; and that the Act of Parliament is ſatisfied thereby, which does not exclude the revealing to other Perſons nor are mentioned in the ſaid Act: But affirms poſitive all manner of revealing, whereby knowledge may come to his Majeſty, which is the End of the ſaid revealing, ſufficient, as ſaid is, in ane Act of this kind, which has never been in cuſtom. And ſo revealing being clear, as ſaid is, there needed no apprehending.

My Lord Advocat repeats his former Anſwers, That the revealing is not clear nor relevant; and albeit it were, that the not apprehending makes the Pannel guilty, and ſo to fall under the Puniſhment contained in the Act of Parliament libelled.

It is alledged by Mr. *John Nisbet* under Proteſtation, That the vindicating of the Libel challenged from the Gloſſes of the Dittay, ſhall not import any Approbation thereof, either by the Pannel or his Procurators; but in ſo far as they are neceſſitat, by my Lord Advocat's Replies, to vindicat the Pannel's Innocency in the hearing, or any other Acceſſion to the ſaid Libel challenged. It is firſt replyed by my Lord Advocat in his Replies, bearing that the Nature of the Piece is ſo notoriouſly infamous, that at the firſt view it is apparent to the moſt ſhallow and ordinary Underſtanding, to be injurious to his Majeſty in all the Points libelled: It is duplyed thereto, That the Points of the alledged Libel import no Reproach to his Majeſty's Perſon, Eſtate, or Government, in the Pannel's Conception, for theſe Reaſons: Firſt, That Point anent Geſture is not reproachful, becauſe *ſubjecta ſunt talia qualia prædicata demonſtrant, Bartolin. Primario Leg.* 3. *F. de Inſtructo vel Inſtrumento Legato.* And there is no injurious Attribute enumerat, to defame his Majeſty's Geſture; but it is only affirmed, that his Majeſty's Notes bred a Fear, which is ane Attribute of Cauſality, and not of Quality. Secondly, The Intention of his Majeſty's Noting could not be conceived by the Pannel to be ane taxing of his Majeſty of any Point of Indiſcretion or Injuſtice, unleſs the Act of Noting had been qualified in the alledged Libel to be unjuſt or indiſcreet; which were ſacrilegious to think of a Prince eſtranged from his Country, and from the Occaſions of Knowledge and Knowing of his Subjects: for he may in Juſtice and Wiſdom remark the Opinions of the Lords of Parliament, and thereby probably to found a Conjecture of their Inclinations to his Majeſty's Service. Thirdly, The alledging the Noting of the Names of the Diſ-aſſenters could not at the firſt be conceived to imply an officious prying into the Geſture of the Prince, but rather a loyal Fear of incurring the King's Diſpleaſure; taking hold of a ſimple Geſture, whereby his Majeſty might have ſeemed to have taken notice of their Untowardneſs to his Majeſty's Service. Fourthly, There is no ground of Reproach inferred upon his Geſture, as the Dittay bears. It is duplyed to that Point anent his Majeſty's Refuſal to hear the Reaſons of ſome Diſ-aſſenters, That the firſt part of the Anſwer to the former Point quadrats here. Secondly, The alledged Refuſal of his Majeſty to hear the Reaſons of the Diſ-aſſenters, cannot be ſo readily conceived to rub matter of Reproach upon his Majeſty's Sacred Perſon or Proceedings; but in the contrair argues his Majeſty's Royal Goodneſs in not accepting the ſcrupulous prepoſterous Anticipations of Reaſons before voting in Parliament, as being derogatory from the antient and hereditary Liberty of Noblemens Votes, and from his Majeſty's Royal Bounty, ready to acquieſce in the free Opinion of his Eſtates; and far from a previous and partial eſpouſing of either part of any debatable Point, before the final Deciſion in Parliament. And as for the Inference of Fear to become obnoxious to his Majeſty's Diſpleaſure, it is not ane Inference of ane Reproach, but rather of a dutiful Love, which debords (runs out) oft-times into a needleſs Fear.

It is anſwered to that Point of the Dittay challenging that Paſſage, *viz. That the oppoſing of Reſolutions carried by Plurality of Votes, was never cenſured by a Prince of ſo much Juſtice*, contains no Subject of Reproach; but on the contrair, ane ample and due Acknowledgment of his Majeſty's undoubted Goodneſs and Juſtice, uſed as an Argument to deprecat his Majeſty's Cenſure, as incompatible with his Majeſty's Goodneſs, and the Example of other Princes like to his Majeſty.

It is anſwered to that Point of the Dittay bearing that his Majeſty's Honour is undermined by the affirming a general Fear of Innovation in eſſential Points of Religion, That his Majeſty's Honour is not ſtained, becauſe there is nothing affirmed to have been done by his Majeſty, which might occaſion any ſuch Fear; and the Panick and groundleſs Fear of Subjects, reflects no Reproach upon a blameleſs Prince. Secondly, It is affirmed that there is Fear of Novation intended, but not by his Majeſty, as is clear by the Motives of that Fear adduced by the Supplicants, *viz. That there is Allowance of printing* Arminian *Books*; which is not poſitively affirmed, but upon report, and the Impunity of *Arminian* Preaching, which reflects upon Churchmen only, to whom it is incumbent to advert to the Printing and Preaching of Orthodox Tenents. And therefore albeit it were falſe, cannot fall under the compaſs of the Acts of Parliament, as ſeditious and reproachful to his Majeſty, his Eſtate, Perſon, and Proceedings.

It is anſwered to the Point of Admiſſion of Papiſts upon the Parliament and Articles, That in the Pannel's Conception it reflects not againſt his Majeſty, and therefore is not relevant to infer the Crime of ſeditious Libelling, or Acceſſion thereto. *Item*, It is anſwered to that Point of the Dittay, bearing the King's Majeſty's Proceedings to be miſconſtructed in the alledged Prohibition of the Gentry to meet, That his Majeſty's Royal Procedure is not taxed as unjuſt; but without dyving

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upon the words of Juſtice or Injuſtice of the Interruption of thoſe Meetings, it is only inſinuat, that albeit in Parliament they might have objected againſt the Interruption of thoſe Meetings, and had occaſion to oppoſe his Majeſty's Will, as they thought, that theſe Meetings ſhould be interrupted, they contented themſelves and were not refractory. And herein, and in the hail Strain of the following Points, (in the Pannel's Conception) it is only an Endeavour to ſhew that the diſ-aſſenting from ſome Acts, was not from any Faction and Waywardneſs to oppoſe his Majeſty's Will, as they feared he might have been poſſeſſed with; ſeeing in other Points, wherein they had occaſion, and probable grounds in their opinion to oppoſe it, they were ſilent. Moreover, it is anſwered for this Point, and all others following, *Quod in cauſa criminali quando verba poſſint interpretari ad bonum vel malum, in dubio debent intelligi ad bonum, & excludetur præſumptio delicti. Cravetta, Concil. 9. num. 21. Et ſecundum ſubjectam materiam, Leg. Protullus, F. de Uſufructu: Et quando verba dubia ſunt, non debent intelligi captioſe in damnum proferentis, ſed ſecundum ipſius mentem; & convenit animadvertere, qua mente quid dicatur, & multo magis quid concipiatur. Leg. penult. F. ad exhibendum. Et quando verba ſunt dubia, ut videntur injurioſa, vel non, ſtandum eſt declarationi ejus qui ea dixit vel ſcripſit. Menoch. Concil. 197. lib. 12. Multo magis ejus qui imprudens & bona fide iis uſus eſt. Et quando verba ſunt dubia, declaratio ſumitur a verbis præcedentibus vel ſubſequentibus, vel utriſque. Menoch. Concil. citat. num. 7.* And therefore if the Strain of the Words, the Nature of the Subject being a Supplication, the Declaration of the Pannel's Conception of them, and other enſuing words which declared them, be adverted unto; it will be found the Pannel is excuſable, if in this Conception they import no Reproach to his Majeſty: for the hail laſt part of the Supplication reſolves in an Enunciation *de poſſibili præterito.* We might have repreſented *quo verificatur ratione præſentis*; and therefore if at the time of the Parliament they had Power to repreſent theſe things, the Enunciation of that Power cannot import Calumny or Reproach to his Majeſty. And ſeeing the actual Repreſentation of theſe things could have imported no Injury to his Majeſty, *quia ubi licentia loquendi niſi in dando Conſilio & Senatu? Menoch. Concil. 107. num. 2.* far leſs could the affirming of their Forbearance from ane Act not injurious in itſelf, have been conceived or interpreted to be reproachful to his Majeſty. And whereas it is libelled, that the Prohibition of the Nobility and Gentry to meet amongſt themſelves, or with the Lords of the Articles, is falſe; *non relevat*, becauſe it is not poſitively affirmed that they were prohibit, but only that they might have repreſented the Prohibition of theſe Meetings. For the Verity of the which Enunciation, and the Defence of it from being reproachful, the Power of repreſenting is ſufficient with any probable ground to believe that theſe Meetings were prohibit, whether upon Surmiſes, or upon any other occaſion. And laſtly, it is declared afterwards, that they forbear to make uſe of theſe Reaſons, which they might have probably repreſented, to give his Majeſty full Content in every thing that in their opinion maketh not a Breach in our Religion or Laws; whereby the Juſtneſs and Lawfulneſs of all they conſented to or forbore to oppoſe, is clearly acknowledged: And that it appeared to the Pannel, and may appear to any, that they might have oppoſed the King's Procedure. 'Tis not to traduce it as unjuſt in Points which they both by their Silence acquieſced unto, and expreſly acknowledge that they import no Breach in our Religion and Laws, but to ſhow how probably they might have oppoſed divers Points thereof, if they had been poſſeſſed with a ſeditious Spirit of Oppoſition, and thereby carried to diſ-aſſent from other Acts, as they feared his Majeſty might have been moved to believe.

It is anſwered to the Point of ſlighting the Grievances of the Country, That his Majeſty's Proceeding is not taxed, becauſe it is not ſaid that they were proponed in Parliament, and rejected or ſlighted; but only whereas in the Convention of the Eſtates the Perſon chiefly intruſted by his Majeſty undertook to acquaint his Majeſty therewith, and to procure Redreſs, nevertheleſs no notice was taken thereof, and they were ſlighted not by his Majeſty, but by thoſe who undertook to acquaint his Majeſty, and therefore reflects only upon them.

It is anſwered to that Point of the Dittay bearing the ignorant and falſe Affirmations, that before the 1609 Year of God, the Noblemen made choice of ſome of their Rank to be on the Articles, the Supplicants Ignorance, in the Pannel's Conception, lays no Aſperſion upon his Majeſty or his Proceedings.

It is anſwered to that Point of the Dittay, bearing the taxing of the undutiful Choice made by the Biſhops, of Noblemen inſufficient, or unexperimented, to be upon the Articles, That it is not injurious in the Pannel's Conception to his Majeſty, in his Perſon, Eſtate, or Government. Secondly, Repeats the general Anſwer, that it is not poſitively affirmed of the Biſhops, that they did undutifully, or that the Noblemen elected upon the Articles were Popiſh or Ignorant; but that they had probable grounds in their opinion to think ſo, and to repreſent.

It is anſwered to the Point of reproaching of his Majeſty for the Acceptance of the Taxations, That in the Pannel's Conception his Majeſty is not challenged upon his Speeches in Parliament, nor upon the Narrative of his Proclamations, nor by the Antitheſis of King *James* I. his Practice: But his Majeſty's Speeches in Parliament, his Proclamations, King *James* I. his Practice, and the Parallel of the Eſtate of the Country, and the End of Taxations under either King, and his Majeſty's Father of worthy Memory, is adduced in the Pannel's Conception as ſpecious Reaſons wherewith they might have oppoſed the granting of the Taxations, if they had had ane diſloyal Intention to mar his Majeſty's Ways and Benefits.

It is anſwered to the Point of challenging of his Majeſty for Employment of his Taxations, and for his Liberality in rewarding his Officers, That in the Pannel's Conception it is not ſpoken poſitively and by way of Reproach, as the former Points, ſhewing how far the Diſ-aſſenters were from Averſeneſs or Tepidneſs in his Majeſty's Service; ſeeing without expatiating on the common Head uſual on ſuch occaſions, againſt the granting Taxations without inquiring of the Reaſons and Cauſes of granting the Taxations; without repreſenting the Inconvenience to enſue, they all unanimouſly favoured his Majeſty's Benefit.

It is added by Mr. *Robert Macgill*, That the Remedies apply'd to a Diſeaſe, muſt be thought both by the Phyſician, and the Patient or ſick Man, meeteſt and moſt fitting for the curing of the Diſeaſe. But ſo it is, that the Pannel and Supplicants were ſick of a Diſeaſe; and therefore they in

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curing by the Remedies as were thought fitteſt and moſt helpful by them, contained in the Supplication, muſt be thought therein to have had a good Mind, and that they thought and uſed the Remedies according to the nature of the Diſeaſe, as being moſt fit. Their Diſeaſe was Fear of Diſpleaſure from his Majeſty; for we muſt not think according to the *Stoicks*, That only *vires animi quas phantaſias Philoſophi appellant, quibus mens hominis prima ſtatim ſpecie rei ad animum accedentis pellitur, non voluntatis ſint, neque arbitrii:* But that alſo *aſſentiri & co-opinari incidunt in virum ſapientem.* But ſo it is, that this Diſeaſe was filial, *erga Patrem Patriæ.* And like Bairnes who are dung (*i. e.* Children that are beat) go back again to their Father, ſo the Pannel and other Supplicants having by chance looked upon the Piece quarrelled, did think it a very good Remedy to appeaſe his moſt Sacred Majeſty, their Father. As it is reported of the Spear of *Achilles*, that he who wounded them with Fear, might cure the ſame Wound, in ſhewing that they might have repreſented Grievances, which are Diſeaſes, to the only Phyſician. And in our Acts of Parliament, Declamations are forbidden *ad Plebem:* ſo it muſt be thought of Writings alſo, in the Conception of the Pannel, *quæ per Plebem diſtribuuntur atque ita divulgantur*, which is not in our Caſe; *ergo, &c.*

It is anſwered by his Majeſty's Advocat, That all ought to be repelled, in reſpect of the Dittay, and of the particular Points of Reproaches, which not ſo meikle (much) as by the Conception or Meaning of the Pannel can be juſtified. And all which is opponed, is either againſt the Relevancy of the Dittay, which is remitted to the Juſtice; or againſt the Verification thereof, which is proper to the Aſſyze. And if the Juſtice and Aſſeſſors deſire a more ſpecial Anſwer to be made to the Particulars, the King's Advocat offer'd to clear the ſamen by word in hearing of Parties.

It is laſt alledged by Mr. *Roger Mowat* for the Pannel, That that part of the Dittay anent the Pannel's alledged divulging and diſperſing of the ſaid alledged Libel, is not relevant to infer the Crime and Puniſhment concluded in the ſaid Dittay; becauſe divulging and diſperſing are not contained in the Acts of Parliament whereupon the Dittay is libelled, and ſo cannot be the Ground and Warrand thereof. Secondly, In ſo far as the Dittay bears, that the ſaid Libel was divulged by giving the ſaid Copy to *Dunmure*; giving, and not granting, that divulging is warranted by the ſaid Acts, or can be ſuſtained as a Warrand againſt the Pannel to infer the ſaid Crime and Pain, that cannot be called divulging, becauſe *Dunmure*'s own Depoſitions bear not, that he received the ſaid Libel from the Pannel to copy or divulge, but that he took it up only to read upon very ſtrict Conditions; which being the true manner of his Receipt thereof from the Pannel, cannot be called properly divulging: becauſe to divulge, properly is to affix *in loco publico*, as Mr. *Thomas Roſs* did, whom my Lord Advocat cited; who affixed his ſeditious Paſquils, and Invectives againſt his Nation, whereof he was the confeſſed Author, upon the publick parts and places of the Town and Univerſity of *Oxford.* Or to divulge is to tyne, (drop) and caſt down Papers in Kirks, Tolbooths, or High-Streets, as did *Francis Tennant*, likewiſe cited by my Lord Advocat; who left and of purpoſe tynt (dropt) his infamous Miſſives in the Kirks. And it is univerſally maintained, that the delivering of a Libel or Writing to one only, cannot infer divulging; albeit it is not granted that the Pannel delivered the ſaid Writ to *Dunmure.*

To that part of the ſaid Dittay bearing that the ſaid Libel was divulged by delivering thereof to the Earl of *Rothes*; it is anſwered, That that was not divulging, becauſe it is confeſſed in the ſaid Dittay, that it was delivered to the Earl of *Rothes* to have been preſented to his Sacred Majeſty: And it is contended, as before, That that which is affirmed in the ſaid Dittay to be divulging, is more properly to be called revealing, as indeed it was. So that it is retorted, to free the Pannel not only of divulging, but of all Crime for hearing or not apprehending; becauſe if the Pannel delivered it, as the Dittay bears, to have been preſented to his Sacred Majeſty, *ergo* not as infamous, reproachful, or ſcandalous: which muſt be preſumed by all manner of Preſumptions in favour of the Pannel, that he did not conſent to the preſenting thereof to his Highneſs, as being in his leaſt Thought or Imagination ſcandalous, or otherwiſe as the Dittay bears; but only to have been revealed to his Sacred Majeſty as a Piece which he and the other Supplicants did think and conceive might have been graciouſly accepted, as others of that kind had formerly been received by his gracious Majeſty.

To that part of the Dittay bearing the copying thereof by Mr. *Robert Dalgleiſh*, the Pannel's Servant; it is anſwered, *Quod non relevat* to infer divulging, becauſe the ſaid Mr. *Robert* his Depoſition bears, that he did only deliver the Copy to my Lord his Maſter, and did no farder. Neither depones he, that my Lord did any farder but took the Copy from him; which in no ſenſe can be properly called divulging, for the Reaſons before adduced.

To that part of the ſaid Dittay bearing Mr. *John Dunmure*'s keeping the ſaid Copy in his hands, by the ſpace and in manner libelled; it is anſwered, *Non relevat*, becauſe it is not, *ut ſupra*, that the Pannel gave him the Copy, but that he took it, as the Depoſition bears. And what he did thereafter, without any Warrand, Command, or Allowance of the Pannel, cannot be laid to the Pannel's charge, but to his own; ſeeing the manner of his receiving and divulging thereof, is not-tourly known to have been againſt his Promiſe, or without the Knowledge or Conſent of the Pannel, by abuſing his Truſt given to him by the Pannel, tho innocently, who was free of all his ſubſequent Proceedings. And there being no Fraud or Malice in that point upon the Pannel's part, who was wronged by *Dunmure*, tho innocently; that cannot be called the Pannel's divulging: for who lives, and may not be deceived and abuſed in that manner as he was, tho innocently, on *Dunmure*'s part?

To that part of the Dittay anent Mr. *John Dunmure* his Anſwer to the Earl of *Traquair*; it is anſwered, That the ſame cannot be reſpected as relevant to infer divulging, becauſe the Pannel's Depoſition bears that he gave no Warrand nor Direction to *Dunmure* to return anſwer to the ſaid Earl: but that in diſcourſe with *Dunmure*, the Pannel anſwered not thoſe words, *That as honeſt Men would put their faces thereto* (*i. e.* juſtify it) *as the Pannel himſelf*; but the Pannel's Anſwer only was in theſe words, *That as honeſt Men as the Pannel himſelf knew of it:* meaning of the Earl of *Rothes* and other Supplicants, who had intended to cauſe

make offer of the ſame to his Royal Majeſty, and accordingly did make offer thereof by the ſaid Earl of *Rothes*.

And to that part of the ſaid Dittay, concluding that the ſaid Pannel being a Nobleman of good Learning and Underſtanding, ſhould have revealed, ſhould have not concealed, ſhould have apprehended the Author; it is alledged, *Non relevat, ut ſupra*, and *Abſolvitur* ought to be granted from that Concluſion, for the Reaſons mentioned before in the Defences and Duplies made for the Pannel, who ſtill contends that as he never did conceive or underſtand the ſaid Supplication, as the Dittay inforces and bears the ſame upon him; ſo his own Commentary and Declaration anent his Meaning and Senſe thereof, ought only to be received, to free and vindicat him from the Crime and Pains libelled. In reſpect whereof, the ſaid Dittay anent the Point of divulging can no ways be reſpected as relevant, but *Abſolvitur* ought to be granted to the Pannel therefrom.

It is added by Mr. *Alexander Pearſon* to this laſt and fifth Exception, That the Point of Dittay anent divulging is not relevant, and cannot infer the Pains concluded by the Dittay, becauſe the ſaid Point of Dittay is not founded upon any Act of Parliament mentioned in the Propoſition thereof, but only upon the Civil Law, which the Leidges cannot nor are obliged to know in all the Sanctions thereof; ſpecially ſeeing by divers Acts of Parliament, to wit, King *James* I. *Parl.* 3. *cap.* 48. King *James* IV. *Parl.* 6. *cap.* 79. by the which it is ſtatute, That all the King's Leidges live and be governed under the King's Laws and Statutes of the Realm only, and not by any Laws of other Countries: And therefore cannot infer the Pains concluded by the Dittay.

Farder, The Pannel ought to be aſſoilzed from that Point of the Dittay of divulging, becauſe the Pannel is not nor cannot be counted formally Divulger of the alledged infamous Libel; he not having Knowledge or Opinion of the Writ quarrelled, that it was infamous: but having juſt and probable Cauſe to think of it otherwiſe, *ut ſupra*. And as Credulity by the Civil Law defends in Theft, ſo by the like reaſon it ought to defend the Pannel here, anent divulging, as is confirmed in the fourth Exception proponed for the Pannel, which I here repeat, and which Defence is moſt relevant by the Civil Law, whereupon only this Point of Dittay is urged, and therefore ſhould elide the ſame.

Item, Farder, The Civil Law does not make any to be Divulger of an infamous Libel, but After-Knowledge of the ſame to be infamous; which is clear by the Ordinance of the Law ſet down in *Lege Unica, Codice de famoſis Libellis*, which commands the Finder of ane infamous Libel preſently to deſtroy it; which the Finder cannot do, but after Knowledge of the Writ to be ſuch. And 'tis alſo clear by the Prohibition of the ſaid Law, bearing, *Si vim earum manifeſtaverit*; which requires divulging of an infamous Libel, in the form and ſtrength thereof. In reſpect whereof, the Pannel ought to be aſſoilzed from that Point of divulging.

It is added by Mr. *John Nisbet*, That divulging is not relevantly qualified in Law, by the imparting of the alledged Libel to my Lord *Rothes* and to Mr. *John Dunmure*; becauſe it was imparted to neither of them in quality of an infamous Libel, but to my Lord *Rothes* in the contrair quality of ane Supplication, to be preſented by him to his Majeſty, as is acknowledged in the Dittay; and to Mr. *John Dunmure* as a Confident of the Pannel's, under Promiſes of Secrecy: which Procedure and Qualities of imparting are far from the nature of divulging; for the word itſelf implieth a publick Diſperſion, and the expreſs Law requireth *manifeſtationem publicam & doloſam publicationem; Canone qui in alterius, Cauſa* 5. *Quaſt.* 1. *Doloſum. Canone* 4. *eadem Cauſa & eadem Quaſt. Et Libellus famoſus dicitur Paſquillus, quod in Urbe Roma ad truncam Paſquini cujuſdam ſtatuam affigi ſolet. Harprechtus in Tractatu Criminali,* §. *Injuria. Sectione de famoſo Libello, Et qui Libellum famoſum ab alio acceptum viciſſim alii, & uni tantum ſecreto tradidit, Libelli famoſi pœna non eſt plectendus, quia ex traditione ſecreto facta non obſcure colligitur animus non diffamandi; & quia Libellum famoſum non dicitur publicaſſe, niſi qui cum pluribus impertitus eſt. Harprechtus, ibidem.*

It is added by Mr. *Robert Macgill*, That the divulging qualified in the Dittay is not relevant according to the Civil Law, where a Publication and Out-ſetting is required: *Pharm. Quæſt.* 105. *Inſpect.* 11. *num.* 485, 487. And the reaſon is, *quod Convicium dicatur quaſi Convolium, Leg. Item, apud Labionem* 15. §. 4. *F. de Injuriis, ubi* §. *ſequenti ait dici vociferationem in unum collatum: additis* §. 8, *&* 11, *&* 12. *Quod oportet in Cœtu dici, & cum vociferatione vulgare, etiam Nænio Marcello eſt in vulgus dare, & quaſi multis audientibus ac non taciturnus dicere.* Then *ei diſperſionem & diviſionem ſuperaddunt, ut ſit in plurium manus ſparſio ab una eademque facta, & maxime ſi in Plebem diſtributio fiat, unde ſævitque animis ignobile Vulgus. Quippe, ut Cicero pro Plancio, non eſt conſilium in vulgo, non ratio, non diſcrimen, non diligentia.* And even in that Title of the ninth Book of the *Cod. de Seditioſis*, it is added, *Et his, qui Plebem contra Rempublicam audent colligere.* And ſo have I ſaid not long ſince, that theſe private Writings, and the diſperſing of them, muſt be underſtood in our Acts of Parliament, as the Declamations therein mentioned, that is, to the meaneſt and commoneſt ſort; and that to ten at leaſt, *quia non dicitur notorium niſi per decem ſaltem tranſeat; Boerius Tractatu de Seditioſis, Præmiſſ.* 7. *quippe quod populus dici non poſſe, niſi ſint decem: Ibidem Præmiſſ.* 3. And remits here what I have ſaid *de Seditioſis*, in the end of my ſecond Exception. But ſo it is, that the communicating of the Piece quarrelled to Mr. *John Dunmure*, in that mean ſort as is contained in the Depoſition, and conſequently in the Dittay, cannot be thought a divulging in manner above expreſſed; *ergo* the Pannel ought to be aſſoilzed from that part of the Dittay.

It is anſwered by my Lord Advocat, That the Alleadgance ought to be repelled, in reſpect of the Dittay, which in this part anent divulging is founded upon the Common Law, *Leg. Unica de famoſis Libellis*. And which Common Law, in the caſe where we have no particular Law nor Statute of our own, is obligatory againſt the Leidges. And the Acts of Parliament cited by the Defenders, That the Leidges ſhall be ruled by the Laws of the Kingdom allenarly, (only) and not by the Laws of other Kingdoms, excludes only the particular Laws of particular Kingdoms; but excludes not neither the Laws of God, neither the Laws of Nature, neither the Laws of Nations, nor the Common Law: Otherwiſe, odious Crimes againſt which there are no Municipal Laws, as *Sodomia, Plagium, privati Carceres, &c.* ſhould be unpuniſhable.

†

ble. And as to the Exception proponed againſt the Relevancy, and the Alleadgance of the Civil Law anent divulging *uni*; oppones the Dittay, bearing the divulging thereof to three particular Perſons in manner therein libelled.

It is duplied by the Pannel and his Procurators, That the Point of divulging being founded only upon the Civil Law, if it were ſuſtained, is only relevant to infer the Pain of the Civil Law, which is not capital, *Niſi cum libellus famoſus continet delicta capitalia in alium improperata. Secus in eo improperetur delictum non capitale, aut alia quævis Culpa. Gloſſa in Leg. unica. Codice de famoſo libello, in verb. ſi quis famoſum. Phar. Quæſt.* 105. *num.* 11. And of the Canon Law, which has ever had more Force with us: *Pœna etiam atrociſſimi Libelli eſt tantum flagellatio. Canone, Qui in alterius, Cauſa* 5. *Quæſt.* 1.

It is farder duplyed by Mr. *Roger Mowat*, to that Part of my Lord Advocat's Reply, bearing, That the Alleadgance made againſt divulging ought to be repelled, in reſpect of the Dittay, bearing the divulging by the Pannel to three ſeveral Perſons: It is duplyed thereto, That the ſaid Reply ought to be repelled, in reſpect of the ſaid Alleadgance proponed againſt the ſaid Member of divulging, and hail Qualifications thereof, to the ſaids three Perſons; whereunto there is no Anſwer given by my Lord Advocat. And therefore remits the ſaid Alleadgance, and hail Members of it, as yet unanſwered, to be conſidered by the Judge as moſt relevant in it ſelf. In reſpect whereof, the ſaid Alleadgance, and hail Members thereof, ſtands relevant, notwithſtanding of the Reply.

It is triplyed by my Lord Advocat, That the Pain by the Common Law is capital; and the Quotation by Mr. *John Nisbet* is a Gloſs without Warrant. And albeit ſome reſpect might be had to an infamous Libel againſt a Subject, yet none in that which concerns our Sovereign, tending to the Diſturbance of the Eſtate and publick Peace.

It is quadruplied by Mr. *John Nisbet*, That we oppone the Gloſſes aforeſaids acknowledged and followed by all the Doctors, and founded upon the Equity of Retaliation; and oppone likewiſe the foreſaid Citations out of the Canon Law it ſelf, and the hail Title of the Canon Law *de Maledictis*, where Detractors of the Pope himſelf are only obnoxious to the Pain of Flagellation.

The Juſtices continues till to-morrow the 17*th Inſtant.*

Curia legitime affirmata, the ſaid 17th of *December*, 1634, *&c.*

My Lord Advocat, after ſome Speech delivered by the Pannel's Procurators, *verbo* declared to my Lord Juſtice-General, That what was ſpoken was only a ſummary Recapitulation of that which is at length ſet down by the Pannel's Procurators in their Defences; and offered to his Lordſhip, if it were his Lordſhip's Pleaſure that he, as Purſuer, ſhould clear by his Anſwer *verbo*; and otherwiſe, that my Lord Juſtice, with Conſent of his Aſſeſſors, would cloſe (put an end to) all farder Writing, and declare that no more ſhould be added, but that *Interloquitor* may be pronounced of that which is proponed and written already. To the which my Lord Juſtice made Anſwer, That there was no Neceſſity to anſwer farder than is ſaid and written already.

It was thereafter humbly craved by the Pannel and his Procurators, That if any thing ſhould occur to be demanded whereupon he deſired to be heard before *Interloquitor*, that my Lord Juſtice would be pleaſed to hear him, he proponing the ſame, *verbo* in his Lordſhip's Audience.

My Lord Juſtice-General, with Advice of his Lordſhip's Aſſeſſors, declares that all farder Writing in this Matter ſhall ceaſe before the Dittay be found relevant, and referred by *Interloquitor* to an Aſſize; and continues *Interloquitor* upon the Exceptions proponed in this Proceſs, and Anſwers made thereto, till *Friday* next, the 19th of *December* inſtant.

The ſaid 19*th of* December *it was continued till the next Day, the* 20*th.*

The ſaid 20*th of* December, 1634, Curia legitime affirmata, &c. *Pannel and Procurators as above.*

My Lord Juſtice-General and his Lordſhip's Aſſeſſors having read and conſidered the Dittay, hail Exceptions, Replies, Duplyes, with all that is proponed for the Pannel by his Procurators in this Proceſs, and my Lord Advocat's Anſwers made thereto; by *Interloquitor* repel the firſt Exception proponed by the Pannel and his Procurators againſt the Relevancy of the Dittay, in reſpect of the Acts of Parliament ſtanding unrepealed. Repel the ſecond Exception in reſpect of the Dittay, and Acts of Parliament whereupon the ſame is founded. Repel the third Exception in reſpect of the Dittay, and that there may be more Authors than one; and likewiſe ſuſtain theſe Words of the Dittay, *That the Pannel is Adviſer, Deviſer, and Conſulter*, in reſpect they all ſignify one thing with Airt and Part. And as to the Qualification of the Interlining, ſet down therein, remit the ſame to the Aſſize, as proper to be cognoſced by them, with the hail remanent Qualifications and Preſumptions contained in the ſaid Dittay, to be proven to the ſaid Aſſize. Repel the fourth Exception in reſpect of the Dittay, and ſcandalous and reproachful Libel mentioned therein; which my Lord Juſtice, with Advice of his Lordſhip's Aſſeſſors, find to be of that nature, notwithſtanding of any thing propounded in the contrair in the Pannel's favour. As to the laſt Exception, repel the ſamen, and ſuſtain that Point of the Dittay annent the divulging of the infamous Libel, to be tryed and proven *conjunctim* with any one of the reſt of the Articles of the ſaid Dittay found relevant, as ſaid is, to infer the Puniſhment preſcribed by the Act of Parliament; and declare, That if it ſhall be only proven *per ſe*, to be puniſhed *per pœnam arbitrariam*. And in reſpect of the former *Interloquitor*, ordain the Dittay to paſs to the Tryal of an Aſſize. And for that effect, continues this Matter to the 11th Day of *February* next to come; and ordain the Pannel to be returned to his Ward within the Caſtle of *Edinburgh*.

Curia legitime affirmata, the ſaid 11th of *February*, 1635.

John *Lord* Balmerino *delated of the Crimes contained in his Dittay, contained in his preceding Proceſs.*

The Juſtice Deputs (being Alexander Colvil *of* Blair, *and Mr.* James Robertoun, *Advocat) foreſaids, with Advice of the Aſſeſſors, before mentioned, continue this Dyet, anent the Tryal of the ſaid* John *Lord* Balmerino, *for the Crime ſpecified in his Dittay, to the 11th of* March *next to come. The Perſons of Aſſize are warned,* &c.

The ſaid 11th of March, it is continued till the 18th of March, 1635. *And the ſaid 18th Day, in reſpect of the Abſence of Mr.* Roger Mowat, *the Pannel's principal Procurator, by reaſon of Sickneſs and the Gout, the Juſtice continued the Dyet till the 20th of* March *thereafter,* 1635.

The ſaid 20th of March, 1635. *Pannel and Procurators as before.*

The Names of the Perſons of Aſſize (Jury).

William Earl *Mareſchal.*
James Earl of *Murray.*
William Earl of *Dumfreis.*
Mungo Viſcount of *Stormond.*
John Earl of *Lauderdale.*
John Earl of *Traquair.*
George Lord *Forreſter* of *Corſtorphine.*
James Lord *Johnſtoun.*
Sir *Alexander Strachan* of *Thorntoun,* Knt.
Sir *Robert Grier* of *Lagg.*
Sir *John Charters* of *Amisfield.*
Sir *Alexander Nisbet* of *Weſtnisbet,* Knt.
Sir *Patrick Agnew* of *Lochnair,* Knt.
Sir *James Baillie* of *Lochend.*
John Gordon of *Buskie.*

It is alledged by the Pannel and his Procurators, That the Earl *Mareſchal* cannot be admitted upon the Aſſize, becauſe he has received Information and particular Inſtruction of the Pannel's Guiltineſs of the Crimes given up in the Dittay, and particular Direction what to do in caſe he paſs upon the Aſſize; which they refer to the Nobleman's own Oath and Declaration: who being ſworn, declared that he received no ſuch Inſtruction or Information of any Perſon. Whereupon, being purged of partial Counſel, the Juſtice admits him upon the Aſſize.

It is alledged againſt the Earl of *Dumfreis*, that he cannot be received upon the Aſſize, becauſe he has given out his prejudged Opinion againſt the Pannel, affirming, before any Probation led, that the Pannel is guilty of the Dittay; which the Pannel referred to his Lordſhip's Oath, alledging that in Law a Declinator is only to be proven againſt ane Aſſizer by his Oath: And farder affirms, that the ſaid *William* Earl of *Dumfreis* has been ſollicited and dealt with by Prayer to find the Pannel guilty of the Dittay. Which being referred to the ſaid Earl his Oath, he denied any ſuch Matter, that he either gave out Speeches of the Pannel's Guiltineſs, or that he was ſollicited or dealt with by Prayer, or otherwiſe; the Juſtice admits him, in reſpect of his Declaration.

It is alledged againſt my Lord *Blantyre*, that he cannot be upon his Aſſize, becauſe he has publickly reported to ſundry, that the Pannel to his Judgment is guilty of the Dittay, and cannot be cleared thereof; which they refer to his Lordſhip's Oath; who being ſworn, declared that he could not deny that he had ſpoken ſuch Speeches. Whereupon he was repelled, and ordained to ſtand aſide.

It is alledged by the Pannel and his Procurators againſt my Lord *Johnſtoun*, the Laird of *Lag*, the Laird of *Amisfield*, the Laird of *Thorntoun*, the Laird of *Weſtnisbet*, that they cannot be received upon the Aſſize, becauſe they have all been ſollicited by Prayer and Requeſt to find the Pannel guilty; and that the Lord *Johnſtoun* has declared to ſundry, that if he were on his Aſſize, he could not but find him to be guilty: likewiſe, affirmed by *Thorntoune*, that as the Dittay is founded upon the Acts of Parliament, the Pannel muſt be guilty, and none can acquit him thereof; and that *Weſtnisbet* had affirmed in publick Conference, by his bewrayed Opinion, that he would file (convict) the Pannel, and do his Endeavour cauſe others file him of the Dittay. Whereupon the forenamed Perſons having by their Oaths denied the Premiſſes, the Juſtice thereupon having purged them of partial Counſel, admits them upon the Aſſize. Whereupon my Lord Advocat asked Inſtruments. Likewiſe admits my Lord of *Traquair*, notwithſtanding of the Declinator proponed againſt him *verbo*, by the Pannel's Procurators.

My Lord Advocat, for verifying of the Dittay, 1ſt, Repeats the Acts of Parliament whereupon the Dittay is founded, (*viz.*) the 10th Act of the 10th Parliament of his Majeſty's deareſt Father, King *James* the Sixth, holden at *Linlithgow* the 10th Day of *December*, 1585; the other Act being the 205th Act of his Majeſty's 14th Parliament, holden at *Edinburgh* upon the 8th Day of *June*, 1594.

2dly, Produces his Majeſty's Warrant or Letter, direct for examination of Mr. *John Dunmure*, whereof the Tenour follows:

To the Right Reverend Father in God, our Right Truſty and Well-beloved Counſellor; To our Right Truſty and Right Well-beloved Couſins and Counſellors; To the Reverend Fathers in God, our Truſty and Well-beloved Counſellors; And to our Truſty and Well-beloved Counſellor, the Archbiſhop of St. Andrews, *Primate and Metropolitan of all* Scotland; *the Earl of* Mortoun *our Theſaurer, the Earl of* Traquair *our Deputy-Theſaurer, the Biſhops of* Edinburgh *and* Roſs; *and to Sir* John Hay *of* Baro, *our Clerk-Regiſter of our ſaid Kingdom.*

CHARLES *Rex.*

RIGHT Reverend and Reverend Fathers in God, our Truſty and Well-beloved Counſellors, Right Truſty and Right Well-beloved Couſins and Counſellors, and Truſty and Well-beloved Counſellors; We greet you well. Having ſeen the Copy of a Petition, which hath been in the Hands of Mr. *Peter Hay* of *Naughtoun:* And he being required by us to declare from whom he had the ſaid Petition, hath done the ſame by naming one *Dunmure*, dwelling in *Dundee*, a Notary there: It is our Pleaſure, that you call them before you; and having received the ſaid Mr. *Peter Hay* his Information, and examined the ſaid *Dunmure* concerning the Author of that Petition, and who may be any wiſe acceſſary unto it, you inform your ſelf ſo far as you can in all things concerning it, and certify us what ye find thereanent, that we may cauſe take ſuch further Order with theſe that ſhall be found to have had hand therein, as we ſhall think fitting. And for your ſo doing, theſe Preſents ſhall be your ſufficient Warrant. *From our Court at* New-Mercat, *the 3d Day of* March, 1634.

3dly,

3dly, Repeats the infamous Libel produced by Mr. *John Dunmure* before the Lords of the Committee upon the 14th Day of *March* 1634, with his Depoſition made in preſence of the Committee that ſame Day; which infamous Libel, with his ſaid Depoſition, is produced by his Majeſty's Advocat upon the 3d Day of *December* 1634, before my Lord Juſtice, and is regiſtrat in this Proceſs that Day.

4thly, Produced the Double (Copy) of the infamous Libel, interlined by the Pannel, whereof the Tenour follows.

[*This is exactly the Double of the former, only with the Addition of the Pannel's Interlinings, which are theſe; Firſt, at Letter* A, *on the 14th Page (or 288 of this Vol.) there is interlined by his Lordſhip theſe Words, which are not mentioned in the former Double*, viz. In ſuch a Caſe as this, it hath not been unworthy to have repreſented to your Majeſty's Obſervation, that. *And at this Mark alſo theſe Words are wanting in this Double, which the former has*, viz. Which bleſſed King *James* would never have confounded. *And betwixt Letter* B *and* C, *on the ſame Page thus*, B of Religion C, *is interlined in this Double. And the laſt interlined Words in this Double are to come in as marked on the Page, betwixt* C *and* D, *theſe Words*, viz. To ſuffer to be introduced.]

Item, Produces Mr. *John Dunmure*'s two Depoſitions, made the 15th of *March* 1634, and the 7th of *June* after, whereof the Tenour follows:

I Mr. *John Dunmure* confeſs and declare, That the Copy of the Petition, remonſtrat to the King's moſt ſacred Majeſty, to have been delivered by me to Mr. *Peter Hay* of *Naughtoun*, was intruſted by me to him upon his Faith and Promiſe never to have been imparted or divulged to any other, and that he ſhould redeliver to me the ſame, after the Reading and Conſideration thereof: And that I extracted the ſaid Copy with my own Hand againſt the Direction, and by (without) the Knowledge of him from whom I had the firſt Copy and Warrant thereof. So help me God. And this for Amplification of my Confeſſion of the ſaid Matter, made in Preſence of the Lords Commiſſioners, Receivers thereof, the 14th of *March* inſtant, by thir Preſents written and ſubſcrived with my Hand at *Edinburgh* the 15th of *March*, 1634.

Sic ſubſcrib. Joan. Dunmure.

At *Edinburgh*, 7 *June*, 1634. Sederunt, *St. Andrews*, the Earl of *Roxburgh*, *Traquair*, *Brechin*, Clerk-Regiſter, Advocat.

THE which Day Mr. *John Dunmure*, being deeply ſworn upon his Knees, ratified and approved his former Depoſition of the Date the 15th of *March* 1634; and declares, That at the time he received the ſaid Supplication of my Lord *Balmerino*, the ſaid Lord *Balmerino* deſired him that he would take it, and give him his Opinion thereof; and as he loved his Credit, he would keep it, and ſhew it to no Man living, but only give his own Opinion there-anent: And declares that there was nothing ſpoken about the copying thereof; but is perſuaded, if that my Lord *Balmerino* had known that he would have copied it, he would never have given the ſame out of his hand. And depones, after the Receipt thereof he abode three Days in *Edinburgh*, and during that time copied the ſame, and did return the ſame to my Lord *Balmerino*; but no ways told him that he copied the ſame. And depones he ſhewed the ſame to no Perſon, nor had no purpoſe to divulge it, but did take it home with him to *Dundee*, and did keep it cloſe and ſecret by himſelf by the ſpace of ſix Weeks, till the Laird of *Naughtoun* came to him in his own Chamber in *Dundee* of purpoſe to ask his Advice in ſome Affairs, in reſpect he was his ordinary Writer, as his Cuſtom was: And depones, that after ſome Conference with the Laird of *Naughtoun*, he took the ſame out of his Pouch (Pocket), and ſaid to the Laird, He knew that he was a Man of Judgment, and well-acquainted with the Affairs of the Kingdom; and ſaid, Here is a Paper whereof he would be glad to have his Judgment, providing he would keep it ſecret, and return the ſame back again: Which the Laird faithfully promiſed. Whereupon the Deponer gave the ſaid Paper to the Laird. Whereupon he began to read: And before he had ended it, he ſaid to the Deponer, Mr. *John*, I intreat you heartily that I may have this Paper to *Naughtoun*, that I may read it, and conſider it at leiſure. To the which the Deponer anſwered he would, providing he would keep it ſecret, and ſhew it to no Man, as he had promiſed; which the Laird of *Naughtoun* faithfully promiſed to do. And declares upon his great Oath, That if he had known the Laird would not have keeped it ſecret, he would not have given it for all the World. As alſo depones, That within a Month or five Weeks after the Deponer went to the Laird of *Naughtoun*'s Houſe, as he was going through *Fife*, and craved the Paper back with great Earneſtneſs; who anſwered, Tritle, tratle, ye need not be ſo curious; that there was a Gentleman at his own Table told him that there was three Copies thereof going through *Fife*, and my Lord *Balmerino* had given one thereof to Mr. *William Scot*, another to Mr. *Alexander Henderſon*, and the third that the Gentleman would not name. And the Deponer declares, After that time he met *Naughtoun* divers time in *Dundee*, and asked the Paper back, which he ever ſhunned. And declares, About *October* laſt *Naughtoun* came to the Deponer's Chambers in *Dundee*, and told him that he had given the Paper to my Lord *St. Andrews*; at which the Deponer was mightily moved. *Item*, depones, After his firſt Declaration he went to my Lord *Balmerino*, who, after Conference with him, my Lord *Balmerino* deſired him to go to the Earl of *Traquair*, and tell him that better Men nor my Lord *Balmerino* himſelf would ſet their Faces thereto.

Sic ſubſcrib. Joan. Dunmure.

St. Andrews, *J. Morton*,
Roxburgh, *Traquair*,
Da. Epiſ. *Brechin*,
J. Hay, *Tho. Hope.*

5thly, Produces three Depoſitions ſubſcrived by the Pannel and the Lords of Committee, one dated the 9th of *June* 1634; the ſecond the 16th of *June* 1634; and the third the 1ſt of *Auguſt* 1634. Of the which three Depoſitions the Tenour follows, *viz.*

Apud Edinb. the 9th of *June* 1634. Sederunt *St. Andrews*, Theſaurer, *Roxburgh*, *Traquair*, *Brechin*, Clerk-Regiſter, Advocat.

THE which Day *John* Lord *Balmerino* being examined upon his great Oath, depones as after follows: *Imprimis*, depones, That the Libel produced is the juſt Copy of the Libel given by him to Mr. *John Dunmure*, ſo far as he remembers. *Item*, Being interrogat to what uſe he gave him the

the ſame, and upon what occaſion, depones, That Mr. *John Dunmure* having given to him the Copy of my Lord *Brechin* his Sermon preached at his Majeſty's Coronation, and Mr. *John* having ſeen the Paper, he gave it to him to look upon, but to keep it to himſelf alone, and to ſhow it to no other, as he reſpected his Lordſhip's Credit: And depones, That he never knew that Mr. *John Dunmure* had copied the ſame. *Item*, Being interrogat from whom he had the Paper he gave to Mr. *John Dunmure*, depones, As he remembers he received the principal of the ſame from Mr. *William Haig*. *Item*, Being interrogat who was Author and Penner of the ſaid Libel, depones, That it was Mr. *William Haig* who gave it him, and, as he thinks, was the Author thereof. *Item*, Being interrogat to what uſe Mr. *William Haig* gave his Lordſhip that Paper, depones, That Mr. *William Haig* ſaid he thought it a fit Supplication to be preſented to his Majeſty; which he had made out of ſome Collections which he had gathered upon ſome Conferences which he had with ſundry Perſons the time of the Parliament. *Item*, Being interrogat what he did with the Paper which he received from Mr. *William Haig*, depones, He received two of them from Mr. *William Haig*, whereof one was to be preſented to the King, if it had been thought expedient, which he delivered to my Lord of *Rothes*; and the other he cauſed his Man Mr. *Robert Dalgleiſh* copy; and gave Mr. *Haig* his own back again, which he thinks he deſtroyed. And the Paper which he ſhewed Mr. *John Dunmure*, was it which his Man wrote, as he remembers. *Item*, Being interrogat if Mr. *William Haig* had any Warrand or Command to draw up the ſaid Supplication, or if my Lord or any of his knowledge was at the penning thereof, depones, That he had no Warrand from him, nor knew of any Warrand given to him, nor that any was preſent at the forming thereof. *Item*, Declares that the Earl of *Rothes* and the Deponer having read the Supplication, thought it no ways fit to be preſented to his Majeſty, but to be abſolutely ſuppreſt. *Item*, Being interrogat if he had any of the ſaids Copies, declares, After the receipt of Mr. *John Dunmure* his Copy, he caſt the ſamen in the fire; and for the other, he did diligence to ſeek the ſamen out and find it, and exhibit the ſamen to the Lords: and declared, that he had no more concerning that purpoſe. *Item*, Being interrogat if he gave any Copies of the ſaid Supplication, or ſhew it to any Perſon, depones, That he neither gave Copies thereof, nor ſhewed it to any except to the Earl of *Rothes* and Mr. *John Dunmure*.

Sic ſubſ. Balmerino.

St. Andrews, Morton, Roxburgh, Traquair, Da. Ep. *Brechin, J. Hay, Thomas Hope.*

Follows the Tenour of the ſecond Depoſition.

Apud Edinb. decimo ſexto Junii, 1634.

THE whilk Day *John* Lord of *Balmerino* being examined upon his Oath if he knew any thing of Mr. *William Haig* his going out of the Country, depones, That he knew nothing of his away going till Wedneſday laſt; that a Man of the Lady *Teaſter*'s told him, when he was going to *Balcleugh*'s Burial, that Mr. *William Haig* was gone out of the Country. *Item*, Being inquired anent that part of Mr. *John Dunmure*'s Depoſition, That after his firſt Declaration he went to the Deponer, who after conference with him deſired him that he would go to the Earl of *Traquair*, and ſay, *That better Men than the Deponer himſelf will ſet their faces thereto*; the ſaid Lord *Balmerino* depones, That he never gave Mr. *John Dunmure* ſuch a Commiſſion, but only told him in conference, That there were better Men than the Deponer himſelf who knew of that matter. And being inquired what theſe were that he meaned of, depones, That it was the Earl of *Rothes*, to whom he delivered the Supplication, conform to the former Depoſition. *Item*, Being inquired whether he had interlined ſome Lines in the ſaid Libel which was exhibited by him to the Lords, and whether he did the ſame before he ſhewed it to Mr. *John Dunmure*, or to the Earl of *Rothes*, depones, That it was the Earl of *Rothes* to whom he delivered the Supplication, conform to his former Depoſition. *Item*, Being inquired whether he had interlined ſome Lines in the ſaid Libel which was exhibited by him to the Lords, and whether he did the ſame before he ſhewed it to Mr. *John Dunmure* or to the ſaid Earl of *Rothes*, depones, That Mr. *John Dunmure* never ſaw this interlined Libel, but only the Copy which was caſt in the fire after the redelivery thereof: And depones, That the Copy interlined lying before the Lords was the Copy delivered by him to the Earl of *Rothes*, but was not interlined while the Earl of *Rothes*'s redelivery thereof to him; and depones, That never any ſaw it ſince the interlining thereof.

Sic ſubſ. Balmerino.

St. Andrews, Morton, Roxburgh, Traquair, Da. Ep. *Brechin, J. Hay, Thomas Hope.*

Follows the Tenour of his Lordſhip's third Depoſition.

Apud Edinb. the firſt Day of *Auguſt* 1634. Sederunt, *St. Andrews*, Theſaurer, *Roxburgh, Stirling, Traquair*, Biſhops of *Edinburgh, Roſs*, Clerk Regiſter, the King's Advocat.

THE which Day *John* Lord *Balmerino* being asked upon his great Oath, if he ſhewed to Mr. *Haig* the Warrand of his Appearance before the Lords upon Saturday the 7th of *June*, depones, That after Dinner Mr. *Haig* came to his Houſe, and asked by what Warrand he was convened before the Lords; and the Deponer took the Warrand out of his pocket, and ſhewed the ſame: And adheres to his former Depoſition, anent Mr. *Haig* his parting, or to the purpoſe thereof. *Item*, Being interrogat if he received any Letters from Mr. *Haig* ſince his parting, deponed, That he received at his back coming from *Balcleugh*'s Burial a Letter from his Lady, direct from Mr. *Haig*, but without either Date or Place, which he produced: as alſo received from *Thomas Haliburton* a Letter direct from Mr. *Haig*, with ſome Note concerning my Lord *Jedburgh*'s buſineſs. And ſicklike depones, he received a Letter from *Adam Watt*, which concerned ſome buſineſs betwixt my Lord *Teaſter* and Mr. *Haig*; and in the end deſired the Deponer to aſſiſt Sir *Lewis Stewart*, and other Friends that he had written unto for procuring of him a Remiſſion: which Letter, after the Deponer had dealt with the Lord *Teaſter*, he cancelled and burnt. And laſt grants he received a Letter from *Camphire* the 27th of *June*, which he received from Mr. *Robert Bruce*; which he exhibits, and which Letter bears Mr. *Haig* has granted that he was the Penner of the ſaid Supplication, and therefore proteſts that the ſame may be delivered

up

up and given to him. And being asked anent that part of the ſaid Letter, which bears that the Earl of *Rothes* and ſuch other honeſt Men that did once approve the ſaid Supplication, if the Deponer did ever allow and approve the ſamen; anſwers, that he did never allow nor approve the ſamen to be preſented to his Majeſty, but thought it fit to be ſuppreſt. And in the reſt adheres to his former Depoſitions.

Sic ſubſ. Balmerino.

The ſame Day, in preſence foreſaid, it being asked whether he did allow and approve the ſame himſelf, in the Matter and Subſtance; he declared, that he neither allowed nor allows the ſamen, and declares he condemns the ſame both in Matter and Form.

Sic ſubſ. Balmerino.

St. Andrews, Mortoun, Roxburgh, Stirling, Traquair, Da. Ep. *Edinb. Jo. Roſſe, J. Hay, Thomas Hope.*

6thly, Produces Mr. *Robert Dalgleiſh*, Servitor to the Pannel, his Depoſitions, dated *July* 3. 1634. whereof the Tenour follows.

Apud Edinb. 3 *July* 1634.

THE which Day Mr. *Robert Dalgleiſh* being ſworn upon his knees, and the Libel being ſhown to him, denies that he knows the Hand-writing or the Writer: grants that my Lord *Balmerino* being in his place of *Barnetown* ſhortly after the Parliament, and being to go to *Edinburgh*, about Four after Noon delivered to the Deponer a Paper to be copied, which he did copy that ſame night, and ſent it with the Copy thereof to his Maſter incloſed in a Paper, the next day in the morning. And being asked if that he had copied another to himſelf, grants that he had made another Copy which he keeped to himſelf, which he did without the command or knowledge of his Maſter; which Copy he exhibited preſently in preſence of the Lords. *Item*, Being demanded if he did communicat that Copy which he keeped to himſelf to any other, depones upon his great Oath, That he did neither ſhow nor give the Copy thereof to any other: but grants, while he was copying the ſame in *Barnetown*, Mr. *William Colvill* Miniſter of the Pariſh came in and read the ſame, but got no Copy thereof. As alſo depones, That ſince the beginning of the Tryal about *Paſch* (*Eaſter*) laſt, the Lady *Balmerino* asked of the Deponer if he had keeped a Copy of the foreſaid Libel to himſelf, and deſired a ſight thereof; and when ſhe heard the ſame read, ſhe ſaid that he was a Fool in keeping it, and bad him caſt it in the fire.

Sic ſubſc. Mr. *Robert Dalgleiſh.*

St. Andrews, Mortoun, Roxburgh, Stirling, Traquair, Jo. Roſſen. J. Hay, Thomas Hope.

7thly, Produces *Mark Caſs* his Depoſition, dated *apud Edinb.* the 31ſt of *July* 1634.

Sederunt, *St. Andrews, Roxburgh, Stirling, Traquair, Roſſe*, Clerk of Regiſter, Advocat.

THE whilk Day *Mark Caſs*, Writer, being examined upon his great Oath, depones, That about eight or ten days before Mr. *Haig* his going away furth of the Country, he being in Mr. *Haig*'s Chamber, Mr. *Haig* asked him what News: to whom he anſwered, he had no News, but that he heard that my Lord *Balmerino* was troubled for a Petition that had been written. Likeas Mr. *Haig* asked him if he knew who was Writer thereof, whilk he depones that he anſwered him he knew not, neither did he know. Thereafter Mr. *William Haig* told him that he was the Penner thereof, and took out the Paper and read it over to him, and ſaid that *Rothes* and *Balmerino* knew the Paper, becauſe it ſhould have been preſented to the King. *Item*, Being asked if he knew of Mr. *Haig*'s away going, depones, That upon Sunday the eighth of *June* the Deponer being in *Newbottle* Kirk at the Communion, Mr. *Haig* ſent a Boy to him before the ending of the Sermon in the Afternoon, and deſired him to come out to him; who came out and met with him in the Hall of *Newbottle*, but ſpake nothing with him there. And then they went out together to the Green of *Newbottle*, where he told the Deponer that he was to go to the South Country, and that he had received for his comprizing of *Maxwellheugh*, diſponed by him to the Earl of *Roxburgh*, the Sum of Twenty Thouſand Marks, which he had paid to Mr. *John Sharp* and others; and that there reſted yet Eight Thouſand Four Hundred and ſome odd Marks: And that he had taken the Deponer his Name to the Bond thereof to his own uſe, and that he would truſt him with it till his Return; and then delivered to him the Bond thereof, and ſaid to him that he would return ſhortly. *Item*, Depones, that he received a Letter from Mr. *William Haig* from *Yarmouth*, in which there was incloſed a Letter direct from Mr. *William Haig* to *Thomas Haliburton*, which he ſent to the ſaid *Thomas*: And the Contents of the Letter to himſelf was, that he deſired the Deponer to aſſiſt his Nephew, the ſaid *Thomas Haliburton*, to get a Trunk carried to *Holland* by the Addreſs of Mr. *Robert Bruce*; and that he ſhould make the ſaid *Thomas* forbear to do it, if I ſhould find by Sir *Lewis Stewart* the appearance of the quitting of this Service. And depones, That he ſhewed this Letter to *Thomas Haliburton*, who was then preſent in *Edinburgh*, and declared to the ſaid *Thomas*, that he would not ſpeak the ſaid Sir *Lewis Stewart* in ſuch a buſineſs; and rave (tore) out ſo much of the Letter as concerned Sir *Lewis Stewart*, and deſired the ſaid *Thomas* that he would take it to him, becauſe Sir *Lewis* knew Mr. *Haig* his Hand-writing: which the ſaid *Thomas* refuſed, and ſaid that Sir *Lewis* would believe him but (*i. e.* without) the Letter: And immediately after he read the hail Letter in preſence of the ſaid *Thomas*. *Item*, Remembers that the Letter did bear that he was preſently going aboard. *Item*, Remembers that he received from Mr. *William Haig* ſince his parting in all three Letters, whereof the ſaid Letter was one, and the other two which he exhibited to the Lords.

Sic ſubſ. Mark Caſs, with my Hand.

At *Edinb.* the 31ſt of *July* 1634. Sederunt, *St. Andrews*, Theſaurer, *Roxburgh, Traquair, Edinburgh, Roſſe*, Clerk Regiſter, Advocat.

THE foreſaid Deponent depones, That the 20000 Marks paid to Mr. *William Haig* upon the Saturday, was employed as after follows, *viz.* Eight Thouſand Four Hundred Marks to Mr. *John Sharp*; then reſted Eleven Thouſand and Six Hundred Marks, whereof there was lent to the Earl of *Lothian* Seven Thouſand Six Hundred Marks, and Four Thouſand Marks to the Lord *Balmerino*; qherefore (for which) the Deponer received Bonds, which are blank in the Name, in the Deponer's

poner's hands. *Item*, The Deponer produced two Letters from Mr. *Haig*, one of the Date *nono Junii* from *Bimerſide*, with a Command to him to receive a Packet to be delivered to my Lord *Balmerino*; which Packet to his knowledge and memory *Adam Watt* delivered to my Lord *Balmerino*. *Item*, The other Letter of the 23d of *June*, dated from no place, which the Deponer received from *Adam Watt*, who had in hand a Letter to my Lord of *Lothian*, which he received: and delivered a Letter to my Lord *Balmerino*, and another to the Earl of *Traquair*; which Letters were received by *Adam Watt* from Sir *Lewis Stewart*. *Item*, Depones upon his great Oath, That he never opened the little Coffer, nor Trunk; but once that he opened the little Coffer, and took out the Keys of the Trunks, but never ſtirred the Papers, nor none others to his knowledge: but that he heard that *Thomas Haliburton* had looked in the Coffer before, but knows not whether he took any Papers out or not. *Item*, Declares that ſince Mr. *William Haig* his away going, there came a Trunk of his home, which is in *William Dick* his hands, whereof he has the Key; and that he never opened the ſame, but allenarly (only) once at the deſire of Mr. *Alexander Johnſtoun* Advocat, who alledged he had ſome Clothes and other Gear therein, which he had put in Mr. *Haig*'s Trunk when Mr. *Haig* and he was at *London* the laſt Vacance. And the Deponer grants he received the Key of the Trunk from *William Frier*, incloſed in a Letter from *London* written by the ſaid *William Frier*, and dated before Mr. *Haig*'s going away out of the Country. *Item*, The Deponer remembers, that Mr. *Haig* told him that the Pamphlet was written by a Man employed by the Lady *Limplum* for that effect.

Sic ſubſ. Mark Caſs, with my Hand.

St. Andrews, *Mortoun*, *Roxburgh*,
Traquair, *Da.* Ep. *Edinb.*
Jo. Roſſen, *J. Hay.*

8thly, Produces four Letters from Mr. *Haig* to the Pannel, dated 27 *June*, 1 *July*, 10 *July*, and 1 *Auguſt*, 1634. Of the which four Letters, the Tenour follows.

To the Right Honourable my ſingular good Lord my Lord Balmerino, *Theſe, at* Barnetown; *to be ſent to him by Mr.* George Lawſon, *or* Adam Watt *Writer in* Edinburgh.

My Lord,

NOW that it has pleaſed God to bring me ſafely through the Seas, though ſlowly, (in three Days and three Nights from *Yarmouth*) to this place, I begin with theſe to pray your Lordſhip either to uſe your Talent to get me home otherwiſe, or to give vigour to that way I wrote to your Lordſhip from *Yarmouth*. I thought it fit to be taken, to get a compendious way to an end of my Troubles by their means, who for private reſpects have given the name of a Crime to that Supplication, which tho I cannot deny the penning of, yet would not have brought to me any Inconvenience, if it had either been uſed as once intended, or, after changed of purpoſe, kept from thoſe baſe Bodies that put it into the hands of ſuch, as have been able to make hard Conſtructions of it. And ſeeing for whatſoever I now ſuffer in my private Fortune, in my weak Body, or in my Name, by the Contrivance or Knavery of Mr. *John Dunmure*, I may juſtly blame your Lordſhip; I do here adjure your Lordſhip, by the Perſuaſion I have of your own Integrity, of your honourable Mind and Good-will to me-wards, and by your Knowledge of the Pains I have been ever willing to take for an ingenuous Furtherance of all that concerns my Lord of *Somerſet* amongſt us; even to take pains to obtain to me a Remiſſion, for doing that which is termed a Crime, and that by means of theſe that have termed it ſo; and make them ſenſible, that it ſhall be more for their credit ſo to make ane end of the buſineſs, than to drive me to ſuch Defences and Apologies as the publiſhing of will gall them, more than the blazing of the Supplication. Withal it may pleaſe your Lordſhip to repreſent to my Lord of *Rothes*, and ſuch other honeſt Men, as I know did once approve that Supplication, that ſince a hard Character is made of it by theſe that have wreſted in the King's Ire the Senſe of it, they ſhould do right both to themſelves, their Prince, and Country, by another Petition to repreſent that whereas they intended to have delivered to his Majeſty the foreſaid Supplication by ſuch as did diſ-aſſent to that Church-Article, and changed purpoſe, becauſe the Paper could not hold all their Subſcriptions, and other good Reſpects, very compatible with their moſt humble Duties to his Majeſty; yet ſince the foreſaid Supplication has come to his Majeſty's hands by ſuch as have made wrong Conſtructions of it, therefore to conclude craving humbly that his Majeſty would give them leave to be Interpreters of their own Language, and the Deſire of their Petition, (for the Reaſons it containeth) which is, that no private Reſpect, but mere Affection to his Majeſty, did rule their whole Carriage in the late Parliament. But in this I ſubmit my Deſire to your Lordſhip, and their Judgment and Pleaſure. Howſoever, ſince I ſuffer for that which truly had their allowance, I think they are in honour bound to uſe diſcreet means to relieve me off this Croſs, at leaſt to help my poor Eſtate in ſome meaſure to bear out the burden of it. I ſuffer enough in the Toil of my Body, and Wounds given to my Name, though your Lordſhips amongſt you free me of all the Charges that will be inevitable to me in this Courſe: a little Help from each honeſt Man that will poſſibly pity me, would do this buſineſs. Thus your Lordſhip may ſee there lieth a heavy Burden on my Stomach, when it is brought ſo low as to beg; yet I ſhall rather ſtarve than diſcover ſo much to any other than your Lordſhip, to whom only I can lay open the ſilly and low Thoughts that Miſery, and the Fear of it, may bring to,

My Lord,
Your Lordſhip's moſt Reſpecting Servant,
William Haig.

Camphire, 27 *June*, 1634.

Poſtſcript. Whatſomever Bonds are in Moneys to my behoof, I do not think one Groat thereof mine, till my Lord *Yeaſter* be ſatisfied; which will be eaſily done, (upon the grounds I have ſent a Note of to *Mark Caſs*) if your Lordſhip move him to a Submiſſion, (wherein *Mark Caſs* and *Thomas Haliburton* ſhall take burden for me) but we will never end otherwiſe. Pray my Lord of *Rothes* to help your Lordſhip to induce him to a Submiſſion to any that your Lordſhip and he can condeſcend upon; and tell him of his old Letter to my Lord of *Anchram*, That he ſhould ſettle with me at any Man's ſight I liked. But get him to a Submiſſion in writing for his good as well as mine; for if God pleaſe to call me, he will find that he ſhall not make ſo good a Condition, as he may do now.

The

The ſecond Letter.

My Lord,

JUST as I had done cloſing of my Letters written to your Lordſhip with others at *Camphire*, the Conſervator newly arrived here from *London* came to my Chamber in ane Inn kept by his Mother-in Law; and hearing I was arrived there from *Scotland*, was very curious to ask News. And becauſe I could tell him nothing, at laſt wondering, asked me by way of queſtion, If I heard nothing of a Petition, which a number (35) ſaid he of Lords had reſolved to give to the King, craving a Relief of the Act made in the Church-buſineſs, and a Diſcharge of any further Payment and Taxations. I laughed, and told him that I durſt aſſure him there was no ſuch matter. That cannot be, ſaid he, for I have this from ſuch as has beſt Intelligence about the Court; and have ſeen a Letter, bearing under the hand of one of the Commiſſioners, That they had had my Lord *Balmerino* that day before them, who had behaved himſelf very modeſtly, and was to be before them the next day, where they hoped to get good Satisfaction in all they were about. Then I anſwered, I heard your Lordſhip was called for by ſome of the Council, but had not learned, nor ſo much as asked for what: and that the Council might have many things ado with your Lordſhip that I was ignorant of, and could not in good manners inquire. I proteſt, ſaid he, that is a buſineſs in all Mens mouths about Court; and I wonder, ſaid he, you have not heard of it. I have not truly, ſaid I: And ſo we left that Theme, and drunk together, and within a quarter ane hour after I left that Town, and to one *Alexander Speir*, a Factor in it, a Packet to Mr. *Robert Bruce*; under whoſe Cover there is a Letter of the 27th of *June* to your Lordſhip, the Contents whereof I will not repeat here, but beſeech your Lordſhip to have reſpect unto it, as well in ſo far as it beſeecheth your Lordſhip to uſe your Talent for ſhortning my Troubles, as in the care I humbly beſeech your Lordſhip to take to induce my Lord *Yeaſter* to a Submiſſion, without which there is no hope of any Concluſion with him. I will long to hear from your Lordſhip what poſture this buſineſs works itſelf unto, and what ſucceſs I may expect in the way I am contented be taken to end my Troubles, by their means that has occaſioned them. Thus having nothing to ſay but what I have formerly written, and beſeeching your Lordſhip not to be ſwear (ſlow) in writing to me, (under Cover to my Lord of *Auton*, *James Howſtoun* or *James Wright* Merchants in *Amſterdam*, or to *Alexander Speir* in *Camphire*, or to *William Murehead* by the way of *London*) I crave leave, and reſt,

My Lord,

Amſterdam, 1 *July* 1634. *Your Lordſhip's moſt Reſpecting Servant,* William Haig.

Directed to the Right Honourable my ſingular good Lord, my Lord Balmerino, *Theſe, at* Barnetown.

The third Letter.

My Lord,

I Know that Repetition of my Deſires expreſt in my Letters to your Lordſhip from *Yarmouth*, *Camphire*, and *Amſterdam*, were enough to accuſe me of Diſtruſt of your Lordſhip's either Memory or Good-will to me-wards. Wherefore theſe are only to beſeech your Lordſhip to let me know what poſture that buſineſs is in, which occaſioned my Voyage hither; and what Iſſue I may expect by your Lordſhip's means, and ſuch others as I have written unto there, as well of the Troubles I am now under, as of that Buſineſs I prayed your Lordſhip to manage with my Lord *Yeaſter*. I intend to fix about *Delft* before the 27th Inſtant, and ſtick there till I hear from *Scotland* or *England* what I may expect. So your Lordſhip may put all you write to me under Cover to Mr. *John Forbes* a Miniſter (tho now ſilenced by Order from *Canterbury*) of the *Engliſh* that are about their Staple in that place, Mr. *Robert Bruce*, or Mr. *Alexander Colvill*, by *David Junken*'s means; and otherwiſe alſo will get them ſent to Mr. *Forbes*, and he will make them find me: ſo will *William Murehead*, if your Lordſhip pleaſe write that way too.

My Lord,

Croning, 10 *July* 1634. *Your Lordſhip's moſt Reſpecting Servant,* William Haig.

Directed, on the back thereof, to the Right Honourable my ſingular good Lord, my Lord Balmerino, *Theſe, at* Barnetown.

The fourth Letter.

My Lord,

I Send here to your Lordſhip my Lord *Jedburgh*'s Diſcharge for the Crop 1633, and his Daughter *Mary*'s Receipt for 100 *l.* with a Protection for my Lord *Jedburgh*, to be made uſe of, as your Lordſhip has occaſion. His Lady was ſpeaking to me to procure her a Houſe near *Newbottle*, called *Bryankirk*; which cannot be, becauſe my Lord of *Lothian* has lent it to his Uncle Sir *John Murray*. But I intend to ſpeak to *Mark Caſs*, and try if he can ſpare *Cockpen*; which being near *Coal*, and out of *Tiviotdale* way, I think were very convenient for my Lord *Jedburgh*, ſince he ſuits ſome Houſe in *Lothian*, to be free of the Importunity of his *Tiviotdale* Creditors, and other Inconveniencies his dwelling at *Jedburgh* makes him obnoxious unto. There is alſo within this Packet Mr. *Lewis* his Diſcharge of 600 Marks to my Lord *Jedburgh*, and a Note of Mr. *Lewis* his Writings, with an Aſſignation to be ſubſcrived by my Lord *Jedburgh*, for Recovery of ſome Moneys he paid for Mr. *John Home*: I intended it for Mrs. *Ann*'s help, before your Lordſhip and I went to *Tiviotdale*; and when his Brother Captain *Home* was aſſiſting his Chief's Proceſs, and was likely to have adventured to pay that Sum for Mr. *John*, if he had found him preſſed (being then in *Edinburgh*) by ſome good Caption. It ſhall be well done to make the beſt uſe of it yet that can be. I have alſo incloſed in this Packet Mr. *Cornelius Aneſlie*'s Diſcharge for 200 Marks for the Intereſt of his Mony preceding *Whitſunday* laſt: I was not able to pay the Principal till the 7th of *June*, and then he refuſed; I hope to do it honeſtly at *Mertimas*, before which time I hope to return armed againſt all Inconveniencies that Coſt or Power ſhall be able to put upon me, by evil interpreting what was well meaned. I have left to my Nephew *Thomas Haliburton* the Key of my Chamber and Trunks, with direction to be given to your Lordſhip to be made uſe of during my abſence; whereof I ſhall write

to your Lordſhip the reaſon at more length by the firſt occaſion. I reſt,

My Lord,

Your Lordſhip's moſt Affectionate and Reſpecting Servant, William Haig.

Direction on the back, To the Right Honourable my ſingular good Lord, my Lord Balmerino, *Theſe,* 1 Auguſt, 1634.

Produced to the Lords Examinators by my Lord *Balmerino.*

9thly, Produces three Extracts of Parliament, whereof two containing the Names of the Earls and Lords preſent at Parliament 1633, together with the Names of the Articles at that ſame Parliament; of the which three Extracts, the Tenour follows.

The Names of the Lords of the Parliament.

Archbiſhops; *St. Andrews, Glaſgow.* Biſhops; *Dunkell, Murray, Roſſe, Brechin, Galloway, Dumblaine, Caithneſs* by *Dunkell* his Proxy, *Iſles, Argyle, Orkney.* Duke of *Lennox.* Marquiſs of *Hadingtoun,* Marquiſs of *Huntley* by the Duke of *Lennox* his Proxy, Marquiſs of *Dowglaſs.* Earls; *Argyle* by *Mortoun* his Proxy, *Erroll, Mareſchal, Sutherland* by the Duke of *Lennox* his Proxy, *Mar* by *Hadingtoun* his Proxy, *Buchan* by the Marquiſs of *Hadingtoun* his Proxy, *Rothes, Eglingtoun, Caſſilles, Glencairne* by *Rothes* his Proxy, *Murray* by *Lauderdale* his Proxy, *Nithſdale, Wintoun, Linlithgow, Perth, Dumfermling, Wigtoun, Kinghorne, Abercorne, Tillebarne, Kellie* by *Kinnoull* his Proxy, *Galloway* by *Traquair* his Proxy, *Seaforth, Annandale, Lauderdale, Carrick* by *Traquair* his Proxy, *Lothian.* Viſcounts; *Falkland* by *Stirling* his Proxy, *Dumbar* by *Traquair* his Proxy, *Stormounth, Drumlanerk.* Lords; *Lindſay, Gray* by *Mortoun* his Proxy, *Teaſter, Semple, Sinclair, Herries, Elphinſtoun* by *Balmerino* his Proxy, *Ogilvy, Torphichen, Spynie, Lindores, Loudon, Kinloſs* by *Mortoun* his Proxy, *Balimerinoch, Burlie, Halyrood-houſe, Cowper, Cranſtoun, Deskfoord* by *Cranſtoun* his Proxy, *Melvill, Carnegie, Ramſay, Naper, Cameron* by *Traquair* his Proxy, *Newburgh* by *Stirling* his Proxy, *Weemes, Corſterphin, Forfar, Rae* by Viſcount of *Air* his Proxy, *Dalzell.*

Commiſſioners for the Burroughs; Sir *George Forreſter* of *Corſtorphin,* and Mr. *Patrick Hamiltoun* of *Little Preſtoune,* for *Edinburgh,* Principal; Sir *Patrick Murray* of *Elebank,* and Sir *John Hamiltoun* of *Preſtoune,* for *Hadingtoune;* Sir *Alexander Nisbet* of that Ilk, and *John Home* of *Rentoun,* for *Berwick;* *William Dowglaſs* of *Cavers,* and Sir *Walter Riddell* of that Ilk, for *Roxburgh;* *James Murray* Fiar of *Philliphaugh,* and *James Pringle* of *Whitebank,* for *Selkirk;* *James Hay* of *Smithfield,* and *James Naſmith* of *Poſſo,* for *Peebles;* Sir *James Lockhart* Younger of *Ley,* and *Gawn Hamiltoun* of *Raploch,* for *Lanerick;* Sir *Robert Greirſon* of *Lagg,* and Sir *John Charters* of *Amisfield,* for *Dumfreis;* Sir *Patrick Agnew* of *Lochnair* Knight Baronet, for *Wigtoun;* Sir *William Cunninghame* of *Cunninghamehead,* and *James Chalmers* of *Gaitgirth,* for *Air;* Sir *Lodovick Howſtoun* of that Ilk, and *James Muirhead* Younger of *Lachope,* for *Dumbarton;* *Hector Bannatyne* of *Keymes,* and *John Stewart* of *Eſcoke,* for *Bute;* Sir *Archibald Stewart* of *Blackhall,* and *Patrick Fleeming* of *Barreichine,* for *Renfrew;* *Archibald Edmingſtoun* of *Duntreath,* for *Stirling;* Sir *Walter Dundaſs* of that Ilk, and *William Drummond* of *Richartoun,* for *Linlithgow;* Sir *Archibald Ogilvie* of *Inchmarten,* for *Perth;* Sir *Robert Grahame* of *Morphie,* for *Kincarden;* Sir *Alexander Irvine* of *Drum,* and *Thomas Crombie* of *Kemno,* for *Aberdeen;* Sir *John Mackenzie* of *Tarbit,* for *Inverneſs;* *John Campbell* Fiar of *Calder,* and *John Dunbar* of *Moyne,* for *Nairne;* Sir *Thomas Urquart* of *Cromartie,* for *Cromartie;* Sir *John Scrimger* of *Duddope,* and *Duncan Campbel* Fiar of *Anchinbreck,* for *Argyle;* Sir *Laughlane Maclane* of *Morvere,* for *Tarbet;* Sir *John Leſlie* of *Newtoune,* and *Thomas Myretoune* of *Cambo,* for *Fyſe;* Sir *Harry Wood* of *Bonnitoun,* and Sir *William Grahame* of *Claverhouſe,* for *Forfar;* *John Gordon* of *Innermarkie,* for *Bamff;* Sir *Patrick Macgie* of *Large,* for the Stewartry of *Kirkubright.*

Sic ſubſ. J. Hay, Cl. Regiſt.

The Lords of the Articles.

Pro Clero; Archb. *St. Andrews,* Archb. *Glaſgow.* Biſhops, *Murray, Roſſe, Dumblaine, Brechin, Iſles, Argyle. Pro Nobilibus;* Duke of *Lennox,* Marquiſs of *Hamiltoun,* Marquiſs of *Dowglaſs,* Earl of *Mareſchal,* Earl of *Wintoun,* Earl of *Roxburgh,* Earl of *Lauderdale,* Viſcount of *Air. Pro Baronibus;* Sir *George Forreſter* of *Corſtorphin,* Sir *Patrick Murray* of *Elebank,* Sir *Patrick Ogilvie* of *Inchmarten,* Sir *John Leſlie* of *Newtoune, William Dowglaſs* of *Cavers,* Sir *James Lockhart* Younger of *Ley,* Sir *Robert Greirſon* of *Lagg,* Sir *John Scrimger* of *Duddope. Pro Burgis; John Sinclair* and *Gilbert Kirkwood, Andrew Gray,* Mr. *Alexander Wedderburne, Paul Menzies, Gabriel Cunninghame,* Mr. *James Cockburne,* Mr. *John Hay, Andrew Bell.*

Sic ſubſ. J. Hay, Cl. Regiſt.

And laſt produced ane Note of Articles in Parliament *in Annis* 1600, 1606, 1607, 1617, and 1621. whereof the Tenour follows.

IN the Parliament held at *Edinburgh* the Year of God 1600 Years, the Noblemen after named were choſen to be of the Lords of the Articles, *viz.* The Duke of *Lennox,* the Earl of *Mareſchal,* the Lord *Seaton,* the Lord *Newbottle,* the Earl of *Erroll,* the Earl of *Mar,* the Lord *Levinſtoun,* Lord *Fyvie.*

Sic ſubſ. J. Hay, Cl. Regiſt.

IN the Parliament holden at *Edinburgh* in the Month of *June* 1606, the Noblemen after named were choſen to be of the Lords of the Articles, *viz.* Marquiſs of *Hamiltoun,* Marquiſs of *Huntley,* Earl of *Argyle,* Earl of *Errol,* Earl of *Mar,* Earl of *Glencairne,* Earl of *Linlithgow,* Lord *Glames.*

Sic ſubſ. J. Hay, Cl. Regiſt.

IN the Parliament holden at *Edinburgh* in the Month of *March* 1607, the Noblemen after named were choſen to be of the Lords of the Articles, *viz.* Earl of *Argyle,* Earl of *Angus,* Earl *Mareſchal,* Earl of *Mar,* Earl of *Kinghorne,* Earl of *Lothian,* Lord *Elphingſtoun, Roxburgh, Blantyre.*

Sic ſubſ. J. Hay, Cl. Regiſt.

IN the Parliament holden at *Edinburgh* in the Month of *May* 1617, the Noblemen after named were choſen to be of the Lords of the Articles, *viz.* Duke of *Lennox,* Marquiſs of *Hamiltoun,* Marquiſs of *Huntley,* Earl of *Argyle,* Earl of *Montroſs,* Lord *Ogilvy,* Lord *Sanquair,* Lord *Scoone.*

Sic ſubſ. J. Hay, Cl. Regiſt.

IN

IN the Parliament holden at *Edinburgh* in the Month of *June* 1621, the Noblemen afternamed were choſen to be Lords of the Articles, *viz.* the Earl of *Angus*, the Earl of *Mortoun*, the Earl of *Nithſdale*, the Earl of *Wigtoun*, the Earl of *Roxburgh*, the Earl of *Balcleugh*, Lord *Scoone*, Lord *Carnegy*.

Sic ſubſ. J. Hay, Cler. Regiſt.

After the Production whereof, his Majeſty's Advocat affirms, That the Writs now produced for Verification of the Dittay, the ſaid Dittay is thereby verified in the hail Points thereof, referred to the Aſſize; and in reſpect thereof proteſts, if they cleange (clear) upon ſo clear Probation, for *wilful Error*.

Thereafter it was alledged by the Pannel, That the Earl of *Rothes*'s Depoſition ought to be produced and read.

To the which it is anſwered by my Lord Advocat, That he uſes not the ſame as a Point of his Probation.

To the whilk it is duplyed, That it will ſerve (being read and produced) for clearing of the Pannel's Innocency; and that by *Interloquitor* of before, the ſaid Depoſition was by the Juſtice's *Interloquitor* produced and given up to the Pannel; and therefore it is moſt neceſſary to be produced to the Aſſize, and cognoſced by them.

Thereafter my Lord Advocat, for eſchewing of Delay, did produce the Earl of *Rothes* his Depoſition, with this Proteſtation, That he uſes not the ſamen as a Verification of the Dittay, but only for ſatisfying of the *Interloquitor* given out by the Juſtice before, and to cut off all occaſion of Clamour that any part of the Proceſs were withdrawn; and when the Pannel ſhall found any Alleadgance or Objection thereupon, he ſhall have a ſufficient Anſwer. Of the which Depoſition the Tenour follows.

At Edinburgh, *the* 3*d of* July, 1634.

THE which Day *John* Earl of *Rothes*, being ſworn upon his great Oath, and the Libel being ſhewn to him, grants that this is the Libel that was ſhewn to him by or from my Lord *Balmerino*; which he took and read till about twenty Lines in the beginning, and no farder, in preſence of the Earl of *Caſſilles* and the Lord *Teaſter*, being with him in Coach, going to *Dalkeith*: who finding it of ſuch a Strain, and having told them that his Majeſty had given him an expreſs Command to ſurpreſs all that was of that nature, the Deponer and they, all in one Voice, thought it ſhould be ſuppreſs'd; and the Deponer did put it in his Pocket. And having occaſion that ſame Day to meet his Majeſty at *Dalkeith*, and his Majeſty falling in Conference with him anent Information made to his Majeſty againſt him, he purged himſelf clearly to his Majeſty; and having received from his Majeſty of before ſtrait Commandment for ſupreſſing all Petitions of the nature of that which was moved in the time of the Parliament, he ſhewed to his Majeſty that he had faithfully done the ſame ever ſince, and added thir Words; *Sir, there is a Petition given me preſently to be looked upon and conſidered, which I have in my Pocket, which I have according to your Majeſty's Command ſuppreſs'd; if your Majeſty be pleaſed to look upon it.* Which his Majeſty anſwered, *It is no matter: I have no leiſure: I am going to the Park.* And declares, that it remained in his Pocket unlooked upon by him, or any other, by the ſpace of eight Days, or thereabouts: After the which he returned the ſame back again, incloſed in a Paper, which was ſealed, to my Lord *Balmerino*, to whom before he had told his Judgment of it, that it was altogether to be ſuppreſs'd. And depones upon his great Oath, That he neither ſhewed it to any, nor gave any Copy thereof to any; but remembers before he ſent it to my Lord *Balmerino*, he cauſed copy it by his own Servant, which is yet extant, uncommunicated to any, and whereof he had no memory at all, till he heard that Mr. *Peter Hay* of *Naughtoun* had ſhewn it to others; and then he ſearched the ſame, and found it out. *Item*, Being interrogat if he knew the Hand-writ of the Libel, or who was the Author or Penner thereof; depones, he knows not the Writer thereof, and knew not certainly who was the Author and Penner thereof, till he heard that Mr. *William Haig* was bruited, (*i. e.* named,) for the penning thereof, of whom he had ever Suſpicion, becauſe he has ever been buſy upon ſuch idle and fooliſh Toys. And being asked if he gave his Advice anent the penning thereof to Mr. *William Haig*, or any other; depones upon his great Oath, that he neither gave his Advice to him, or any other, anent the penning thereof, but ever thought it fit to be ſuppreſt; and declares, that he never knew any Conſultation either before or after anent the ſame. And the ſaid Earl of *Rothes* promiſed with all diligence to ſend the Copy which he has incloſed to the Lords; and promiſed upon his Oath and Honour not to copy the ſame.

Sic ſubſ. Rothes.

My Lord Advocat declares that he uſes not the laſt Part of *Mark Caſs* his Depoſition.

It is objected and alledged by Mr. *Alex. Pearſon* againſt the Probation of the Dittay adduced, Firſt, To the Probation of the firſt Part thereof againſt the Pannel, as Author, Conſulter, *&c.* that the Pannel's alledged Interlining does not prove him to be Conſulter with Mr. *Haig* in the penning and firſt drawing up thereof, becauſe the alledged Interlining is long after, yea, after the Offer made thereof to his Majeſty, to whom no Subject can be preſumed to preſent a Supplication interlined. And oppones to that Point of Dittay, the Pannel's Depoſition the 16th of *June*, which bears the Interlining not to have been made while after the Earl of *Rothes*'s Redelivery of the Writing to the Pannel, which was more than ſix or ſeven Months after. Oppones alſo the other Copy of the Writing quarrelled, produced by my Lord Advocat, which wants the Interlining, and which evinces the Interlining not to have been at the penning and forming thereof, and conſequently the alledged Interlining proves not the Pannel's Advice in the penning and firſt drawing up thereof.

Item, The alledged Interlining proves not the Pannel to be Conſulter anent the ſcandalous Libel, becauſe the ſaid alledged Interlining is not of any matter of Reproach or Scandal, whereupon the ſaid Libel is now challenged, or can be challenged, and ſo has no Acceſſion thereto as ſcandalous; and therefore proves not the Pannel's Advice anent the ſcandalous Libel.

Item, The alledged Interlining proves not that Point of the Dittay, becauſe by the Pannel's Depoſition, 16 *June*, never Man ſaw it ſince the Interlining thereof; and therefore nothing can be inforced or concluded thereupon, and is alike as if the ſame had never been interlined: For even an infamous Libel found with a Party in ſecret, who

did ſuppreſs the ſame, and never manifeſt it to another, does not make or prove him guilty of the infamous Libel.

That part of the Dittay, bearing, That by Letters ſent by Mr. *Haig* to the Pannel, it is affirmed by Mr. *Haig* that he had the Allowance of the Pannel to the penning of the Writ quarrelled, is no ways proven by the miſſive Letter, nor by any of them. And where the ſaid Miſſives, or any of them may ſeem to concern any purpoſe of Allowance of the Writing quarrelled, that is no ways of the Pannel's Allowance, nor can be ſo expounded; for the Letter from *Camphire*, dated 27 *June*, directed to the Pannel himſelf, and which ſpeaks of their Allowance in the third Perſon, extends not to the Pannel, and makes not the Allowance therein mentioned (if any be) to be the Pannel's Allowance.

Farder, Altho the ſaid Miſſive affirmed as the Dittay bears, yet the ſame can no ways be reſpected, nor make Faith againſt the Pannel for his Conviction; becauſe Mr. *Haig* being guilty as Author, his alledged Declaration, if any be, (no ways granting the ſame) can be no Probation at all againſt the Pannel; becauſe it is an undoubted Maxim in Law, *Quod ſocius aut particeps Criminis adverſus alium fidem non facit:* Accomplice in a Crime's Declaration cannot make Probation againſt any other whom he alledges to be guilty.

To the firſt Part of the Dittay, and Probation thereof, oppones the Dittay it ſelf, which bears Mr. *Haig* to be Author, and which makes point of Dittay againſt the Pannel for not apprehending of Mr. *Haig*, Author thereof. Oppones alſo Mr. *Haig*'s Grant that he was Author and Penner thereof, contained in his miſſive Letter, 27 *June*. Oppones alſo Mr. *Haig* his fleeing furth of the Country for the ſame Cauſe; and ſince his Flight, his intreating of his Friends for procuring to him a Remiſſion for it, as is proported in the Pannel's Depoſitions the 1ſt of *Auguſt*. Oppones alſo the Pannel's Oath and Declaration the 9th of *June*, wherein he has deponed, That Mr. *Haig* had no warrant from him, and that he knew nothing of the forming of it. Oppones alſo *Mark Caſs* his Depoſition, which bears Mr. *Haig* to have confeſſed to him that he was the Penner thereof.

It is alledged by Mr. *John Nisbet* againſt the Verification of the Dittay, That the Pannel's Depoſitions cannot be uſed to verify the Dittay, inferring capital Guilt and Puniſhment upon the Pannel, becauſe the Pannel was induced to depone under Promiſe and Aſſurance of Impunity: And in Law, a Confeſſion elicit upon Promiſe of Impunity, cannot inforce capital Guilt, as is abundantly aſtructed in the Diſpute. It is likewiſe alledged by him that *Dunmure*'s Depoſition, *Dalgleiſh*'s Depoſitions, and *Haig*'s Letters, cannot be uſed againſt the Pannel, becauſe they being all involved in the ſame Acts whereupon the Pannel is indicted, they cannot prove againſt the Pannel to disburden themſelves; ſeeing in Law theſe with whom ſcandalous Pieces are found are preſumed to be Authors, unleſs they condeſcend upon the Author or Deliverer of theſe Pieces to them.

It is alledged by Mr. *Alexander Pearſon*, That the ſecond Part of the Dittay againſt the Pannel, as guilty of hearing, concealing, not apprehending, divulging of ane infamous Libel, *&c.* is not proven, becauſe there is nothing adduced againſt the Pannel, to prove the Pannel's Knowledge of the Writing quarrelled to be ſcandalous or ſeditious, without which the Pannel is not, nor cannot be counted guilty of the Crimes libelled. And oppones thereto the juſt and probable Cauſe contained in the ſecond Exception, and remanent Defences proponed for the Pannel, which the Pannel had moving him to think otherwiſe of the Writing quarrelled; to wit, The Writing it ſelf in Title, Form, Strain, Beginning, and Ending, and in all, an humble Supplication; the ſame being firſt delivered to the Pannel as a Supplication to be preſented to his Majeſty. [The Pannel's Depoſition, 9 *June*.] Next was delivered by the Pannel to the Earl of *Rothes* of purpoſe to be preſented to his Majeſty. [The Pannel's Depoſition foreſaid; and alſo affirmed by the Dittay it ſelf.] Laſt it was offered by my Lord of *Rothes* to his Majeſty; as the Earl of *Rothes*'s Depoſition bears, 3 *July*: Whilk Offer of my Lord of *Rothes* to his Majeſty is acknowledged by my Lord Advocat, conform to his Lordſhip's Anſwer in the Defences proponed for the Pannel. Oppones alſo the Pannel's Quality, Life, and Converſation, which is in ſuch a far diſtance from the Crimes libelled, that it excludes all Preſumption and Probability thereof againſt the Pannel.

To that Point of the Dittay aggravating the Pannel's not apprehending Mr. *Haig*, by the Pannel's ſhewing to him the Warrant of his Citation before the Committee, and thereby giving him occaſion to eſcape; oppones the Pannel's Depoſition of the 16th of *June*, which bears that the Pannel knew nothing of Mr. *Haig* his going off the Country before the third Day after Mr. *Haig*'s Eſcape.

That Part of the Dittay bearing the Pannel to be guilty of divulging and diſperſing of the alledged infamous Libel, is not proven. 1ſt, The Pannel his cauſing Mr. *Robert Dalgleiſh* his Servant copy the ſame, proves not the Pannel's diſperſing thereof in publick; Mr. *Robert Dalgleiſh* being the Pannel's Houſhold Servant, and he having copied the ſame *infra privatos parietes*, which proves not diſperſing in publick. 2dly, The Delivery of the Writ quarrelled to the Earl of *Rothes* of purpoſe to be preſented to his Majeſty, proves no ways divulging of a ſcandalous Libel: But the Delivery thereof, qualified as ſaid is, and followed with ane real Offer thereof made to his Majeſty, cuts away its being offered as a ſcandalous Libel, and divulging thereof; both becauſe of his Majeſty's ſacred Perſon, which is far tranſcendent above all preſumed Injuries, and alſo *quia calumnia eſt adverſus abſentem*. Farder, ſince in Law and Reaſon, Intention of Law and Reaſon differences Crimes by the Purpoſe of the Party, let the Purpoſe of the Pannel difference now this his Act, which does make the ſame to be preſentation of a Supplication, and not divulging of an infamous Libel. 3ly, The Delivery of the Writ by the Pannel to Mr. *Dunmure* proves not divulging; and oppones thereto the Pannel's Depoſition of the 9th of *June*, which bears that the Pannel gave the Writ to *Dunmure* to look upon to himſelf alone, and to ſhew it to no other, and that he never knew that *Dunmure* had copied the ſame, till *Dunmure* was called in queſtion for it. Oppones likewiſe Mr. *Dunmure*'s Depoſition, which bears in this ſame manner. Oppones alſo the Law *Quod in maleficiis voluntas ſpectatur, non exitus*; and that the Pannel's purpoſe is declared by his Depoſition foreſaid.

It is anſwered by my Lord Advocat, That the Interlining is not found relevant *per ſe*, but with the remanent Circumſtances; and ſo far as Interlining

lining is libelled, (which is indefinitely, without reſpect of time, whether before or after ſhewing of it to *Dunmure*) it is clearly proven by the Pannel's own Depoſition, and by ocular Inſpection of the ſcandalous Libel produced by the Pannel, which is interlined with his own Hand in two divers Places. And for proving the Pannel to be Author, Adviſer, *&c.* his receiving it immediately from *Haig*, delivering it to the Earl of *Rothes*, interlining of it *quocunq; tempore*, diſperſing of it to *Dunmure*, and giving the Power of it to *Dalgleiſh* his own Man, is ſufficient to verify that part of the Dittay. To the whilk is added *Haig* his Confeſſion in his Letter, which in two Paſſages thereof bears, that it was allowed by them in whoſe Name the ſame was framed, of the which Number the Pannel was one. Where it is alledged that the not apprehending is not verified, or concealing of *Haig*, *&c.* becauſe it is not proven that the Pannel had Knowledge that it was a ſcandalous Libel; it is anſwered, That the Pannel knew *Haig* to be Author, which is proven by his Depoſitions; and the Juſtice by *Interloquitor* has found it to be a ſcandalous Libel, and there is no neceſſity to prove his Knowledge. And as to divulging, it is not found relevant *ſolo*, but being conjoined with any part of the Dittay; and it is proven *in terminis*, as it is libelled by the Pannel's Depoſitions. And as to the Pannel's Intention, it is not a Part of the Dittay, the Pannel being verified to have been Author or Deviſer, not Apprehender of *Haig*, or Concealer of him, or Divulger of the ſcandalous Libel; which is clearly proven by the Writs produced. And therefore alledges that the Aſſize, notwithſtanding of thir Objections proponed, ought to find the Dittay clearly proven; otherwiſe, proteſts for wilful Error and Remeid of Law.

It is duplyed by Mr. *John Nisbet* for the Pannel, Whereas it is replied by my Lord Advocat, that the Receipt of the Piece from the Author immediately after compiling of it, joined with Interlineation, and the Author's Teſtimony of the Pannel's approving of it, verifies the Pannel's Concourſe with the Author in framing the Piece found ſcandalous; we oppone the Pannel's reiterat Depoſitions, bearing that he had no Acceſſion in the framing, and gave no previous Warrant to the Framer, and diſclaming Knowledge of the framing of it, which muſt elide all the Preſumptions adduced by my Lord Advocat; ſeeing it is incontraverted in Law, that a qualified Confeſſion cannot be disjoined, as is clearly proven in my Diſpute, chiefly ſince the Pannel has deponed ſo ingenuouſly, without any Obligation in Law, and upon Aſſurance foreſaid.

Whereas it is replied by my Lord Advocat, That the Pannel intruſting of his Man Mr. *Robert Dalgleiſh* with the Piece, his imparting of it to *Dunmure*, and to my Lord of *Rothes*, verifies divulging; oppones our Diſpute, and the Authorities of the Laws cited by us, requiring a publick Expoſing, and a fraudulent Intention to defame. And we oppone the Condition of the Pannel's Delivery of it to *Dunmure*, that it ſhould be *illi ſoli*; *Dunmure*'s copying of it without the Pannel's Knowledge; then of the Pannel's Delivery of it to *Dunmure*, to found his Opinion in Judgment; all clearly verified by *Dunmure*'s Depoſition.

Where it is replied by my Lord Advocat, That *Haig*'s Evaſion, the Pannel's Knowledge that he was Author of the Piece now found ſcandalous, verifies the Point of not apprehending the Author; and that it is not neceſſar to prove the Pannel's Knowledge of the Piece: It is duplied, That we oppone the uncontraverted Practick of all Countries where apprehending of Parties is enjoined, and reſetting is prohibit; that Declarator ſhould precede, as in Authors of Heretical Books, forbidden to be received by the Law; becauſe every Man is not able to diſcern thoſe Pieces, which are debated and contraverted amongſt the learnedeſt. And we oppone the Pannel's own Depoſitions, bearing that he knew not aſſuredly *Haig* to be Author thereof, but thought only he was Author; and therefore not obliged to apprehend ſummarly and abruptly. In reſpect qhereof the Aſſize can no ways find the Pannel guilty of the Dittay, and alledged Crime ſpecified therein.

The Aſſize, by Plurality of Votes, elects and choiſes *John* Earl of *Traquair* Chancellor, (Foreman.)

Whilks Perſons of Aſſize being received, ſworn, and admitted, after Accuſation of the ſaid *John* Lord *Balmerino* by Dittay of the Crimes foreſaids, mentioned and ſet down therein, and Production, and reading judicially of the Writs, and Probation uſed and produced by his Majeſty's Advocat for verifying thereof, they removed all together furth of Court to the Council-Houſe of *Edinburgh*; where firſt, by Plurality of Votes, they elected and chuſed the ſaid *John* Earl of *Traquair* Chancellor. Thereafter received and voted upon the haill Points of the ſaid Dittay; and being riply and at length adviſed therewith, and with the Writs and Probation uſed and produced by his Majeſty's Advocat for inſtructing of the ſame, and with the Objections made by the Pannel and his Procurators thereagainſt, and Anſwers made by his Majeſty's Advocat to the ſaid Objections, all read in their Preſence, and Audience re-enter'd again in Court; where they by Report and judicial Declaration of the ſaid *John* Earl of *Traquair*, Chancellor of the ſaid Aſſize, found, pronounced, and declared the ſaid *John* Lord of *Balmerino* to be cleared and acquit of the firſt part of the ſaid Dittay, wherein he is indicted as Author, Deviſer, Conſulter, Adviſer, Airt and Part of the forming and penning of the infamous or ſcandalous Libel mentioned thereintil: As alſo of not apprehending of Mr. *William Haig*, whom he affirms in his Depoſition to have been Author of the ſaid Libel: And likewiſe to be cleared, aſſoilzed, and acquit of the divulging and diſperſing of the ſaid ſcandalous Libel amongſt our ſovereign Lord's Subjects, in manner ſpecified in the ſaid Dittay. And laſt, found, pronounced, and declared the ſaid *John* Lord of *Balmerino* to be allenarly filed and convict of the Hearing of the ſaid infamous Libel, Concealing and not Revealing of the ſaid Mr. *William Haig*, affirmed by him to be the Author thereof.

The Juſtice-General upon conſideration of the ſaid *John* Lord *Balmerino* his Conviction by the fore-named Perſons of Aſſize of the foreſaid Point of Dittay, anent the Hearing of the infamous Libel therein contained, Concealing and not Revealing of Mr. *William Haig*, Author and Penner thereof, found and declared, by Advice of his Lordſhip's Aſſeſſors, That the ſaid *John* Lord of *Balmerino* has therethrough incurred the Pain of Death contained in the Acts of Parliament; ſuſpending always the Execution thereof, until the

Time

Time his Majesty's gracious Will and Pleasure be shown and declared thereanent: to whose Sacred Majesty the Manner, Time, and Place of the Execution of the said Sentence is remitted by the Justice: And the said *John* Lord of *Balmerino* ordained in the mean time to be returned to Ward within the Castle of *Edinburgh*, to remain therein while his Majesty's Pleasure be signified.

The Tryal of Thomas *Earl of* Strafford, *and Lord Lieutenant of* Ireland: *who was Impeach'd of High Treason by Mr.* Pym *at the Bar of the House of Lords, on the* 11*th Day of* November 1640, *and brought to his Tryal the* 22*d of* March *in the same Year.*

Articles of the Commons assembled in Parliament against Thomas *Earl of* Strafford, *in maintenance of the Accusation; whereby he stands charged of High Treason.*

I. THAT he the said *Thomas* Earl of *Strafford* hath traitorously endeavoured to subvert the Fundamental Laws and Government of the Realms of *England* and *Ireland*, and instead thereof, to introduce an Arbitrary and Tyrannical Government against Law; which he hath declared by traitorous Words, Counsels, and Actions, and by giving his Majesty Advice by Force of Arms to compel his loyal Subjects to submit thereunto.

II. That he hath traitorously assumed to himself Regal Power over the Lives, Liberties, Persons, Lands, and Goods of his Majesty's Subjects in *England* and *Ireland*; and hath exercised the same tyrannically, to the subversion and undoing of many, both of Peers and others of his Majesty's liege People.

III. That the better to enrich and enable himself to go through with his traitorous Designs, he hath detained a great part of his Majesty's Revenue, without giving legal Account; and hath taken great Sums out of the Exchequer, converting them to his own Use, when his Majesty wanted Money for his own urgent Occasions, and his Army had been a long time unpaid.

IV. That he hath traitorously abused the Power and Authority of his Government, to the increasing, countenancing, and encouraging of Papists; that so he might settle a mutual Dependance and Confidence betwixt himself and that Party, and by their help prosecute and accomplish his malicious and tyrannical Designs.

V. That he hath maliciously endeavoured to stir up Enmity and Hostility between his Majesty's Subjects of *England* and those of *Scotland*.

VI. That he hath traitorously broke the great Trust reposed in him by his Majesty, of Lieutenant-General of his Army, by wilful betraying divers of his Majesty's Subjects to Death, his Army to a dishonourable Defeat by the *Scots* at *Newborne*, and the Town of *Newcastle* into their hands; to the end, that by the Effusion of Blood, by Dishonour, and so great a Loss as that of *Newcastle*, his Majesty's Realm of *England* might be engaged in a national and irreconcilable Quarrel with the *Scots*.

VII. That to preserve himself from being questioned for those and other his traitorous Courses, he laboured to subvert the Right of Parliaments, and the antient Course of Parliamentary Proceedings; and by false and malicious Slanders to incense his Majesty against Parliaments. By which Words, Counsels, and Actions, he hath traitorously, and contrary to his Allegiance, laboured to alienate the Hearts of the King's liege People from his Majesty, to set a Division between them, and to ruin and destroy his Majesty's Kingdoms: for which they impeach him of High Treason against our Sovereign Lord the King, his Crown and Dignity.

VIII. And he the said Earl of *Strafford* was Lord-Deputy of *Ireland*, and Lieutenant-General of the Army of his most Excellent Majesty, for his Kingdoms both of *England* and *Ireland*, and the Lord President of the North, during the time that all and every the Crimes and Offences before set forth were done and committed; and he the said Earl was Lieutenant-General of all his Majesty's Army in the North Parts of *England*, during the time that the Crimes and Offences in the fifth and sixth Articles set forth were done and committed.

IX. That the said Commons, by Protestations saving to themselves the liberty of exhibiting at any time hereafter any other Accusation or Impeachment against the said Earl; and also of replying to the Answers that he the said Earl shall make unto the said Articles, or to any of them, and of offering Proofs; also of the Premises, or any of them; or any other Impeachment or Accusation that shall be exhibited by them, as the Cause shall, according to the Course of Parliament, require: do pray that the said Earl may be put to answer for all and every of the Premises, that such Proceedings, Examinations, Tryals and Judgments may

may be upon every of them had and uſed, as is agreeable to Law and Juſtice.

Articles of the Commons aſſembled in Parliament againſt Thomas *Earl of* Strafford, *in maintenance of their Accuſation, whereby he ſtands charged with High Treaſon.*

WHEREAS the ſaid Commons have already exhibited Articles againſt the ſaid Earl, *in hæc verba*, now the ſaid Commons do further impeach the ſaid Earl as followeth: (*That is to ſay*)

I. That the ſaid Earl of *Strafford* the 21ſt Day of *March*, in the eighth Year of his Majeſty's Reign, was Preſident of the King's Council in the Northern Parts of *England*.

That the ſaid Earl being Preſident of the ſaid Council, on the 21ſt of *March* a Commiſſion under the Great Seal of *England*, with certain Schedules of Inſtructions thereunto annexed, was directed to the ſaid Earl, and others the Commiſſioners therein named, whereby, among other things, Power and Authority is limited to the ſaid Earl and others the Commiſſioners therein named, to hear and determine all Offences, and Miſdemeanours, Suits, Debates, Controverſies, and Demands, Cauſes, Things and Matters whatſoever therein contained, and within certain Precincts in the ſaid Northern Parts therein ſpecified, and in ſuch manner as by the ſaid Schedule is limited and appointed.

That, amongſt other things in the ſaid Inſtructions, it is directed, that the ſaid Preſident, and others therein appointed, ſhall hear and determine according to the Courſe of Proceedings in the Court of *Star-Chamber*, divers Offences, Deceits and Falſities, therein mentioned, whether the ſame be provided for by Acts of Parliament or not; ſo that the Fines impoſed be not leſs than by the Act or Acts of Parliament provided againſt thoſe Offences is appointed.

That alſo, amongſt other things in the ſaid Inſtructions, it is directed, that the ſaid Preſident, and others therein appointed, have power to examine, hear, and determine, according to the Courſe of Proceedings in the Court of *Chancery*, all manner of Complaints, for any Matter within the ſaid Precincts; as well concerning Lands, Tenements, and Hereditaments, either Free-hold, Cuſtomary, or Copy-hold, as Leaſes, and other things therein mentioned; and to ſtay Proceedings in the Court of *Common Law* by Injunction, or otherwiſe, by all ways and means, as is uſed in the Court of *Chancery*.

And although the former Preſidents of the ſaid Council had never put in practice ſuch Inſtructions, nor had they any ſuch Inſtructions; yet the ſaid Earl in the Month of *May* in the ſaid eighth Year, and divers Years following, did put in practice, exerciſe and uſe, and cauſed to be uſed and put in practice the ſaid Commiſſion and Inſtructions; and did direct and exerciſe an exorbitant and unlawful Power and Juriſdiction over the Perſons and Eſtates of his Majeſty's Subjects in thoſe parts, and did diſinherit divers of his Majeſty's Subjects in thoſe parts of their Inheritances, ſequeſtred their Poſſeſſions, and did fine, ranſom, puniſh and impriſon them; and cauſed them to be fined, ranſomed, puniſhed, and impriſoned, to their Ruin and Deſtruction: and namely, Sir *Coniers Darcy*, Sir *John Bourcher*, and divers others, againſt the Laws, and in ſubverſion of the ſame. And the ſaid Commiſſion and Inſtructions were procured and iſſued by Advice of the ſaid Earl.

And he the ſaid Earl, to the intent that ſuch illegal and unjuſt Power might be exerciſed with the greater Licence and Will, did adviſe, counſel, and procure further Directions; in and by the ſaid Inſtructions to be given, that no Prohibition be granted at all, but in Caſes where the ſaid Council ſhall exceed the Limits of the ſaid Inſtructions: And that if any Writ of *Habeas Corpus* be granted, the Party be not diſcharged till the Party perform the Decree and Order of the ſaid Council.

And the ſaid Earl, in the 13th Year of his Majeſty's Reign, did procure a new Commiſſion to himſelf, and others therein appointed, with the ſaid Inſtructions, and other unlawful Additions.

That the ſaid Commiſſion and Inſtructions were procured by the Solicitation and Advice of the ſaid Earl of *Strafford*.

II. That ſhortly after the obtaining of the ſaid Commiſſion, dated the 21ſt of *March*, in the eighth Year of his Majeſty's Reign, to wit, the laſt Day of *Auguſt* then next following, he the ſaid Earl (to bring his Majeſty's liege People into a diſlike of his Majeſty, and of his Government, and to terrify the Juſtices of the Peace from executing of the Laws; he the ſaid Earl being then Preſident, as aforeſaid, and a Juſtice of Peace) did publickly at the Aſſizes held for the County of *York*, in the City of *York*, in and upon the ſaid laſt Day of *Auguſt*, declare and publiſh before the People there attending for the Adminiſtration of Juſtice according to Law, (and in the preſence of Juſtices ſitting) that ſome of the Juſtices were all for Law, and nothing would pleaſe them but Law; but they ſhould find that the King's Little-finger ſhould be heavier than the Loins of the Law.

III. That the Realm of *Ireland* having been time out of mind annexed to the Imperial Crown of this his Majeſty's Realm of *England*, and governed by the ſame Laws; the ſaid Earl being Lord-Deputy of that Realm, to bring his Majeſty's liege Subjects of that Kingdom likewiſe into diſlike of his Majeſty's Government, and intending the Subverſion of the fundamental Laws and ſettled Government of that Realm, and the Deſtruction of his Majeſty's liege People there, did upon the 30th Day of *September*, in the ninth Year of his now Majeſty's Reign, in the City of *Dublin*, (the chief City of that Realm, where his Majeſty's Privy-Council and Courts of Juſtice do ordinarily reſide, and whither the Nobility and Gentry of that Realm do uſually reſort for Juſtice) in a publick Speech before divers of the Nobility and Gentry of that Kingdom, and before the Mayor, Aldermen, and Recorder, and many Citizens of *Dublin*, and other his Majeſty's liege People, declare and publiſh, That *Ireland* was a conquered Nation, and that the King might do with them what he pleaſed. And ſpeaking of the Charters of former Kings of *England* made to that City, he further then ſaid, That their Charters were nothing worth, and did bind the King no further than he pleaſed.

IV. That *Richard* Earl of *Cork* having ſued out Proceſs in Courſe of Law, for Recovery of his Poſſeſſions, from which he was put by colour of an Order made by the ſaid Earl of *Strafford*, and the Council-Table of the ſaid Realm of *Ireland*, upon a Paper-Petition, without legal Proceeding, did the 29th Day of *February*, in the 11th Year of his now Majeſty's Reign, threaten the ſaid Earl, (being

(being then a Peer of the ſaid Realm) to impriſon him, unleſs he would ſurceaſe his Suit; and ſaid, That he would have neither Law nor Lawyers diſpute or queſtion his Orders. And the 20th Day of *March* in the ſaid 11th Year, the ſaid Earl of *Strafford*, ſpeaking of an Order of the ſaid Council-Table of that Realm, made in the time of King *James*, which concerned a Leaſe which the ſaid Earl of *Cork* claimed in certain Rectories or Tythes, which the ſaid Earl of *Cork* alledged to be of no force, ſaid, That he would make the ſaid Earl and all *Ireland* know, that ſo long as he had the Government there, any Act of State there made, or to be made, ſhould be as binding to the Subjects of that Kingdom, as an Act of Parliament. And did queſtion the ſaid Earl of *Cork* in the Caſtle-Chamber there, upon pretence of Breach of the ſaid Order of Council-Table: and did ſundry other times, and upon ſundry other occaſions, by his Words and Speeches, arrogate to himſelf a Power above the Fundamental Laws and Eſtabliſhed Government of that Kingdom; and ſcorned the ſaid Laws and Eſtabliſhed Government.

V. That according to ſuch his Declarations and Speeches, the ſaid Earl of *Strafford* did uſe and exerciſe a Power above, and againſt, and to the ſubverſion of the ſaid Fundamental Laws and Eſtabliſhed Government of the ſaid Realm of *Ireland*; extending ſuch his Power to the Goods, Freeholds, Inheritances, Liberties, and Lives of his Majeſty's Subjects of the ſaid Realm: and namely, the ſaid Earl of *Strafford*, the 12th Day of *December*, 1635. in the time of full Peace, did in the ſaid Realm of *Ireland* give, and procure to be given, againſt the Lord *Mountnorris*, (then and yet a Peer of the ſaid Realm of *Ireland*, and then Vice-Treaſurer and Receiver-General of the Realm of *Ireland*, and Treaſurer at War, and one of the principal Secretaries of State, and Keeper of the Privy Signet of the ſaid Kingdom) a Sentence of Death by a Council of War, called together by the ſaid Earl of *Strafford* without any Warrant or Authority of Law, or Offence deſerving any ſuch Puniſhment. And he the ſaid Earl did alſo at *Dublin*, within the ſaid Realm of *Ireland*, in the Month of *March*, in the fourteenth Year of his Majeſty's Reign, without any legal or due Proceedings or Tryal, give, and cauſe to be given, a Sentence of Death againſt one other of his Majeſty's Subjects, whoſe Name is yet unknown; and cauſed him to be put to death in execution of the ſame Sentence.

VI. That the ſaid Earl of *Strafford*, without any legal Proceedings, and upon a Paper Petition of *Richard Rolſton*, did cauſe the ſaid Lord *Mountnorris* to be diſſeized, and put out of poſſeſſion of his Freehold and Inheritance of his Mannor of *Tymore* in the County of *Armagh*, in the Kingdom of *Ireland*, the ſaid Lord *Mountnorris* having been eighteen Years before in quiet poſſeſſion thereof.

VII. That the ſaid Earl of *Strafford*, in the Term of *Holy Trinity*, in the thirteenth Year of his now Majeſty's Reign, did cauſe a Caſe, commonly called *The Caſe of Tenures upon defective Titles*, to be made and drawn up without any Jury or Tryal, or other legal Proceſs, and without the Conſent of Parties; and did then procure the Judges of the ſaid Realm of *Ireland*, to deliver their Opinions and Reſolutions to that Caſe: and by colour of ſuch Opinion, did without any legal Proceeding cauſe *Thomas* Lord *Dillon*, a Peer of the ſaid Realm of *Ireland*, to be put out of the Poſſeſſion of divers Lands and Tenements, being his Freehold, in the Counties of *Mayo* and *Roſcommon*, in the ſaid Kingdom: And divers other of his Majeſty's Subjects to be put out of Poſſeſſion, and diſſeized of their Freehold, by colour of the ſame Reſolution, without legal Proceedings; whereby many hundreds of his Majeſty's Subjects were undone, and their Families utterly ruinated.

VIII. That the ſaid Earl of *Strafford*, upon a Petition of Sir *John Gifford* Knight, the firſt Day of *February*, in the ſaid thirteenth Year of his Majeſty's Reign, without any legal Proceſs, made a Decree or Order againſt *Adam* Viſcount *Loftus* of *Ely*, a Peer of the ſaid Realm of *Ireland*, and Lord Chancellor of *Ireland*, and did cauſe the ſaid Viſcount to be impriſoned, and kept cloſe Priſoner, on pretence of Diſobedience to the ſaid Decree or Order.

And the ſaid Earl, without any Authority, and contrary to his Commiſſion, required and commanded the ſaid Lord Viſcount to yield up unto him the great Seal of the Realm of *Ireland*, which was then in his cuſtody by his Majeſty's Command, and impriſoned the ſaid Chancellor for not obeying ſuch his Command.

And without any legal Proceeding, did in the ſame thirteenth Year impriſon *George* Earl of *Kildare*, a Peer of *Ireland*, againſt Law, thereby to enforce him to ſubmit his Title to the Mannor and Lordſhip of *Caſtleleigh* in the Queen's County, (being of great yearly Value) to the ſaid Earl of *Strafford*'s Will and Pleaſure, and kept him a year Priſoner for the ſaid cauſe; two months whereof he kept him cloſe Priſoner, and refuſed to enlarge him, notwithſtanding his Majeſty's Letters for his Enlargement, to the ſaid Earl of *Strafford* directed.

And upon a Petition exhibited in *October*, *Anno Domini* 1635, by *Thomas Hibbots*, againſt Dame *Mary Hibbots* Widow, to him the ſaid Earl of *Strafford*; the ſaid Earl of *Strafford* recommended the ſaid Petition to the Council-Table of *Ireland*, where the moſt part of the Council gave their Vote and Opinion for the ſaid Lady: but the ſaid Earl finding fault herewith, cauſed an Order to be entred againſt the ſaid Lady, and threatned her that if ſhe refuſed to ſubmit thereunto, he would impriſon her, and fine her Five Hundred Pounds; that if ſhe continued obſtinate, he would continue her Impriſonment, and double her Fine every month. By means whereof ſhe was enforced to relinquiſh her Eſtate in the Lands queſtioned in the ſaid Petition, which ſhortly after were conveyed to Sir *Robert Meredith*, to the uſe of the ſaid Earl of *Strafford*.

And the ſaid Earl in like manner did impriſon divers others of his Majeſty's Subjects, upon pretence of Diſobedience to his Orders, Decrees, and other illegal Commands by him made for pretended Debts, Titles of Lands, and other Cauſes, in an arbitrary and extrajudicial Courſe, upon Paper-Petitions to him preferred, and no Cauſe legally depending.

IX. That the ſaid Earl of *Strafford*, the ſixteenth Day of *February*, in the twelfth Year of his Majeſty's Reign, aſſuming to himſelf a Power above and againſt Law, took upon him by a general Warrant under his Hand, to give power to the Lord Biſhop of *Downe* and *Connor*, his Chancellor or Chancellors, and their ſeveral Officers thereto

to be appointed, to attach and arreſt the Bodies of all ſuch of the meaner and poorer ſort, who after Citation ſhould either refuſe to appear before them, or appearing, ſhould omit or deny to perform, or undergo all lawful Decrees, Sentences, and Orders, iſſued, impoſed, or given out againſt them, and them to commit, and keep in the next Goal, until they ſhould either perform ſuch Sentences, or put in ſufficient Bail, to ſhew ſome reaſon before the Council-Table, of ſuch their Contempt and Neglect. And the ſaid Earl, the Day and Year laſt mentioned, ſigned and iſſued a Warrant to that effect; and made the like Warrants to ſeveral other Biſhops, and their Chancellors, in the ſaid Realm of *Ireland*, to the ſame effect.

X. That the ſaid Earl of *Strafford* being Lord Lieutenant, or Deputy of *Ireland*, procured the Cuſtoms of the Merchandize exported out, and imported into that Realm, to be farmed to his own uſe.

And in the ninth Year of his now Majeſty's Reign, he having then Intereſt in the ſaid Cuſtoms, (to advance his own Gain and Lucre) did cauſe and procure the native Commodities of *Ireland* to be rated in the Book of Rates for the Cuſtoms (according to which the Cuſtoms were uſually gathered) at far greater Values and Prices than in truth they were worth; that is to ſay, every Hide at twenty Shillings, which in truth was worth but five Shillings; every Stone of Wool at thirteen Shillings four Pence, though the ſame were really worth but five Shillings, at the utmoſt nine Shillings: by which means the Cuſtom, which before was but a twentieth part of the true Value of the Commodity, was enhanced ſometimes a fifth part, and ſometimes to a fourth, and ſometimes to a third part of the true Value, to the great Oppreſſion of the Subjects, and Decay of Merchandize.

XI. That the ſaid Earl, in the ninth Year of his Majeſty's Reign, did by his own Will and Pleaſure, and for his own Lucre, reſtrain the Exportation of the Commodities of that Kingdom without his Licence; as namely, Pipe-ſtaves, and other Commodities: and then raiſed great Sums of Money for Licences of Exportation of thoſe Commodities, and Diſpenſation of the ſaid Reſtraints impoſed on them; by which means the Pipe-ſtaves were raiſed from four Pound ten Shillings, or Five Pound *per* Thouſand, to ten Pound, and ſometimes eleven Pound *per* Thouſand. And other Commodities were enhanced in the like proportion, and by the ſame means, by him the ſaid Earl.

XII. That the ſaid Earl, being Lord Deputy of *Ireland*, on the ninth Day of *January*, in the thirteenth Year of his now Majeſty's Reign, did then under colour to regulate the Importation of Tobacco into the ſaid Realm of *Ireland*, iſſue a Proclamation in his Majeſty's Name, prohibiting the Importation of Tobacco, without Licence of him and the Council there, from and after the firſt Day of *May*, *Anno Dom.* 1638. After which Reſtraint, the ſaid Earl, notwithſtanding the ſaid Reſtraint, cauſed divers great quantities of Tobacco to be imported to his own uſe, and fraughted divers Ships with Tobacco, which he imported to his own uſe: and that if any Ship brought Tobacco into any Port there, the ſaid Earl, and his Agents, uſed to buy the ſame to his own uſe, at their own price; and if that the Owners refuſed to let him have the ſame at Under-values, then they were not permitted to vent the ſame there. By which undue means, the ſaid Earl having gotten the whole Trade of Tobacco into his own hands, he ſold it at great and exceſſive Prices, ſuch as he liſt to impoſe for his own profit.

And the more to aſſure the ſaid Monopoly of Tobacco, he the ſaid Earl, on the three and twentieth Day of *February*, in the thirteenth Year aforeſaid, did iſſue another Proclamation, commanding that none ſhould put to ſale any Tobacco by wholeſale, from and after the laſt Day of *May* then next following, but what ſhould be made up into Rolls, and the ſame ſealed with two Seals by himſelf appointed, one at each end of the Roll. And ſuch as was not ſealed, to be ſeized, appointing Sixpence the Pound for a Reward to ſuch Perſons as ſhould ſeize the ſame; and the Perſons in whoſe cuſtody the unſealed Tobacco ſhould be found, to be committed to Goal: which laſt Proclamation was coloured by a Pretence for the reſtraining of the Sale of unwholeſome Tobacco, but it was truly to advance the ſaid Monopoly.

Which Proclamation the ſaid Earl did rigorouſly put in execution, by ſeizing the Goods, fining, impriſoning, whipping, and putting the Offenders againſt the ſame Proclamation on the Pillory; as namely, *Barnaby Hubbard*, *Edward Cavena*, *John Tumen*, and divers others: and made the Officers of State, and Juſtices of Peace, and other Officers, to ſerve him in the compaſſing and executing theſe unjuſt and undue Courſes. By which Cruelties, and unjuſt Monopolies, the ſaid Earl raiſed 100000 *l. per annum* Gain to himſelf. And yet the ſaid Earl, though he enhanced the Cuſtoms, where it concerned the Merchants in general, yet drew down the Impoſt formerly taken on Tobacco from Sixpence the Pound to Threepence the Pound; it being for his own profit ſo to do.

And the ſaid Earl, by the ſame, and other rigorous and undue means, raiſed ſeveral other Monopolies and unlawful Exactions for his own Gain, *viz.* on Starch, Iron Pots, Glaſſes, Tobacco-Pipes, and ſeveral other Commodities.

XIII. That Flax being one of the principal and native Commodities of that Kingdom of *Ireland*, the ſaid Earl having gotten great quantities thereof into his hands, and growing on his own Lands, did iſſue out ſeveral Proclamations, *viz.* the one dated the one and thirtieth of *May*, in the twelfth of his Majeſty's Reign; and the other dated the one and thirtieth of *January*, in the ſame Year: thereby preſcribing and enjoining the working of Flax into Yarn and Thred, and the ordering of the ſame in ſuch ways, wherein the Natives of that Kingdom were unpractiſed and unskilful. Which Proclamations ſo iſſued, were, by his Commands and Warrants to his Majeſty's Juſtices of Peace, and other Officers, and by other rigorous means, put in execution; and the Flax wrought, or ordered in other manner than as the ſaid Proclamation preſcribed, was ſeized and employed to the Uſe of him and his Agents: and thereby the ſaid Earl endeavoured to gain, and did gain in effect, the ſole Sale of that native Commodity.

XIV. That the ſaid Earl, by Proclamation dated the ſixteenth of *October*, in the fourteenth Year of his Majeſty's Reign, did impoſe upon the Owners, Maſters, Purſers, and Boatſwains of every Ship, a new and unlawful Oath, *viz.* That they (or two or more of them) immediately after

the Arrival of any Ship within any Port or Creek in the ſaid Kingdom of *Ireland*, ſhould give in a true Invoice of the outward Bulk of Wares and Merchandizes firſt laden aboard them, together with the ſeveral Marks and Number of Goods, and the Qualities and Condition of the ſaid Goods, as far as to them ſhould be known; the Names of the ſeveral Merchants Proprietors of the ſaid Goods, and the Place from whence they were fraughted, and whither they were bound to diſcharge: which Proclamation was accordingly put in execution, and ſundry Perſons enforced to take the ſaid unlawful Oath.

XV. That the ſaid Earl of *Strafford* traitorouſly and wickedly deviſed and contrived, by Force of Arms, and in a warlike manner, to ſubdue the Subjects of the ſaid Realm of *Ireland*, and to bring them under his tyrannical Power and Will; and in purſuance of his wicked and traitorous Purpoſes aforeſaid, the ſaid Earl of *Strafford*, in the eighth Year of his Majeſty's Reign, did, by his own Authority, without any Warrant or Colour of Law, tax and impoſe great Sums of Money upon the Towns of *Baltimore*, *Baudenbridge*, *Talowe*, and divers other Towns and Places in the ſaid Realm of *Ireland*; and did cauſe the ſame to be levied upon the Inhabitants of thoſe Towns by Troops of Soldiers, with Force and Arms, in a warlike manner. And on the ninth Day of *March*, in the twelfth Year of his now Majeſty's Reign, traitorouſly did give Authority unto *Robert Savile*, a Serjeant at Arms, and to the Captains of the Companies of Soldiers in ſeveral parts of that Realm, to ſend ſuch numbers of Soldiers to lie on the Lands and Houſes of ſuch as would not conform to his Orders, until they ſhould render obedience to his ſaid Orders and Warrants; and after ſuch Submiſſion, (and not before) the ſaid Soldiers to return to their Gariſons. And did alſo iſſue the like Warrants unto divers others, which Warrants were in warlike manner, with Force and Arms, put in execution accordingly; and by ſuch warlike means did force divers of his Majeſty's Subjects of that Realm, to ſubmit themſelves to his unlawful Commands.

And in the ſaid twelfth Year of his Majeſty's Reign, the ſaid Earl of *Strafford* did traitorouſly cauſe certain Troops of Horſe and Foot, armed in warlike Manner, and in warlike Array, with Force and Arms, to expel *Richard Butler* from the Poſſeſſion of the Mannor of *Caſtle-Cumber*, in the Territory of *Idough*, in the ſaid Realm of *Ireland*; and did likewiſe, and in like warlike manner, expel divers of his Majeſty's Subjects from their Houſes, Families, and Poſſeſſions; as namely, *Edward O-Brenman*, *Owen Oberman*, *John Brenman*, *Patrick Oberman*, Sir *Cyprian Horſefield*, and divers others, to the number of about an hundred Families; and took and impriſoned them and their Wives, and carried them Priſoners to *Dublin*, and there detained, until they did yield up, ſurrender, or releaſe their reſpective Eſtates and Rights.

And the ſaid Earl, in like warlike manner, hath during his Government of the ſaid Kingdom of *Ireland*, ſubdued divers others of his Majeſty's Subjects there to his Will; and thereby, and by the means aforeſaid, hath levied War within the ſaid Realm againſt his Majeſty and his liege People of that Kingdom.

XVI. That the Earl of *Strafford*, the two and twentieth of *February*, in the ſeventh Year of his Majeſty's Reign, intending to oppreſs the ſaid Subjects of *Ireland*, did make a Propoſition, and obtained from his Majeſty an Allowance thereof, That no Complaint of Injuſtice or Oppreſſion done in *Ireland*, ſhould be received in *England* againſt any, unleſs it appeared that the Party made firſt his Addreſs to him the ſaid Earl: and the ſaid Earl having by ſuch uſurped, tyrannical, and exorbitant Power, expreſſed in the former Articles, deſtroyed and oppreſſed the Peers, and other Subjects of that Kingdom of *Ireland*, in their Lives, Conſciences, Lands, Liberties and Eſtates; the ſaid Earl, to the intent the better to maintain and ſtrengthen his ſaid Power, and to bring the People into a Diſaffection of his Majeſty, as aforeſaid, did uſe his Majeſty's Name in the Execution of the ſaid Power.

And to prevent the Subjects of that Realm of all means of Complaints to his Majeſty, and of Redreſs againſt him and his Agents, did iſſue a Proclamation, bearing date the ſeventeenth Day of *September*, in the eleventh Year of his Majeſty's Reign, thereby commanding all the Nobility, Undertakers, and others who held Eſtates and Offices in the ſaid Kingdom, (except ſuch as were employed in his Majeſty's Service, or attending in *England* by his ſpecial Command) to make their perſonal Reſidence in the ſaid Kingdom of *Ireland*, and not to depart thence without Licence of himſelf.

And the ſaid Earl hath ſince iſſued other Proclamations to the ſame purpoſe, by means whereof the Subjects of the ſaid Realm are reſtrained from ſeeking Relief againſt the Oppreſſions of the ſaid Earl, without his Licence; which Proclamations the ſaid Earl hath by ſeveral rigorous ways, as by Fine, Impriſonment, and otherwiſe, put in execution on his Majeſty's Subjects; as namely, one —— *Parry*, and others, who came over only to complain of the Exorbitances and Oppreſſions of the ſaid Earl.

XVII. That the ſaid Earl having, by ſuch means as aforeſaid, ſubverted the Government and Laws of the Kingdom of *Ireland*, did, in *March*, in the ſixteenth Year of his Majeſty's Reign, in ſcandal of his Majeſty's Government of all his Kingdoms, and in further execution of his wicked Purpoſes aforeſaid, ſpeaking of the Army in *Ireland*, declare, That his Majeſty was ſo well pleaſed with the Army of *Ireland*, and the Conſequences thereof, that his Majeſty would certainly make the ſame a Pattern for all his three Kingdoms.

XVIII. That the ſaid Earl of *Strafford*, for the better effecting of his traitorous Deſigns and wicked Purpoſes, did endeavour to draw a Dependency upon himſelf of the Papiſts in both Kingdoms of *England* and *Ireland*; and to that end, during the time of his Government in *Ireland*, he reſtored divers Fryeries and Maſs-Houſes (which had been formerly ſuppreſſed by the precedent Deputies of that Kingdom; two of which Houſes are in the City of *Dublin*, and had been aſſigned to the Uſe of the Univerſity there) to the pretended Owners thereof, who have ſince employed the ſame to the Exerciſe of the Popiſh Religion.

And in the Months of *May* and *June* laſt, the ſaid Earl did raiſe an Army in the ſaid Realm, conſiſting of 8000 Foot, all of which, except one, or thereabouts, were Papiſts; and the ſaid one thouſand were drawn out of the old Army there, conſiſting of two thouſand Foot, and in their places

Places there were a thouſand Papiſts, or thereabouts, put into the ſaid old Army by the ſaid Earl.

And the more to engage and tie the ſaid new Army of Papiſts to himſelf, and to encourage them, and to diſcourage and weary out the ſaid old Army, the ſaid Earl did ſo provide, that the ſaid new Army of Papiſts were duly paid, and had all Neceſſaries provided for them, and permitted the Exerciſe of their Religion; but the ſaid old Army were for the ſpace of one whole Year and upwards unpaid.

And the ſaid Earl being appointed a Commiſſioner within eleven ſeveral Counties of the Northern Parts of *England*, for compounding with Recuſants for their Forfeitures due to his Majeſty, which Commiſſion beareth Date the 8th Day of *July*, in the fifth Year of his Majeſty's Reign that now is; and being alſo Receiver of the Compoſition-Money thereby ariſing, and of other Debts, Duties, and Penalties, by reaſon of Recuſancy within the ſaid Counties, for his Majeſty's Uſe, by Letters Patents dated the 9th Day of the ſame *July*; he, to engage the ſaid Recuſants to him, did compound with them at low and under Rates, and provided that they ſhould be diſcharged of all Proceedings againſt them in all his Majeſty's Courts, both Temporal and Eccleſiaſtical, in manifeſt breach of, and contrary to the Laws and Statutes of this Realm, in that behalf eſtabliſhed.

XIX. That the ſaid Earl having taxed and levied the ſaid Impoſitions, and raiſed the ſaid Monopolies, and committed the ſaid other Oppreſſions in his Majeſty's Name, and as by his Majeſty's Royal Command; he, the ſaid Earl, in *May*, the fifteenth Year of his Majeſty's Reign, did of his own Authority contrive and frame a new and unuſual Oath, by the Purport whereof, among many other Things, the Party taking the ſaid Oath was to ſwear, That he ſhould not proteſt againſt any his Majeſty's Royal Commands, but ſubmit himſelf in all due Obedience thereunto. Which Oath he ſo contrived, to inforce the ſame on the Subjects of the *Scotiſh* Nation inhabiting in *Ireland*; and out of a Hatred to the ſaid Nation, and to put them to a Diſcontent with his Majeſty and his Government there; and compelled divers of his Majeſty's ſaid Subjects there to take the ſaid Oath againſt their Wills; and of ſuch as refuſed to take the ſaid Oath, ſome he grievouſly fined and impriſoned, and others he deſtroyed and exiled; and namely, the 10th of *October*, *Anno Dom.* 1639, he fined *Henry Steward* and his Wife, who refuſed to take the ſaid Oath, 5000 *l.* a-piece, and their two Daughters and *James Gray* 3000 *l.* a-piece, and impriſoned them for not paying the ſaid Fines: the ſaid *Henry Steward*, his Wife, and Daughters, and *James Gray*, being the King's liege People of the *Scotiſh* Nation. And divers others he uſed in like manner. And the ſaid Earl upon that occaſion did declare, That the ſaid Oath did not only oblige them in point of Allegiance to his Majeſty, and Acknowledgment of his Supremacy only, but to the Ceremonies and Government of the Church eſtabliſhed, and to be eſtabliſhed by his Majeſty's Royal Authority; and ſaid, That the Refuſers to obey he would proſecute to the Blood.

XX. That the ſaid Earl hath in the 15th and 16th Years of his Majeſty's Reign, and divers Years paſt, laboured and endeavoured to breed in his Majeſty an ill Opinion of his Subjects, namely, of thoſe of the *Scotiſh* Nation; and divers and ſundry times, and eſpecially ſince the Pacification made by his Majeſty with his ſaid Subjects of *Scotland* in Summer, in the 15th Year of his Majeſty's Reign, he the ſaid Earl did labour and endeavour to perſuade, incite, and provoke his Majeſty to an offenſive War againſt his ſaid Subjects of the *Scotiſh* Nation. And the ſaid Earl, by his Counſels, Actions, and Endeavours, hath been and is a principal and chief Incendiary of the War and Diſcord between his Majeſty and his Subjects of *England* and the ſaid Subjects of *Scotland*; and hath declared and adviſed his Majeſty, that the Demands made by the *Scots*, in their Parliament, were a ſufficient Cauſe of War againſt them.

The ſaid Earl having formerly expreſſed the Height and Rancour of his Mind towards his Majeſty's Subjects of the *Scotiſh* Nation, *viz.* the 10th Day of *October*, in the 15th Year of his Majeſty's Reign, he ſaid, That the Nation of the *Scots* were Rebels and Traytors; and he being then about to come to *England*, he then further ſaid, That if it pleaſed his Maſter (meaning his Majeſty) to ſend him back again, he would root out of the ſaid Kingdom (meaning the ſaid Kingdom of *Ireland*) the *Scotiſh* Nation both Root and Branch, ſome Lords and others, who had taken the ſaid Oath in the precedent Article, only excepted: And the ſaid Earl hath cauſed divers of the Ships and Goods of the *Scots* to be ſtayed, ſeized, and moleſted, to the intent to ſet on the ſaid War.

XXI. That the ſaid Earl of *Strafford*, ſhortly after his Speeches mentioned in the laſt precedent Articles, to wit, in the 15th Year of his Majeſty's Reign, came into this Realm of *England*, and was made Lord Lieutenant of *Ireland*, and continued his Government of that Kingdom by a Deputy; at his arrival here, finding that his Majeſty with much Wiſdom and Goodneſs had compoſed the Troubles in the *North*, and had a Pacification with his Subjects of *Scotland*, he laboured by all means to procure his Majeſty to break that Pacification, inceniing his Majeſty againſt his Subjects of that Kingdom, and the Proceeding of the Parliament there.

And having incited his Majeſty to an offenſive War againſt his Subjects of *Scotland* by Sea and Land; and by Pretext thereof, to raiſe Forces for the Maintenance of that War; he counſelled his Majeſty to call a Parliament in *England*: yet the ſaid Earl intended, that if the ſaid Proceedings of that Parliament ſhould not be ſuch as would ſtand with the ſaid Earl of *Strafford*'s miſchievous Deſigns, he would then procure his Majeſty to break the ſame, and by ways of Force and Power to raiſe Moneys upon the Subjects of this Kingdom. And for the Encouragement of his Majeſty to hearken to his Advice, he did before his Majeſty and his Privy-Council, then ſitting in Council, make large Declaration, That he would ſerve his Majeſty in any other Way, in caſe the Parliament ſhould not ſupply him.

XXII. That in the Month of *March*, before the beginning of the laſt Parliament, the ſaid Earl of *Strafford* went into *Ireland*, and procured the Parliament of that Kingdom to declare their Aſſiſtance in a War againſt the *Scots*, and gave Directions for the raiſing of an Army there, conſiſting of 8000 Foot, and 1000 Horſe, being for the moſt part Papiſts. And confederating with one Sir *George Ratcliffe*, did, together with him the ſaid Sir *George*,

traitorously conspire to employ the said Army for the Ruin and Destruction of the Kingdom of *England*, and of his Majesty's Subjects, and of altering and subverting of the fundamental Laws and established Government of this Kingdom.

And shortly after the said Earl of *Strafford* returned into *England*, and to sundry Person declared his Opinion to be, That his Majesty should first try the Parliament here; and if that did not supply him according to his Occasions, he might use then his Prerogative as he pleased, to levy what he needed; and that he should be acquitted both of God and Man, if he took some other Courses to supply himself, though it were against the Wills of his Subjects.

XXIII. That upon the 13th Day of *April* last the Parliament of *England* met, and the Commons House (then being the Representative Body of all the Commons in the Kingdom) did, according to the Trust reposed in them, enter into Debate and Consideration of the great Grievances of this Kingdom, both in respect of Religion and the publick Liberty of the Kingdom; and his Majesty referring chiefly to the said Earl of *Strafford* and the Archbishop of *Canterbury* the ordering and disposing of all Matters concerning the Parliament; he the said Earl of *Strafford*, with the Assistance of the said Archbishop, did procure his Majesty by sundry Speeches and Messages to urge the said Commons House to enter into some Resolution for his Majesty's Supply, for maintenance of his War against his Subjects of *Scotland*, before any course taken for the Relief of the great and pressing Grievances wherewith this Kingdom was then afflicted. Whereupon a Demand was then made from his Majesty of twelve Subsidies, for the Release of Ship-Money only. And while the said Commons then assembled (with Expression of great Affection to his Majesty and his Service) were in Debate and Consideration concerning some Supply, before any Resolution by them made, he the said Earl of *Strafford*, with the Help and Assistance of the said Archbishop, did procure his Majesty to dissolve the said Parliament upon the 5th Day of *May* last. And upon the same Day the said Earl of *Strafford* did treacherously, falsly, and maliciously endeavour to incense his Majesty against his loving and faithful Subjects, who had been Members of the said House of Commons, by telling his Majesty they had denied to supply him. And afterwards, upon the same Day, did traitorously and wickedly counsel and advise his Majesty to this effect, *viz.* That having tried the Affections of his People, he was loose and absolved from all Rules of Government, and that he was to do every thing that Power would admit; and that his Majesty had tried all Ways, and was refused, and should be acquitted towards God and Man; and that he had an Army in *Ireland*, (meaning the Army above mentioned, consisting of *Papists*, his Dependants, as is aforesaid) which he might imploy to reduce this Kingdom.

XXIV. That in the same Month of *May* he, the said Earl of *Strafford*, falsly, traitorously, and maliciously published and declared before others of his Majesty's Privy-Council, That the Parliament of *England* had forsaken the King; and that in denying to supply the King, they had given him advantage to supply himself by other ways. And several other times he did maliciously, wickedly, and falsly publish and declare, That seeing the Parliament had refused to supply his Majesty in the ordinary and usual way, the King might provide for the Kingdom in such ways as he should hold fit; and that he was not to suffer himself to be master'd by the Frowardness and Undutifulness of the People. And having so maliciously slandered the said late House of Commons, he did, with the Help and Advice of the said Archbishop of *Canterbury*, and the Lord *Finch*, late Lord-Keeper of the Great-Seal of *England*, cause to be printed and published in his Majesty's Name a false and scandalous Book, entituled, *His Majesty's Declaration of the Causes that moved him to dissolve the last Parliament*, full of bitter and malicious Invectives, and false and scandalous Aspersions against the said House of Commons.

XXV. That not long after the Dissolution of the said last Parliament (*viz.* in the Months of *May* and *June*) he, the said Earl of *Strafford*, did advise the King to go on vigorously in levying the Ship-Money, and did procure the Sheriffs of several Counties to be sent for, for not levying the Ship-Money, divers of which were threaten'd by him to be sued in the *Star-Chamber*; and afterwards, by his Advice, they were sued in *Star-Chamber* for not levying the same; and divers of his Majesty's loving Subjects were sent for and imprisoned, by his Advice, for that and other illegal Payments.

And a great Loan of a hundred thousand Pounds was demanded of the City of *London*; and the Lord Mayor, and Sheriffs, and Aldermen of the said City were often sent for, by his Advice, to the Council-Table, to give an Account of their Proceedings in raising of Ship-Money, and furthering of that Loan; and were required to certify the Names of such Inhabitants of the said City as were fit to lend: which they with much Humility refusing to do, he, the said Earl of *Strafford*, did use these and the like Speeches, *viz.* That they deserved to be put to Fine and Ransom; and that no Good would be done with them till an Example were made of them, and that they were laid by the Heels, and some of the Aldermen hanged up.

XXVI. That the said Earl, by his wicked Counsels, having brought his Majesty into excessive Charge, without any just Cause, he did in the Month of *July* last (for the Support of the said great Charges) counsel and approve two dangerous and wicked Projects, *viz.*

To seize upon the Bullion and the Money in the *Mint*:

And to imbase his Majesty's Coin with the Mixtures of Brass.

And accordingly, he procured one hundred and thirty thousand Pounds which was then in the *Mint*, and belonged to divers Merchants, Strangers, and others, to be seized on and stayed to his Majesty's Use. And when divers Merchants of *London*, Owners of the said Bullion and Money, came to his House to let him understand the great Mischief that Course would produce here and in other Parts, and what Prejudice it would be to the Kingdom, by discrediting the *Mint*, and hindring the Importation of Bullion; he, the said Earl, told them, That the City of *London* dealt undutifully and unthankfully with his Majesty; and that they were more ready to help the Rebels than to help his Majesty; and that if any Hurt came to them, they may thank themselves; and that it was the Course of other Princes to make use of such Moneys to serve their Occasions.

And

And when in the ſame Month of *July* the Officers of his Majeſty's Mint came to him, and gave him divers Reaſons againſt the imbaſing the ſaid Money, he told them, That the *French* King did uſe to ſend Commiſſaries of Horſe with Commiſſion to ſearch into Mens Eſtates, and to peruſe their Accounts, that ſo they may know what to levy of them by Force, which they did accordingly levy. And turning to the Lord *Cottington*, then preſent, ſaid, That this was a Point worthy of his Lordſhip's Conſideration: Meaning this Courſe of the *French* King to raiſe Moneys by Force, was a Point worthy of his Lordſhip's Conſideration.

XXVII. That in or about the Month of *Auguſt* laſt he was made Lieutenant-General of all his Majeſty's Forces in the *North*, prepared againſt the *Scots*; and being at *York*, did then in the Month of *September*, by his own Authority, and without any lawful Warrant, impoſe a Tax on his Majeſty's Subjects in the County of *York* of Eight-pence *per diem*, for Maintenance of every Soldier of the Trained Bands of that County, which Sums of Money he cauſed to be levied by Force. And to the end to compel his Majeſty's Subjects out of Fear and Terror to yield to the Payment of the ſame, he did declare, That he would commit them that refuſed the Payment thereof, and the Soldiers ſhould be ſatisfied out of their Eſtates; and they that refuſed it, were in very little better Condition than of High Treaſon.

XXVIII. That in the Months of *September* and *October* laſt, he the ſaid Earl of *Strafford* being certified of the *Scotiſh* Army coming into the Kingdom, and he the ſaid Earl of *Strafford* being Lieutenant-General of his Majeſty's Army, he did not provide for the Defence of the Town of *Newcaſtle*, as he ought to have done, but ſuffered the ſame to be loſt, that ſo he might the more incenſe the *Engliſh* againſt the *Scots*.

And for the ſame wicked Purpoſe, and out of a malicious Deſire to engage the Kingdoms of *England* and *Scotland* in a National and Bloody War, he did write to the Lord *Conway*, the General of the Horſe, and under the ſaid Earl's Command, That he ſhould fight with the *Scotiſh* Army at the Paſſage over the *Tine*, whatſoever ſhould follow; notwithſtanding that the ſaid Lord *Conway* had formerly by Letters informed the ſaid Earl, that his Majeſty's Army, then under his Command, was not of Force ſufficient to encounter the *Scots*: by which Advice of his he did, contrary to the Duty of his Place, betray his Majeſty's Army, then under his Command, to apparent Danger and Loſs.

All and every which Words, Counſels, and Actions of the ſaid Earl of *Strafford* were ſpoken, given, and done by him, the ſaid Earl of *Strafford*, traitorouſly, and contrary to his Allegiance to our Sovereign Lord the King, and with an Intention and Endeavour to alienate and withdraw the Hearts and Affections of the King's liege People of all his Realms from his Majeſty, and to ſet Diviſion between them, and to ruin and deſtroy his Majeſty, and his Majeſty's ſaid Kingdoms; for which they do further impeach him the ſaid *Thomas* Earl of *Strafford* of High-Treaſon againſt our Sovereign Lord the King, his Crown and Dignity. And he, the ſaid Earl of *Strafford*, was Lord Deputy of *Ireland*, or Lord Lieutenant of *Ireland*, and Lieutenant-General of the Army there under his moſt excellent Majeſty, and a ſworn Privy-Counſellor to his Majeſty for his Kingdoms, both of *England* and *Ireland*, and Lord Preſident of the *North*, during the Time that all and every the Crimes and Offences, before ſet forth, were done and committed; and he, the ſaid Earl, was Lieutenant-General of his Majeſty's Army in the North Parts of *England* during the Time that the Crimes and Offences, in the 27th and 28th Articles ſet forth, were done and committed.

Anſwer to the Twenty Eight Special Articles.

TO the Firſt Article, he ſaith, He conceives that the Commiſſion and Inſtruction differ not from thoſe formerly granted, but refers to them; and that ſuch Alterations and Additions as were made, were (for ought he knoweth) rather for the explanation, than for the enlarging of the Juriſdiction: the Care whereof was left to the Secretary of that Council, and to the King's Learned Counſel, to be paſſed for the Good of the King's Service, and the publick Welfare of that Province. For the Legality of the Proceedings, divers eminent Lawyers were joined with the Preſident, who, for the Legal Parts, was by them to be directed. He did not adviſe or procure the Enlargement of the Commiſſion and Inſtructions, and he believeth nothing hath been practiſed ſince, that was not in former Times contained in former Commiſſions, under general words. He believeth Sir *Conyers Darcy* was lawfully fined for Miſdemeanours, as a Juſtice of Peace; and hath heard, he being in *Ireland*, that Sir *John Boucher* was fined for ſome great Abuſe at the King's being at *York*, going into *Scotland* to be crowned: to the Proceedings he refers himſelf. He denies that he hath done any thing by that Commiſſion or Inſtruction, other than he conceived he might by virtue thereof lawfully do.

To the Second Article, He denieth the ſpeaking of thoſe words: but ſaith, That 30, 40 *l.* or more, being returned as Iſſues out of the Exchequer, againſt ſome that had compounded for Knighthood for 10 *l.* or 30 *l.* ſo as the Iſſues far exceeded the Compoſition, and yet would next time have been increaſed; the ſaid Earl upon this occaſion ſaid, That now they might ſee, that the Little-finger of the Law was heavier than the King's Loins; which he ſpake to nouriſh good Affections in them towards his Majeſty, and not to threaten or terrify any, as the Article ſuppoſed.

To the Third Article, he ſaith, *Ireland* is not governed by the ſame Laws that this Kingdom is, unleſs it be meant by the Common Laws; their Cuſtoms, Statutes, Execution of Martial Laws, Proceedings at Council-Board very much differ; they ſpake not the words in the Article to any ſuch intent. He ſaith, It might be fit enough for him to remember them of the great Obligation they had to the King and his Progenitors, that ſuffered them, being a conquered Nation, to enjoy Freedom and Laws, as their own People of this Kingdom: and it might be that upon ſome ſuch occaſion, he ſaid to thoſe of *Dublin*, That ſome of their Charters were void and nothing worth, and did not bind his Majeſty farther than he pleaſed; which he believes to be true, having been formerly ſo informed by his Majeſty's Learned Counſel upon ſundry occaſions.

To

To the Fourth, he ſaith, That the legal and ordinary Proceedings at Council-Table are, and time out of mind have been by Petition, Anſwers, Examination of Witneſſes, as in other Courts of Juſtice concerning *Britiſh* Plantations, the Church and Caſes hence recommended by the King for the time being, and in Appeals from other Courts there; and the Council-Board have always puniſhed Contempts to Orders there made, to Proclamations, and Acts of State, by Fine and Impriſonment. He ſaith, That it might be he told the Earl of *Cork*, that he would impriſon him if he diſobeyed the Orders of the Council-Table, and that he would not have Lawyers diſpute or queſtion thoſe Orders, and that they ſhould bind; but remembreth not the Compariſon of Acts of Parliament: and he hath been ſo far from ſcorning the Laws, that he hath endeavoured to maintain them. The Suit againſt the Earl in the Caſtle-Chamber, was concerning the Poſſeſſions of the College of *Youghall*, worth 6 or 700 *l.* which he had endeavoured to get, by cauſing of unlawful Oaths to be taken, and very undue means: the matter proceeded to Examination and Publication of Witneſſes; and after, upon the Earl of *Cork*'s humble Suit, and Payment of 15000 *l.* to his Majeſty, and his Acknowledgment of his Miſdemeanours, obtained a Pardon, and the Bill and Proceedings were taken off the Files: and he remembers not any Suit for breach of any Order made at Council-Table.

To the Fifth, he ſaith, The Deputies and Generals of the Army have always executed Martial Law, which is neceſſary there; and the Army, and the Members thereof, have been long time governed by printed Orders, according to which, divers, by Sentence of the Council of War, have formerly been put to death, as well in the time of Peace as War. The Lord *Mountnorris* being a Captain of a Company in the Army, for mutinous words againſt the ſaid Earl, General of that Army, and upon two of thoſe antient Orders was proceeded againſt by a Council of War, being the principal Officers of the Army, about twenty in number, and by them, upon clear Evidence, ſentenced to death: wherein the ſaid Earl was no Judge, but laboured ſo effectually with his Majeſty, that he obtained the Lord *Mountnorris*'s Pardon; who, by that Sentence, ſuffered no perſonal Hurt or Damage, ſave about two days Impriſonment. And as to the other Perſons, he can make no Anſwer thereunto, no Particulars being deſcribed.

To the Sixth, he ſaith, The Suit had depended many Years in Chancery; and the Plaintiff complaining of that Delay, the ſaid Earl upon a Petition, (as in ſuch Caſes hath been uſual) calling to him the then Maſter of the Rolls, the now Lord Chancellor, and the Chief Juſtice of the *Common-Pleas*, upon the Proofs in the *Chancery*, decreed for the Plaintiff; to which he refers himſelf: and it may be the Lord *Mountnorris* was thereupon put out of his Poſſeſſion.

To the Seventh, he ſaith, His Majeſty being intitled to divers Lands, upon an Inquiſition found, Proclamation was made, That ſuch as claimed by Patent ſhould come in by a day, and have their Patents allowed, as if they had been found in the Inquiſition; and accordingly divers were allowed. The Lord *Dillon* produced his Patent, which being queſtionable, he conſented, and deſired that a Caſe might be drawn; which was drawn by Counſel, and argued, and the Judges delivered their Opinions: but the Lord *Dillon*, nor any other, were bound thereby, or put out of Poſſeſſion; but might have traverſed the Office, or otherwiſe legally have proceeded, that Caſe or Opinion notwithſtanding.

To the Eighth, he ſaith, That upon Sir *John Gifford*'s Petition to the King, his Majeſty referred it to the Deputy and Council of *Ireland*, where the matter proceeded legally to a Decree againſt the Lord *Loftus*; and upon his Appeal, that Decree, by his Majeſty and his Council of *England*, was confirmed: to which Decree and Order he refers himſelf, believing the Lord *Loftus* was committed for diſobeying that Decree, and for Continuance in Contempt committed cloſe Priſoner. He ſaith, That the Lord *Loftus* having committed divers Contempts, the Council by Warrant required him to appear at the Board, and to bring the Great Seal with him; which Order he diſobeyed, and was ſhortly after committed, and the Great Seal was delivered up by his Majeſty's expreſs Command, and not otherwiſe. And an Information was exhibited in the Star-Chamber, for grievous Oppreſſions done by the Lord *Loftus* as Chancellor; whereof he was ſo far from juſtifying, as that he ſubmitted, deſiring to be an Object of his Majeſty's Mercy, and not of his Juſtice.

The E. of *Kildare* for not performing of an Award made by King *James*, and of an Award made in purſuance thereof by the ſaid Earl of *Strafford*, upon a Reference from his Majeſty, was by the Deputy and Council committed: and a Letter being unduly obtained, he did not thereupon enlarge him; but upon another Letter, and Submiſſion to the Orders, as by the King was directed, he was enlarged.

The Lady *Hibbots*, and one *Hoy* her Son, having upon a Petition, Anſwer, Examination of Witneſſes, and other Proceedings at Council-Board, been found to have committed foul Abuſes by Fraud and Circumvention, to have made a Bargain with the Petitioner *Hibbots*, for Lands of a great value, for a ſmall Sum of Money; was ordered to deliver up the Writing, no Aſſurances being perfected, or Money paid; and it's like he threatned her with Commitment if ſhe obeyed not that Order, but denieth that the Lands were after ſold to Sir *Robert Meredith* to his uſe, or that by any Order by himſelf made, any one hath been impriſoned concerning Freeholds, but for Debts and perſonal things, as ſome have been uſed by all his Predeceſſors in like Cauſes.

To the Ninth, he ſaith, Warrants to ſuch effects have been uſually granted to the Biſhops in *Ireland*, in the times of all former Deputies; but the Earl not ſatisfied with the Conveniency thereof, refuſed to give any ſuch Warrants in general to the Biſhops as had been formerly done: but being informed that divers in the Dioceſs of *Downe* gave not fitting Obedience, he granted a Warrant to that Biſhop, whereto he referreth, which was the only Warrant he granted of that nature; and hearing of ſome Complaints of the Execution thereof, he recalled it.

To the Tenth, he ſaith, The Lord Treaſurer *Portland* offered the Farm of the Cuſtoms for 13000 *l.*

13000 *l. per annum* in ſome particular Species, but the Earl of *Strafford* advanced the ſame Cuſtoms to 15500 *l. per annum*, and 8000 *l.* Fine; and by his Majeſty's Command became a Farmer at thoſe Rates propoſed, without addition to thoſe Rates, as by the printed Books 7 *Car. Regis* may appear. He diſſuaded the Advance of Rates lately propoſed by Sir *Abraham Dawes*, ſo as it was declined: the Rates of Hides and Wool are moderate, conſideration being had of their true Value, and of the Places whereto they are to be tranſported, and of the Statute made in the time of Queen *Elizabeth*, and there in force, prohibiting the Exportation of Wool, unleſs they pay to the Crown 5 *s.* the Stone. The Trade and Shipping of that Kingdom are exceedingly increaſed.

To the Eleventh, he ſaith, Pipe-ſtaves were prohibited in King *James*'s time, and not exported but by Licence from the Lord Treaſurer of *England*, or Lord Deputy of *Ireland*, who had 6 *s.* 8 *d. per* 1000, and his Secretary 3 *s.* 4 *d.* for the Licence: but to reſtrain that Deſtruction of Timber, by Command of his Majeſty, and Advice of his Council, for his Revenue in *Ireland*, firſt 30 *s.* then 3 *l.* The Money was paid to his Majeſty, who hath thereby about 1500 *l. per annum*; and his Lordſhip loſt about 4 or 500 *l. per annum*, which his Predeceſſors had for ſuch Licences. This is paid by the Tranſporter, not by the Natives, whoſe Commodity nevertheleſs appears by the Article to be very much increaſed.

To the Twelfth, he ſaith, The Subſidies there are an Inheritance in the Crown by Act of Parliament; 6 *d.* was paid for Subſidy, and 1 *s.* 6 *d.* for Impoſt upon every Pound of Tobacco, and farmed 10 or 20 *l. per annum*. The Commons in Parliament, 10 *Car. Regis*, finding the Revenue to be ſhort of the Expence of that Kingdom 24000 *l. per annum*, petitioned thoſe Grants might be applied to increaſe his Majeſty's Revenue, without calling upon the Subject, but upon urgent Occaſions. Hereupon, upon the Advice of the Committee of the Revenue, and in conſideration of a Proclamation made in *England*, ſeveral Proclamations were made, and this ſettled in a way, till it could be confirmed by Parliament; for which purpoſe a Bill is tranſmitted, according to the deſire of the Commons, and the Impoſt of Tobacco is let to Contractors for eleven Years, at 5000 *l. per annum* for the firſt five Years, and 10000 *l. per annum* for the other ſix Years. And the Earl hath lent Money to forward the buſineſs, and by his Majeſty's Allowance is a Partner; but hath not as yet in two Years laſt paſt had any Accounts thereof, or made benefit thereby. He knoweth of no Whipping, or other Puniſhment; the Farms of the Cuſtoms are better than formerly 2000 *l. per annum*, five 8 parts whereof is yearly paid unto his Majeſty: the Prices of Tobacco exceed not 2 *s.* or 2 *s.* 4 *d.* the Pound; the ſettling of that Revenue, according to the Petition of the Commons; he hath not raiſed, or countenanced any Monopolies, but oppoſed the ſame.

To the thirteenth, he ſaith, He endeavoured to advance the Manufacture of Linen rather than of Woollen-Cloth, which might prejudice that Trade here: he bought Flax-Seed in the *Low-Countries*, and ſold it at the ſame rate to ſuch as deſired it; they making their Clothes not above a foot broad, and winding eight or ten Threds from ſeveral Bottoms together; the contrary was twined: their Flax, formerly not above a foot, became a yard in length, and that Soil is fit to bear it, and the People love ſuch eaſy Works. He hath ſet up many Looms, made much Cloth, and ſold it to the loſs of ſome Thouſands of Pounds; but when the State ſaw the Natives would not change their old Courſes for new and better, the Proclamation was declined. What he did was for the publick Good, and had nothing from them that was not fully paid for.

To the Fourteenth, he ſaith, He refers to the Oath and Proclamation, which was ſet forth by the ſaid Earl and Council of State there, at the inſtance of the Farmers of the Cuſtoms, towards the defrauding of the King's Duties being in *France*, whereof his Majeſty had five eight parts. He never heard any Complaint of the Oath, or of any that refuſed to take it; and conceived it to be lawful, divers of the Council approving it, being Learned Judges of the Law, to whoſe Judgment, for the Legality, he ſubmitted, as well in that, as to other matters of like nature.

To the Fifteenth, He denieth what is in the Article objected; but ſaith, That about the Year 1626, certain Agents authorized in *Ireland* were ſent into *England*, and offered and agreed to pay to his Majeſty 120000 *l.* in ſix Years, towards the maintenance of his Army; and a like Payment of 20000 *l. per annum*, was after agreed, and continued for three Years longer. The Aſſeſſments were made, and it was ſhortly after, by them and the Lord *Faulkland* then Deputy, agreed in *Ireland*, that the Money ſhould not be charged upon Record, but levied by Captains, by Paper-Aſſignments, upon Warrants from the Lord Deputy: and this Courſe was held four Years in the Lord *Faulkland*'s time, and the four Years wherein the Lord *Loftus* and the Earl of *Cork* were Lords Juſtices there; and it held for the remaining Year only, after the Earl of *Strafford* came thither. But the Earl of *Cork* having ſpared thoſe Towns, for the benefit of himſelf and Tenants, during the time of his being Juſtice; the Earl of *Strafford* reduced the Aſſeſſments to what it was made by the Lord *Faulkland*, and gave way that Sir *William St. Lieger*, Lord Preſident of *Munſter*, ſhould take the ſame Arrearages, in ſatisfaction of a Debt due unto him by his Majeſty: and he is confident no Force was uſed in levying the ſame. It hath been uſual to lay Soldiers to levy that Contribution, to ſend Soldiers to apprehend Contemners of Orders made at Council-Board, and the like; and when Out-laws and Rebels have been in the Woods, no Soldiers have in his time been laid, but by the Advice of the Council there. Touching the *Caſtle-Chamber*, it's a Parcel of the Territory of *Idough*, whereto the King was intitled by Inquiſition, and the Poſſeſſion eſtabliſhed in a legal way, when the ſaid Earl was in *England*; and no Soldiers were ſent, but only twelve at the intreaty of Mr. *Wanesford*, for the ſecurity of his Houſes and Plantations againſt Rebels that then were out, and burned and ſpoiled Houſes thereabouts: and neither *Richard Butler*'s, nor any other Family, were thence expelled by the ſaid Earl from their Eſtates.

To the Sixteenth, he ſaith, There was ſuch a Propoſition, which was juſt, to prevent clamorous Complaints here, which there might be redreſſed; but conceives that by the Laws there, and the Articles

ticles known ſince, (by the name of the Articles of Grace, made about fourteen Years ſince) none ought to depart that Kingdom without Licence.

Thereupon, by the Advice of the State, the Proclamations were ſet forth, but not with ſuch intent as in the Article.

He denied Licence only to three, the Earl of *Cork*, the Lord *Mountmorris*, and Sir *Frederick Hamilton*; to the two former, in regard of Criminal Suits then againſt them in the Caſtle-Chamber; to the other, by ſpecial Command from his Majeſty. But ſo ſoon as Sir *Frederick* ſaid he would complain of the Earl, he made ſuit to his Majeſty that Sir *Frederick* might come over; which was granted. He conceives ſuch Reſtraint to be neceſſary, and if that be not continued, it will prove of evil conſequence to that Kingdom.

Parry was queſtioned at the Council-Board for Miſdemeanours, and to avoid Sentence, ſecretly went out of the Kingdom; and at his return, for that and other Offences, was fined and impriſoned: to the Sentence thereof he refers, and knows of no other that were impriſoned, as by the Article is charged.

To the Seventeenth, he ſaith, It's like he might ſay, (for the better encouragement of the Officers and Soldiers of the old *Iriſh* Army, in diſcharge of their ſeveral Duties) that his Majeſty was ſo well ſatisfied in the way and pains they took in uſing and practiſing of their Arms, that in that point he would ſet them as a Pattern to be imitated: and conceives it would not be ill if they were ſo, they being in the opinion of thoſe that have ſeen them exerciſe, very able and expert Soldiers. He ſpake not other words, or to other purpoſe.

To the Eighteenth, he ſaith, When the Earl of *Cork* was one of the Lords Juſtices, he ſeized ſome Houſes in *Dublin*, pretending they belonged to Jeſuits and Fryars, without legal Proceedings; which, upon Suits proſecuted at Council-Board, were, according to Juſtice, reſtored to the Owners: but how ſince employed, the Earl of *Strafford* knoweth not, but endeavoured the utmoſt he could to maintain that Seizure. Touching the 8000 Men, he ſaith, They were raiſed according to the King's Warrant, and that the ſaid Earl left the Care thereof to the Earl of *Ormond* and others; and what number are Proteſtants, what Papiſts, he knoweth not, but believeth ſuch a Body cannot be there raiſed, without many Papiſts: the greateſt number of the Captains and Officers are Proteſtants, choſen by the ſaid Earl. The thouſand Men were drawn out of the old, to make Officers for the new Army; and believeth the thouſand put to the old Army are Proteſtants, in regard by his expreſs Order no Papiſt is to be admitted there a common Soldier. He never preferred any Captain, Lieutenant, or Enſign to be of that Army that was a Papiſt, and conceives they are duly paid; and believes thoſe newly raiſed exerciſe the Religion no otherwiſe than was practiſed before the Earl's coming thither. He was a Commiſſioner to compound with the Recuſants for their Forfeitures, and endeavoured to be informed of the utmoſt Value of their Eſtates: in four Years he brought that Revenue from 2300 *l.* to be between 11 and 12000 *l. per annum*, more than ever was raiſed formerly in ſo ſhort a time; by which faithful dealings for his Majeſty, he procured the hard Opinion of the Recuſants throughout the Kingdom: That out of thoſe Compoſitions he hath paid near 100000 *l.* into the Exchequer; and they had no other Privileges than what was exerciſed in the Commiſſion, and in former like Commiſſions, and as are in the preſent Commiſſion to the Lord Treaſurer and others.

To the Nineteenth, he ſaith, The laſt Summer was twelve months, when the *Engliſh* and *Scotch* lay in the fields near *Berwick*, the Earl and Council of *Ireland* having a general Notion thereof, were in fear that the *Scots* in *Ulſter* (being almoſt 100000 in number) might be drawn to ſide with the Covenanters; and adviſing how to ſecure that Kingdom, the Principal of the Nation of *Scotland*, living in *Ireland*, came to *Dublin*, and petitioned, That they might have an Oath whereby they might give Teſtimony of future Obedience to his Majeſty. Whereupon an Oath was by the Advice of the Council of State framed, and chearfully taken by thoſe *Scotch* Gentlemen, and generally by all the Nation in *Ireland*, as the Earl conceives to their Advantage, and the Satisfaction of others. He believes that ſome were ſentenced for refuſing it, but none were otherwiſe exiled. The Earl in his Vote ſaid, That he would endeavour that all of that Nation ſhould take that Oath, or leave the Kingdom. All which was done by his Majeſty's Direction and Approbation: And it was not contrived to the Intents of the Article charged, but to prevent their adhering to the Covenanters then in open Arms, and not concerning the Ceremony or Government of the Church.

To the Twentieth, he ſaith, That in the Year 1638, the Earl was in *Ireland*, when Preparations were made for War, and Summons ſent to the Nobility of this Kingdom. In the Year 1639, a General was appointed, and an Army drawn to the Field, and encamped near *Berwick*; whereby it appears he was not acquainted that the Article of Pacification had been broken on both ſides, and ſo diſtempered, that it was held fit an Army in *England* ſhould be raiſed to ſuppreſs the Covenanters, if the Buſineſs could not with Honour and Safety be otherwiſe compoſed. The ſaid Earl humbly adviſed his Majeſty to call a Parliament, and uſed many Motives thereunto. After the Parliament was called, and before the Sitting thereof, ten of the Lords, and other of the Council for foreign Affairs, being aſſembled, his Majeſty then preſent, an honourable Perſon related the Covenanters Demands. It was then voted by all, That they were ſuch as might not in Honour and Safety be condeſcended unto by his Majeſty; and if they could not be otherwiſe reduced, his Majeſty muſt be conſtrained to bring them to it by Force. The like Reſolution was after at the Council-Table by twenty of the Council. Whereupon his Majeſty appointed a Council of War; and it was held neceſſary to borrow 200000 *l.* upon good Security, till the Supplies by the Parliament might come in. He never ſaid the *Scotch* Nation were Rebels, but was ever perſuaded that many them were moſt Loyal Subjects.

Thoſe that raiſed Arms, when they were at ſuch a diſtance from his Majeſty, he might ſay they were no leſs than Rebels and Traytors. By Warrant from the Lord Admiral he cauſed divers Ships and Goods to be ſeized, but not with an Intent to ſet on the War, but, as much as in him lay, to bring all to fair Accommodations without Expence of Blood.

To

To the Twenty first, he saith, The Pacification was broken before he came over, as in the Answer to the former Article: he moved his Majesty for a Parliament in *England*, but not with such Intent as in the Article, but out of a Desire to have settled a right Understanding between the King and his People. It may be he said, (tho he remembreth it not) That if the Parliament would not supply his Majesty, he would serve his Majesty in any other lawful Way; being well assured that his Majesty would not imploy him, nor any Man else, in any other kind.

To the Twenty second, he saith, According to his Majesty's Instructions, he did set forth to the Parliament of *Ireland* the State of the Affairs, as they then stood; and they freely gave four Subsidies, as an Acknowledgment of his Goodness and happy Government, as by the Act and Remonstrance appears in Print. He, by his Majesty's Direction, then gave Order for the raising of 8000 Men, who still remain in the King's Pay, and were sent into *Ulster* to secure those Parts, or to land in *Scotland*, to divert the Earl of *Argyle*, in case he joined with the Covenanters Army against the King. But it was mentioned in the King's Letter, 2 *Martii* 1639, he had purposely given out, That they should join with the King's Army at *Berwick*, to colour other Designs: But the true Cause of their levying was made known to be as aforesaid unto the Earl of *Ormond*, Sir *John Burlace*, and the Marquis of *Hamilton*, and the Earl of *Northumberland*, at the time of the writing the Letter. And he denies the Words charged in the Articles, or any other Words to such Intent and Purpose.

To the Twenty third, he saith, The Matters of the Parliament were no otherwise referred to him than to the rest of the Council: That coming sick from *Ireland* about ten Days after the Parliament were set, and after the Treaty with the Earl of *Dunfermline* and Lord *Lowdon*, *Scotch* Commissioners, was broken off, and the Army preparing, and the Parliament not supplying Moneys as his Majesty desired, his Majesty advised what might move them to prefer his Supply. In debate whereof, he humbly advised his Majesty, by a Message to the House, to lay down Ship-Money, and promise never to demand it, and give way to reverse the Judgment by a Writ of Error in Parliament, and to promise a Redress of Grievances when they should be prepared. And secondly, That they would presently agree upon such Supply as should maintain his Army for reducing the *Scots* to their Obedience, wherein their Safety and his Honour was concerned. His Majesty assented conditionally, that he might have twelve Subsidies: The Earl besought him that it might not pass as a Condition, but to relinquish Ship-Money, and put himself upon their Affections; and drew up the Message in Writing, and delivered it to Mr. Secretary *Vane*, to deliver to the House of Commons. He desired to know if his Majesty would not take less than twelve. His Majesty answered, He feared less would not serve his Occasions. The Earl of *Strafford* besought his Majesty to accept of eight. So his Majesty assented, and desired Mr. Secretary to signify so much, as occasion should be offered: But whether he did so or not, the said Earl knoweth not. The House of Commons being in debate two Days, and not resolving, his Majesty about the 5th of *May* last called a Council at Seven of the clock in the Morning: The said Earl being sick, came late, and was told (as he remembreth) by the Earl of *Berkshire*, the King had declared his Resolution to dissolve the Parliament. The Earl of *Strafford* besought his Majesty to hear the Advice of his Council, and first of those that were Members of the House of Commons, by whom the rest might the better be guided. Mr. Secretary *Windebank* said, He feared the House would first be answered of their Grievances, and voted for a Breach of the Parliament. Mr. Secretary *Vane*, in opposite Terms, said, That there was no hope that they would give the King a Penny, and therefore absolutely voted for a Breach. And the Earl of *Strafford* conceiving his Majesty's Pleasure to have accepted eight Subsidies had been deliver'd to the House of Commons by Mr. Secretary *Vane*, did in his Majesty's Turn deliver his Vote for Breach of the Parliament, which otherwise he would not have done, it being contrary to what he resolved when he came thither; and the like Opinion was delivered by the rest of the Lords, being about twenty, except two or three at the most. The Parliament being dissolved, his Majesty desired Advice of his Council how Money might be raised, affirming that the *Scotch* Army was ready to enter into the Kingdom: The said Earl, in presence of others in the Council, delivered his Opinion, That in a Case of absolute and unavoidable Necessity, which neither would nor could be prevented by ordinary Remedies provided by the Laws, nor all his Majesty's other means sufficient to defend the Commonwealth, himself, or their Lives and Estates from an Enemy, without Force of Arms, either actually entred, or daily expected to invade the Realm; he conceived that his Majesty was absolved from ordinary Rules, and might use (in a moderate way the Necessity of the Cause would permit) all Ways and Means for defence of himself and Kingdom; for that he conceived in such Extremity, *Salus Populi* was *Suprema Lex*, provided it were not colourable, nor any thing demanded imployed to other use, nor drawn into Example, when Law and Justice might take place: and that when Peace was settled, Reparation was to be given to particular Men, otherwise it would be unjust. This was not officiously declared, but in Council, forced by the Duty of the Oath of a Counsellor, which is, That he shall in all Things to be moved, treated, and debated in Council, faithfully and truly declare his Mind and Opinion according to his Heart and Conscience: Which Oath the said Earl took, and humbly prays their Lordship's Consideration thereof. He denies the Words in the Article, or any Words to the Intent thereby expressed.

To the Twenty fourth, he saith, He delivered his Opinion with such Cautions and Restrictions, as in the Answer to the precedent Article; and is well assured his Discourse at all times hath been without ill Intentions to either of the Houses of Parliament, which he ever did and shall speak of with all Reverence. He denies that he knew of the publishing or printing of the Book, or who caused it to be printed or published; for at that time he was sick in his Bed, more like to die than to live.

To the Twenty fifth, he saith, Ship-Money was levied, and adjudged to be due, before his coming over. Sheriffs were then called up as before, and not otherwise. If any were sued in *Star-Chamber*, it was without any particular Endeavour of his.

It appearing at the Board that the Mayor and Sheriffs of *London* had been ſlow in collecting Ship-Money, he ſaid, They were but miniſterial, and ought to exact, and not diſpute the King's Writs; and that if through their Remiſſneſs the King ſhould be leſs able to provide for the publick Safety, when any foreign Army was ready to enter the Kingdom, they might deſerve to be fined and ranſomed: which he ſpake more to haſten them, than of purpoſe to adviſe any ſuch Proſecution. But denies the other Words, being, under favour, ſuch Expreſſions as he is not accuſtomed unto.

To the Twenty ſixth, he ſaith, He adviſed not either of thoſe Projects, (being then ſick in Bed:) But it being debated at the Council-Table whether it were better for the King to raiſe Gold and Silver, or coin baſe Money, he (for the Reaſons then given) delivered his Opinion for the latter. Sundry Merchants-Adventurers coming to his Houſe, deſired him to move his Majeſty, then at *Oatlands*, to releaſe the Bullion, or Money: He told them he knew of no ſuch Thing, and would not meddle with it; nor would his Health permit him to go abroad: and ſaid, That if by their denying the King in ſuch a publick Danger the Loan of 100000 *l.* upon good Security, the King were conſtrained for the Preſervation of the Land to ſtay the Bullion, they might thank themſelves; and the City receiving ſo great a Benefit by reſiding amongſt them, they made but an unthankful Acknowledgement in ſuch a Strait, to refuſe the Loan of that Sum. The Officers of the Mint came to the Council-Board, and the Earl then ſhewed a Letter he received from the Earl of *Leiceſter*, wherein was related, That the Cardinal had appointed Commiſſioners to go into the Merchants Houſes at *Paris*, to peruſe their Shop-Books and Accompts, and ceſs every Man according to his Ability towards the Payment of the King's Army; and then ſaid, That it was but juſt for us here in *England* to bleſs God for being under a King which could not think upon ſuch a preſſing upon the People. But the Words in the Article, or Words to any ſuch Intent, he did not ſpeak; and cannot ſufficiently bemoan himſelf to have been in all his Words ſo ill underſtood, or ſo untruly reported as he hath been.

To the Twenty ſeventh, he ſaith, He perſuaded the Gentry of that County to allow the Trained-Bands a Month's Pay; which they yielded, and his Majeſty graciouſly accepted. It was by Council of War (his Majeſty being preſent) thought fit the Trained-Bands ſhould return, ſave the two Regiments under the Command of Sir *William Pennyman*, and Sir *Thomas Danby*. It was aſſented unto by his Majeſty, and the great Council of Peers then aſſembled, That thoſe ſpared ſhould contribute; and the ſaid Earl was commanded by them to ſee it done. Which was done accordingly by Warrants from him, and from his Deputy-Lieutenants, which was much leſs Charge to the Countries than otherwiſe. And denies the other Particular in the Article mentioned.

To the Twenty eighth, he ſaith, He was Lieutenant-General to the Earl of *Northumberland*, about the 24th of *Auguſt*, of 10 or 12000 Foot, and 2000 Horſe, being at *Newcaſtle*, under the Command of the Lord *Conway* and Sir *Jacob Aſtley*, and the reſt of the Army at *York*. The ſaid Earl went from *London* on the 26th of *Auguſt*, notwithſtanding his extreme Weakneſs, and came to *York*. And having received a Letter from Sir *Jacob Aſtley* that *Newcaſtle* was fortified, and that they muſt be infamous Beaſts to loſe it, and that it was fully ſecured; and being acquainted with ſeveral Diſpatches ſent by Mr. Secretary *Vane*, by his Majeſty's Directions, to the Lord *Conway*, General of the Horſe, to oppoſe the Paſſage of the *Scots* over the River *Tyne*, the one dated 22 *Auguſti*, the other 23 *Auguſti*, another 24 *Auguſti*, another 26 *Auguſti*, the Subſtance of which Letters are particularly mentioned in the Anſwer to this Article: and to the ſame Letters the ſaid Earl referreth himſelf.

The ſaid Earl, upon ſight of this and Sir *Jacob Aſtley*'s Letter, had reaſon to believe that all fitting Preparation was made; and then underſtanding that if the *Scotiſh* Army ſhould paſs the River, not only *Newcaſtle*, altogether unfortified on the ſouth part, would be loſt, but the ſaid Army of 11000 Foot and 2000 Horſe endangered; and hearing that the *Scotiſh* Army was diſtreſſed for want of Victuals, and knowing the Advantage that was in oppoſing the Paſſage of ſuch a River: Hereupon the ſaid Earl, by a Letter dated the 27th of *Auguſt*, adviſed the Lord *Conway*, with all the Horſe, and at leaſt 8000 Foot, and all the Cannon, to march and fight with them, upon the Paſſage of the River: At which time the ſaid Earl had no Charge of the Army. But the truth is, the Lord *Conway* having not with him all the Horſe, and not above 1500 Foot, and only ſome part of the Cannon, was in a poſture to fight for the Paſſage before the ſaid Letter of Advice came, which he received not half an hour before the Fight began, and proceeded according to his own Judgment, and his Majeſty's ſaid general Direction. And afterwards, that is, about the 30th of *Auguſt*, and not before, the ſaid Earl took upon him the Charge of the Army at *Darlington*, and brought it to *York* to be ſupplied with Neceſſaries that they wanted, and purpoſed to have ſtaid where they were quartered. But hearing from many hands that there was a purpoſe to queſtion him in Parliament, and his Majeſty having given him liberty of ſtaying there, or coming away, he left the Charge of the Army with the Lord *Conway* and other Officers, as his Majeſty had directed, and came to *London* on Monday the 9th; and the 11th of *November* was put under reſtraint, and ſo hath ever ſince remained. And ſaith, That the Town of *Newcaſtle* was no way under his care. And as to other Matters, whereto by Law he ought to anſwer, and hath not anſwered, he ſaith, He is not guilty of them, or any of them, in ſuch manner and form as in the ſaid Article is expreſſed; and humbly prayeth a convenient Time for making his Proofs, and to juſtify and maintain his Actions in *Ireland* by ſight of his Majeſty's Warrants, Records, and Witneſſes, in that Kingdom; and that if any Miſtake be in his Anſwer, it may be amended.

And this the ſaid Earl hopeth that, upon equal Conſtruction of his Words and Actions, he ſhall appear free from any great and heinous Offences wherewith he is charged: And howſoever it ſhall pleaſe God to diſpoſe of him, he ſhall ever pray that by their Lordſhips great Wiſdom and Prudence, the Affections of his Majeſty, and Duty of his Subjects, may this Parliament be ſo ſurely knit together, as may by God's Bleſſing laſtingly tend to the Proſperity and flouriſhing Eſtate both of King and People.

THE

THE Place appointed for the Tryal was the great Hall in *Weſtminſter*, where there was a Throne erected for the King, on each ſide thereof a Cabinet encloſed about with Boards, and before with a Tarras. Before that, were the Seats for the Lords of the Upper Houſe, and Sacks of Wool for the Judges; before them, ten Stages of Seats, extending farther than the midſt of the Hall, for the Gentlemen of the Houſe of Commons: at the end of all was a Desk cloſed about, and ſet apart for the Lord-Lieutenant and his Counſel.

Monday Morning about ſeven of the clock he came from the *Tower*, accompanied with ſix Barges, wherein were one hundred Soldiers of the *Tower*, all with Partizans, for his Guard, and fifty Pair of Oars. At his landing at *Weſtminſter*, there he was attended with two hundred of the Trained-Bands; and went in, guarded by them, into the Hall. The Entries at *White-hall*, *King-ſtreet*, and *Weſtminſter*, were guarded by the Conſtables and Watchmen, from four of the clock in the Morning, to keep away all baſe and idle Perſons.

The King, Queen, and Prince, came to the Houſe about nine of the clock, but kept themſelves private within their Cloſets, only the Prince came out once or twice to the Cloth of State; ſo that the King ſaw and heard all that paſſed, but was ſeen of none. Some give the reaſon of this, from the received Practice of *England* in ſuch Caſes: Others ſay, that the Lords did intreat the King either to be abſent, or to be there privately, leſt Pretenſions might be made hereafter, that his being there was either to threaten, or ſome otherwiſe to interrupt the Courſe of Juſtice: A third ſort, That the King was not willing to be acceſſary to the Proceſs till it came to his part, but rather choſe to be preſent, that he might note and underſtand what Violence, Rigour, or Injuſtice happened.

When the Lieutenant entred the Hall, the Porter of the Hall (whoſe Office it is) asked Mr. *Maxwel*, whether the Ax ſhould be carried before him or no? who did anſwer, That the King had expreſly forbidden it: nor was it the Cuſtom of *England* to uſe that Ceremony, but only when the Party accuſed was to be put upon his Jury. Thoſe of the Upper Houſe did ſit with their Heads covered, thoſe of the Lower Houſe uncovered. The Biſhops upon the Saturday before did voluntarily decline the giving of their Suffrages in Matters Criminal, and of that nature, according to the Proviſion of the Canon Law, and Practice of the Kingdom to this day; and therefore would not be preſent: yet withal they gave in a Proteſtation, that their Abſence ſhould not prejudice them of that or any other Privilege competent to them, as the Lords Spiritual in Parliament, which was accepted.

The Earl of *Arundel*, as Lord High Steward of *England*, ſat apart by himſelf, and at the Lieutenant's Entry commanded the Houſe to proceed. Mr. *Pym* being Speaker of the Committee for his Accuſation, gave in the ſame Articles which were preſented at his laſt being before the Upper Houſe; which being read, his Replies were ſubjoined and read alſo, the very ſame which were preſented before in the Upper Houſe. Some give the reaſon of this, becauſe the Lower Houſe had not heard thoſe Accuſations in publick before; others, that the Formality of the Proceſs required no leſs: however, that Day was ſpent in that Exerciſe.

The Queen went from the Houſe about eleven of the clock, the King and Prince ſtaid till the Meeting was diſſolved, which was after two. The Lieutenant was ſent to the *Tower* by his Guard, and appointed to return upon Tueſday at nine of the clock in the Morning. The Croud of People was neither great nor troubleſome; all of them ſaluted him, and he them, with great Humility and Courteſy, both at his entrance and at his return: therefore let Fame pretend what it pleaſe about the Malice and Diſcontent of the Multitude, *That if he paſs the Stroke of Juſtice, they will tear him in pieces*; yet I ſee there is more in Rumour than in Sight and Appearance; and in this Report, as in all others of this nature, more is thruſt upon the Vulgar (who ſeem as well fearful of Puniſhment, as exempt from it, for all their great number) than they do juſtly deſerve.

On Tueſday in the Morning he came accompanied as before to *Weſtminſter*; and having ſtaid in the Exchequer-Chamber till nine of the clock, the King, Queen, and Prince came, as before upon the firſt Day.

Then Maſter *Pym* being called for, aggravated the Charge, which was given the day before, by a very ample Speech. It is impoſſible to call to mind all the Hyperboles, the Flaſhes, and ſuperlative Expreſſions that he uſed; the main Points were, That it was a Treaſon far beyond the reach of words, that he the Lieutenant, a native Subject and a Peer of *England*, the prime Governour of *Ireland*, the Commander of his Majeſty's Forces, and a Proteſtant in Religion, ſhould have in ſuch an impious and groſs manner recompenſed his Majeſty's Favours, abuſed his Goodneſs, and drawn all his Dominions into hazard and peril of their Religion, Lives, Goods, and Privileges; That one of theſe Faults alone had been enough, and too much, for the fulfilling of the Exorbitancy and Wickedneſs of any one Man; and that no Puniſhment could be thought upon, ſufficient to expiate Crimes of ſuch a tranſcendent nature.

The Lieutenant, with no leſs Moderation and Wiſdom than the other with Heat and Paſſion, ſpake to his own Defence; and that with ſuch a meaſure of Eloquence and Lively-hood, that his very Enemies were affected with it, and do marvellouſly report of it.

He modeſtly recounted his Services done to the King and Crown of *England*, his Endeavours for Advancement as well of the Honour as Commodity of both Kingdoms in general, but in particular that of *Ireland*; how he had engreatned and advanced the King's Revenues there, reſtored the Churches Maintenance, ſuppreſſed the Outlaws, eſtabliſhed Obedience to Royal Authority, and impedited the Tyranny and Uſurpation of Greater Ones over the Commons. And for the effecting of all theſe Actions, he mentioned himſelf the moſt weak and meaneſt Inſtrument, with a wonderful Prudence, in a middle way, betwixt the Affectation of Baſeneſs, or Dejectedneſs, and Allegiance.

Maſter *Pym*, after the Cloſe of his Speech, told him that there were three new Articles adjoined (by an After-ſearch) to his Charge; and deſired that he might preſently reply to the ſame.

Whereunto the Lieutenant anſwered, It was very ſtrange, that after the Cloſe of the Proceſs, and when matters were come to be ſcann'd, and examined by proof, that any new Charge ſhould be given in; yet leſt he ſhould ſeem to decline the Maintenance of his own Innocency, and the juſt

Defence of his Honour, he was moſt willing to hear them and have them alledged, provided that a convenient time might be aſſigned him to make his Replies againſt them, as he had done to the other given in before.

But Maſter *Pym* excepted againſt this, and told him that the Houſe did conceive it to be dangerous to grant any farther Prorogation.

Upon this, the Lords of the Upper Houſe (who did not think it fit as yet to voice any Particular in the Audience of the Houſe of Commons) did retire themſelves, and after a pretty time of ſtay, they returned and declared, that they had found the Lieutenant's Suit to be equitable, in deſiring of further time for anſwering; yet ſeeing the Articles themſelves, neither for number nor weight, ſeemed to be of that importance, but that he might furniſh out a preſent Anſwer, they thought it fitting to grant no delay.

The Lieutenant then (intreating them to paſs by and pardon the Weakneſſes of his extemporary Anſwers) deſired to hear the Articles read, which were theſe:

Firſt, *That he had within theſe two Years withdrawn Forty Thouſand Pounds* Sterling *from the Exchequer in* Ireland, *and employed it to his own private Uſes.*

Secondly, *That in the beginning of his Government, the Gariſons in* Ireland *had been maintained by the* Engliſh *Treaſury.*

Thirdly, *That he had advanced Popiſh and Infamous Perſons, as the Biſhop of* Waterford *and others, to the prime Rooms in the Church of* Ireland.

To the firſt he anſwer'd, That Thirty Thouſand Pounds were ſet apart for the King's late Service, at his own moſt ſpecial and moſt peremptory Commands; for which he produced the King's own Letter, already approved as his Acquittance at the Exchequer-Board in *Ireland.*

To the ſecond, That at the beginning of that Charge againſt him, as ever before his time, the Gariſons had been burdenſome to the Kingdom of *England*; but that he had ſo improved it, and ſettled the King's Revenue there, that the like is not to be heard in all the times that are by-paſt: for which (if the beſt Endeavours of a Subject may juſtly expect any Reward from his King and Country) he craved leave to think that he rather deſerved many Thanks, than the leaſt Puniſhment.

To the third, He atteſted all the Clergy in *Ireland*, if ever he had taken upon him any particular meddling in advancing their Churchmen, or whether he had done any thing concerning ſuch Affairs, but upon the ſpecial Advice and Deſire of the beſt and wiſeſt of their number. For his part, when he befriended the Biſhop of *Waterford*, he conceived of him as a Man of Integrity and Learning, fit for ſuch an Employment; nor was there then the leaſt Suſpicion of thoſe monſtrous Impieties, wherewith he was afterwards charged; that he had now juſtly ſuffered for the ſame, and that he hoped they would not lay a neceſſity upon him to propheſy and divine of the future Conditions and Deportments of Men. For others of the Church, ſuſpected of Popery, he knew none ſuch, but ſhould anſwer to the Particulars ſo far as they concerned him, when they ſhould happen to be alledged.

After this the Houſe diſſolved for that Night, the King's Majeſty and the Prince having ſtaid all the time; and the Lord-Lieutenant was appointed to come thither again on Wedneſday Morning: at which time they are to proceed to the firſt Article, to give an Oath to the Witneſſes, and to examine all the Proofs whereon the Proceſs was builded.

It will be a very hard matter for him to expect every Man's Teſtimony, and to give his Anſwers, either for full Satisfaction or Diminution of all Objections; which way of proceeding will ſpend at leaſt a Fortnight, if not a greater ſpace of time; yet it is thought the Lower Houſe are impatient of Delays. The Expectations are exceeding various and different about the Event of this great Action: ſome think it will be impoſſible to eſcape the many and great Accuſations laid to his charge; others, and that the greater number too, are of opinion that he will be in no hazard of his Life, and that it will not be poſſible to bring him into the compaſs of Treaſon; (*quod tam miſere timpio ut non credam.*) His adverſe Party is ſo great, and ſo far intereſted both in point of Safety and Honour againſt him, that *flectere ſi nequeunt Superos, &c.* nothing will be left uneſſay'd, that may accelerate his Ruin.

He hath all this time carried himſelf courageouſly, to the admiration (and withal ſo moderately, that it is to the great ſatisfaction) of his very Enemies; ſo that he ſeems neither dejected with Fear, nor to affect Boldneſs with Confidence, but to carry himſelf with that Conſtancy and Reſolution, which his Innocency and brave Parts do promiſe.

The *Iriſh* Commiſſioners here, have hitherto abſtained from giving in any Remonſtrance againſt the Lieutenant, and do ſtill plead to have an immediate Dependance from the King, and not from the Parliament of *England.* There was a Report that the Parliament of *Ireland* had ſent a Proteſtation againſt the Act made the laſt Year, for the King's Supply in his Expedition againſt the *Scots*, as a thing which was violently in part, and in part ſurreptitiouſly obtained from them: but I have learned this to be an Untruth. I had almoſt forgotten one Paſſage of Mr. *Pym*, who in the Aggravation of the Lieutenant's Faults, had this Expreſſion, That he was like the Whore in the *Proverbs, He wiped his Mouth, and with a brazen Face ſaid he had done no Evil.*

To this the Noble Lord replied, That he wiſhed his Innocence might not be taken for Impudence, that he hoped ſhortly to clear himſelf of all thoſe foul Aſperſions which his malicious Enemies had caſt upon him; and he was very confident that he ſhould give the Honourable Houſes full Satisfaction concerning his Life hitherto, and thought of nothing more hereafter than to retire himſelf from all publick Employments.

Mr. *Pym* gave at this a great Shout, and deſired the Houſe to take notice what an injury he had done to the Honourable Houſe of Commons, in calling them his malicious Enemies.

Whereupon the Lieutenant falling down upon his Knees, humbly beſought them that they would not miſtake him; and withal gave a large Panegyrick of their moſt juſt and moderate Proceedings, proteſting that if he himſelf had been one of the Houſe of Commons, (as he had the honour once to be) he would not have adviſed them to have done otherwiſe againſt his deareſt Friend: but withal told them, that he might juſtly ſay he had his own Un-friends, which he hoped in time to make known. Nor did he all this time ſpeak one bitter word againſt Mr. *Pym*, though juſtly incenſed; which hath infinitely advanced his Reputation.

I have been a daily Hearer of theſe Proceedings againſt this great Perſonage now upon the Stage, there-

therefore do presume I can give a reasonable Account thereof. The Book of his Charge is extant in Print, so it shall be needful for me only to name the Articles, as they were canvassed; and those designed by the House of Commons to be his Accusers, which were these that follow.

The Names of his Accusers.

Pym, Glyn, Maynard, Whitlock, Lord *Digby*, *St. John*, *Palmers*, Sir *Walter Earles*, *Stroud*, *Selden*, *Hampden*, &c.

One of these began the Speech; the rest, after their Collegue hath done, follow in their turn: so that he hath all of them to wrestle against, and yet sufficiently able for them all; though by his Agitation his Spirits are much exhausted.

Mr. *Glyn*, after a large Flourish, on Wednesday, told the Lords, That the Lord *Strafford* was impeached, not with simple, but accumulative Treason: For though in each particular Article, such a monstrous Crime could not be deprehended, yet when all was conceived in the Mass, and under one View, he should be undoubtedly found the most wicked and exorbitant Traytor that ever was arraigned at that Bar. He added, That his Charge was for intending to subvert and change the Fundamental Laws, Liberties, and Privileges of both the Kingdoms, and to introduce an Arbitrary and Tyrannical Form of Government. This, he said, could not appear but by the Fruits, which were either in Expression or Action. The Expressions were four:

First, That before several Witnesses he had said at *York*, *That the King's Little-finger should be heavier to them, than the Loins of the Law.*

To this the Lieutenant replied, That having spoken sufficiently before to his Justification in general, he would moreover add these few words, by their favours: That it did strike him to the heart to be attached of such a wicked Crime, by such honourable Persons; yea, that it wounded him deeper, in regard that such Persons who were the Companions of his Youth, and with whom he had spent the best of his days, should now rise up in Judgment against him: yet he thanked God for it, it was not Guilt, but Grief, that so much troubled him. He added, That it was a wonder how he had gotten strength sufficient in such Infirmity of Body, and such Anguish of Mind, to collect his Thoughts, and say any thing at all for himself; but the Almighty God, who knows him to be innocent, had furnished him with some Abilities to give Testimony to the Truth, and to a good Conscience: He therefore intreated, that if either in Judgment or in Memory he should at any time fail, it might be imputed to his great Weakness. And although the Gentlemen his Accusers should seem more ready in their Accusations, than himself in his Defence, yet that might not prejudice his Cause; who, in very unequal Terms, had to do with learned and eloquent Lawyers, bred up a long time and enured to such judiciary Pleadings, and whose Rhetorick, he doubted not, might present many things to their view in a Multiplying-Glass. He told them farther, That for these many years he had been weary of publick Service, and that now it was his Resolution, after he had vindicated his Honour, to retire himself, and enjoy his much long'd-for Privacy: and yet he could not but tell them so much, that it had been his hearty Wish and Desire, rather voluntarily to have resigned his Places of Honour, like a ripe Fruit fallen from the Tree, than to be violently pulled from thence, as a fruitless and unprofitable withered Branch.

To the Charge of Treason, he said, That under favour he conceived that although all the Articles contained in his Impeachment were verified against him, yet they would not all amount to Treason, neither simple nor accumulative: For (said he) I do not understand by what Interpretation of Law, the Diversion of Justice can be called a Subversion of the same; or the exceeding of a Commission, the Usurpation of a new Power. To the Particular he replied, That his words were clearly inverted, for that his Expression was, *That the Little-finger of the Law (if not supported by the Regal Power, in granting Pardons for Penalties of the same) was heavier than the King's Loins.* That this was his Expression, he verified;

First, By the Occasion: for he spake the words a long time since, to some Men who had lain imprisoned at *York*, and were then by the King's Favour set at liberty; whom he incited to Thankfulness (by this Expression) towards his Majesty.

Secondly, By Witnesses produced by him. In the Examination of their Witnesses he convinced one of them of Untruth, by interrogating him where he was when the Speech was heard, and how far distant from him: when the Man replied, that he was twelve Yards from him; he answered, that it it was impossible for him to hear a Man three Yards off, by reason of a Deafness that had held him fourteen Years: which being found true, the Witness was rejected.

Another Witness (Sir *David Foulis*) was brought against him; against whom he excepted, as his known and professed Enemy: 'twas told him, that he himself did not use to admit of Exceptions against Witnesses, and therefore was to expect the same measure.

He replied, that Master *Pym* might one day perhaps be attached, for persuading the House of Commons to commit the same Crime that was laid upon him as a Charge of Treason. But for all this, the Witness was received, because in matter of Treason a Man's Enemy may witness against him *pro Domino nostro Rege*: though, I suppose, the King's Advice was never asked for the present. This was all that was done for that time.

On Thursday he was charged with the second Expression; *That he said* Ireland *was a conquered Kingdom, and that the King might prescribe them what Law he pleased.*

This they aggravated as a prime Note of his Tyrannical Will and Affection, that would permit no Law to bound the Subject, but what himself, and such as he, might draw up by siniſtrous Informations, from a gracious and well-meaning Prince: and if this were admitted, the whole Power and Liberty of the Republick would be utterly lost.

To this he replied, That neither was the Expression in those words, nor in that sense spoken or meant by him. The first part of it (said he) cannot be denied: to the second, that he had said only, *That the King was the Law-giver*, which he hoped none could deny without incurring the Crime of Treason; and that *the King's Sentence was a Law in matter not determined by Acts of Parliament*, which all but disloyal Subjects would grant. And that it had ever been his endeavour to have the Liberty of the Subject and the Royal Prerogative follow both in one Channel; if either of them crossed other, we could expect nothing but a Subversion of the Commonwealth, either by Tyranny or Rebellion:

bellion: That the Prerogative was like the firſt, the Liberty of the Subject like the ſecond Table; either both or neither can be preſerved. That in his Duty he ſtood obliged firſt to the King, as God's Anointed; then in the ſecond place to his Country, if it did not croſs the Regal Power. And therefore hoped, that what he had ſpoken was ſo far from being Treaſon, that he thought a thouſand ſuch Expreſſions would not make up one Felony.

On Friday the two other Expreſſions were followed; That he ſaid, *He would not ſuffer his Ordinances to be diſputed by Lawyers, before inferiour Judicatories, and that he would make an Act of State equivalent to an Act of Parliament.*

To the firſt he ſaid, That he had often ſaid (more than once) that he would not ſuffer his Ordinance to be contemned; becauſe, in him, his Maſter's Honour was wounded.

To the ſecond, He thought a proportionable Obedience was due to Acts of State, as well as to Acts of Parliament; otherwiſe they were made in vain, if that both did not bind in one kind.

The Lord *Cork* (though his mortal Enemy) was now examined, and admitted as a Witneſs; whom in his Depoſition he convinced of two ſhameful Overſights: for *Cork* had declared upon his Oath, that the Lieutenant had cauſed to be interlined an Ordinance againſt himſelf, and had cauſed ſome words to be ſcraped out; which words were notwithſtanding ſtill found to be in the Sentence, by an authentick Copy under the hand of Sir *Paul Daviſon*, Clerk to the Council-Board of *Ireland*.

Then *Cork* alledged, That he had advanced a Groom of his to be a Preacher; who by a Teſtimony from the Univerſity of *Dublin* he verified to have been a Maſter of Arts ten or twelve years before his Advancement: adding withal, that my Lord of *Cork* was an excellent Scholar, who was able to breed ſuch Grooms.

Upon Saturday, having done with his Expreſſions, they canvaſſed the firſt Article about his Actions:

Againſt the Lives of the King's Subjects, both in the Caſe of the Lord *Mountnorris*, and alſo of another of the King's Subjects, both of whom he had ſentenced to death by Martial Law, contrary to all Law, and to the manifeſt Subverſion of the Privileges of Subjects, *Magna Charta*, and the Petition of Right.

To the Lord *Mountnorris*'s Caſe, he replied,

1. That though that Sentence had been unjuſtly given and rigorouſly proſecuted againſt him, yet the greateſt Crime that he could be charged withal, would but amount to Manſlaughter, or Felony at the moſt.

2. That he hoped (though this were true) to obtain a Pardon from his gracious Maſter the King's Majeſty, as well as *Conway* and Sir *Jacob Aſtley* had lately done, for exerciſing Martial Law in the Northern Army.

Then he replied to all the Parts of the Charge, which were four:

1. That he had exerciſed Martial Law in time of Peace.

To this he anſwered,

(1.) That all Armies have been, and muſt be, governed ever by Martial Law.

(2.) That there is a ſtanding Army in *Ireland*, and therefore the Caſe is all one in time of Peace or War; and that the Army might be undone, if they ſhould not uſe Martial Law, but were to expect Remedy for the ſettling of a Mutiny, or Aſſurance of Obedience, from the Common Law.

(3.) That it had ever been the Practice of the Deputies, particularly of *Wilmot*, *Falkland*, *Chichester*, yea *Cork* himſelf; and therefore was no new thing brought in by him. This he proved, both by the Production of the military Ordinances, and by divers Witneſſes who knew Sentences given in that kind by them.

(4.) That he had a particular Warrant in his Commiſſion for this Power.

(5.) That in the Lord *Mountnorris*'s Caſe, he was commanded to exerciſe the ſame, by the King's particular Letter: both which he cauſed to be read.

The ſecond Charge was, That he was both Party and Judge in the Lord *Mountnorris*'s Cauſe.

To this he replied, That he had ſitten in Judgment, becauſe he was one *ſine quo non*, the Judgment could not proceed without him: but that he was not Judge, but Party, appeared,

1. Becauſe he ſat diſcovered all the time.

2. Becauſe he refuſed to give his own Opinion.

3. Becauſe he did not give his Suffrage one way or other.

4. Becauſe he removed his Brother Sir *George* from having a hand in the Proceſs, in regard of Intereſt of Blood.

The third Charge was, That he proceeded ſummarily in the matter of the Lord *Mountnorris*.

He replied, Firſt, That he was not Judge in it, and that the Council of War was to be anſwerable in the Juſtification of their own Proceedings.

Secondly, That after a long Reaſoning he had heard them ſay, that no delay could ſafely be granted in Martial Courts.

The fourth Charge was, That he had not heard the Exceptions made by *Mountnorris* againſt his Witneſſes.

To this he anſwered, as before, That he was not Judge in the Caſe, and that he remembers no Exceptions made againſt any Witneſſes. To which he added, That as he had been regulated in his Proceedings, ſo he had been moderate in the Execution of that Sentence: for though the Lord *Mountnorris* juſtly deſerved to die, yet he had obtained him the King's Pardon, for the ſaving of his Life; and proteſted, that he intended nothing by that Sentence, but in ſome meaſure to repair his own Honour, and to give *Mountnorris* fair reproof, who was known to be of an exorbitant and licentious Tongue and Spirit. Adding, that if the Houſe of Commons would go on the ſame way with him, and aſſure him that the Iſſue of his Charge ſhould be nothing elſe but to admoniſh him for the time to come, he would thank them heartily for it, and ſtudy Amendment in all pretended Overſights. And whereas *Mountnorris* complained that he had jeeringly told him, when the Sentence was paſſed and pronounced againſt him, That e'er he loſt his Head, himſelf would loſe his Hand; he anſwered, That he had been thought to be very inſolent and haughty, yet he was never ſo impertinent to uſe this Expreſſion: If any fault were, it was for undervaluing himſelf, in ſaying, That e'er a Hair of *Mountnorris*'s ſhould periſh, he would loſe his Hand. And truly (ſaid he) if *Mountnorris* would ſay ſo to me now, even in the worſt ſenſe that can be conceived, That e'er I died he would loſe his Hand, I would take it very kindly from him.

For the other Man, he avouched that he himſelf had voiced to hang him, both becauſe he was

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an errant Thief, and alſo had fled from his Colours, which by the Common Law (and to this effect he cited a Statute 20 *Hen.* 6. and 7 *Hen.* 7.) is Felony. He concluded, That ſeeing he was not acceſſary to the Sentence againſt *Mountnorris*, had not ſat there as Judge, had a power to keep Martial Courts by his Commiſſion, had not exerciſed the ſame till a new Command came from his Majeſty, had done no more than ever was practiſed in *Ireland* before his time, and had at leaſt obtained *Mountnorris*'s Pardon; he hoped there was nothing accuſable in him, but his too remiſs and too moderate Proceedings.

Maſter *Glyn* bitterly replied, That he knew the time when the Earl of *Strafford* was no leſs active and ſtirring to enlarge the Liberty of the Subject, and advance the Petition of Right, than now he is for extending his own Arbitrary and Tyrannical Government.

To this he replied, without the leaſt Semblance of Paſſion, That if at any time he had done the leaſt Service to the Houſe of Commons, he thought his whole Life well ſpent; nor could they ever ſo graciouſly reward him, as to give Commiſſion to that Gentleman to expreſs ſo much before that Honourable Aſſembly: But withal, if ever any ſuch thing was done by him, he intreated it might now be remembred, and might now ſerve to overballance ſome ſlight and mean Overſights committed by him; which he hoped ſhould never make him guilty of Treaſon, unleſs it were Treaſon for a Man to have no more Wit and Prudence than God and Nature had beſtowed upon him. And ſo much for Saturday.

Upon Monday he was charged with the ſixth Article; That he had uſed a Tyrannical Government, not only over the Lives (as appeared by the laſt) but alſo over the Lands and Goods of the King's Subjects, as appeared by this Article; wherein he was charged to have diſpoſſeſſed the Lord *Mountnorris* of a Tenure of Lands, by a Summary Proceſs before himſelf, contrary to all Law: and therefore had failed,

1. Againſt the Act 7 *Hen.* 6. which provides all Matters to be determined by the ordinary Judges.

2. Againſt the Cautions ſent to *Ireland* by King *James*, expreſly forbidding ſuch Power hereafter to be exerciſed.

3. Againſt the King's late Proclamation.

4. Againſt the Practice of all Deputies before that time.

Withal they added, That it was a Tyranny that could not be expreſſed, to exerciſe this Power over the Perſons of the Peers of the Land, and their Goods.

To this he replied, That for his part, in matter of Juſtice (under favour he ſpake it) he thought there was no diſtinction to be made betwixt a Peer of the Land and one of the Commons, except they did think that either Fear or Faction ſhould do ſomething, which had no place in him.

To the Particulars:

1. That the Act of *Hen.* 6. anſwered itſelf ſufficiently, both becauſe it excepted the Court of Requeſts (and that his Proceedings were nothing elſe in *Ireland*) and alſo makes an expreſs Reſervation of the King's Prerogative; which he ſaid was his Strength, becauſe he derived his Commiſſion from the King, and that the Act was the moſt expreſs Warrant in the world for him.

2. That he had not failed againſt the Cautions given by King *James*,

(1.) Becauſe they were not charged upon him.

(2.) Becauſe they were never obſerved, nor could be by the Deputies to whom they were given; which he proved both by Witneſſes and Writings.

(3.) Becauſe the Caution made rather for him than againſt him, in that it contained the word *hereafter*, which manifeſtly implied that the Power had been ſometimes before exerciſed in *Ireland*, and not only by himſelf; and therefore thanked them for that Teſtimony and Hint.

(4.) That though the Cautions had been given to him, yet he had received an expreſs Command from the King his Maſter to put that Power in uſe: cauſing the King's Letter, for that purpoſe, to be read; and profeſſing withal, That he was tender to exerciſe that Power, till the King (induced by the humble Remonſtrance of the meaner ſort of People) had moſt peremptorily, and upon moſt juſt Reaſons, commanded him.

3. That he could not obey the King's Proclamation five Years before it came out; and that he wiſhed from his heart, that they would but reſpect the King's Commands and Commiſſions with that Tenderneſs of Affection and Obedience, as he did his Proclamations.

4. He proved it to be the conſtant Practice of all Deputies that went before him.

It was objected, That other Deputies had indeed upon Suits of Equity determined themſelves, as to Matters of Debt, but never of Land.

He replied, Firſt, That the ſame Authority reacheth as well to the one as to the other. Secondly, That neither he nor they had ever given Sentence, or determined any thing concerning Matters of Inheritance; but only concerning violent Intruſion, which fell directly within a Suit of Equity. To which he added,

Firſt, The Equity of that Court; that it proceeds upon the ſame Grounds and Evidences as that of the Common-Pleas, and that he had the aſſiſtance of two of the Learned Judges in deciding the Controverſy.

Secondly, The Profit of that Court, which diſpatcheth the Poor in a day or two; whereas the Common Law would keep them ſo many Years, which they are not able to ſuſtain.

Thirdly, The Neceſſity of that Court in that Kingdom, which hath been ever governed by that way, and therefore impoſſible to debar the Natives from it, without great inconvenience; for it would utterly undo them, and none is prejudiced by it but the Lawyers. And therefore ſeeing that he had done nothing but what was cuſtomary, neceſſary, and equitable, commanded to it, and the Sentence juſt; he hoped rather for Thanks from the State, than a Charge for his ill Deportment. Withal he ſhewed with what Extortion and Violence the Lord *Mountnorris* had taken ſeizure of that piece of Land, and made the playing of his Game to be very foul. And at laſt he added, That he had done no more in *Ireland*, than the Court of Requeſt in *England* uſually doth, and that the Chancery-Court in *Ireland* doth the ſame daily; and the laſt Chancellor was never charged (ſaid he) for ſuch Proceedings, though this his Power and Authority was leſs than mine: but the difference of the Perſon and his Authority (it ſeemeth) differeth the matter. And this was the Buſineſs on Monday.

On Tueſday they paſſed by the 7th Article, and the two firſt Parts of the 8th, about the Lady *Hibbot*'s Land; That he had violently thruſt her from her Poſſeſſion by this ſummary way of Juſtice, and after-

afterwards purchaſed the Land to his own uſe, by borrowing the Name of Sir *Robert Meredith*.

In this Probation, the Teſtimony of the Gentlewoman's own Son was uſed, of the Lord *Cork*, and the Lord *Mountnorris*, all his Back-friends, or profeſſed Enemies: And yet they proved very little, but what they took upon Hear-ſays. Their prime Allegation was,

Firſt, That tho the major Part of the Council-Board had voted for the Lady, yet the Lord Lieutenant had given Decrees againſt her.

Secondly, That all was done to his own behoof.

To the Firſt, He produced the Sentence under the Hand of the Clerk of the Council-Board, ſubſcribed by the major Part.

To the Second, He atteſted that he had no Under-dealing with *Meredith*; for the Lady had got her own Lands back from the ſaid Sir *Robert Meredith*. He alſo declared at length with what Fraud and Deceit the Lady had come to her Lands, and upon what Reaſons they were reſtored.

After this Article they fell upon the 9th, about the giving of Commiſſion to the Biſhop of *Downe* and *Connor*, for apprehending all ſuch Perſons, and preſenting them before the Council-Board, as contemned the Eccleſiaſtical Ordinances.

This was aggravated as a Point mainly againſt the Liberty of the Subject.

To this he replied:

Firſt, He produced the Primate of *Ireland*'s Teſtimony under his Hand, (he being himſelf ſick) that the ſame Courſe had been uſed in *Ireland* before; and that Biſhop *Mountgomery*, his Predeceſſor in the Biſhoprick of *Meathe*, had had the ſame.

Secondly, He ſhewed the Equity that ſuch Aſſiſtance ſhould be given to Churchmen, who otherwiſe, becauſe of Papiſts and Schiſmaticks, either to God or the King, would have no Reſpect or Obedience given them in that Kingdom.

Thirdly, He proved by two Witneſſes that ſuch Warrants were in uſe before his time.

Fourthly, He ſaid he had never granted any but that one, and had preſently, within ſome few Months, called the ſame in again. What (ſaid he) was the Biſhop of *Downe*'s Carriage in it, he had no reaſon to anſwer for: But he preſumed the Biſhop could give a ſatisfactory Anſwer for himſelf, when he ſhould be called in queſtion. And ſo he concluded, that a Matter ſo juſt, ſo neceſſary, ſo cuſtomary and practical before, he hoped ſhould not be charged upon him as an Introduction of a new and tyrannical Form of Government; and therefore ſubmitted himſelf to the Mercy of God, and the Equity of his Peers in his Tryal. And this was the Work on Tueſday.

The Ability of this brave Gentleman raviſhed his Hearers with Admiration, tho he be infinitely ſpent both in Body and Mind by the continued and almoſt uninterrupted Agitation.

After the 9th Article was paſſed, againſt the Commiſſion iſſued in favour of the Biſhop of *Downe* and *Connor*; upon Wedneſday Mr. *Glyn* proceeded to the 10th Article. The Charge was, That the Earl of *Strafford* having eſtabliſhed an arbitrary and tyrannical Government over the Lives, Lands, and Liberties of the King's Subjects, his next Deſire was to make Intruſion upon the Crown it ſelf, that by applying to his own uſe the publick Revenues, he might be the more enabled to accompliſh his diſloyal and traitorous Intentions. To which end, having by a new Book of Rates enhaunced the Cuſtoms, he had gotten by Advantage of his Leaſe above twenty ſix thouſand Pound yearly. This (they added) was a Crime of a higher nature than thoſe contained in the preceding Articles, becauſe in thoſe there was ſome Colour or Pretext of Juſtice, here none; thoſe in particulars, this in general; thoſe againſt the Subject only, this againſt the King himſelf.

For the Proof of the Charge, they produced the Leaſe of the Duke of *Buckingham*.

Which was read and compared with that Leaſe to the Dutcheſs of *Buckingham*, (which the Lieutenant hath now by Aſſignment) and ſome Differences ſhewn, ariſing to the Sum of two thouſand Pounds in the Duke's Leaſe; only the Moiety of concealed and forfeited Goods were due to him, but the whole Goods to the Dutcheſs in her Leaſe. Again, the King's Ships of Prizes did not pay Cuſtom in the Duke's Leaſe; in the Dutcheſs's they did. Again, the Impoſt of the Wines (then belonging to the Earl of *Carliſle*) was not in the Duke's Leaſe; in the Dutcheſs's it was. Laſtly, Whereas the Earl of *Strafford* paid but fourteen thouſand Pounds *per Annum* for the Cuſtom, it was worth to him, as was apparent by the Books of the *Exchequer*, forty thouſand Pounds.

Witneſſes were examined.

Firſt, Sir *James Hay*, who depoſed, That the Earl of *Carliſle* had an Advantage of one thouſand ſix hundred Pounds *per Annum* by his Leaſe of Wines.

Secondly, The Lord *Ranelaugh*, who depoſed, That by the Inſpection of the Books of Accompts, he had found the Cuſtoms to be *Anno* 1636 thirty ſix thouſand Pounds, *Anno* 1637 thirty nine thouſand Pounds, *Anno* 1638 fifty four thouſand Pounds, *Anno* 1639 fifty nine thouſand Pounds.

With the Proof they concluded the Charge, That notwithſtanding the Lord *Strafford* pretended a great Meaſure of Zeal and Honeſty in his Majeſty's Service, yet it is evident he had abuſed the Truſt put upon him; and by withdrawing ſo great Sums of Money from the Crown, had weaken'd the King, prejudiced the Subjects of the Protection they were to expect from him, and had been the Cauſe that the extraordinary way of Impoſt and Monopolies had been undertaken for ſupplying of the Royal Neceſſity. And that this Act therefore ought to be enough to make the Charge and Impeachment of High Treaſon laid againſt him.

The Lieutenant's Reply was, That he conceived he had given full Satisfaction to all hitherto brought againſt him about that pretended arbitrary Government; nor would he ſpend Time in vain Repetitions: For the preſent Article, though in all its Parts it were granted to be true, yet he could not perceive by what Interpretation of Law it could imply the leaſt Act of Treaſon; and when it ſhould be directly charged upon him as a point of Miſdemeanour, Oppreſſion, or Felony, he made no doubt but he ſhould be very able to clear himſelf abundantly in that Point alſo; yet leſt any Prejudice might ſtick to his Honour by theſe bold Aſſertions, he was content to ſtep ſo far out of the way, as to give anſwer:

Firſt, That it concerned him nothing what Particulars in the Leaſe had paſt betwixt the King and the Dutcheſs of *Buckingham*, or whether ſhe had obtained a more eaſy Condition than the Duke her Husband, eſpecially ſeeing that ſame was granted ſome Years before his coming to that Government: yet thus much he could ſay, That the Dutcheſs had paid thirty thouſand Pound Fine;

and

and therefore no marvel her yearly Rent was the leſs.

Secondly, For the Book of Rates (wherein the chief Matter of Oppreſſion and Grievance ſeemed to reſt) the ſame was there eſtabliſhed by the Deputy *Falkland*, *Anno* 1628, three Years before his going into *Ireland*; and therefore it was exceeding ſtrange, in his Apprehenſion, how that could riſe up in Judgment againſt him.

Thirdly, That he had his Intereſt in the Cuſtoms by Aſſignation of a Leaſe from the Dutcheſs, which was given her before his Government: Nor did he ever hear it alledged as a Crime of Treaſon, for a Man to make a good Bargain for himſelf.

Fourthly, That not of his own Accord, but at the King's ſpecial Command, he had undergone that Charge, in hopes that upon the Enquiry into the Worth thereof, the Cuſtoms might be improved for the Benefit of the Crown, and the true Value thereof diſcovered. This he proved by the Lord *Cottington* and Sir *Arthur Ingram*.

Fifthly, That when a new Book of Rates was recommended to him by the Council-Board of *England*, in the time of his Leaſe, he ſo far preferred a Fear he had that the Trade of *Ireland* might thereby be diſcouraged before his own Commodity, as he preſumed, in all Humility, to refuſe the ſaid Book of Rates, and tendered his Reaſons thereof to the Kingdom and Council-Board of *England*.

Sixthly, That he never underſtood that the Cuſtoms could ariſe to thoſe great Sums alledged: But tho they ſhould, yet his Advantage was but ſmall. For firſt dividing the fourteen thouſand Pounds he paid to the King; then five parts of eight, which was yearly given in upon Oath (and that procured firſt by himſelf) at the *Exchequer*-Board; the other three parts divided amongſt four of them which were equal Sharers in the Leaſe, would not amount to any great Sum of Money. And therefore except it were Treaſon for him to have improved the King's Revenue, encouraged the Trade, and refuſed the new Book of Rates, he could in his own weak Judgment diſcern none there; nor could he think it a Crime for him to take an Aſſignation of a Leaſe granted before his time, and to inſiſt on the Book of Rates uſed before his coming over. And therefore was confident the Lords would rather take his Accuſation as an Exerciſe of Rhetorick in the Gentlemen his Adverſaries, than as a Thing ſpoken in good earneſt by them.

The ſame Day the 11th Article, concerning Tobacco, was charged on him by the ſame Man, Mr. *Glyn*, after this manner; That for the farther Advancement of his tyrannical and avaritious Deſigns, he had of himſelf eſtabliſhed a Monopoly for the Reſtraint of Tobacco in that Kingdom: where they offered five Particulars to the Proof;

1ſt, That he had reſtrained the Importation of Tobacco.

2dly, That in the mean time he had brought in a great Quantity himſelf, and ſold the ſame at exorbitant Prices.

3dly, That of Tobacco already imported, he had forbidden any to be ſold but what was firſt ſealed by his Officers.

4thly, That upon a pretended Diſobedience he had puniſhed a great Number of People by Seizures, Impriſonments, Fining, Whipping, Pillory, and ſuch like cruel and inhuman Uſages.

5thly, That by theſe means he had gained one hundred thouſand Pounds yearly.

For Proof hereof,

Firſt, The Proclamation for reſtraining Tobacco was read.

Secondly, The Proclamation about the ſealing of the ſame.

Thirdly, Some Witneſſes, who declared that Ships had been reſtrained from landing Tobacco.

Fourthly, Others, who had known ſome Tobacco ſeized on as forfeited.

Fifthly, The Remonſtrance of the Houſe of Commons in *Ireland*, declaring that the Earl had ſold 500 Tun of Tobacco, which, ſold at 2 *s.* 6 *d.* *per* Pound, amounts to 100000 *l.*

They concluded the Charge, That he had ſucked up the Blood, and eaten up the King's liege People; and had by this one Point of Oppreſſion raiſed greater Sums to himſelf, than all the King's Revenue in that Kingdom extended unto. And therefore was liable to the Crime of Treaſon, for troubling the Peace, and bereaving the People of their Goods, who were intruſted to his Care and Government.

The Lieutenant's Reply was,

That his moſt ſecret Thoughts were conſcious of nothing but a ſincere Intention and Endeavour to promote and advance the Welfare of that Kingdom: And withal, he conceived (by their leaves) that nothing in that Charge could have the leaſt reference to Treaſon; yet, as he ſaid before, for removing of all Prejudice, he was contented to anſwer:

Firſt, That long before his coming to *Ireland* the ſame Reſtraint had been of Tobacco, and the ſame Impoſt of eighteen Pence *per* Pound enjoined by King *James*.

Secondly, That at that time the Tradeſmen for this Commodity paid but twenty Pounds a Year to the Crown for the Impoſt, but now 400 *l.*

Thirdly, That the Parliament in *Ireland*, 1628, had petitioned to have this Impoſt ſettled by an Act of State for ever afterwards, as a part of the Revenue of the Crown.

Fourthly, That he had expreſs Command from the King for iſſuing thoſe Proclamations; and therefore could not imagine more danger in them, than in others for Monopolies in *England*, in the worſt Senſe.

Fifthly, That the Proclamations were not put forth by himſelf alone, but by the whole Council-Board of *Ireland*.

Sixthly, That for the Contract of Tobacco, he was ſo tender of it, that it was ſent over hither, and ſeen and approved of by the Council-Board of *England* before it was condeſcended to in *Ireland*.

For the Proclamations, he told them it was his own Opinion, (and if he failed in it, he humbly craved Pardon, and hoped that it ſhould not be Treaſon to have no more Judgment than God had beſtowed on him) that the King was endued by God with a Power to make temporary Laws, and cauſe the ſame to be promulgated for the Good of his People, upon ſudden emergent Occaſions; to which Laws Obedience is due, till they be abrogated by enſuing Parliaments. That he reſtrained no Man from importing Tobacco, who was willing to pay the appointed Impoſt. That for his part, he had never traffick'd in all his time in that kind, nor had any part with the Contractors: And if any Tobacco was ſeized on, it was upon contempt of the Proclamations. And if any Perſon were cenſured to the Pillory or Whipping, it was for known Perjury, the ordinary and uſual

Puniſhment in ſuch a caſe. Concerning the Tobacco imported, (he ſaid) no Conſideration was taken of the Prices given for the Tobacco beyond Seas, of the King's Revenue of four thouſand Pound, of the Merchants Pains and Danger in bringing the ſame home. For his part, if any Advantage were made, ſurely it was not his; nor could he annul every Contract or Leaſe made by the King. And therefore, ſeeing his Intereſt was none, he had done nothing but at the King's Directions, and at the Advice of the Council-Board; ſeeing the ſame Impoſt was in King *James*'s Time, and petitioned for by themſelves in *Ireland*; he hoped his Carriage in the Buſineſs ſhould be ſo far from a Crime of Treaſon, that it ſhould rather be thought no Crime at all. So much for Wedneſday.

Upon Thurſday he was charged with the 12th Article, concerning Flax, by Maſter *Maynard*, on this manner; That the Flax, being the native and principal Commodity of that Kingdom, was by him (the Lieutenant) reſtrained, and the Subjects put to that which was unknown, yea, impoſſible for the *Iriſh* to make the ſame into Yarn. Here they complained of three Things:

Firſt, That by Proclamation he had reſtrained ſelling of Flax.

Secondly, That he had ordered the making of Yarn of ſuch and ſuch Lengths and Numbers of Threds.

Thirdly, That the native *Iriſh* being unacquainted with ſuch Cuſtoms, upon pretended Diſobedience, had all their Flax and Yarn ſeized on to his uſe; whereby a great many Families were reduced to ſuch Penury, that they died by great Numbers in the Fields for want of Food.

For proof hereof, they brought;

Firſt, The Proclamation about the Reſtraint.

Secondly, The Warrant for ſeizing the forfeited Goods.

Thirdly, The Execution of the Warrant proved by Sir *John Clotworthy*, and Lord *Ranelagh*.

Fourthly, The Remonſtrance from the Houſe of Commons in *Ireland*, That upon the rigorous Courſe and Execution of this Warrant many Perſons died for want of Food. They concluded the Charge therefore, Though the Article did not individually imply Treaſon, yet it did make very much for the Accumulation of Treaſon.

The Lieutenant's Reply was,

That, as before, he would, and muſt ever repeat it, that nothing was in the Charge that contained Treaſon. To the Matter it ſelf he anſwered,

Firſt, That the Proclamations iſſued forth were grounded not only upon Convenience, but upon Neceſſity; becauſe that, except ſome way had been taken for ordering of Yarn, the Merchants had abſolutely given over the Linen-Trade in that Kingdom.

Secondly, That the Council-Board was as liable to the Charge as himſelf, amongſt whom were at that time the Primate of *Ireland*, the Archbiſhop of *Dublin*, Chancellor *Loftus*, and the Lord *Mountnorris*, all Subſcribers to the Proclamation, Men to them of known Integrity and Judgment.

Thirdly, That nothing was more common than for the Council-Board of *Ireland* to give Orders for reducing the Natives to the *Engliſh* Cuſtoms, and to fine them for drawing their Horſes by the Tails, during their Corn, and ſuch like; and he conceived that to be a thing of the ſame nature.

Fourthly, That the ſpecial Thing inducing him to it was, becauſe he perceived the Trade of Wool to increaſe much in that Kingdom. He diſſuaded by all means the making of Woollen-Cloth, becauſe of the infinite Detriment that might happen thereby to the Kingdom of *England*; and therefore thought this the beſt way to encourage the wear of Linen-Cloth. For the Warrant to ſeize upon the Goods, he affirmed the ſame to be neceſſary, becauſe there ſhould be no Contempt to Proclamations: But that any part thereof did accrue to him, he flatly denied. If any Rigour was uſed in the Execution, he ſaid not he, but his Officers were to anſwer for it; for this might happen in the moſt juſt and neceſſary Commands; nor was there ever any Complaint preſented to him of any ſuch matter. For his part, he had loſt thirty thouſand Pound in the Manufacture, eſtabliſhed by himſelf for the Encouragement of others.

To that, that Perſons died by this means, he replied, That it was more than ever he heard, or could think poſſible; yea, that he was cleared by the Allegation it ſelf, which ſaith that the ſame happened ſince his coming from *Ireland*.

To the Remonſtrance of *Ireland*, he conceived, That a Charge was but a ſlender Proof of a Charge; and that eſpecially upon Interrogatories, not upon Oath, ſeeing that Privilege was not due to the Houſe of Commons neither here nor there; that he might ſay it in Truth and Modeſty, he deſerved much better of that People, and might take up that in the Goſpel, *For which of all my good Deeds, &c.* yet he hoped to be better underſtood ſhortly both here and there. And for his part, though his Purſuit had been very hot, yet God was his Witneſs he never intended to take the leaſt Impreſſion of Revenge for thoſe Diſcontents and Affronts which had been eagerly put upon him; or to carry any thing hence with him from that Bar, where ſo many foul Aſperſions had been unjuſtly thrown upon him, but only *gratuitas cicatricis*.

The ſame Day a freſh Man (Maſter *Palmer*) enter'd the Liſts againſt him; who having paſt by, for want of Proof, the thirteenth, fourteenth, and part of the fifteenth Articles, inſiſted only upon the ſecond part, for giving Warrant to Serjeant *Savil* for ſeizing and laying Soldiers upon the Subjects. He charged thus; That the Lord *Strafford*, having by a tyrannical Power inverted the ordinary Courſe of Juſtice, and given immediate Sentence upon the Lands and Goods of the King's Subjects, under pretence of Diſobedience, had uſed a military way for redreſſing of the Contempt, and laid Soldiers upon the Lands and Goods of the King's Subjects, to their utter Ruin. This Article (he ſaid) of it ſelf did contain an individual Treaſon; ſo that if there were no more than this, it were more than ſufficient to convince him of his Impeachment.

Here he offered two Things;

Firſt, The Proof of the Point.

Secondly, By what Statute this Act of Tyranny directly, and by it ſelf, implied Treaſon. For the firſt, Serjeant *Savil* was called, who produced the Copy of the Warrant upon which he had ſettled the Soldiers.

At this the Lieutenant roſe, and humbly intreated the Lords no Evidence ſhould be received againſt him upon an Article of ſuch Importance, but what might be thought authentick; and ſuch a one, under favour, he conceived that Copy not to be:

Firſt, Becauſe no Tranſcript, but the Original only, can make Faith before the King's-Bench in a Matter of Debt; therefore far be it from them to receive a moſt ſlender Teſtimony in Matter of Life and Death, before the ſupreme Judicatory of the Kingdom.

Secondly, If Copies be at any time received, they are ſuch as are given in upon Oath, to have been compared with the Originals, which are upon Record: ſuch an one was not that Copy.

It was replied by Maſter *Glyn*, (for all of them ſpake as occaſion ſerved) That the Houſe had but the day before admitted Copies as Evidences, much more ſhould they do this, when it was proſecuted by the Officer himſelf, who beſt knew it, having executed the ſame.

To this the Lieutenant anſwered, That all other Copies ought to be received upon Oath, to have been compared with the Original, as right Reaſon requireth; but that this was not ſo: and for the Officer himſelf producing it, that was the beſt Argument he could uſe, why it ſhould not be admitted. For (ſaid he) Maſter *Savil* may be charged with Treaſon, for ceſſing Men of War upon the King's Subjects; he hath nothing for his defence, but a pretended Warrant from me. Now what he ſwears to my prejudice, is to his own advantage; nor can a Man, by any Equity in the world, be admitted to teſtify againſt another, *in ſuam juſtificationem*.

The Point ſeemed exceeding weighty, and in effect was the Ground-work of the whole Article; which not proved, nothing could evince him to have been acceſſary to the Conſequence. The Upper Houſe therefore adjourned themſelves, and went up to their own Court; and after a very hot Conteſtation between the Factions, and above an hour's ſtay, they returned, and declared that the Lords, after mature Deliberation, had reſolved that the Copy ſhould not be admitted; and deſired them to proceed to other Proofs: which after a little pauſe they did.

Firſt, The Lord *Ranelagh* affirms, that he heard of ſuch a Warrant, and knew ſometimes three, ſometimes five Soldiers billeted by it.

Secondly, Maſter *Clare* declares the very ſame.

Thirdly, Another depoſeth he had ſeen ſuch a Warrant under the Deputy's Hand and Seal. And ſo much for the Proof.

For the Statute, they alledged one of *Edward* 3, 6. That whoſoever ſhould carry about with them *Engliſh* Enemies, *Iriſh* Rebels, or Hooded-Men, and ceſs them upon the Subject, ſhould be puniſhed as a Traytor. Another of *Hen.* 6, 7. That whoſoever ſhould ceſs Men of War in his Majeſty's Dominions, ſhould be thought to make war againſt the King, and puniſhed as a Traytor. They concluded, It was evident the Lord *Strafford* had incurred the Penalty and Breach of both the Statutes, and therefore deſired the Lords ſhould give out Judgment againſt him as a Traytor.

The Lord-Lieutenant's Reply was, That in all the Courſe of his Life he had intended nothing more than the Preſervation of the Lives, Goods, and Welfare of the King's Subjects; and that he dared profeſs, that under no Deputy, more than under himſelf, had there been a more free and uninterrupted Courſe of Juſtice.

To the Charge he anſwered, Firſt, That the Cuſtoms of *Ireland* differed exceedingly from the Cuſtoms of *England*, as was clear by *Cook*'s Book; and therefore though ceſſing of Men might ſeem ſtrange here, yet not ſo there.

Secondly, That even in *England* he had known Soldiers preſſed upon Men by the Preſidents of *York* and *Wales*, in caſe of known and open Contempts; and that both in point of Outlawry and Rebellion, and alſo even for Sums of Debt between Party and Party, there is nothing more ordinary than theſe Ceſſings to this day in *Scotland*, whereby the chief Houſe of the Owner is ſeized upon.

Thirdly, That to this day there hath been nothing more ordinary in *Ireland*, than for the Governours to appoint Soldiers to put all manner of Sentences in execution; which he proved plainly to have been done frequently, and familiarly exerciſed in *Grandiſon*'s, *Falkland*'s, *Chicheſter*'s, *Wilmot*'s, *Cork*'s, *Evers*'s, and all preceding Deputies times; and had even for Outlawries, for the King's Debts in the Exchequer, of Collection, of Contribution-Money, and (which comes home to the point) for petit Sums of Money between Party and Party: ſo that he marvelled, *qua fronte*, or with what boldneſs it could be called an Arbitrary Government lately brought in by him.

To this the Lord *Dillon*, Sir *Adam Loftus*, and Sir *Arthur Teringham* depoſed; the laſt of whom told, that in *Falkland*'s time he knew twenty Soldiers ceſſed upon a Man for refuſing to pay ſixteen Shillings *Sterling*.

Fourthly, That in his Inſtructions for executing his Commiſſions, he hath expreſs Warrant for the ſame, as were in the Inſtructions to the Lord *Falkland* before him; both of which were produced and read.

Fifthly, That although all theſe Precedents were not, yet it were not poſſible to govern the Kingdom of *Ireland* otherwiſe, which had been from all times accuſtomed to ſuch ſummary Proceedings.

Sixthly, That no Teſtimony brought againſt him can prove that ever he gave warrant to that effect; and for the Deeds of the Serjeant at Arms, he did conceive himſelf to be anſwerable for it.

As for the Acts of Parliament, he had reſerved them to the Diſpute of his Lawyers; but was content to ſay thus much for the preſent:

Firſt, That it is a Ground in the Civil Law, that where the King is not mentioned, there he cannot be included: But (with all deference to his ſacred Perſon be it ſpoken) he conceived himſelf to be in his Maſter the King's place (for ſo his Commiſſion did run) in that Kingdom of *Ireland*.

Secondly, The Words of the Statute are not applicable to him; for God knows, he never went about in perſon to lay Soldiers upon any of the King's Subjects.

Thirdly, That the King's own Soldiers, requiring in a cuſtomary way Obedience to his Orders, could in no conſtruction be called *Iriſh Rebels*, *Engliſh Enemies*, or Hooded-Men.

Fourthly, That the Uſe and Cuſtom of the Law was the beſt Interpreter thereof; and for that he had already ſpoken enough.

Fifthly, That it ſavoured more of Prejudice than Equity, to ſtart out ſuch an old Statute againſt him, and none others, though culpable of the ſame Fact, to the overthrow and ruin of him and his Poſterity.

Sixthly, That (under favour he conceived) for any *Iriſh* Cuſtom, or upon any *Iriſh* Statute, he was to be judged by the Peers of *Ireland*.

Seventhly, That Statute, of what force ſoever, was repealed;

1ſt, By the tenth of *Henry* VII. where it is expreſly declared, nothing ſhall be reputed Treaſon here-

hereafter, but what is ſo declared by the preſent Statute: now not a word there of any ſuch Treaſon.

2dly, By the eleventh of Queen *Elizabeth*, where expreſly power is given to the Deputy of *Ireland* to ceſs and lay Soldiers, although the ſame be reputed Treaſon in any other.

To the Statute of *Henry* VI. he replied, That a ſlender Anſwer might ſerve: He hoped that no Man would think him ſo inconſiderate, to war againſt the King of *Britain* and *Ireland*, by the ceſſing of five Soldiers; that he had been charged by many for taking Arms for the King, but to that time never for taking Arms againſt him; and that he heartily wiſhed, that no Man in all his Majeſty's Dominions had more Practices with Rebels and rebellious Deſigns againſt the King than himſelf. So much for Thurſday.

At the Cloſe he deſired the Intermiſſion of a Day, that he might recollect his Spirits and Strength againſt the next Quarrel; and with ſome difficulty obtained Reſt till Saturday.

Upon Saturday Mr. *Palmer* proceeded to the ſixteenth Article, and charged thus; That the Lord *Strafford* having eſtabliſhed a Tyrannical and Independent Authority, by giving ſummary Decrees and Sentences, had deprived the Subject of all juſt Remedy; for in that Kingdom there was none ſupreme to himſelf, to whom they might appeal: and leſt their juſt Grievances might be made known to his Majeſty, he had obtained a Reſtraint, that no Complaint ſhould be made of Injuſtice or Oppreſſion done there, till the firſt Addreſs had been made to himſelf, and that no Perſon ſhould come out of that Kingdom but upon Licence obtained from himſelf.

For proof of this, Firſt, The Inſtructions were read, whereby that Reſtraint was permitted.

Secondly, The Proclamation, That all Noblemen, Gentlemen, Undertakers, Officers, or other Subjects that ſhould reſort into that Kingdom, ſhould not come from thence without a Licence from him.

Thirdly, That he had reſtrained the Earl of *Deſmond*, becauſe of a Suit in Law depending between the Earl and himſelf, till Publication of the ſame was paſſed.

Fourthly, That the Lord *Roch* being informed againſt before the Star-Chamber, he would not licence him to come into this Kingdom, till the Sentence was paſſed againſt him.

Fifthly, That one *Marchatee* having pretended a mind to travel, was denied a Licence.

Sixthly, That the whole Committee for the Parliament was reſtrained this laſt year by Deputy *Wainſford*, which they ſaid might be interpreted to be his Fact, both becauſe they had ſuch Intelligence the one from the other, as alſo by the Proclamation iſſued by him before.

Seventhly, That one *Parry*, Servant to Chancellor *Loftus*, was fined Five Hundred Pounds at his Return, for departing *Ireland* without Licence.

Eighthly, That the *Iriſh* Remonſtrance complained of this, as the greateſt Innovation and Thraldom put upon them ſince the time of the Conqueſt.

They concluded the Charge, That by this means having taken off that Intelligence which ſhould be between the King and his People, and having deprived them of that Remedy which in reaſon they might expect from ſo juſt and ſo gracious a Prince, he had taken upon him a Royal and Independent Power, and had faulted highly both againſt King and State.

The Lieutenant's Reply was, That he hoped to make it clear, that he had done nothing in that particular, but what was uſual, neceſſary, and juſt; and that he ſhould be very well able (by the Grace of God) not only of that, but of all other his publick Actions, to give a reaſonable Account, though not free from much Weakneſs, yet certainly from all Malice and Treaſon.

To the Particulars:

Firſt, For Inſtructions laid upon him, he was not ſo much chargeable as thoſe of the Council of *England*, whereof there was a great many preſent who could witneſs their Commands; but leſt any thing ſhould ſeem unjuſtly enjoined by them, or embraced by him, he deſired that the Reaſons of their Inſtructions might be read: which were, *That it were Injuſtice to complain of Injuries, of Oppreſſion done in that Kingdom, till firſt the Deputy's Judgment was informed, and tryal made of his Integrity; That it would much diſcourage the Miniſters of State there, and expend the Moneys of that Kingdom, if upon every trifling Buſineſs Complaints ſhould be admitted in* England; *and that if Juſtice were there denied by the Deputy, it ſhould be lawful for any Man to come over.*

Secondly, For the Proclamation, that the ſame was builded upon the Statute of that Kingdom, the 25 *Hen. 6.* which contained the ſame Reſtraint *verbatim.*

Thirdly, That *Anno* 1628, the Agents for the *Iriſh* Nation had petitioned for the ſame from the King.

Fourthly, That the Deputy *Falkland* had ſet forth the ſame Proclamation.

Fifthly, That he had the King's expreſs Warrant for it, *Anno* 1634, which was read.

Sixthly, That he had received the Warrant in *January*, yet the Proclamation iſſued not out till *September* after.

Seventhly, That the whole Council-Board of *Ireland* had not only condeſcended, but alſo preſſed him to it.

Eighthly, The Neceſſity of the Kingdom required the ſame; for if the Gentlemen had the Ports open to go to *Spain*, and their Scholars to *Doway*, *Rheimes*, or *St. Omers*, it were likely that at their return they would put fire both in Church and State, and produce very ſad Events, by practiſing to diſtemper both.

Ninthly, He conceived that the King, as great Maſter of the Family, might reſtrain whom he pleaſed from departing his Kingdom without his privity: and here it was not lawful for any to go from *England* without Licence; how much more neceſſary was this from *Ireland?*

To the Proofs he anſwered, Firſt, For *Deſmond*, he granted he was reſtrained indeed, but not for any Suit of Law betwixt them, but becauſe at that time he ſtood charged with Treaſon before the Council in *Ireland*, for practiſing againſt the Life of one Sir *Valentine Cooke*.

Secondly, For the Lord *Roch*, he had oftentimes marvelled with what reaſon the Man at that time could ſeek a Licence, ſeeing he was a Priſoner for Debt in the Caſtle of *Dublin*; and if he had granted a Licence to him then, it had been a far more juſt Charge of Treaſon than now.

Thirdly, For *Marchatee*, he was afraid of his going to *Spain*; and if he had intended to go for *England*, and complain of himſelf, he would not have refuſed him Liberty, as he never did to any.

Fourthly,

Fourthly, That the Committee of *Iriſh* was not reſtrained by him, and therefore did not concern him at all.

Fifthly, That for *Parry*, he was fined indeed, but that it is expreſly ſaid in his Sentence, that it was not for coming over without Licence, (as is ſuggeſted) but for ſundry Contempts againſt the Council-Board in *Ireland*.

Sixthly, That he had replied in the laſt Article, a Remonſtrance was no proof at all. He concluded, that he hoped the leaſt Suſpicion of Treaſon could not accrue to him from the Article; For Oppreſſion or Miſdemeanour, when it was laid to his charge, he made no doubt but he ſhould be able to anſwer it.

The ſame day a new Man was hurried out againſt him, (Mr. *Whitlock*) who having paſs'd over the 17th and 18th Articles, reſteth on the 19th, about the Oath adminiſtred to the *Scots* in *Ireland*, and charged thus:

That it was the Height of his Tyranny, not only to domineer over the Bodies, but alſo over the Conſciences of Men; to which purpoſe he had enjoined an Oath to the *Scots* in *Ireland*: and becauſe ſome out of Tenderneſs of Conſcience did refuſe to take the ſame, he had fined them in great Sums of Money, baniſhed a great number from that Kingdom, called all that Nation Traytors and Rebels; and ſaid, if ever he returned home from *England*, he would root them out both Stock and Branch.

For Proof of this, Firſt, Sir *Jammy Mountgomery* was produced; who declared at large how that Oath was contrived.

Secondly, Sir *Robert Maxwell* of *Orchiardon*, who ſpake to the ſame purpoſe.

Thirdly, Sir *John Clotworthy*, who declared that a great number had fled the Kingdom for fear of that Oath.

Fourthly, One Mr. *Samuel*, who depoſed, that upon the tenth of *October* 1638, he heard the Deputy ſay theſe words, *That if he returned, he would root them out Stock and Branch.*

They concluded, That this was a Point of the moſt Tyrannical and Arbitrary Government, that before this time was ever heard of, not only to lord it over the Fortunes, but alſo over the Souls of Men: and that it reſted only in the Parliament, which hath the Legiſlative Power, to enjoin Oaths. And that therefore this was one of the chief Points he had done againſt the Privileges and Liberty of the Subject.

The Lieutenant replied, That every new Article acquainted him with a new Treaſon; that if he had done any thing in all his Life acceptable to the King and Country, he conceived it to be this.

To theſe Particulars; Firſt, He deſired the Lords would call to mind the Condition of thoſe Times; no Man (pointing to my Lord Steward) knows better than your Lordſhip, who had then the chiefeſt place in his Majeſty's Service. I would be very ſorry to rub (ſaid he) old Sores, eſpecially ſeeing I hope things are in a fair way to a firm Peace, and I wiſh that I may not be deceived, that is, that it may be ſo; only thus much I may ſay, we had then greater Fears and Apprehenſions in *Ireland*, leſt the *Scots* in the Kingdom (who were above one hundred thouſand Souls) might have joined with their Countrymen at home, for the diſturbance of our Peace: mean time we detected a Treaſon of betraying of the Caſtle of *Knockfergus* to a great Man in that Kingdom, (whoſe Name I now ſpare) by one *Freeman*, who upon the diſcovery was executed.

The Council-Board therefore in *Ireland* reſolved to preſcribe the *Scots* an Oath, whereby they might declare their Diſcontent at their Countrymens Proceedings, and oblige themſelves to the King's Service: but while we were about this, they of their own accord came to *Dublin* to petition for it, and took it with a wonderful Alacrity and Heartineſs; ſo that it is a marvellous Falſhood for any Man to ſay it was invented, or violently enjoined by me.

Secondly, About the ſame time the ſame Oath, *verbum verbo*, was by the Council of *England* preſcribed to the *Scots*, at *London* and elſewhere; which was no ſmall Encouragement to us in *Ireland*.

Thirdly, I had, (ſaid he) which I never ſhew'd, becauſe I had no need before this time, a ſpecial Warrant from the King, all written with his own Hand, to that effect: and when the King commands a matter not contrary to Law, truly I (ſaid he) do conceive it both contrary to Law and Conſcience not to yield him all due Obedience. For the Proof brought againſt him, there was nothing ſeemed to be of any moment but the words.

For the firſt words, *That he had called all the Nation Rebels and Traytors*, he ſaid there was no proof at all, nor indeed could there be any: for if I had ſaid it, (quoth he) I had been perfectly out of my wits; and, he thanked God, ſuch irrational Speeches uſed not to eſcape him. He honoured that Kingdom very much, becauſe it was the native Soil of our dread Sovereign, his gracious Maſter; and becauſe he knew a part, yea (he hoped) the greateſt part of them, had been, and ever will be, as loyal and dutiful to the King as any other of his Subjects: and of thoſe too who had ſubſcribed that unhappy Combination, he knew a great many had done it againſt their Hearts and Wills, and would be ever ready upon occaſion to remonſtrate the ſame, by adhering to the King's Service. So that this Accuſation was nothing but a wreſting and perverting his Words and Meaning, of purpoſe to make him odious, and irritate a whole Nation againſt him.

For the other words, they were proved only by one Witneſs, which could make no ſufficient Faith; and that Witneſs too he would evince, if not of Perjury, yet of a notable Miſtake: for he had ſworn poſitively that he had ſpoken theſe words the tenth of *October*, whereas he was come out of *Ireland* into *England* the twelfth of *September* before, and was at *London* the one and twentieth.

For thoſe that had fled the Kingdom becauſe of that Oath, he knew none ſuch; and if they did, they fled into *Scotland*, which might ſufficiently argue their Intentions and Reſolutions. For his part, if they were not willing to give that Teſtimony of their Loyalty to their Prince, although he had known of their Departure, he would have been very loth to have kept them againſt their wills, but ſhould have been gladly rid of them, and have made them a Bridge to be gone, rather than ſtay.

Upon Monday, Maſter *Whitlock* proceeded to the 20th Article, and told him, That becauſe the Matter was intervenient, *& conſimilis naturæ*, they had reſolved to join the five next Articles together, becauſe all of them tended to one Point or Period; that is, to ſhew what bad Deſign he had, to have ſubdued the Kingdoms both of *England* and *Scotland* by Force of Arms, and to reduce them

them to that Arbitrary Government he had lately introduced into *Ireland*.

The Lieutenant intreated that they would proceed according to the Order prescribed by the House, which was Article by Article: he said, five Articles were many, the Matter weighty, his Memory treacherous, his Judgment weak.

It was bitterly replied by Master *Glyn*, That it did not become the Prisoner at the Bar to prescribe them in what way they should give in their Evidences.

The Lieutenant modestly answered, That if he stood in his place, he would perhaps crave the like Favour, unless his Abilities did furnish him with more Strength than he could find in himself: for his part he was contented they should proceed any way, always provided they would grant him a competent time for replying.

Then *Whitlock* went on, and told the Lords, That something in those Articles concerned the *Scotish*, something the *English* Nation. That which concerned the *Scotish*, he reduced to five Heads:

First, That the Deputy had said at the Council-Board, *That the* Scots *Demands contained sufficient Matter to persuade to an offensive War.*

Secondly, *That the same Demands did strike at the Root and Life of Monarchical Government, and were only to be answered by the Sword.*

Thirdly, That he had caused some *Scotish* Goods and Ships to be seized on in *Ireland*.

Fourthly, That he had engaged the *Irish* Parliament, by their Declaration, in that War against the *Scots*.

Fifthly, That by all possible means he had put bad Thoughts and Suspicions into his Majesty against his *Scotish* Subjects, and laboured to make a National Quarrel between them and *England*; which, if the King's Piety, and the Prudence of better-affected Statesmen had not prevented, could not have been sodder'd up again without much Blood.

Concerning *England*, his Speeches were either before or after the Parliament.

First, Before his Creature and Bosom-Friend Sir *George Ratcliff*, he had said to Sir *Robert King*, when he was doubting how the King might have Moneys to pay his Armies, *That the King had Four Hundred Thousand Pounds in his Purse, Thirty Thousand Men in the Field, and his Sword by his side; and if he wanted Money afterwards, who will pity him?*

Secondly, That his Brother Sir *George Wentworth* had said to Sir *Robert Barrington*, upon the Dissolution of the last Parliament, *That seeing the* English *would not grant Supply to the King, it seems they were weary of their Peace, and desired to be conquered a second time.*

Thirdly, That he himself, upon a Discourse with the Primate of *Ireland*, had said, *That he was much of the mind of those* English *Divines, who maintained it lawful for a King, having tried the Affection and Benevolence of his People, and then denied their Help, upon an inevitable Necessity and present Danger of the Kingdom, that he might use his Prerogative for his own Supply, and the Defence of his Subjects.*

Fourthly, To the Lord *Conway*, in a Discourse, he had said, *That if the Parliament* (meaning the last Parliament) *should not grant a competent Supply, that then the King was acquitted before God and Man, and might use the Authority put into his hands.*

Fifthly, That he did say at the Council-Board, *If the Parliament should deny to help the King, he would take any other way he could for his Majesty's Service and Assistance.*

His Expressions after the Parliament were two:

First, *That the Parliament had forsaken the King, and that the King should not suffer himself to be overmastered by the Frowardness, Obstinacy, and Stubbornness of his People.*

Secondly, *That if his Majesty pleased to employ Forces, he had some in* Ireland *that might serve to reduce this Kingdom.*

The Proofs for the *Scots* Particulars, were these:

First, The Lord *Traquair*, who was indeed very favourable to the Lord-Lieutenant, and spake nothing to his disadvantage but what was skrewed from him: with much difficulty he told them, That when he gave in the Demands, he heard him say, *That it was high time for the King to put himself into a posture of War*; but that first all the Council of *England* said the same as well as he. 2dly, That it was a double Supposition: 1. That the Demands were truly given in. 2. That there was no other Remedy left but Arms, to reduce them.

Secondly, The Earl of *Morton*'s Testimony (being sick himself) was produced, and it was one and the same with the Article.

Thirdly, Sir *Henry Vane* was examined, who declared, That he had heard the Lieutenant to advise the King to an Offensive War, when his own Judgment was for a Defensive.

Fourthly, The Testimony of the Earl of *Northumberland* was produced, which was the very same with Sir *Henry Vane*'s.

Fifthly, The Treasurer of *England* deposed the same with *Traquair*.

Sixthly, One *Beane*, from *Ireland*, told, That he had known Ships seized on there; but by whose Procurement or Warrant, he knew not.

To the Articles about *England*;

First, Sir *Robert King* and the Lord *Ranelagh* deposed the same, That Sir *Robert King* and the Lord *Ranelagh* had heard Sir *George Ratcliff* speak those words in the Article.

Secondly, Sir *Robert Barrington*, of Sir *George Wentworth*.

Thirdly, The Primate's Testimony (who is sick) was the same with the Article.

Fourthly, The Lord *Conway* deposed the same with the Article.

Fifthly, Sir *Henry Vane* deposed, He had heard those words spoken at the Council-Board.

For the Words spoken after the Parliament:

To the first, Sir *Tho. Jermyne*, Lord *Newburg*, Earl of *Bristol*, Earl of *Holland*, were examined. *Bristol* did mince the matter, but *Holland*'s Testimony was express, because of the exceeding great Love he carried to the Man.

For the last, which were the most dangerous Speeches, (about reducing of this Kingdom) there was only Sir *Henry Vane*'s Testimony; who declared only thus, That he had heard either those words, or the like.

Here some of the Lieutenant's Friends shewed themselves:

1. The Lord *Savil*, who desired of Sir *Henry Vane* to know whether he said *their*, or *this*, or *that Kingdom*; and withal said, It was very hard to condemn a Man for Treason upon such petit Circumstances.

2. The Earl of *Southampton* desired to know, whether Sir *Henry Vane* would swear those words positively or not. Sir *Henry Vane* said, positively either them or the like. The Earl replied, That under favour *those or the like* could not be positive.

3. The

3. The Earl of *Clare* desired to know what could be meant by *this* Kingdom; for his part (he said) he thought it meant of the Kingdom of *Scotland*, to which the Word *this* might very well be relative, that Kingdom being only mentioned in the preceding Discourse: And that he was the more ready to be of that Opinion, because he could not see by what Grammatical Construction it could be gathered from his Words, that he meant to reduce *England*, which neither then was, neither is now (God be thanked) out of the way of Obedience, nor upon rebellious Courses.

They at last concluded the Charge, That the Words were so monstrous, that to aggravate them, was to allay them; and therefore they would simply leave them to the Judgment of the Lords.

The Lieutenant's Reply was;

That tho the heaping up of those Articles had put him to a great Confusion, yet he would endeavour to bring his Answer into the best Method he could; and first he would reply to the Proof, then add something in general for himself, in what a hard Taking and lamentable Condition he was to have his private Discourses, his most intimate and Bosom-Friends search'd and sifted to the least Circumstance, that he might seem guilty of that which, by God's assistance, he should never be.

To the Lord *Traquair's*, and the Deputy's Depositions, he thought their Proofs did not much stick upon him. For upon the Suppositions, *First*, That the Demands were true; *Secondly*, That they were not justifiable; *Thirdly*, That no other Course could prevail: He could not see what other Advice he could possibly give the King, than to put himself into a Posture of War, especially seeing then there were frequent Reports of the *Scots* invading or entring into *England*; nor was he of any other Mind than all the rest of the Council-Board.

For that of *Morton's*, he doth not positively remember the Words, but if the Demands were read, perhaps they would imply nothing less; and if so, how otherwise to be answered but by the Sword, all other Means being first essayed, which is ever to be supposed?

For Sir *Henry Vane's* and *Northumberland's* Testimony, about persuading of an Offensive War, he said, He remembred it very well, and thought it as free for him to give his Opinion for an Offensive, as they for a Defensive War: Opinions, said he, if they be attended with Obstinacy or Pertinacy, may make an Heretick, but that they ever made a Traytor, he never heard it till now; nor (under favour) should I be an Heretick either, (said he) for as I was then, so am I now, most willing to acknowledge my Weakness, and correct my Errors, whereof no Man hath more, or is more sensible of them, than I my self: yet if that Opinion of mine had been followed, it might perhaps have spared us some Money (said he) and some Reputation too, of which we have been prodigal enough.

For the last, about the Ships, it proves nothing: but he would willingly confess, that some Ships were there detained, and that by himself, and his own Direction, as Vice-Admiral of *Connaught*, but it was at the Command of the Lord Admiral the Earl of *Northumberland*; and produced his Letter to that purpose.

To the *English* Proof: He marvelled much how Sir *George Ratcliff's* Words could be put upon him; Sir *George* (though alledged to be his Bosom-Friend, yet) had Thoughts of his own, and might have some other Thoughts in his Bosom, and be to some other Expressions than Sir *George Ratcliff*: No Man (said he) can commit Treason by his Attorney; and should I, by my Friend Sir *George*, as by a Proxy?

For his Brother; He never knew him before so rash; but that was nothing to him, except they could prove a nearer Identity than Nature had instituted, and that his Brother's Words and his were all one: yet withal he conceived that his Brother's Words might be very well understood of the *Scots* conquering *England*, but not at all of the *Irish*; and so he wished with all his Heart, that he had not spoken something which is like a Propheey.

To the *Primate's* Testimony (with all Reverence to his Integrity be it spoken) he is but one Witness, and in Law can prove nothing: Add to this, (said he) That it was a private Discourse between him and me, and perhaps spoken by me *tentandi gratia*; and how far this should be laid to a Man's Charge, let your Lordships judge.

Yea, this seems to me against Humanity it self, and will make the Society of Men so dangerous and loathsome to us, that our Dwelling-houses will be turned to Cells, and our Towns to Desarts: That which God and Nature (our Tongues) have bestowed upon us [for the greater Comfort of venting our own Conceptions, or craving the Advice of wiser and learneder Men] should become Snares and Burdens to us, by a curious and needless Fear; yet if my Words be taken, said he, with all that went before and followed after, I see no danger in it.

To the Lord *Conway* I may reply the same, with this Addition, That it is a very natural Motion for a Man to preserve himself; every Creature hath this Privilege, and shall we deny it to Monarchy, provided this be done in a lawful, though in an extraordinary way? This Grain of Salt must be added to season all my Discourse.

To that of Sir *Henry Vane*, of offering my Service to the King, I thank him for the Testimony, and think he hath done me much Honour thereby; but if he or any body else do suspect that his Majesty will employ me in unlawful Enterprizes, I shall think them more liable to the Charge of Treason than my self.

To the subsequent Testimonies, I shall not need to wrestle about them much, only the last of Sir *Henry Vane's* pinches, and lies sore upon me; but to that which the Earl of *Clare* (and I thank him for it) hath said already, give me leave to add this, That the Testimony of one Man is not a sufficient Witness, nor can a Man be accused, much less condemned, of Treason, upon this; and for that read the Stat. *Hen.* 7. 12. and of *Edw.* 6. 5.

Now my Lords (said he) to give you further Satisfaction, I shall desire all the Lords of the Council, which were then present (only to the Number of Eight) may be examined whether they heard these Words or not; for the Archbishop and Sir *Francis Windebank* they cannot be had: Sir *Henry Vane* gives the Testimony, I deny it; four only remain.

First, The Earl of *Northumberland's* Testimony, which was read, had declared expresly, that he had never heard those Words, nor any like them from the Lord *Strafford*, but he spake with great Honour and Regard to the Kingdom of *England*.

Secondly, The Marquiss *Hamilton*, who declared upon his Oath, that he had never heard such Words,

Words, but that he had heard the Lieutenant often ſay, that the King was to rule his Royal Power *candide & caſte*; that it would never be well for this Kingdom, till the Prerogative of the Crown, and the Privilege of the Subject went in one pace together, and that Parliaments were the happieſt way to keep a Correſpondence between the King and People.

The very ſame was delivered by the Lord Treaſurer, and the Lord *Cottington*.

Now, my Lords, you may marvel how theſe Words reſted only on the Ears of Sir *Henry Vane*: but my Lords (ſaid he) that I may remove all Scruple from you, I will make it evident, that there was not the leaſt Intention that the *Iriſh* Army ſhould ſet a foot in *England*; and then, I hope, you will conceive that I had no Meaning to reduce this Kingdom.

This he made clear by the Teſtimony of *Northumberland*, the Oaths of Marquiſs *Hamilton*, Lord *Cottington*, Lord Treaſurer, Sir *Thomas Lucas*, who only were privy to that Matter.

For other of my Words, my Lords (ſaid he) I deſire you would not take them by halves; if ſo, who ſhould be free from Treaſon? Certainly, if ſuch a Precedent take footing, *Weſtminſter-Hall* ſhall be more troubled with Treaſon than with Common-Law; look therefore to the Antecedents and Conſequents of my Speeches, and you ſhall find the State of the Queſtion clearly altered: the Antecedents were upon an abſolute or inevitable Neceſſity, upon a preſent Invaſion, when the Remedy of a Parliament cannot be expected; the Conſequents, for the Defence of the Kingdom, which accompts afterward to the Parliament. The Qualifications too in a lawful, convenient, and ordinary Way, ſo far as the preſent Neceſſity can permit. Add but theſe, and which of you are not of my Mind? Is the King endowed with no Power from the Lord? Is he not *publicus Inſpector Regni?* Stands it not him in hand to do ſomething on preſent Neceſſities?

And that theſe were his Words, he often proved, over and over again, by the Marquiſs, by the Lord Treaſurer, *Cottington*, Sir *Tho. Jermine*.

My Lords, what I have kept to the laſt (ſaid he) is this, and I would intreat you ſeriouſly to think of it: If a Man's Table, his Bed, his Houſe, his Brother, his Friends (and that too after they have given an Oath of Secrecy) are to be rack'd to find out Treaſon againſt him, who never knew what it meant, what earthly Man ſhall paſs free from Treaſon? Let my Misfortune, my Lords, be your Advertiſement: your wiſe Anceſtors were glad to put Bands and Limits to this Lion, Treaſon; if you give him the large Scope of Words to range into, he will at laſt pull you or yours all to pieces.

But, my Lords, I did never think till now, that Matter of Opinion ſhould be objected as Matter of Treaſon.

For, *Firſt*, Opinions are free, and Men may argue both *Pro* and *Con*, in all Faculties, without any Stain of Reputation, otherwiſe all Conſultations would be vain.

Secondly, I may be of another Judgment than I declare my ſelf to be, of Opinion perhaps to gain better Arguments for the Maintenance of my own Grounds.

Thirdly, Many, and my ſelf oftentimes, have propounded my Opinion; yet upon hearing better Judgments, have preſently changed it.

Fourthly, We uſe to ſtrain our Opinions too high ſometimes, that we may meet in a juſt Moderation with thoſe whom we conceive in the other Extremity to be too low.

Fifthly, It is expreſly commanded by the Stat. *Hen. 6. 9.* That though a Man ſhould ſay, the King is not lawful Heir to the Crown, and may be depoſed, yet he is not to be charged with Treaſon, but only with Felony; and I hope, my Lords, thoſe Words are of a more tranſcendent and ſuperlative nature, than any alledged by me to be ſpoken. But, my Lords (ſaid he) lay it to your Hearts, it muſt come to you, you and your Poſterity are they whom God and Nature, Birth and Education have fitted to beautify the Royal Throne, and to ſuſtain the weighty Affairs of the Kingdom; if to give your Opinions in Political Agitations ſhall be accounted Treaſon, who will be willing to ſerve the King, or what a Dilemma are you in? If, being ſworn Counſellors, you ſpeak not your Minds freely, you are convict of Perjury; if you do, perhaps of Treaſon. What Detriment, what Incommodity ſhall fall to King and Kingdom, if this be permitted? Which of you hereafter will adventure, yea dare adventure ſo much as to help by your Advice, unleſs you be weary of your Lives, your Eſtates, your Poſterity, yea your very Honour? Let me never live longer than to ſee this Confuſion; yea, I may ſay it, this Inhumanity in *England*. For my part (my Lords) I here confeſs my ſelf, I ever have, and ever ſhall ſpeak my Opinion freely in any thing that may concern the Honour and Safety, either of my gracious King, or my dear Country, though the Sword be two-edged; fearing rather him that killeth the Soul, than him whoſe Power reacheth only to the Body.

Nor do I ſee how I am culpable of Treaſon, unleſs it be Treaſon for not being infallible; and if it be ſo, my Lords, you have this Rag of Mortality before you, loaden with many Infirmities; though you pull this into Shreads, yet there is no great Loſs; yea, there may be a great Gain, if by the ſame I may ſeem to have dared too far, to give a Teſtimony to the World of an innocent Conſcience towards God, and a reſolute Loyalty towards my Prince, [which have ever been my only Pole-Stars in the whole Courſe of my Life:] and if by ſpilling of mine, there be not a Way found how to trace out the Blood of the Nobility (which I hope your Lordſhips will look to) there is no Diſadvantage at all ſuffered by the Loſs of me. (You have his very Words as near as I could recollect.)

Tueſday was a Day of Reſt.

Upon Wedneſday *Whitlock* charged thus; That the preceding Articles were of ſo high a Conſequence, and of ſo tranſcendent a Nature, that nothing wanted to make up the perfect Meaſure of the moſt horrid Treaſon, and monſtrous Attempt that ever, by a Native, was intended againſt his King and Country, but putting theſe deſigned Projects into execution; which had undoubtedly hapned to the Ruin and Subverſion both of Church and State, had not the Clemency and Goodneſs of the Prince, and the Piety and Carefulneſs of the well-affected Peers timouſly foreſeen and prevented the ſame: That ſtill the Principles of Tyranny and Oppreſſion had lodged within his Boſom, and therefore had burſt forth into theſe Expreſſions and Advices contained in the following Articles; where firſt, in the Twenty-fifth they charged him with three Things.

* *Firſt*,

First, That he had adviſed the King to a rigorous and unlawful Exaction of Ship-Money.

Secondly, That he had given Counſel, That if the Sheriffs ſhould deny their beſt Endeavours and Aſſiſtances to that Effect, they ſhould be ſent for, and fined by the Star-Chamber, and Impriſonment.

Thirdly, That when the Aldermen of *London* had in all Humility repreſented the Cauſes why the Ship-Money could not be collected amongſt them, and had given in the Reaſons why they refuſed to give in a Liſt of their Names, within their City, who were able to afford the Loan-Money; he in a contemptuous and tyrannical manner, in the face of the Council-Board, had ſaid to the King: *Sir, theſe Men, becauſe of their Obſtinacy and Frowardneſs, deſerved very well to be fined, ranſomed, and laid by the heels; and it will never go well with your Service, until ſome of them be hanged up for Examples to others.*

The Proofs were theſe.

First, The Biſhop of *London*, Lord Treaſurer, who declared, That he remembred the Words very well, that the Lord Lieutenant had adviſed the King to cauſe the Ship-Money to be gathered in; but he remembred withal, that both himſelf and all the Council had done the like; and that it was upon a preſent Neceſſity, and Defect of Money for entertaining the Army, which (the Condition of the Times conſidered) they all conceived, was by any means to be kept on foot.

Secondly, Alderman *Wiſeman* declared, That upon an humble Remonſtrance made to the Council-Board, the City would take it ill, if a Tax-Roll ſhould be delivered of their Eſtates, who were thought able for the Loan-Money; the Lord *Strafford* ſaid, They ought to be fined, ranſomed, and laid by the heels: but for Words of hanging them up, he heard not at all.

Thirdly, The Earl of *Berkſhire* declared that the Lord *Strafford* had ſaid, That upon the Refuſal of ſuch a Service enjoined by the King's peremptory Command, it was his Opinion they might be fined.

Fourthly, Alderman *Garway* atteſted the preceding Words; and withal added, that the Lord Lieutenant, to his beſt Remembrance, had ſaid, *It were well for the King's Service if ſome of them were hanged up.*

They cloſed the Charge, That by ſuch undutiful Expreſſions he had injured the Propriety of the Subject, and had put ſuch Diſcontent upon the City, that they were the leſs willing upon any occaſion to concur for the Advantage of the King's Service.

The Lieutenant replied,

Firſt, That tho all the Charge were in the moſt ſtrict and rigid way or ſenſe verified againſt him, yet he could not conceive by what Interpretation of Law it could be reach'd home to High Treaſon; and to that common Objection, [That the Treaſon was not individual, but accumulative,] he replied, That, under favour, he thought, to that manner, were as much as to ſay, no Treaſon at all. Becauſe,

1ſt, That neither in Statute Law, Common Law, nor Practice, there was ever, till this Time, heard of ſuch a matter as accumulative Treaſon, or a Treaſon by way of Conſequence; but that it is a Word newly coined to attend a Charge newly invented, ſuch an one as never was before.

2dly, That Treaſon was a Thing of a ſimple and ſpecificative nature, and therefore could not be ſo by Accumulation; but either muſt be ſo in ſome or either of the Articles, or elſe could not be ſo at all.

3dly, He did conceive that it was againſt the firſt Principles of Nature, and falſe; therefore could not be ſo by Accumulation, but either muſt be ſo in ſome or each of the Articles, or elſe could not be ſo at all. That an Heap or Accumulation ſhould be, and not be, of homogeneous Things; and therefore that which in its firſt Being is not treaſonable, can never confer to make up an accumulative Treaſon. *Cumulus*, an Heap of Grain, ſo called, becauſe every, or at leaſt ſome of the Individuals, are Grain; if otherways, an Heap it may be, but not an Heap of Grain. Juſt ſo, perhaps, theſe Articles may make up an Heap of Felonies, Oppreſſions, Errors, Miſdemeanors, and ſuch like, (and to the Thing it ſelf I ſhall give an Anſwer, when under that Name they ſhall be charged againſt me;) but they can no ways confer to the making up of Treaſon, unleſs ſome, at the leaſt, be Treaſon in the individual.

Secondly, That the Teſtimonies brought againſt him were all of them ſingle, not two one way; and therefore could not make Faith in matter of Debt, much leſs in matter of Life and Death; yea, that it was againſt the Statute expreſly, to impeach a Man of High Treaſon under the Evidence of two famous Witneſſes, much leſs to adjudge and convince him upon Atteſtation of one.

Thirdly, To the Lord Treaſurer's Teſtimony, he did with all his Heart condeſcend unto it; but upon theſe Grounds only, That there was a preſent Neceſſity of Money; that all the Council-Board had ſo voiced with him, yea, before himſelf, and he always thought it Preſumption in a Man not to follow the wiſer and more judicious: and that there was then a Sentence of the Star-Chamber for the Right of paying Ship-Money. For his part, he would never be more prudent than his Teachers, nor give Judgment againſt the Judges. And therefore he thought it not far amiſs to adviſe the King for the collecting of that, which by Law was his own, in ſuch a preſent and urgent Neceſſity. And altho his Opinion (and it was no more) had been amiſs, he hoped that though, in caſe of Religion, being attended with Stubborneſs and Pertinacy, it might come home to Hereſy, yet in his caſe Opinion could not reach ſo far as Treaſon; unleſs it be Treaſon for a Man to ſpeak his Judgment freely, when he is upon his Oath to do the ſame.

Fourthly, For the Words about fining, he had already acknowledged them in his general Anſwers to be true; but with theſe Qualifications, That it was his Opinion only; that it was upon the Refuſal (as he conceived) of a juſt Service that he had ſpoken them, by no means to prejudice the Citizens, but to make them the more quick and active in the King's Service; that no ill Conſequence happen'd upon them; that they were Words might have been ſpared indeed, but innocently, tho ſuddenly ſpoken, which he hoped might proceed from a Man of ſuch a haſty and incircumſpect Humour as himſelf, (made ſo both by Nature and his much Infirmity of Body) without any mind at all to Treaſon; and that if all cholerick Expreſſions of that nature ſhould be accounted treaſonable, there would be more Suits of that kind fly up and down *Weſtminſter-Hall* than Common-Law.

Fifthly, To thoſe Words atteſted by the Alderman, he poſitively denied them; and hoped they ſhould never riſe up againſt him in Judgment, becauſe the Teſtimony was ſingle, and not poſitive, but only to his beſt Remembrance; and that

it was exceeding ſtrange that no Man, neither of the Council or other Aldermen, were ſo quick to obſerve them, but only Alderman *Garway*; which he thought ſufficient to nullify that ſingle Teſtimony, except he could demonſtrate himſelf to have ſome rare and ſingular Faculty of hearing.

In the cloſe, he deſired the Lords, from his Misfortune, to provide for their own Safety, and ſeriouſly to conſider what a Way was chalked out to ruin them both in their Lives and Eſtates, if for every Opinion given in Council, or Words ſuddenly or haſtily ſpoken, they (who are born to weild the great Affairs of the Kingdom) ſhould be arraigned and ſentenced as Traytors.

Then they went to the 26th Article, and charged thus:

That the Lord *Strafford*, having by his wicked Advices exhauſted the King's Treaſury, did alſo counſel him,

Firſt, To imbaſe the Coin by an Allay of Copper-Money.

Secondly, To ſeize upon all the Bullion in the Mint.

Thirdly, That in Diſcourſe with ſome of the Aldermen about that Buſineſs, he had ſaid, The City was more ready to countenance and relieve the Rebels than the King; and that the King of *France* did uſe to manage ſuch Buſineſſes, not by Treaties or Requeſts, but by ſending forth his Commiſſaries to take account of Mens Eſtates, accompanied with Troops of Horſes.

The Proofs were;

Firſt, Sir *Thomas Edwards*, who declared, That in Diſcourſe with the Lord *Strafford*, having remonſtrated unto him that their Goods were ſeized on beyond Seas, becauſe of the Money taken out of the Mint, he told him, *That if the* Londoners *ſuffered it, it was deſervedly, becauſe they had refuſed the King a ſmall Loan of Money upon good Security; and that he thought them more ready to help the Rebels than the King.*

Secondly, Mr. *Palmer* declared that he ſpake ſomething about the King of *France*; but whether with relation to *England*, or not, he did not remember.

Thirdly, Sir *William Parkiſe* atteſted in the ſame Words; and withal, that the Lord *Cottington* was then preſent, and could declare the whole Buſineſs.

Fourthly, Sir *Ralph Freeman* declared, That in a Diſcourſe with the Lord *Strafford* he had ſaid that the Servants in the Mint-Houſe would refuſe to work the Copper-Money; and he replied, *That then it were well to ſend thoſe Servants to the Houſe of Correction.*

They cloſed the Charge, That by ſuch undutiful Counſel and Words, he had given more than ſufficient Proof of his Deſign and Purpoſe to ſubdue this Kingdom, and ſubvert the fundamental Laws and Privileges of the ſame.

The Lieutenant's Reply:

Firſt, That he expected ſome Proofs about the two firſt Particulars, but did hear of none; and that it was no ſmall Diſadvantage to him to be charged with a great many odious Crimes by a Book, printed and flying from hand to hand through the whole Kingdom, yet when they came to prove, there ſhould be no ſuch thing laid againſt him.

Secondly, About the Speeches: He ingenuouſly confeſſed that ſome ſuch thing might perhaps have eſcaped the Door of his Lips, when he ſaw their Backwardneſs to his Majeſty's Service; and as the Times were then conditioned, he did not think it much amiſs to call that Faction by the Name of Rebels; but yet he thought he had abundantly ſatisfied for that Over-ſight (if it was any) at *York*: For having underſtood there, that the City of *London* were willing to make a Loan of Money, he there, before the great Council of the Peers, expreſſed himſelf to this Senſe, *That the* Londoners *had ſufficiently made up all their Delays hitherto by their Act; that the King was obliged to their Forwardneſs; and that he himſelf ſhould be as ready to ſerve them as any poor Gentleman in* England. About the other Words, he ſaid, That being in Conference with ſome of the *Londoners*, there came at that time to his hands a Letter from the Earl of *Leiceſter*, then at *Paris*, wherein were the *Gazettes* incloſed, reporting that the Cardinal had given ſome ſuch Order, as to levy Money by Forces. This, he ſaid, he only told the Lord *Cottington*, ſtanding by, without the leaſt Application or Intention concerning the *Engliſh* Affairs. *Cottington*, being examined upon this, declared the ſame in the ſame manner.

Thirdly, To Sir *Ralph Freeman*, he ſaid, That his Teſtimony did not concern the Charge at all; nor did he think any thing amiſs in it, tho he had ſaid it: If the Servants of the Mint refuſed to work according to Directions, they did deſerve the Houſe of Correction; nor was it treaſonable to ſay the King might uſe that Houſe for the Correction of his Servants, as well as any Man in the City for theirs.

Fourthly, He ſaid that there was no great likelihood that he had committed real Acts of Treaſon, when his adverſe Party was content to trifle away ſo much Time about Words; neither was there any Treaſon in them, tho they had been fully verified: and therefore in that (as in all other Articles) he reſerved a Power for his Counſel to diſpute in Matter of Law.

They went to the 27th Article, and charged thus: That immediately after his Appointment to be Lord Lieutenant to the Army here in *England*, he ſhewed what Principles of Arbitrary Government lurked within his Boſom; for by his own immediate Authority, without and againſt Law, he had laid an Impoſt of Money upon the King's Subjects. Where they mention three Particulars:

Firſt, That he had impoſed 8 *d. per diem* upon the County of *York*, for entertaining the Train-Bands there one whole Month.

Secondly, That he had ſent out Warrants for collecting the ſame, and threaten'd to impriſon ſuch as ſhould refuſe to pay.

Thirdly, That he ſaid, *That it was a Crime nigh to the Crime of High Treaſon, not to pay the ſame.*

Fourthly, They added, That in his general Replies he had brought two Things for his Defence: 1ſt, That this Money was freely and voluntarily offered by thoſe in *Yorkſhire*. 2dly, That the great Council of the Peers had notice of the ſame.

To the firſt they anſwered, That a Petition was indeed preferred by the *Yorkſhire* Men, and a Month's Pay offered; but that the Lord *Strafford* had refuſed to preſent the ſame upon this Exception only, Becauſe in the ſame they had petitioned for a Parliament: Whereby he evidently declared what little Inclination he had to that way.

To the ſecond, They appeal'd to all the Lords preſent, whether any ſuch Order did paſs before the Council of the Peers at *York*.

The Proofs were;

Firſt, A Warrant iſſued by Colonel *Pennyman* for this Money, and another by Sir *Edward Oſborne*.

Secondly,

Secondly, Mr. *John Burrowes*, who declared that he was Clerk to the great Council, but did remember of no Order; and withal added, that it might have paſſed at that time, when he attended at *Rippon*.

Thirdly, Mr. *Dunſton*, who declared that he had known that Money levied by ſome Muſqueteers.

Fourthly, By Sir *William Ingram*, who declared that he had heard the Lieutenant ſay, *That to refuſe the ſame, came nigh to the Crime of High Treaſon.*

They concluded the Charge, That by theſe Particulars it was more than evident what unhappy Purpoſes and traitorous Deſigns he had to ſubdue this Kingdom, and ſubvert the Fundamental Laws and Privileges.

The Earl replied, Firſt, To the Petition, That it was a true Petition, drawn up by the *Yorkſhire* Gentlemen; and as true, that he had refuſed to preſent the ſame, becauſe of that Clauſe about the Parliament. But the matter was thus: At his Majeſty's coming to *York*, it was thought neceſſary for the defence of that County to keep the Trained-Bands on foot, becauſe the Enemy was upon the Borders; and therefore the King directed him to write to all the Freeholders in *Yorkſhire*, to ſee what they would do for their own defence.

The Time and Place were deſigned by the King; but the night before the Meeting, a ſmall number convented, and in a private and factious way did draw up that Petition. Upon the morrow, at their appointed Dyet, in preſence of the whole number, the Petition was preſented to him; where he did adviſe them to leave out that Clauſe, and that becauſe he knew the King, out of his own gracious Diſpoſition, had intended to call a Parliament, which he deſired ſhould rather be freely done, than upon the conſtraint and importunity of Petitions: moreover, it would ſeem a mercenary thing in them, at one and the ſame time to offer a Benevolence, and withal to petition for his Favour. Upon this Remonſtrance, they were all willing to recall the Petition, and directed him by word of mouth to offer unto the King the Month's Pay in their names; which he did accordingly, in the preſence of forty of them, to their no ſmall advantage.

This he proved by Sir *William Pennyman*, Sir *Paul Neale*, Sir *George Wentworth*, Sir *William Savil*, Sir *Thomas Danby*, who all of them declared as much in ample Terms; and withal added, That nothing was done upon better Grounds of Neceſſity and Obedience than the Offer of that Money, and that they never had heard any Man grudge againſt it to this time.

For the Second, about the Council of Peers, he alledged that he never made mention of any Order of theirs; but he remembred very well it was twice propounded before them, that the King had approved it at that time a juſt and neceſſary Act, and none of the Council had contradicted it, which he conceived as a tacit Approbation, and an Order in Equivalence.

But though that had not been, yet there was nothing done in the Buſineſs, but at the ſpecial Deſires of the Gentlemen themſelves, and for their neceſſary Defence and Protection; yea, though he had done it by himſelf alone, yet he conceived he had ſo much Power by his Commiſſion, (cauſing the Commiſſion to that effect to be read) That albeit he ſhould miſtake his Commiſſion, and do ſome inferiour Act beyond it (becauſe military Proceedings are not always warranted by the Common Law) yet it ſhould not be imputed as an Act of Treaſon to him. (And to this effect read a Statute of the ſeventh of *Henry* the Second.)

To the Proofs; Firſt, Colonel *Pennyman*'s Warrant, or Sir *Edward Oſborne*'s, it nothing concerned him; and he doubted not but theſe worthy Gentlemen could juſtify their own Act, and that he had enough to do to anſwer his own Miſdemeanours.

Secondly, For Sir *John Burrowes*, he was at *Rippon* when that Propoſition was made.

Thirdly, That as the Warrant, ſo neither the Execution, troubled him at all.

Fourthly, For Sir *William Ingram*, he was but a ſingle Teſtimony, and that ſuch an one too, as he could produce an Evidence to teſtify he had miſtaken himſelf in his Teſtimony upon Oath, if it were not to diſadvantage the Gentleman.

He concluded, That he had done nothing in that buſineſs but upon the Petition of that County, the King's ſpecial Command, the Connivance at leaſt of the Great Council, and upon a preſent Neceſſity, for the Defence and Safety of the County.

And ſo much for Wedneſday.

Upon Thurſday the Committee for the Charge declared that they had done with all the Articles, and were content to wave the laſt, for Reaſons beſt known to themſelves: only Sir *Walter Earles* added, That he had ſome Obſervations to bring forth upon the two and twentieth Article, which he conceived might do much to prove the Earl of *Strafford*'s Deſigns for landing the *Iriſh* Forces in *England*.

And they were, Firſt, That in his Commiſſion he had power to land them in *Wales*, or in any part of *England*, or in *Scotland*; which were altogether ſuperfluous, unleſs there had been ſome Purpoſe for the ſame.

Secondly, That within two days before the Date of the Commiſſion, Letters were ſent to the Lord *Bridgewater* and *Pembroke* from Sir *Francis Windebank*, to aſſiſt the Earl of *Worceſter* in levying Forces for the King's Service; and theſe might be ſuppoſed to have intended a joining with the *Iriſh*.

Thirdly, That the Lord *Ranelagh*, at the raiſing of the *Iriſh* Army, did fear ſuch a Deſign as this.

Fourthly, That the Town of *Ayre* in *Scotland*, where the Lord *Strafford* pretended he would land thoſe Forces, was fortified with a Bulwark, a Gariſon, and Block-houſe, which would prohibit landing there; that the Earl of *Argyle*'s Bounds were divided thence by the Sea, and that the Bar or Entry into the Town was very dangerous and ſhallow.

The Proofs were only the reading of the Commiſſion granted to the Lord *Strafford*.

The Lieutenant replied, Firſt, That his Commiſſion was the ſame *verbatim* with *Northumberland*'s for *England*, and that it was drawn up by the Council-Board here, and ſent over unto him; ſo no more Deſign in him than in the Gentlemen of the *Engliſh* Army, nor no larger than that was put upon him.

Secondly, That this was the firſt time he heard of any ſuch Letters, nor did they concern him more than any of the Houſe.

Thirdly, That he was not bound to purge the Lord *Ranelagh* from all his Fears, and that he had his own Fears too, which God forbid ſhould be Evidence of Treaſon againſt any Man whatſoever.

Fourthly, That it ſeemed the Gentleman had better Information from that Kingdom than himſelf; yet he would be confident to ſay, at *Ayre* there was never ſuch a thing as a Block-houſe or Gariſon. But to remove all Scruples, (for indeed the Road or Landing-place is not there ſafe) he declared that it was his intention to have landed ſome miles above *Ayre*, and made only his Magazine of that Town.

To the Earl of *Argyle*'s Bounds, he hoped the Gentleman knew they came not on foot out of *Ireland*, but had Ships to waft and tranſport themſelves, and that one of his prime Houſes (*Roſneth*) was within ſome few miles of the ſame Frith.

The Lord *Digby* finding Sir *Walter Earles* on ground, did handſomly bring him off, and told the Lords, That all their Proofs for that Article were not yet ready, and that this was a Superfœtation only of the Charge; and that in ſuch a buſineſs as the plotting of Treaſon, they muſt be content ſometimes with dark Probabilities.

Then Mr. *Glyn* deſired the Lieutenant to reſume his Defence, that they might give a Repetition of their Charge, and ſo cloſe the Proceſs ſo far as concerned the Matter of Fact.

He replied, That in his Caſe all Slackneſs is Speed enough; the Matter touched him narrowly, even in his Life and Eſtate, yea, in that which he eſteemed above them both, his Honour and Poſterity; and therefore he confeſſed he had no deſire to ride poſt in ſuch a buſineſs. That he knew the Gentlemen of the Bar, if they were in his Caſe, would think the time little enough, except their more able Judgments could ſooner diſpatch the matter in hand; and therefore he humbly intreated, that that day might be granted to him for ſtrengthening himſelf, and recollecting his Thought and Spirits, and to-morrow he would be ready with his laſt Replies for himſelf: which after a little Ceremony and Conteſtation, was condeſcended unto by the Houſe of Commons.

Upon Friday Morning, about Eight of the clock, the Lieutenant of the *Tower*, and my Lord's Chamber-Groom came to the Hall, and gave Information to the Houſe upon Oath, That the Lord *Strafford* was taken with an exceeding great Pain, and Fit of the Stone, and could not upon any conditions ſtir out of his Bed.

Mr. *Glyn* replied, That it was a token of his Wilfulneſs, not his Weakneſs, that he had not ſent a Doctor to teſtify the ſame.

The Lord Steward made anſwer, That a Doctor could not be had perhaps ſo ſoon in a Morning, nor was it poſſible for any Phyſician to give a certain Judgment concerning a Man's Diſability by the Stone, becauſe there is no outward Symptoms that appear.

Mr. *Glyn* excepted, That if he did not appear upon Saturday Morning, he ſhould loſe the privilege to ſpeak in his own defence afterwards, and they permitted to proceed.

The Lord Steward replied, That the Lords had apointed four of their number to go to the *Tower*, and learn the juſt Cauſe of his ſtay; and if by any means he were able, he ſhould be obliged to come then; if not, Humanity and common Equity would excuſe him.

In the Afternoon it was reported that he was dead, of which there can be no better reaſon given than the Humour and Genius of the Times, that dally with nothing oftner than Untruths and Calumnies: and certainly there are many Men of ſhallow Underſtandings and weak Affections, who either will not, or cannot underſtand the Gentleman's Worth; but out of fearful and needleſs Apprehenſions are ſo deſirous to hear of his Ruin any way, that their buſy Tongues will dare to anticipate the Stroke of Juſtice.

Mr. *Glyn* proffers new Proofs concerning the two and twentieth Article.

Upon Saturday Morning he preſented himſelf at the Bar, where he expected nothing but Repetitions of Charges and Defences; but mean while Mr. *Glyn* proffers ſome new Proofs concerning the two and twentieth Article, which the noble Lord refuſed, alledging the Proceſs was cloſed. Mr. *Glyn* anſwered, The Proceſs is not cloſed, as long as the Buſineſs ſtands unrepealed; and that it did not become a Priſoner at the Bar to preſcribe a Method of proceeding to the Houſe of Commons in *England*.

It was anſwered by the Lord-Lieutenant, That he thought it ſtood him in hand as nearly to maintain his Life, as it did any to purſue him for it; yet he was willing they ſhould bring in new Proofs, provided that he might have time to make new Replies, and withal uſe ſome new Witneſſes in ſome Articles that concern his Juſtification.

The Lord *Newark*, upon theſe Motions, deſired the Houſe might be adjourned: after two hours ſtay, and a hot Conflict upon the Lords, they returned, and the Lord Steward commanded the Order to be read, which conſiſted of two Articles:

Firſt, That as it was granted unto them to bring in Proofs concerning the two and twentieth Article; ſo it was to the Lord *Strafford* to make his Replies, and uſe his Witneſſes concerning the ſame.

Secondly, That if they went to no more Articles, no more ſhould the Lord *Strafford*; but if they did, that he might pitch upon any one Article as he pleaſed.

The Houſe of Commons preſently declined all other Articles, and conceived the Order expreſly for them, reſtraining him from all other Articles, except that only.

He conceived the Order was for him, and ſaid, That ſeeing they had pick'd out their Article, it was againſt all common Equity to tye up his hands, and not admit of a common Rule for them both. They replied, That when the Article was canvaſſed, they reſerved Witneſſes till another time. He anſwered, That he had done the ſame upon every Article. They replied, That the Houſe had refuſed his Reſervation. He anſwered, Nor had they paſſed an Order for theirs.

Upon this new Conteſtation the Houſe roſe again, and was adjourned. It is ſuppoſed that the Houſe of Commons had the better ground, becauſe they had particularly named their Witneſſes in their Reſervation, the Lord *Strafford* not ſo; they preſſed but one Article, he many. But ſuch was the Pleaſure of the Lords, that though the matter did not deſerve to be much ſtood upon, yet after two hours vehement Agitation of the Buſineſs in the Upper Houſe, they returned, and the Order was in his favour to this effect:

Firſt, That both of them ſhould wave their new Proofs, and go immediately to that which follows.

Secondly, If they would not do ſo, the Lords conceived themſelves common Judges to both, and therefore would not deny *Strafford* the liberty of pitching upon what Article he pleaſed, as they had done.

Thirdly,

Thirdly, That both of them ſhould name their Witneſſes at the Bar inſtantly.

The Commons were much grieved at this, yet deſired him to nominate his Witneſſes, if he would make any benefit of the Order. He anſwered, That he would nominate after them, becauſe they were firſt in order. They replied, That he knew their Article, they not his. He ſaid, He was to bring Proofs about the ſecond, fifth, thirteenth, and the fifteenth Articles, and did deſire them that they would now proceed to Nomination.

But they told him, they could not embrace the Order without Advice of the whole Houſe. Then on a ſudden a mighty Noiſe followed of the whole Houſe, *Withdraw, Withdraw!* and was in ſo uncouth and tumultuous a Confuſion, that it produced both Admiration and Fear in the Beholders, wherein we might eaſily feel the Pulſe of a diſtempered State. Both the Houſes brake up, not appointing ſo much as the next Dyet; each Man's Countenance ſpake Anger and Diſcontent, and nothing ſounded in our ears all Sunday but Terrors and Affrightments of a preſent Diviſion and Breach between the two Houſes; That the Houſe of Commons would declare him a Traytor, and all ſuch Lords too as were his Adherents; that he ſhould be no more heard in publick, that (though Parties, and not his Peers) they would vote in his Sentence, That a Bill of Attainder ſhould preſently be drawn up againſt him, and that nothing ſhould content them but preſent Execution.

Big words flew up and down all Monday. That whole Day was ſpent in a Conference betwixt the Houſes, without any meeting in the Hall; but the Lords (who had learned, as it ſeems, to foreſee their own Ruin by his Misfortune, and now conceive that Monarchy and Nobility are of ſuch Identity, that one and the ſame is the diminution of both) kept faſt to their Concluſion, and would not paſs from their Order, notwithſtanding all the many Dangers repreſented: ſo that the Houſe of Commons were conſtrained at laſt to give way, and embrace the firſt part of the Order, by waving Witneſſes on both ſides.

This hath been no ſmall diſcouragement to his Enemies; for a more real Demonſtration of his Party amongſt the Lords could not have been ſhewn.

Upon Monday, ſome of the Lords went ſo high in their Heat, as to tell the Houſe of Commons, That it was an unnatural Motion, for the Head to be governed by the Tail; That they hated Rebellion as bad as Treaſon; That the ſame Blood that ennobled their Anceſtors, did move alſo in their Veins, and therefore they would never ſuffer themſelves to be ſuppreſſed by a popular Faction.

After a great deal of Storm, all was (as well as might be) ſodder'd up again, and Tueſday appointed to be the Day for the Lieutenant to reſume his Defences, and they their Charge, without any more Proof to be uſed on either ſide.

Upon Tueſday, the Lord Steward at the entry told them, the Lords had ordered that both their Teſtimonies ſhould be waved, that they ſhould proceed immediately to what followed, ſo that that Day might put an end to what concerned the Matter of Fact.

The Lord-Lieutenant replied, That in all Humility and Obedience he would ſubmit himſelf to that, or any other their Decrees whatſoever, tho it ſhould reach as far home unto him as his own Life; but withal humbly begged, That if hereafter he ſhould be troubled (for they were to ſpeak laſt) with new Matter, or with ſupplemental Proof, he might have leave to ſpeak ſomething in his own defence.

The Lord Steward anſwered, It was all the reaſon in the world.

The Lieutenant went on thus:

My Lords,

THIS day I ſtand before you charged with High Treaſon, the Burden is heavy, yet far the more, in that it hath borrowed the Patrociny of the Houſe of Commons; if they were not intereſted, I might expreſs a no leſs eaſy, than I do a ſafe Iſſue and good Succeſs to the buſineſs: But let neither my Weakneſs plead my Innocence, nor their Power my Guilt. If your Lordſhips will conceive of my Defences, as they are in themſelves, without reference to either, (and I ſhall endeavour ſo to preſent them) I hope to go away from hence as clearly juſtified, as I am now in the Teſtimony of a good Conſcience by myſelf. My Lords, I have all along my Charge watched to ſee that poiſoned Arrow of Treaſon, that ſome Men would fain have to be feathered in my Heart, and that deadly Cup of Wine, that hath ſo intoxicated ſome petty miſ-alledged Errors, as to put them in the Elevation of High Treaſon; but in truth it hath not been my Quickneſs to diſcern any ſuch Monſter yet within my Breaſt, though now perhaps, by a ſiniſtrous Information, ſticking to my Clothes. They tell me of a twofold Treaſon, one againſt the Statute, another by the Common Law; this direct, that conſecutive; this individual, that accumulative; this in itſelf, that by way of conſtruction.

For the firſt, I muſt and do acknowledge, that if I had the leaſt ſuſpicion of my own Guilt, I would ſpare your Lordſhips the pains, caſt the firſt Stone at myſelf, and paſs Sentence of Condemnation againſt myſelf: and whether it be ſo or not, I refer myſelf to your Lordſhips Judgment and Declaration. You, and only you, (under the favour and protection of my gracious Maſter) are my Judges; under favour, none of the Commons are my Peers, nor can they be my Judges. I ſhall ever celebrate the Providence and Wiſdom of your noble Anceſtors, who have put the Keys of Life and Death (ſo far as concerns you and your Poſterity) into your own hands, not into the hands of your Inferiours; none but your own ſelves know the Rate of your noble Blood, none but yourſelves muſt hold the Ballance in diſpenſing the ſame.

I ſhall proceed in repeating my Defences, as they are reducible to theſe two main Points of Treaſon: and for Treaſon againſt the Statute, (which is the only Treaſon in effect) nothing is alledged for that, but the fifteenth, two and twentieth, and twenty ſeventh Articles. [Here he brought the Sum of all his Replies made to theſe three Articles before, and almoſt in the ſame words as before; only that Teſtimony of Sir *Henry Vane*'s, becauſe it ſeemed preſſing, he ſtood upon it, and alledged five Reaſons for the nullifying thereof.]

Firſt, That it was but a ſingle Teſtimony, and would not make Faith in a Matter of Debt, much leſs in a Matter of Life and Death; yea, that it was expreſly againſt the Statute to impeach (much leſs to condemn) him upon High Treaſon, under the Teſtimony of two famous Witneſſes.

Secondly,

Secondly, That he was dubious in it, and expreſs'd it with an *as I do remember*, and *ſuch or ſuch-like Words*.

Thirdly, That all the Council of eight, except himſelf, diſclaim the words; as if by a ſingular Providence they had taken hold of his Ears only.

Fourthly, That at that time the King had levied no Forces in *Ireland*, and therefore he could not be poſſibly ſo impudent as to ſay to the King, *That he had an Army there, which he might employ for the reducing this Kingdom.*

Fifthly, That he had proved by Witneſſes beyond all exceptions (Marquiſs *Hamilton*, the Lord Treaſurer, the Earl of *Northumberland*, Lord *Cottington*, Sir *William Pennyman*, and Sir *Arthur Terringham*) that there was never the leaſt Intention to land thoſe Forces in *England*.

[He went on:]

So much for the Articles that concern Individual Treaſon.

To make up the Conſtructive Treaſon, or Treaſon by way of Accumulation, many Articles are brought againſt me, as if in a heap of Felonies or Miſdemeanours (for in their conceit they reach no higher) ſome prolifical Seed, apt to produce what is treaſonable, could lurk. Here I am charged to have deſigned the Ruin and Overthrow both of Religion and State. The firſt ſeemeth rather to have been uſed to make me odious than guilty, for there is not the leaſt Proof alledged concerning my Confederacy with the Popiſh Faction, nor could there be any indeed; never a Servant in Authority beneath the King my Maſter was ever more hated and maligned by thoſe Men than myſelf, and that for an impartial and ſtrict executing of the Laws againſt them.

Here your Lordſhips may obſerve, that the greater number of the Witneſſes uſed againſt me, either from *Ireland* or from *Yorkſhire*, were Men of that Religion: But for my own Reſolution (I thank God) I am ready every hour of the day to ſeal my Diſaffection to the Church of *Rome*, with my deareſt Blood.

But, my Lords, give me leave here to pour forth the Grief of my Soul before you: theſe Proceedings againſt me ſeem to be exceeding rigorous, and to have more of Prejudice than Equity, that upon a ſuppoſed Charge of my Hypocriſy or Errors in Religion, I ſhould be made ſo monſtrouſly odious to three Kingdoms; a great many thouſand Eyes have ſeen my Accuſations, whoſe Ears ſhall never hear, that when it came to the upſhot I was never accuſed of them. Is this fair dealing amongſt Chriſtians? But I have loſt nothing by that: Popular Applauſe was ever nothing in my conceit; the Uprightneſs and Integrity of a good Conſcience was, and ever ſhall be, my continual Feaſt; and if I can be juſtified in your Lordſhips Judgments from this grand Imputation, (as I hope I now am, ſeeing theſe Gentlemen have thrown down the Bucklers) I ſhall account myſelf juſtified by the whole Kingdom, becauſe by you, who are the Epitome, the Better Part, yea the very Soul and Life of the Kingdom.

As for my Deſign againſt the State, I dare plead as much Innocency here, as in Matter of my Religion: I have ever admired the Wiſdom of our Anceſtors, who have ſo fixed the Pillars of this Monarchy, that each of them keep a due proportion and meaſure with the other, and have ſo handſomely tyed up the Nerves and Sinews of the State, that the ſtraining of any one may bring danger and ſorrow to the whole Oeconomy. The Prerogative of the Crown, and the Propriety of the Subject, have ſuch mutual Relations, this takes Protection from that, that Foundation and Nouriſhment from this: And as on the Lute, if any one String be too high or too lowly wound up, you have loſt the Harmony; ſo here the Exceſs of a Prerogative is Oppreſſion; of pretended Liberty in the Subject, Diſorder and Anarchy. The Prerogative muſt be uſed as God doth his Omnipotency, upon extraordinary Occaſions; the Laws (anſwerable to that *Potentiâ ligata in Creaturis*) muſt have place at other times. And yet there muſt be a Prerogative, if there muſt be extraordinary Occaſions; the Propriety of the Subject is ever to be maintained, if it go in equal pace with this: They are Fellows and Companions, that are and ever muſt be inſeparable in a well-governed Kingdom; and no way ſo fitting, ſo natural to nouriſh and entertain both, as the frequent Uſe of Parliaments: by thoſe a Commerce and Acquaintance is kept betwixt the King and Subject. Theſe Thoughts have gone along with me theſe fourteen Years of my publick Employments, and ſhall God willing to my Grave: God, his Majeſty, and my own Conſcience, yea, and all thoſe who have been moſt acceſſory to my inward Thoughts and Opinions, can bear me witneſs that I ever did inculcate this, That the Happineſs of a Kingdom conſiſts in a juſt Poize of the King's Prerogative and the Subject's Liberty; and that things would never go well, till they went hand in hand together.

I thank God for it, by my Maſter's Favour, and the Providence of my Anceſtors, I have an Eſtate, which ſo intereſteth me in the Commonwealth, that I have no great mind to be a Slave, but a Subject; nor could I wiſh the Cards to be ſhuffled over again, upon hopes to fall upon a better Set: nor did I ever nouriſh ſuch baſe mercenary Thoughts, as to become a Pander to the Tyranny and Ambition of the greateſt Man living. No, I have, and ever ſhall aim at a fair, but a bounded Liberty; remembring always that I am a Freeman, yet a Subject; that I have a Right, but under a Monarch. But it hath been my misfortune now, when I am grey-headed, to be charged by the Miſtakers of the Times, who are now ſo highly bent, that all appears to them to be in the extreme for Monarchy, which is not for themſelves. Hence it is, that Deſigns, Words, yea Intentions, are brought out for real Demonſtrations for my Miſdemeanours: ſuch a Multiplying-Glaſs is a prejudicate Opinion!

The Articles contain Expreſſions and Actions: my Expreſſions either in *Ireland* or *England*, my Actions either before or after theſe late Stirs.

[In this Order he went thro the whole Charge, from the firſt Article to the laſt, in an excellent Method, and repeated all the Sums and Heads of what was ſpoken by him before; only added in the twenty eighth Article, If that one Article had been proved againſt him, it contained more weighty Matter than all the Charge beſides: and it had not only been Treaſon in him, but alſo Villany, to have betrayed the Truſt of his Majeſty's Army. Yet becauſe the Gentlemen had been ſparing (by reaſon of the Times) to inſiſt upon that Article, though it might concern him much, he reſolved to keep the ſame Method, and not utter the leaſt Expreſſion that might ſeem to diſturb the happy Agreement intended, though he wiſhed the ſame might deceive his Expectation: Only thus much he admired, how himſelf, being

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an Incendiary againſt the *Scots* in the twenty third Article, is now become their Confederate in the twenty eighth Article; or how he could be charged for betraying *Newcaſtle*, and for fighting with the *Scots* at *Newborne* too, ſeeing fighting with them was no poſſible means for betraying the Town, but to hinder their Paſſage thither.

That he never adviſed War farther, than (in his poor Judgment) concerned the very Life of the King's Authority, and the Safety and Honour of his Kingdoms: Nor ſaw he what advantage could be made by a War in *Scotland*, where nothing could be gained but many hard Blows. For his part, he honoured the Nation, but he wiſhed they might be ever under their own Climate, and had no deſire they ſhould be too well acquainted with the better Soil of *England*. But he thought that Article had been added in jeſt, or as a Supernumerary; and he very little ſuſpected to be reckoned a Confederate with the *Scots*, and wiſhed (as he hoped it was) that every *Engliſhman* were as free from that Imputation as himſelf: cloſing his Defence with this Speech.]

My Lords, You ſee what may be alledged for this Conſtructive, rather Deſtructive Treaſon. For my part, I have not the Judgment to conceive that ſuch a Treaſon is agreeable either with the fundamental Grounds of Reaſon or Law: not of Reaſon, for how can that be Treaſon in the Lump or Maſs, which is not ſo in any of the Parts? Or how can that make a thing treaſonable, which in itſelf is not ſo? Not of Law, ſince neither Statute, Common Law, nor Practice, hath from the beginning of this Government ever mentioned ſuch a thing: and where, my Lords, hath this Fire, without the leaſt appearance of any Smoke, lien hid ſo many hundred Years, and now breaks forth into a violent Flame to deſtroy me and my Poſterity from the Earth? My Lords, do we not live by Laws, and muſt we be puniſhed by Laws before they be made? Far better were it to live by no Laws at all, but to be governed by thoſe Characters of Diſcretion and Virtue, that Nature hath ſtamped in us, than to put this neceſſity of Divination upon a Man, and to accuſe him of the Breach of Law, before it be a Law at all. If a Waterman upon the *Thames* ſplit his Boat by grating upon an Anchor, and the ſame have a Buoy appending to it, he is to charge his own Inobſervance; but if it hath none, the Owner of the Anchor is to pay the Loſs.

My Lords, If this Crime, which they call Arbitrary Treaſon, had been marked by any Diſcerner of the Law, the Ignorance thereof ſhould be no Excuſe for me; but if it be no Law at all, how can it in rigour or ſtrictneſs itſelf condemn me? Beware you do not awake theſe ſleeping Lions, by the ſearching out ſome neglected moth-eaten Records, they may one day tear you and your Poſterity in pieces: It was your Anceſtors Care to chain them up within the Barricadoes of Statutes; be not you ambitious to be more skilful and curious than your Forefathers in the Art of killing.

My Lords, It is my preſent Misfortune, for ever yours; and it is not the ſmalleſt part of my Grief, that not the Crime of Treaſon, but my other Sins, (which are exceeding many) have preſented me before this Bar; and except your Lordſhips Wiſdoms provide for it, it may be, the ſhedding of my Blood may make way for the tracing of yours: you, your Eſtates, your Poſterities, lie at the ſtake. If ſuch learned Gentlemen as theſe, whoſe Tongues are well acquainted with ſuch Proceedings, ſhall be ſtarted out againſt you; if your Friends, your Counſel denied Acceſs unto you; if your profeſſed Enemies admitted to witneſs againſt you; if every Word, Intention, or Circumſtance of yours, be ſifted and alledged as treaſonable, not becauſe of a Statute, but becauſe of a Conſequence, or Conſtruction of Lawyers pieced up in a high Rhetorical Strain, and a number of ſuppoſed Probabilities; I leave it to your Lordſhips Conſideration, to foreſee what may be the Iſſue of ſuch dangerous and recent Precedents.

Theſe Gentlemen tell me they ſpeak in defence of the Commonwealth, againſt my Arbitrary Laws; give me leave to ſay it, I ſpeak in defence of the Commonwealth, againſt their Arbitrary Treaſon: for if this Latitude be admitted, what prejudice ſhall follow to King and Country, if you and your Poſterity be by the ſame diſenabled from the greateſt Affairs of the Kingdom? For my poor ſelf, were it not for your Lordſhips Intereſt, and the Intereſt of a Saint in Heaven, who hath left me here two Pledges on Earth, [*At this his Breath ſtopt, and he ſhed Tears abundantly in mentioning his Wife, which moved his very Enemies to Compaſſion*] I ſhould never take the pains to keep up this ruinous Cottage of mine; it is loaden with ſuch Infirmities, that in truth I have no great pleaſure to carry it about with me any longer: nor could I ever leave it in a better time than this, when I hope the better part of the World would perhaps think, that by this my Misfortune I had given a Teſtimony of my Integrity to God, my King, and Country. I thank God, I count not the Afflictions of this preſent Life comparable to that Glory, which is to be revealed in the time to come.

My Lords! my Lords! my Lords! Something more I had to ſay, but my Voice and Spirits fail me: only I do in all humility and ſubmiſſion caſt myſelf down before your Lordſhips feet, and deſire that I might be a *Pharos* to keep you from Shipwreck; do not put ſuch Rocks in your own way, which no Prudence, no Circumſpection, can eſchew or ſatisfy, but by your utter Ruin. And whether your Judgments in my Caſe (I wiſh it were not the Caſe of you all) be either for Life or Death, it ſhall be righteous in my eyes, and received with a *Te Deum laudamus*; (and then he lifted up his Eyes, and ſaid) *In te Domine confido, ne confundar in æternum.*

This he ſpake with an inimitable Life and Grace. You have his very Words as near as I can remember, only with ſo much loſs and detriment as hath periſhed by tranſcribing the Copy from his own mouth. But you deſire Impartiality, and indeed you have it, and with ſome grains too of allowance; for I was ſo afraid of my own Affection to the Gentleman, that I rather bowed to the other Extremity, and therefore have ſet down his Defences rather to his diſadvantage by my rude Pen, than in the native Colour, to his eternal Glory, and the Confuſion of his Enemies.

The Repetition of the Charge did not ſpend much time; they proceeded orderly Article by Article, in the very ſame Words and Matter as before: only there were ſome remarkable Flaſhes that paſſed from Mr. *Glyn* (who was the Man) in the time of their handling.

He told them, That he ſhould repreſent the Lord *Strafford* as cunning in his Replies, as he had been

been crafty in his Actions; that he waved all that was material, and insisted only upon the secondary Proofs: that it was more than evident throughout all his Charge, how he had endeavoured to bring in an Arbitrary and Tyrannical Form of Government over the Lives, Lands and Liberties of the King's Subjects; yea, had exercised a Tyranny over their Consciences too, by the Oath administred in *Ireland*: And though his malicious Designs had taken no effect, yet no Thanks to him, but to the Goodness of the King, and the Vigilancy of the Peers. Had they pleas'd, it had been too late to have punished him; for no Rule of Law had been left whereby to censure him, after the Death and Expiration of the Laws. And if the Intention of *Guido Faux* might be thought Treason, though the House was not blown up, then this Intention of his may admit the same Censure.

He closed; That throughout all his Defences he had pretended either Warrants from the King, or else the King's Prerogative: and what was this else but to draw up a Cloud, and exhale the Vapour for the eclipsing of the bright Sun, by the Jealousies or Repinings of his Subjects, if the strength of his Piety and Justice should not dispel all these Mists, and send them down to their Original? That the very standing and falling of these three Kingdoms stood upon this Process; all of which do conceive their Safety so far interested in his just Punishment, that no settling of their Peace or Quiet could be expected without this: That they hoped the Law should never protect him, who had gone about to subvert all Law; nor the Nobility (who had the same Blood moving in their Veins) by submitting themselves to his base Tyranny, lose that Privilege and Liberty, which their Ancestors had bought with their dearest Lives. Though there was no Statute for this Treason, was it the less monstrous? For there was none for so many hundreds of Years that durst ever venture upon such Insolencies, to occasion such a Statute: And were not the fundamental Grounds, Rules and Government sufficient to rise up in Judgment against him, without the making a particular Statute? This he said he left to the Dispute of the Law; and concluded, that seeing they had found out the *Jonah*, who these many Years had tossed and hazarded the Ship of the Commonwealth with continual Storms and Tempests, there could be no Calms expected, but by casting him out into the Seas; which, in all Justice, they must, and do expect from their Hands, who are intrusted by the Body of the Kingdom to do the same. The Aggravation of the Offence, he said, he had left to Mr. *Pym*, who here spake that Speech which is now in Print.

It was a Sport to see how Mr. *Pym* in his Speech was fearfully out, and constrained to pull out his Papers, and read with a great deal of Confusion and Disorder, before he could recollect himself; which failing of his Memory was no small Advantage to the Lieutenant: because by this means the House perceived it was a premeditated Flash, not grounded upon the Lieutenant's last Answer, but resolved on before, whatsoever he should say for his own Justification. But the Lieutenant was not suffered to reply a Word, either to *Glyn* or *Pym*, because the last Word must be theirs. And so with Tuesday ended the Matter of Fact.

On Thursday the Dispute in Law is expected.

Upon Wednesday we were big with Expectation for the Matter of Law, having done before with Matter of Fact; but it seems the House of Commons had perceived a great Defection of their Party, and a great Increase of the Lord *Strafford*'s Friends in both the Houses, occasioned by his insinuating, honest, and witty Defences, and therefore resolved of no more hearing in publick: therefore it was thought upon by his Accusers to draw up a Bill of Attainder, and present the same to the Lords; whereby, First, the Matter of Fact should be declared to have been sufficiently proved; and then in the Matter of Law, that he had incurred the Censure of Treason, for intending to subvert the fundamental Laws of the Kingdom: For tho (said they) he cannot be charged by Letter of Statute of the Twenty-fifth of *Edward* the Third, yet he is within the Compass of the *Salvo*, whereby it is provided, That the King and Parliament hath Power to determine what is treasonable, and what not; and that they were confident the Lords would ratify and approve of this Bill of theirs, and give Judgment accordingly.

The Motion was stoutly opposed by three great Lawyers, (all Members of the House) *Selden*, *Holborn* and *Bridgeman*, who made it manifest, that the *Salvo* of 25 *Edward* 3. was repealed, and that no Man could now be convicted of Treason, but by the Letter of that Statute: But being put to Voice, it was carried for the Bill, and a Committee appointed for to draw it up.

This gave occasion of much talk abroad, and they who were otherwise the Lord *Strafford*'s Enemies, could not find Equity enough in the Bill of Attainder. Some could not conceive what difference imaginable was betwixt the Bill and the Charge presented before; for in the Charge he was accused of Treason, and the Bill (though they had no Legislative Power) seemed nothing but an Affirmation of the same. Others (who would have the Bill understood of a definitive Sentence, because it was consecutive to the Proofs) were not satisfied, but that it was against all Practice, that the Commons should give Sentence upon the Death of a Peer; and that it was against common Equity too, that the Party accusant should give the Judgment, if the Complainers were admitted to be Judges. A third sort gave it out, That this was no Sentence against the Lord *Strafford*, but only a passing of a new Act of Parliament, about a Matter not hitherto declared treasonable: But yet these doubted, that by declaring the Matter of Fact to be approved, and applying the Censure to it, in reference to the Lord *Strafford*, it would ever be thought a Sentence against him, to blemish his own Fame, and the Blood of his Posterity. Moreover, that if they were about to make a new Act, it were strange to punish a Man for the Breach of such a Statute as was not yet extant *in rerum natura*; which should in reason refer only to future Obedience: And (what is more strange) though there were a new Statute, yet by what Authority the Parliament hath, or could declare any individual or accumulative Act, which is already, to be treasonable; which must be Treason by virtue of a Statute, or else no Treason at all. Now there is none can be brought, except the Twenty-fifth of *Edward* the Third, whereof the Letter of that Statute cannot, by their own Confession, nor was not so much as once alledged against the Lord *Strafford*: And for the *Salvo* or *Proviso* (which they mainly insisted on) the same stands repealed by two posterior Acts of Parliament.

You have the Mutterings of all sorts of People.

The

The Lords fearing the Proceedings, as a beaten Path trodden out to the Ruin of their own Lives and Eſtates, told the Houſe of Commons in their Conference upon Thurſday, That they would go on the ſame way they did already; and, according to the Order of the Houſe, give full Audience to the Lord *Strafford*'s Counſel in Matter of Law, and that they themſelves, as competent Judges, would by themſelves only give Sentence in the Cauſe; nor was there any other Courſe ſutable to the Practice and Statutes of the Kingdom, the Safety of the Nobility, or to Equity or common Juſtice.

It was replied by them of the Lower Houſe, That they were reſolved to go on with their Bill, and if the ſame ſhould be rejected by the Lords, they feared a Rupture and Diviſion might follow, to the utter Ruin and Deſolation of the whole Kingdom, that no Content would be given to the Subject, (and this was a ſtrong Argument indeed, yet better beſeeming Partiality and Violence, than the pretended Juſtice and Piety of the Times) unleſs the Man, who had ſo much intruded upon their Right, and diſcontented the People, might be puniſhed as a Traytor; and for the Practice of the Kingdom, that no Man had ever found ſuch a favourable Hearing; and that the Proceſs againſt *Eſſex*, *Norfolk*, *Somerſet*, were all of them cloſed up in one Day.

Upon Friday the Lords gave Anſwer, That they could expect nothing from the Houſe of Commons, but what ſhould tend to the Peace and Preſervation of the Kingdom: nor was there a more forcible way than to preſerve the Laws and Cuſtoms thereof, leſt Innovation, ſo much complained of by them, might unhappily be found among themſelves: That the Subjects ſhould have all that Juſtice could afford, but that an Act of Injuſtice would never give Satisfaction to the World, nor Safety to themſelves; the Eyes of all foreign States being fixed upon the Buſineſs now in agitation, and the Wiſdom of our Nation either to be much advanced or depreſſed by their Judgments in this Caſe: That the Proceſs againſt *Norfolk* and *Eſſex* (for *Somerſet* was convict only of Felony, and had not ſo much Animadverſion to ſave himſelf by his Book) were for direct and formal Treaſons, comprized in one or two individual Acts; but this againſt the Lord *Strafford* only arbitrary and accumulative, to be pick'd out of Twenty-eight Articles: And therefore that it was impoſſible to have a full Examination of them all, to give Sentence againſt him. And thoſe Noblemen were charged with ſome actual Breach of Statutes, formerly made; but here a new Statute was to be made, or elſe he to be found guiltleſs. They concluded, that they had given order for his Appearance on Saturday, and that in the great Hall at *Weſtminſter*, where the Houſe of Commons might, if they pleaſed, be preſent.

After ſome Deliberation with the Houſe, the Conferrers anſwered, That ſince the Lords had ſo reſolved, they would not deny to be there preſent, and to hear what his Counſel could ſay for him; but to reply any more in publick, they neither could nor would, becauſe of the Bill already paſt: only if the Lords ſhould take any ſcruple in the Matter of Law, they would be ready to give them Satisfaction by a private Conference, (ſo they willingly declined to do what indeed they could not poſſibly do) that is, to give publick Satisfaction in the Matter of Law.

Upon Saturday they convened in the great Hall, but they that were of the Committee for the great Charge, did not ſtand at the Bar, as before, but ſat promiſcuouſly with the reſt of their Fellows; ſo that a Mouth was not opened in the behalf of the Houſe of Commons all that Day. After they were ſat, the Lord Steward told the Lieutenant, That the Lords had reſolved to give him a fair Hearing in the Matter of Law, and therefore deſired that the Counſel might keep that Diſtance, Moderation and Reſpect to the Judicatory that was fitting, and not at all to meddle with the Matter of Fact.

The Lieutenant replied, That in all Humility he did acknowledge that Favour from the Lords; and that it was ſuch an one too, as he could not but expect from ſuch honourable Peers and juſt Perſons, in whoſe Integrity and Goodneſs (under that which he had placed above) he had repoſed his chiefeſt Confidence; for his Counſel, they knew much better than himſelf what concerned the Point of Diſcretion and Reverence; and that he doubted not but that they would give all Satisfaction and Obedience.

Then his Counſel were called to the Bar, Mr. *Lane*, the Prince's Attorney; Mr. *Gardiner*, Recorder of *London*; Mr. *Loe*, and Mr. *Lightfoot*. Mr. *Lane* ſpake, and much to this Senſe and Purpoſe:

My Lords, there is an heavy Charge lieth on me and my Fellows, nothing leſs than to defend the Life, the Eſtate, the Reputation, yea the Poſterity of this Honourable Perſon at the Bar; if therefore we ſhall be more preſſing, we hope your Lordſhips will interpret this our Forwardneſs to be for Honour and Conſcience-ſake, in a Matter that concerneth both ſo nearly: But it ſhall be our Endeavour to carry our ſelves with our beſt Reſpects to your Lordſhips, and with all Content and Satisfaction to the Honourable Houſe of Commons: and becauſe your Lordſhips mentioned the Matter of Fact, one thing I dare be bold to ſay, That all the time of this Noble Lord's Defences, he did not ſo much as crave any one of our Opinions; yea, or acquainted us with any thing that tended that way. And for the Matter of Law, thoſe Statutes cited by himſelf were none of our Stock, but taken up at his own adventure; nor do I ſpeak this to derogate from the Pertinency of thoſe Statutes (for they ſhall be the Subject of my Diſcourſe) but that the Nobleman be not diſappointed of your right Conceptions, and his own due Praiſe.

My Lords, it is your pleaſure we meddle not with Matter of Fact, and indeed we need not meddle at all with it, becauſe we hope it is already done, and that ſufficiently to our hands; yet the Matter of Law doth ſo naturally riſe out of the Matter of Fact, that of neceſſity (under your Lordſhips Favours) we muſt ſomewhat grate on this, if we ſpeak on that; nor do I conceive it poſſible for us to ſpeak advantageouſly enough for the Lord *Strafford*'s juſt Defence, unleſs the whole Matter of Fact be determined, either as proved or not proved, or at leaſt ſome ſtates of Queſtions agreed upon, where we may fix and ſettle our Arguments. And therefore it is, my Lords, that I have choſen not at all to touch the Matter of Law (until your Lordſhips ſhall be pleaſed to chalk me out a way) unleſs it be to clear your Judgments in one Statute only, *viz.* 25 *Edw.* 3. Becauſe when the ſame was alledged by the Lord *Strafford* in his own Defence, that not being convicted of the Letter thereof, he could not be con-

victed of Treaſon; I remember the *Salvo* of that Statute was much inſiſted upon by thoſe from the Houſe of Commons, as much conducing to their own ends. My Lords, I will firſt ſpeak of the Statute it ſelf, and then of its *Salvo* or Proviſion. The Statute is, *That if any Man ſhall intend the Death of the King, his Queen, their Children; kill the Chancellor, or Judge upon the Bench; imbaſe the King's Coin, or counterfeit the Broad-Seal,* &c. *he ſhall be convicted and puniſhed as a Traytor.* That the Lord *Strafford* comes within the Letter of this Statute, is not ſo much as once alledged, nor indeed it cannot be with any reaſon: All that can be ſaid, is, That by Relation, or by Argument *a minori ad majus*, he may be drawn thither; yet that this cannot be, I humbly offer theſe Conſiderations.

Firſt, This is a Declarative Law, and ſuch are not to be taken by way of Conſequence, Equity, or Conſtruction, but by the Letter only; otherwiſe they ſhould imply a Contradiction to themſelves, and be no more Declarative Laws, but Laws of Conſtruction, or Conſtitutive.

Secondly, This is a Penal Law, and ſuch (if our Grounds, hitherto unqueſtioned, hold good) can admit of no Conſtructions or Inferences; for Penalties are to perſuade the keeping of known Laws, not of Laws conjectural, ambiguous, and by conſequence, which perhaps the moſt Learned may not in their Diſputes queſtion; much leſs the Subject (who is not obliged to interpret the Statute) doubt of in the Point of Obedience; yea rather without any Doubt, he is to obey the Letter of the Statute, and conceive, (and that truly) that he is not liable to the Penalty.

Thirdly, We have a notable Law, 13 *Eliz. cap.* 2. whereby it is declared, That the bringing in of Bulls from *Rome*, to ſtir up the Subject to Mutiny and Rebellion, ſhall be puniſhed as Treaſon. Now if by Interpretation, or by Conſequence, this Senſe might have been thruſt upon the preceding Statutes, the making of this had been ſuperfluous; yea, the Perſons then charged with that Crime, might have been impeached of Treaſon, even before the making of this Act.

Anno 21 of *Ed.* 3. we have a Statute declaring, That for a Servant to kill his Maſter, is an Act of Treaſon: And in the three and twentieth Year of the ſame King, a Proceſs of Treaſon was framed againſt a Man for killing his Father, grounded upon the ſame Argument, *a minori ad majus*: But it was found (and the Sentence is yet in the Records) that although in the one and twentieth Year of *Edward* the Third, that Argument might have been admitted; yet in the twenty-ſeventh it could not, by reaſon of the Declarative Law intervening in the twenty-fifth Year: And this Caſe comes very home to the Point in Law.

My Lords, I will not demand what kind of Offence it may be, for a Man to ſubvert the Fundamental Laws of a Kingdom; the Crime doubtleſs is unnatural and monſtrous, and the Puniſhment muſt keep the ſame Proportion: only I preſume to offer theſe few Things to your Lordſhips Conſiderations.

Firſt, That one or more Acts of Injuſtice, whether maliciouſly, or ignorantly done, can in no Senſe of Law be called the Subverſion of the Fundamental Laws; if ſo, as many Judges (perhaps) ſo many Traytors. It is very incident to Man's Nature to err; nor doth the Lord *Strafford* plead his Innocency in Over-ſights, but in Treaſon.

Secondly, I do remember the Caſe of *John de la Poole*, Duke of *Suffolk*: This Man, in the twenty-eighth of *Henry* the Sixth, was charged by the Houſe of Commons with Articles of Treaſon, and thoſe too very like to theſe againſt my Lord *Strafford*.

1. That he had given the King bad Advices.
2. That he had embaſed his Coin.
3. That he had ceſſed Men of War.
4. That he had given out ſummary Decrees.
5. That he had impoſed Taxes.
6. That he had corrupted the Fountain of Juſtice.
7. That he had perſuaded the King to unneceſſary War, and to the giving over of *Anjou* in *France*, *Ovum Ovo*.

And for all theſe, though he was charged with High Treaſon, for wronging the Right of the Subject, and ſubverting the Fundamental Laws of the Kingdom; yet after a long Agitation, the Matter was found by the Lords of Parliament, not to imply Treaſon, but only Felony. Add to this another, who in the twenty-third of *Henry* the Eighth, was charged for ſubverting the *Engliſh* Laws, and yet no Treaſon charged upon him. Add to both the Charge of *Richard Larks*, pleaded at the Common-Pleas, who was charged with Treaſon for ſubverting the Law, but convicted only of Felony: By which you may ſee, my Lords, what to this time hath been ſubverting the Laws.

Thirdly, It is very conſiderable, that the Lord *Strafford* is not charged to have ſubverted, but only to have intended to ſubvert the Fundamental Laws: And this I conceive, if there were no more, might keep him free from that Statute of the twenty-fifth of *Edward* the Third. For although, as touching the King, his Queen and Children, Intention is Treaſonable; yet in all other things there mentioned, there muſt be Action beſide Intention: for it is not ſaid, If a Man do intend to kill a Chancellor, it ſhall be Treaſon; but only, if he do kill him; and if he doth actually counterfeit the Broad-Seal. And although a Man ſhould prepare a Furnace, make ready his Stamp, melt his Bullion, yet if he gives not the King's Impreſſion upon the Coin, all his Intentions, yea, his Preparations will not ſerve to make up a Treaſon.

And this (under favour) may ſerve to anſwer the Caſe of *Guido Faux*, lately objected; unleſs it be alledged, that the Lord *Strafford* had as real an Intention againſt the King's Life as *Faux* had: For though the Intention in that Caſe be Treaſon by the Statute, yet in all other things there is no Treaſon without the Action; ſo immenſe and vaſt a difference both is, and ought to be, betwixt a Project againſt the Royal Blood, and all things elſe of a lower and under Nature.

You ſee therefore, my Lords, that the Body of the Statute cannot ſtick againſt the Lord *Strafford*, neither in Letter, nor in Conſequence; this is not, that muſt not be: All that can be ſaid, is, That this Fact may be Treaſon by the Common Law. For my part I profeſs my Ignorance, who ever thought the Common Law might declare, but never make a Treaſon; that is, it might be preſuppoſed that there is a Statute whereupon to build a Declaration; and therefore to ſay there is no Statute for it, is to ſay it is no Treaſon at all. The Statute ever makes the Treaſon; and to be declared to be Treaſon, either by Common Law, or by Parliament, are but two different ways of Proceedings, and muſt both reſolve into one Principle:

ciple: yea, which comes home to the Point, in the one and twentieth of *Edward* the Third, to kill a Man imployed in the King's War, was Treaſon; and the twenty-third, To kill the King's Meſſenger, was Treaſon by Declaration of the Common Law, but always by reaſon of the Statute; yet none of theſe are now Treaſons, but Felonies only, by reaſon of the intervening Statute, the twenty-fifth of *Edward* the Third: ſuch hath ever been thought the Force of its Letter and Declaration. And ſo I will leave it, and ſpeak a Word or two of the *Salvo*, which is this; That becauſe all Particulars could not be then defined, therefore what the Parliament ſhould declare to be Treaſonable in time to come, ſhould be puniſhed as Treaſon.

And according to this Reſervation, in the eighth Year of *Richard* the Second, one who was charged before the King's-Bench, was afterwards referred to the Parliament; and there, though the Fact was not contained in the Body of the Statute, yet becauſe of the *Proviſo* afore-mentioned, it was adjudged Treaſon.

In the eleventh Year of the ſame King, the Duke of *Ireland*, and *Nevil* Archbiſhop of *York*, were impeached of High Treaſon by *Glouceſter*, *Arundel* and *Warwick*; and notwithſtanding the Statute, were convicted thereof by the *Salvo*. But in the one and twentieth of the ſame *Richard* the Second, the Tide turned, and the King had ſuch a hand with the Parliament, that the Sentence was recalled, and thoſe three Noblemen themſelves adjudged Traytors. Again, in the firſt of *Henry* the Fourth, his Succeſſor, that Revocation of the one and twentieth of *Richard* the Second was repealed, and the Sentence of the eleventh of his Reign eſtabliſhed. Such were the Toſſings to and fro of Treaſon, and all becauſe of that uncertain *Proviſo*.

Therefore it was, that in the ſame Parliament, the firſt of *Henry* the Fourth, a Petition was preferred by the Nobility to have Treaſon limited with ſome Statute; becauſe they knew not what to ſpeak, or what to do, for fear thereof. And in the tenth Chapter an Act was made upon this Petition, that the *Salvo* ſhould be holden repealed in all times to come, and nothing eſteemed Treaſon but what was literally contained in the Statute of the twenty-fifth of *Edward* the Third: And therefore it is ſaid in the Records, That there was great Joy at the making of this Act, in that the drawn Sword hanging over every Man's Head, by this ſlender Thread of a Conſequence, or Illation, was moved by that Act. Add to this, That in the firſt of Queen *Mary*, the firſt Chapter, the ſame is repeated, *That no Man ſhall be puniſhed in Life or Eſtate as a Traytor, but for the Crime contained in the Statute* 25 Edw. 3. without the leaſt Mention of a pretended *Salvo*.

The Earl of *Northumberland*'s Caſe comes nigh to the Point; he was charged with Treaſon, the firſt of *Henry* the Fourth, and if the Statute of the fifth of *Henry* the Fourth, the firſt Chapter, whereby this *Proviſo* is repealed, had not intervened, no doubt he had been condemned of Treaſon: but he was only convict of Felony, and that becauſe he could not be drawn within the Letter of the Statute of the twenty-fifth of *Edward* the Third. And I dare confidently ſay it, That ſince that Act was made, the firſt of *Henry* the Fourth, the firſt Chapter, whereby the *Proviſo* is repealed, no Man hath ever been declared a Traytor, either by King or Parliament, except it were upon that, or ſome other Statute, literally and declaratively taken. Theſe two Things I do offer to your Lordſhips Conſiderations; That the Lord *Strafford* cannot be impeached of Treaſon by the Statute of the twenty-fifth of *Edward* the Third, and that the *Salvo* contained in the ſame ſtands repealed almoſt two hundred Years ago: And this is all I conceive to be neceſſary for that Statute which was alledged by the Lord *Strafford* in his Defence for Matter of Fact.

Then the Recorder ſpake ſome few Words to this purpoſe; That what was ſpoken upon the Statute, was becauſe it ſeemed inſeparable from the Matter of Fact, that they could proceed no farther, till a State were afforded them; that to do otherwiſe, they conceived, might be very prejudicial unto my Lord *Strafford*:

Firſt, In that they ſhould ſuppoſe that to be done, which is not proved to be.

Secondly, That the Matter of Law ariſeth ſo naturally from the Matter of Fact, that it will be impoſſible to ſeparate one from the other.

Thirdly, That it is the Courſe of all Judicatories, firſt to ſettle the Verdict, and upon that to fix the Arguments, otherwiſe he could conceive no poſſible way of Proceeding; and therefore, in the Lord *Strafford*'s Name, he moſt humbly entreated, that the Lords would either wholly determine the Matter of Fact (or whether Treaſon or not; for then all other Proceedings in the Law were unneceſſary, but whether done or not done) or elſe to give them ſome States of the Queſtion whereunto they might confine themſelves.

Upon this Motion the Houſe was adjourned for that Day, nor hath it met ſince; for the Houſe of Commons are returned to their old Biaſs, and will hear of nothing but the Bill of Attainder; but the Lords ſeem to be more reſolute than before, becauſe they find that they have no Authority to declare a Treaſon in a Fact already paſt, the *Salvo* of the twenty-fifth of *Edward* the Third being repealed; withal, that if the Bill of Attainder ſhould proceed, the King hath as great Power to hinder that at the laſt Blow, as any other Statute: but I hope the Lords will disburden him of that Envy.

All the which ſtand obliged to the Lord *Strafford*, in Blood, Affection or Deſerving; and all who have been intereſted with him in the King's Service, and many too, who both hate his Perſon, and diſlike his Proceedings; will doubtleſs look upon it, and tender their own Safety, all of them in likelihood being ſubject to the Charge of Treaſon, if ever they chance to be called to do the King Service in any Place of Importance.

I cannot expreſs how much the Voice of the Multitude is now altered from what it was lately, nothing now talked of what ſhould be done, but only of what muſt be done: So that if the Lord *Strafford* dies, his very Enemies will confeſs, that it is done more for Neceſſity, than for Juſtice; and rather for the Satisfaction of rancorous Apprehenſions, than for any Guiltineſs in the Cauſe.

Thurſday laſt, *viz. April* 29. was deſigned for the Agitation of the long intermitted Buſineſs concerning the Lieutenant; and the way was this:

The Lords did meet at the great Hall at *Weſtminſter* about Nine of the Clock, not in their Robes, nor did the Lord Steward ſit upon his Sack, but with the reſt promiſcuouſly; nor did the Committee for the Houſe of Commons ſtand at the Bar, but ſat with the reſt of their Fellows; and the

Earl of *Strafford* ſat behind the Place where he uſed to ſit before; the reaſon of theſe Changes was, becauſe the Dyet was appointed not for a Meeting, but for a Conference: ſo curious are we (and that's all) about Formalities. The King, Queen, and Prince were there, according to their Cuſtom: not a Man ſpake a word in the Houſe all the time, but only Mr. *St. John*, the King's Sollicitor, one of the Committee; whoſe Drift and Purpoſe was to furniſh the Lords with Reaſons, why the Houſe of Commons had proceeded with a Bill of Attainder: and withal, to reply to what the Lord *Strafford* had ſpoken, either by himſelf, or his Council, in Matter of Law. The Speech is in print.

Upon the Cloſe of Mr. *St. John*'s Speech, the Houſe diſſolved; nor was there a word ſpoken but by Mr. *St. John*: only the Lord-Lieutenant uſed the laſt part of his Rhetorick, and by a dumb Eloquence, *manibus ad ſydera tenſis*, all along Mr. *St. John*'s Speech, made his Replies with a deep Silence.

Upon Friday he petitioned the Lords to be heard again, and that becauſe his Lawyers had not fully ſpoken at their laſt Meeting; but this was denied him, becauſe the Houſe were to have the laſt Speech, nor were they content to ſpeak again.

Upon this Information, or what elſe is not known, the King (it ſeems, fearing the Inconſtancy of the Lords) came to the Houſe on Saturday at Ten of the clock, and having called for the Houſe of Commons, ſpake much to this effect.

The King's Speech to the Houſe of Commons.

'THAT he had ſincerely, without Affection or Partiality, endeavoured to inform himſelf concerning the Lieutenant's Charge; and had, at length, ſeriouſly pondered with himſelf, both concerning the Matter of Fact and the Matter of Law: and now it ſtood him in hand to clear their Judgments, then to exonerate his own Conſcience. For them, he had two things to declare:

'*Firſt*, That there was never ſuch a Project, nor had the Lord *Strafford* ever offered ſuch Advice, for the tranſporting of the *Iriſh* Army into *England*; ſo that in nothing the Lieutenant had been more miſunderſtood than in that: which Imputation did in no ſmall meaſure reflect on himſelf (the King) as if he had intended to make war upon his own good Subjects; which Thought (he ſaid) was far enough from his Breaſt, nor could any Man in probability think ſo unworthily of him, who had perceived how graciouſly he had dealt with his Subjects elſewhere, that had deſerved a great deal worſe.

'*Secondly*, That the Lieutenant had never adviſed him to eſtabliſh an Arbitrary Government; nor, if he had, ſhould he have eſcaped condign Puniſhment: nor would any of his good Subjects ever think otherwiſe, unleſs they conceived him either to be a Fool or a Tyrant; that he either could not, or would not diſcern ſuch Wickedneſs. He was well content (he ſaid) with that Authority and Power which God had put into his hands; nor ſhould he ever think it his Prerogative, to intrude upon the Propriety of the Subject.

'For himſelf, and his own Conſcience, (he ſaid) he was now to declare, That in his own Judgment there was nothing in the Proceſs againſt the Lieutenant that deſerved the Cenſure of Treaſon. Overſights and Miſdemeanours there were, in ſuch a meaſure, that he confeſſed the Lord *Strafford* was never worthy hereafter to bear any Office in his Kingdoms, no, not ſo much as of a Conſtable; but was to be anſwerable for all his Errors, when they were to be charged upon him; and to this none of them ſhould concur with greater alacrity than himſelf. That he hoped none of them would deny to give him the privilege of the firſt Voice, which was, That he would never, in Heart nor Hand, concur with them to puniſh this Man as a Traytor; and deſired therefore, that they would think of ſome other way how the Buſineſs might be compoſed: Nor ſhould it ever be leſs dear to him (though with the Loſs of his deareſt Blood) to protect the Innocent, than to puniſh the Guilty.'

Upon Saturday, *May* 8. the Bill againſt the Lord *Strafford* paſs'd the Lords; there were forty five preſent, of which nineteen voiced for him, and twenty ſix againſt him. The greateſt part of his Friends abſented themſelves upon pretence (whether true or ſuppoſititious) that they feared the Multitude; otherwiſe his Suffrages had more than counterpoiſed the Voters for his Death.

Sunday all the day the King was reſolute never to give way to the Bill againſt the Lord *Strafford*, telling them withal, That it ſeemed ſtrange to him that the Man could not die, unleſs he, and he only, by giving Sentence the King's legiſlative way, ſhould condemn him.

But after they had wreſtled him breathleſs, at laſt *victus dedit manus*; being overcome with ſuch unceſſant Importunities, he yielded. And about nine of the clock at Night the King promiſed to ſign both the Bills the next Morning; which was accordingly done, and a Commiſſion drawn up for his Execution.

An Act for Reverſing the Earl of Strafford's *Attainder.*

WHEREAS *Thomas* late Earl of *Strafford* was impeached of High Treaſon, upon pretence of endeavouring to ſubvert the Fundamental Laws, and called to a publick and ſolemn Arraignment and Tryal before the Peers in Parliament, where he made a particular Defence to every Article objected againſt him; inſomuch that the turbulent Party then ſeeing no hopes to effect their unjuſt Deſigns, by any ordinary Way and Method of Proceedings, did at laſt reſolve to attempt the *Deſtruction* and *Attainder* of the ſaid Earl, by an Act of Parliament, to be therefore purpoſely made, to condemn him upon *Accumulative Treaſon*, none of the pretended Crimes being Treaſon apart, and ſo could not be in the whole, if they had been proved, as they were not: and alſo judged him guilty of *Conſtructive Treaſon*, (that is, of levying War againſt the King) tho it was only the commanding an Order of the Council-Board in *Ireland*, to be executed by a Serjeant at Arms and three or four Soldiers, which was the conſtant Practice of the Deputies there for a long time. To the which end, they having firſt preſented a Bill for this intent to the Houſe of Commons, and finding

finding there more Oppoſition than they expected, they cauſed a Multitude of tumultuous Perſons to come down to *Weſtminſter*, armed with Swords and Staves, and to fill both the *Palace-Yards*, and all the Approaches to both Houſes of Parliament, with Fury and Clamour, and to require *Juſtice, ſpeedy Juſtice*, againſt the Earl of *Strafford*; and having by thoſe and other undue Practices obtained that Bill to paſs the Houſe of Commons, they cauſed the Names of thoſe reſolute Gentlemen, who in a Caſe of innocent Blood had freely diſcharged their Conſciences, being Fifty Nine, to be poſted up in ſeveral places about the Cities of *London* and *Weſtminſter*, and ſtiled them *Straffordians*, and Enemies to their Country; hoping thereby to deliver them up to the Fury of the People, whom they had endeavoured to incenſe againſt them. And then procured the ſaid Bill to be ſent up to the Houſe of Peers, where it having ſome time reſted under great deliberation; at laſt, in a time when a great part of the Peers were abſent by reaſon of the Tumults, and many of thoſe who were preſent proteſted againſt it, the ſaid Bill paſſed the Houſe of Peers: and at length his Majeſty, the late King *Charles* I. of glorious Memory, granted a Commiſſion for giving his Royal Aſſent thereunto; which nevertheleſs was done by his ſaid Majeſty with exceeding great Sorrow then, and ever remembred by him with unexpreſſible Grief of Heart; and out of his Majeſty's great Piety, he did publickly expreſs it, when his own Sacred Life was taken away, by the moſt deteſtable Traytors that ever were.

For all which Cauſes be it declared and enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons in this preſent Parliament aſſembled, That the Act intitled, *An Act for the Attainder of* Thomas *Earl of* Strafford *of High Treaſon*, and all and every Clauſe and Article, and Thing therein contained, being obtained as aforeſaid, is now hereby repealed, revoked, and reverſed.

And to the end that Right be done to the Memory of the deceaſed Earl of *Strafford* aforeſaid, be it farther enacted, That all Records and Proceedings of Parliament, relating to the ſaid *Attainder*, be wholly cancelled and taken off the File, or otherwiſe defaced and obliterated; to the intent the ſame may not be viſible in After-Ages, or brought into example, to the prejudice of any Perſon whatſoever.

Provided, That this Act ſhall not extend to the future queſtioning of any Perſon or Perſons, however concerned in this Buſineſs; or who had any hand in the Tumults, or diſorderly procuring the Act aforeſaid; any thing herein contained to the contrary thereof notwithſtanding.

A Copy of the Paper poſted up at the Corner of the Wall of Sir William Brunkard's *Houſe, in the* Old Palace-Yard *in* Weſtminſter, *Monday* May 3. 1641.

The Names of the *Straffordians* poſted.

1. Lord *Digby.*
2. Lord *Compton.*
3. Lord *Buckhurſt.*
4. Sir *Robert Hatton.*
5. Sir *Thomas Funſhaw.*
6. Sir *Edward Alford.*
7. Sir *Nicholas Slaning.*
8. Sir *Thomas Danby.*
9. Sir *George Wentworth.*
10. Sir *Peter Wentworth.*
11. Sir *Frederick Cornwallis.*
12. Sir *William Carnaby.*
13. Sir *Richard Winn.*
14. Sir *Jarvis Clifton.*
15. Sir *William Withrington.*
16. Sir *William Penyman.*
17. Sir *Patrick Curwent.*
18. Sir *Richard Lee.*
19. Sir *Henry Slingsby.*
20. Sir *William Portman.*
21. Mr. *Jarvis Hollis.*
22. Mr. *Sydney Godolphin.*
23. Mr. *Cooke.*
24. Mr. *Coventry.*
25. Mr. *Benjamin Weſton.*
26. Mr. *William Weſton.*
27. Mr. *Selden.*
28. Mr. *Alford.*
29. Mr. *Floyd.*
30. Mr. *Herbert.*
31. Captain *Digby.*
32. Serjeant *Hyde.*
33. Mr. *Taylor.*
34. Mr. *Griffith.*
35. Mr. *Scowen.*
36. Mr. *Bridgeman.*
37. Mr. *Fettiplaſs.*
38. Dr. *Turner.*
39. Captain *Charles Price.*
40. Dr. *Parry*, Civilian.
41. Mr. *Arundel.*
42. Mr. *Newport.*
43. Mr. *Holborne.*
44. Mr. *Noel.*
45. Mr. *Kirton.*
46. Mr. *Pollard.*
47. Mr. *Price.*
48. Mr. *Travannion.*
49. Mr. *Jane.*
50. Mr. *Edgecombe.*
51. Mr. *Chicheley.*
52. Mr. *Mallery.*
53. Mr. *Porter.*
54. Mr. *White*, Secret. E. D.
55. Mr. *Warwick.*

The Tryal of the moſt Reverend Father in God, WILLIAM LAUD, *Lord Archbiſhop of* Canterbury; *which began* March 12. 1643. *Wrote by himſelf during his Impriſonment in the* Tower.

See Ruſhworth's *Collections*, par. 3. vol. 1. p. 122, 123. Pryn's *Compl. Hiſt.* p. 19, *&c.*

DEcember 18. 1640. being Friday. Upon this day, Mr. *Denzil Hollis*, ſecond Son to *John* Earl of *Clare*, by Order from the Houſe of Commons, came up to the Lords, and accuſed me of High Treaſon; and told the Lords, they would make proof thereof in convenient time: but deſired in the mean time, that I might be committed to ſafe Cuſtody. This was ſtrange News to my Innocency: for this I can ſay of myſelf, without Falſhood or Vanity, that to the uttermoſt of my Underſtanding I ſerved the King, my gracious Maſter, with all Duty and Faithfulneſs; and without any known or wilful Diſſervice to the State there-while. And this I did, with as true and free a Heart, as ever any Man did, that ſerved a King. And I thank God, my Care was ſuch for the Publick, that it is well known I much neglected my own private Fortunes there-while. The more was I amazed at the firſt Apprehenſion of this heavy and undeſerved Charge.

Upon this Charge, I was commanded to withdraw. But I firſt deſired leave to ſpeak a few words: and I ſpake to this effect, That I was heartily ſorry for the Offence taken againſt me; and that I was moſt unhappy, to have my Eyes open to ſee that Day, and mine Ears to hear ſuch a Charge: But humbly deſired their Lordſhips, to look upon the whole Courſe of my Life, which was ſuch, as that I did verily perſuade myſelf, not one Man in the Houſe of Commons did believe in his heart that I was a Traytor. Here my Lord the Earl of *Eſſex* interrupted me, and ſaid, *That Speech of mine was a Scandal put upon the whole Houſe of Commons, that they ſhould* * bring me up charged *with ſo high a Crime, which themſelves did not believe.* I humbly deſired then, that I might be proceeded with in the antient Parliamentary Way of *England.* This the Lord *Say* excepted againſt; as if I would preſcribe them how they ſhould proceed. So I withdrew, as I was commanded, and was preſently called in again to the Bar; and thence delivered to Mr. *James Maxwell*, the † Officer of the Black Rod, to be kept in ſafe Cuſtody, till the Houſe of Commons ſhould farther impeach me.

* viz. *ſhould charge me.*

† *See the Order of the Lords for his Commitment*, apud Pryn, *p.* 22.

Here I humbly deſired leave, that I might go home to fetch ſome Papers, neceſſary for my Defence. This was granted me with ſome difficulty; and Mr. *Maxwell* was commanded to attend me all the while I ſhould ſtay. When I was gone to *Lambeth*, after ſome little diſcourſe (and ſad enough) with my Steward, and ſome private Friends, I went into my Chappel to Evening-Prayer. The * Pſalms for that day gave me much Comfort, and were obſerved by ſome Friends then preſent, as well as by myſelf. And upon the Comfort I then received, I have every day ſince (unleſs ſome urgent Buſineſs prevented me) read over both theſe Pſalms; and, God willing, purpoſe ſo to do every day of my Life. Prayers being ended, I went with Mr. *Maxwell*, as I was commanded; hundreds of my poor Neighbours ſtanding at my Gates to ſee me go, and praying heartily for my ſafe Return to my Houſe: for which, I bleſſed God, and them.

* *Pſal.* 93, & 94. In vulgata Editione, *Pſal.* 92, & 93.

Upon Friday, *Febr.* 26. 1640. I had been full ten Weeks in reſtraint, at Mr. *Maxwell*'s Houſe: and this Day, being St. *Auguſtine*'s Day, my Charge in general Articles was brought up from the Houſe of Commons to the Lords, by (*a*) Sir *Henry Vane* the Younger. It conſiſted of fourteen Articles. Theſe Generals they craved time to prove in particular; and that I in the mean time might be kept ſafe. Upon this I was preſently ſent for to the Houſe, and the Articles were read to me at the Bar. When the Clerk of the Parliament had done reading, I humbly craved leave of the Lords to ſpeak a few words; which were to this effect:

'My Lords, this is a great and a heavy 'Charge, and I muſt be unworthy to live, if it 'can be made good againſt me: For it makes me 'againſt God, in point of Religion; againſt the 'King, in point of Allegiance; and againſt 'the Publick, in point of Safety, under the Juſ-'tice and Protection of Law. And though the 'King be little, if at all mentioned; yet I am 'bold to name him, becauſe I have ever been of 'opinion, that the King and his People are ſo 'joined together in one Civil and Politick Body, 'as that it is not poſſible for any Man to be true 'to the King, as King, that ſhall be found 'treacherous to the State eſtabliſhed by Law, 'and work to the Subverſion of the People: 'Though perhaps every one, that is ſo, is not

(*a*) Ruſhworth *ſaith, they were carried up by Mr.* Pym, *Mr.* Hampden, *and Mr.* Maynard, *and inſerteth* Pym's *Speech, made at the preſenting of them to the Lords*, Par. 3. Vol. p. 195, 199, *&c. So alſo* Pryn, *p.* 24, 25, 28. *who alſo exhibits*, (p. 23, 24.) *the Preliminary Votes and Orders of the Commons, made* Febr. 22, 23, 24, 26. *for the framing and carrying up the Articles to the Lords.* H. W.

'able

'able to ſee thorough all the Conſequences, by 'which one depends upon the other. So my 'Charge, my Lords, is exceeding heavy in it 'ſelf; though I, as yet, do not altogether feel 'the weight of it. For 'tis yet (as your Lord-'ſhips ſee) but in Generals; and Generals make 'a great noiſe, but no Proof: Whereas 'tis Proof 'upon Particulars that makes the weight of a 'Charge ſit cloſe upon any Man. Now, my Lords, 'tis an old and a true Rule, *Errare contingit de-'ſcendendo*, Error doth moſt often happen, and beſt 'appear, when Men deſcend to Particulars: 'And with them when I ſhall be charged, I 'hope my Innocence will furniſh me with a ſuf-'ficient Anſwer to any Error of mine, that ſhall 'be thought criminal, or any way worthy the 'Cognizance of this High and Honourable Court. 'As for human Frailties, as I cannot acquit my 'ſelf of them, ſo I preſume your Lordſhips will 'be favourable Judges of them: Since in the 'Tranſaction of ſo many Buſineſſes as paſſed my 'Hands, Men, far abler than ever I can be, have 'been ſubject to them; and, perhaps, to as many 'and as great. But for Corruption in the leaſt 'degree (I humbly praiſe God for it) I fear no 'Accuſer that will ſpeak Truth. But, my 'Lords, that which goes neareſt unto me among 'theſe Articles, is, That I ſhould be thought 'foul and falſe in the Profeſſion of my Religion: 'As if I ſhould profeſs with the Church of *Eng-'land*, and have my Heart at *Rome*, and labour 'by all cunning Ways to bring *Romiſh* Superſti-'tion in upon the Kingdom. This (my Lords) I 'confeſs, troubles me exceedingly: And if I 'ſhould forget my ſelf, and fall into Paſſion upon 'it, I ſhould but be in that caſe which St. *Je-'rome* confeſſed he was in, when he knew not 'how to be patient, when Falſhood in Religion 'was charged upon him. And yet that was no-'thing ſo high a Charge as this which is laid a-'gainſt me: Which is not only to be baſely falſe 'my ſelf, but withal, to labour to ſpread the 'ſame Falſhood over the whole Kingdom.'

And here I humbly beſought their Lordſhips, that I might a little inlarge my ſelf, and I did ſo. But becauſe I purpoſe here to ſet down the general Articles that were brought up againſt me, and that one of them comes home to this Point of Religion; I ſhall put it off till I come to * that Article, and there ſet it down at large, what I now ſaid. And this I do to avoid an uſeleſs and tedious Repetition. Here then follow the Articles themſelves, as they were that Day charged upon me.

* 'Tis Article 10.

Theſe are printed alſo in Ruſhworth, *part* 3. *vol.* 1. *p.* 196. &c. Pryn's *Compl. Hiſt. p.* 25, &c.

Articles of the Commons *aſſembled in Parliament, in Maintenance of their Accuſation againſt* William Laud, *Archbiſhop of* Canterbury, *whereby he ſtands charged with High Treaſon, and other High Crimes and Miſdemeanours.* †

† Ruſhw.

I. THAT he hath traytorouſly endeavoured to ſubvert the Fundamental Laws and Government of * the Kingdom; and inſtead thereof, to introduce an Arbitrary and Tyrannical Government againſt Law: And to that end hath wickedly and traytorouſly adviſed his Majeſty, that he might, at his own Will and Pleaſure, levy and take Money of his Subjects without their Conſent in Parliament. And this he affirmed, was warrantable by the Law of God.

* *This Kingdom of* England, Ruſh. *&* Pryn.

II. He hath, for the better Accompliſhment of that his traytorous Deſign, adviſed and procured divers Sermons, and other Diſcourſes, to be preached, printed and publiſhed, in which the Authority of Parliaments, and the Force of the Laws of this Kingdom are denied; and an abſolute and unlimited Power over the Perſons and Eſtates of his Majeſty's Subjects is maintained and defended, not only in the King, but alſo in himſelf, and other Biſhops, above and againſt the Law. And he hath been a great Protector, Favourer and Promoter of the Publiſhers of ſuch falſe and pernicious Opinions.

III. He hath by Letters, Meſſages, Threats, Promiſes, and divers other ways, to Judges and other Miniſters of Juſtice, interrupted and perverted; and at other times, by the Means aforeſaid, hath endeavoured to interrupt and pervert the Courſe of Juſtice in his Majeſty's Courts at *Weſtminſter*, and other Courts, to the Subverſion of the Laws of this Kingdom; whereby ſundry of his Majeſty's Subjects have been ſtopped in their juſt Suits, and deprived of their lawful Rights, and ſubjected to his tyrannical Will, to their utter Ruin and Deſtruction.

IV. That the ſaid Archbiſhop hath traytorouſly and corruptly ſold Juſtice to thoſe that have had Cauſes depending before him, by colour of his Eccleſiaſtical Juriſdiction, as Archbiſhop, High-Commiſſioner, Referree, or otherwiſe; and hath taken unlawful Gifts and Bribes of his Majeſty's Subjects: And hath, as much as in him lieth, endeavoured to corrupt other Courts of Juſtice, by adviſing [and procuring] his Majeſty to ſell Places of Judicature, and other Offices, [and procuring the Sale of them] contrary to the Laws and Statutes in that behalf.

Ruſh. & Pryn.

Deſunt in Ruſh. & Pryn.

V. He hath traytorouſly cauſed a Book of Canons to be compoſed and publiſhed, [and thoſe Canons to be put in execution] without any lawful Warrant and Authority in that behalf. In which pretended Canons many Matters are contained contrary to the King's Prerogative, to the Fundamental Laws and Statutes of this Realm, to the Right of Parliament, to the Propriety and Liberty of the Subjects; and Matters tending to Sedition, and of dangerous Conſequence; and to the Eſtabliſhment of a vaſt, unlawful and preſumptuous Power in himſelf and his Succeſſors: Many of the which Canons, by the Practice of the ſaid Archbiſhop, were ſurreptitiouſly paſſed in the laſt Convocation, without due Conſideration and Debate; others by Fear and Compulſion were ſubſcribed to by the Prelates and Clerks there aſſembled; which had never been voted and paſſed in the Convocation, as they ought to have been. And the ſaid Archbiſhop hath contrived and endeavoured to aſſure and confirm the unlawful and exorbitant Power which he hath uſurped and exerciſed over his Majeſty's Subjects, by a wicked and ungodly Oath, in one of the ſaid pretended Canons, enjoined to be taken by all the Clergy, and many of the Laity of this Kingdom.

Deſunt in Ruſh. & Pryn.

VI. He

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VI. He hath traytorouſly aſſumed to himſelf a papal and tyrannical Power, both in Eccleſiaſtical and Temporal Matters, over his Majeſty's Subjects in this Realm of *England*, and other Places, to the Diſinheriſon of the Crown, Diſhonour of his Majeſty, and Derogation of his ſupreme Authority in Eccleſiaſtical Matters. And the ſaid Archbiſhop claims the King's Eccleſiaſtical Juriſdiction, as incident to his Epiſcopal and Archiepiſcopal Office in this Kingdom; and doth deny the ſame to be derived from the Crown of *England*: which he hath accordingly exerciſed, to the high Contempt of his Royal Majeſty, and to the Deſtruction of [* divers of] the King's liege People in their Perſons and Eſtates.

* Ruſhw. & Pryn.

VII. That he hath traiterouſly endeavoured to alter and ſubvert God's true Religion by Law eſtabliſhed in this Realm; and inſtead thereof to ſet up Popiſh Superſtition and Idolatry: and to that end hath declared and maintained in Speeches and printed Books divers Popiſh Doctrines and Opinions, contrary to the Articles of Religion eſtabliſhed [† by Law.] He hath urged and enjoined divers popiſh and ſuperſtitious Ceremonies, without any warrant of Law; and hath cruelly perſecuted thoſe who have oppoſed the ſame, by corporal Puniſhment and Impriſonment; and moſt unjuſtly vexed others who refuſed to conform thereto, by Eccleſiaſtical Cenſures of Excommunication, Suſpenſion, Deprivation and Degradation, contrary to the Law of the Kingdom.

† Ruſhw. & Pryn.

VIII. That for the better advancing of his Traytorous Purpoſe and Deſigns, he did abuſe the great Power and Truſt his Majeſty repoſed in him; and did intrude upon the Places of divers great Officers, and upon the Right of * divers of his Majeſty's Subjects: whereby he did procure to himſelf the Nomination of ſundry Perſons to Eccleſiaſtical Dignities, Promotions and Benefices, belonging to his Majeſty, and divers of the Nobility, Clergy, and others; and hath taken upon him the † Nomination of Chaplains to the King; by which means he hath preferred to his Majeſty's Service, and to other great Promotions in the Church, ſuch as have been popiſhly affected, or otherwiſe unſound and corrupt both in Doctrine and Manners.

* *Other*, Ruſh. & Pryn.

† *Commendation*, Ruſh. & Pryn.

IX. He hath for the ſame traytorous and wicked Intent, choſen and employed ſuch Men to be his [* own Domeſtical] Chaplains, whom he knew to be notoriouſly diſaffected to the Reformed Religion, groſly addicted to popiſh Superſtition, and erroneous and unſound both in Judgment and Practice. And to them, or ſome of them, he hath committed Licenſing of Books to be printed; by which means divers falſe and ſuperſtitious Books have been publiſhed, to the great Scandal of Religion, and to the ſeducing of many of his Majeſty's Subjects.

* Pryn & Ruſhworth.

X. He hath traytorouſly and wickedly endeavoured to reconcile the Church of *England* with the Church of *Rome*: And for the effecting thereof, hath conſorted and confederated with divers Popiſh Prieſts and Jeſuits; and hath kept ſecret Intelligence with the Pope of *Rome*: And by himſelf, his Agents and Inſtruments, treated with ſuch as have from thence received Authority and Inſtruction. He hath permitted and countenanced a Popiſh Hierarchy or Eccleſiaſtical Government to be eſtabliſhed in this Kingdom. By all which traytorous and malicious Practices this Church and Kingdom have been exceedingly indangered, and like to fall under the Tyranny of the *Roman* See.

XI. He in his own Perſon, and his Suffragans, Viſitors, Surrogats, Chancellors, or other Officers, by his Command, have cauſed divers learned, pious, and orthodox * Preachers of God's Word to be ſilenced, ſuſpended, deprived, degraded, excommunicated, or otherwiſe grieved and vexed, without any juſt and lawful Cauſe; whereby, and by divers other Means, he hath hindred the preaching of God's Word, cauſed divers of his Majeſty's Loyal Subjects to forſake the Kingdom, and increaſed and cheriſhed Ignorance and Prophaneneſs amongſt the People; that ſo he might the better facilitate the way to the effecting of his own wicked and traytorous † Deſigns of altering and corrupting the true Religion here eſtabliſhed.

* *Miniſters*, Ruſh. & Pryn.

† *Deſign*, Ruſh. & Pryn.

XII. He hath traytorouſly endeavoured to cauſe Diviſion and Diſcord between the Church of *England* and other Reformed Churches; and to that end hath ſuppreſſed and abrogated the Privileges and Immunities, which have been by his Majeſty and his Royal Anceſtors granted to the *French* and *Dutch* Churches in this Kingdom: And divers other ways hath expreſſed his Malice and Diſaffection to theſe Churches, that ſo by ſuch * Diſunion the Papiſts might have more Advantage for the Overthrow and Extirpation of both.

* *Diſtinction*, Ruſhw. *Diſunion*, Pryn.

XIII. He hath malicioufly and traytorouſly plotted and endeavoured to ſtir up War and Enmity betwixt his Majeſty's two Kingdoms of *England* and *Scotland*; and to that purpoſe hath laboured to introduce into the Kingdom of *Scotland* divers Innovations both in Religion and Government; all, or the moſt part, tending to Popery and Superſtition; to the great Grievance and Diſcontent of his Majeſty's Subjects of that Nation. And for their refuſing to ſubmit to ſuch Innovations, he did traytorouſly adviſe his Majeſty to ſubdue them by Force of Arms: And by his own Authority and Power, contrary to Law, did procure ſundry of his Majeſty's Subjects, and inforced the Clergy of this Kingdom, to contribute toward the Maintenance of that War. And when his Majeſty, with much Wiſdom and Juſtice, had made a Pacification betwixt the two Kingdoms, the ſaid Archbiſhop did preſumptuouſly cenſure that Pacification, as diſhonourable to his Majeſty; and [by his Counſel and Endeavours] ſo incenſed his Majeſty againſt his ſaid Subjects of *Scotland*, that he did thereupon, by Advice of the ſaid Archbiſhop, enter into an offenſive War againſt them, to the great Hazard of his Majeſty's Perſon, and his Subjects of both Kingdoms.

Theſe Words are added from Pryn & Ruſhw.

XIV. That to preſerve himſelf from being queſtioned for theſe and other his traytorous Courſes, he

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he hath laboured to ſubvert the Rights of Parliament, and the antient Courſe of Parliamentary Proceedings; and by falſe and malicious Slanders to incenſe his Majeſty againſt Parliaments. By which Words, Counſels, and Actions, he hath traytorouſly, and contrary to his Allegiance, laboured to alienate the Hearts of the King's liege People from his Majeſty, to ſet a Diviſion between them, and to ruin and deſtroy his Majeſty's Kingdoms. For which they do impeach him of High Treaſon againſt our Sovereign Lord the King, his Crown and Dignity.

The ſaid Commons do farther aver, that the ſaid *William* Archbiſhop of *Canterbury*, during the time in which the * Treaſons and Offences afore-named were committed, hath been a Biſhop or Archbiſhop in this Realm of *England*, one of the King's Commiſſioners for Eccleſiaſtical Matters, and † of his Majeſty's moſt Honourable Privy Council: And that he hath taken an Oath for his faithful Diſcharge of the ſaid Office of Counſellor, and hath likewiſe taken the Oath of Supremacy and Allegiance. And the ſaid Commons, by Proteſtation, ſaving to themſelves the Liberty of exhibiting at any time hereafter, any other Accuſation or Impeachment againſt the ſaid Archbiſhop, and alſo of replying to the Anſwers that the ſaid Archbiſhop ſhall make unto the ſaid Articles, or to any of them; and of offering farther Proof alſo of the Premiſes, or any of them, [‖ or of any other Impeachment or Accuſation that ſhall be exhibited by them] as the Caſe ſhall, according to the Courſe of Parliaments, require: do pray that the ſaid Archbiſhop may be put to anſwer to all and every the Premiſes; and that ſuch Proceedings, Examinations, Tryal and Judgment, may be upon every of them had and uſed, as is agreeable to Law and Juſtice.

* *Aforementioned Crimes*, Ruſhworth. *Crimes aforementioned were done and committed*, Pryn.

† *One of*, Ruſh. & Pryn.

‖ *Theſe words are added from* Pryn & Ruſhworth.

When theſe Articles had been read unto me in the Upper Houſe, and I had ſpoken to the Lords, in a general Anſwer to them, what I thought fit, as is before expreſſed; I humbly deſired of the Lords (this being upon Friday *Febr.* 26. 1640.) that my going to the *Tower* might be put off till the Monday after, that ſo I might have time to be the better fitted for my Lodging. This, I humbly thank their Lordſhips, was granted. I returned to Mr. *Maxwell*'s Cuſtody, and that Afternoon ſent my Steward to Sir *William Balfore*, then Lieutenant, that a Lodging might be had for me with as much Convenience as might be. On Monday, *March* 1. 1640. Mr. *Maxwell* carried me in his Coach to the *Tower*. St. *George*'s Feaſt, having been formerly put off, was to begin that Evening. By this means Mr. *Maxwell* (whoſe Office tied him to Attendance upon that Solemnity) could not poſſibly go with me to the *Tower* at Evening, as I deſired. Therefore Noon, when the Citizens were at dinner, was choſen as the next fitteſt time for Privateneſs. All was well till I paſſed through *Newgate* Shambles, and entred into *Cheapſide*. There ſome one Prentice firſt hollow'd out; * more and followed the Coach, (the number ſtill increaſing as they went) till by that time I came to the *Exchange*, the ſhouting was exceeding great. And ſo they followed me with Clamour and Revilings, even beyond Barbarity itſelf; not giving over, till the Coach was entred in at the *Tower*-Gate.

Vid. *Ruſhw.* p. 202.

* *And more.*

On Tueſday, *Octob.* 24. an Order was brought me from the Lords, dated *Octob.* 23. with a Copy of ten Additional Articles, brought up by the Commons againſt me. This Order required me to make my Anſwer in writing by the 30th of the ſame Month. Theſe Articles charged me not with Treaſon only, as the former did, but with Treaſon, and other high Crimes and Miſdemeanours. I ſent inſtantly by the ſame Meſſenger a Petition for longer time; for Means out of my Eſtate to fee my Counſel, and bear the neceſſary Charge of my Tryal; for Counſel, and for a Sollicitor and ſome Servants to attend my Buſineſs. The Lords, I humbly thank them, gave me longer time, and aſſigned me (*a*) Mr. *Hearn*, Mr. *Chute*, Mr. *Hales*; and at my Petition added Mr. *Gerrard*. For Money, they referred me to the Committee of Sequeſtrations; but delayed their Anſwer concerning my Servants, and the Papers of my Defence, which Mr. *Pryn* took from me. For though he promiſed me a faithful Reſtitution of them within three or four days, yet to this day (being almoſt five Months after) I had received but three Bundles of the twenty and one which he had from me.

See the Articles and Order of the Lords made thereupon, apud Ruſhworth, *par.* 3. *vol.* 2. *p.* 817, 820. apud Pryn, *p.* 38—41. *The ABp's Petition may be found in* Ruſhworth, *p.* 820. Pryn, *p.* 41.

Friday, *October* 27. I petitioned again, that the Papers of my Defence being (as I was informed) in the hands of the Cloſe Committee, might be delivered unto me; and ſent my Petition, with the Order of the Lords annexed, to the Committee for Sequeſtrations. There many were very favourable, till Mr. *Glyn* was pleaſed to ſay, They were not to allow me Means, and there was a known Courſe in Law, which was, that I might go on *in forma Pauperis*; and ſo was left without any Allowance out of my Eſtate, to fee my Counſel, or ſupply other Wants. This ſucceeding ſo ill with me, I petitioned the Lords again on Saturday, *October* 28. 1643. and then Mr. *Dell* my Secretary was ' aſſigned me for my Sollicitor; and I was allowed two Servants more to go about my Buſineſs: and the Houſe of Commons by their Order agreed to the Lords, that I ſhould have Copies of any of the Papers taken from me, but it ſhould be at my own charge. Wonderful Favour this, and as much Juſtice! My Eſtate all taken from me, and my Goods ſold, before ever I came to Hearing; and then I may take Copies of my Papers at my own charge.

' *See the Order of the Lords*, apud Ruſhw. *p.* 821. Pryn, *p.* 42.

On Tueſday, *October* 31. I humbly ' petitioned the Lords for Direction of my Counſel, how to carry themſelves towards me and my Defence; and that they would honourably be pleaſed, in regard the Articles charged me with Treaſon and Miſdemeanour, and

' *The Petition may be found* apud Ruſhw. *p.* 821. Pryn, *p.* 42.

(*a*) Hearn *and* Chute *were aſſigned by Order of the Lords*, Octob. 24. Hales *added by their Order*, Octob. 28. *See both Orders* apud Ruſhworth, *p.* 821. Pryn, *p.* 41, 42. Gerrard *added by their Order*, Jan. 16. *See this Order alſo*, ibid. *p.* 825, & 46. *The firſt Order* apud Heylin's *Life of* Laud, *p.* 513.

were intermixed one with another, to diſtinguiſh which were for Treaſon, and which for Miſdemeanour; as alſo for longer time to put in my Anſwer. The Lords upon this gave an [1] Order, that I ſhould have time till *November* 13. but would declare no Opinion touching the Diſtinguiſhment of the Articles, but left me to my Counſel to adviſe as they pleaſed. My Counſel told me plainly, I were as good have no Counſel, if the Articles were not diſtinguiſhed; for they were ſo woven one within another, and ſo knit up together in the Concluſion, that they might refer all to Treaſon, and ſo they be ſuffered to give me no Counſel at all in Matter of Fact. Hereupon they drew me another Petition to the ſame effect, which I cauſed to be delivered *Novemb.* 6. But it received the ſame Anſwer. Then *Novemb.* 7. being Wedneſday, I petitioned the Houſe of Commons to the ſame purpoſe: and *Novemb.* 8. this my Petition was read in the Houſe of Commons; and after a ſhort Debate, the Reſolution was, That they being my Accuſers, would not meddle with any thing, but left all to the Order of the Lords, before whom the Buſineſs was, and my Counſel's own Judgment thereupon. This ſeemed very hard, not only to myſelf and my Counſel, but to all indifferent Men that heard it. In the mean time, I could reſort no whither but to Patience and God's Mercy.

[1] *See the Order of the Lords, ibid. p.* 822, 42.

November 13. I appeared in the Parliament-Houſe according to the [2] Order, and was at the Bar. That which I ſpake to the Lords, was this: 'That I had no Skill to judge of the 'Streights into which I might fall by my Plea 'which I had reſolved on, being left without all 'Aſſiſtance of my Counſel, in regard of the Nature and Form of the Impeachment that was a-'gainſt me. That yet my Innocency prompted me 'to a ready Obedience of their Lordſhips Order, 'caſting myſelf wholly upon God's Mercy, their 'Lordſhips Juſtice, and my own Innocency.' Then I humbly deſired that their Lordſhips Order firſt, and the Impeachment after, might be read. This done, I put in my Anſwer in Writing, as I was ordered to do, and humbly prayed it might be entred. My (*a*) Anſwer was; *All Advantages of Law againſt this Impeachment ſaved and reſerved to this Defendant, he pleads Not Guilty to all and every part of the Impeachment, in manner and form as 'tis charged in the Articles:* And to this Anſwer I put my Hand.

[2] *See the Order* apud Ruſhworth, *p.* 822.

My Anſwer being thus put in, I humbly beſought their honourable Lordſhips, 'to take into their Con-'ſideration my great Years, being Threeſcore and 'Ten compleat, and my Memory, and other Fa-'culties, by Age and Affliction much decayed: 'my long Impriſonment, wanting very little of 'three whole Years, and this laſt Year little better 'than cloſe Impriſonment: my want of Skill and 'Knowledge in the Laws to defend myſelf: the 'Generality and Incertainty of almoſt all the Ar-'ticles, ſo that I cannot ſee any Particulars againſt 'which I may provide myſelf. In the next place, 'I did thankfully acknowledge their Lordſhips 'honourable Favour, in aſſigning me ſuch Coun-'ſel as I deſired: But I told their Lordſhips 'withal, that as my Counſel were moſt ready to 'obey their Lordſhips in all the Commands laid 'upon them, ſo there were certain Doubts ariſen 'in them, how far they might adviſe me without 'offence; conſidering the Charges againſt me were 'ſo interwoven, and left without all Diſtinguiſh-'ment, what is intended as a Charge of Treaſon, 'and what of Crime and Miſdemeanour: That 'to remove theſe Doubts, I had humbly beſought 'their Lordſhips twice for Diſtinguiſhment, by 'ſeveral Petitions: That their Lordſhips not 'thinking it fit to diſtinguiſh, I have without Ad-'vice of Counſel put in my Plea, as their Lord-'ſhips ſee. But do moſt humbly pray, that their 'Lordſhips will take me ſo far into Conſideration, 'as that I may not loſe the benefit of my Counſel 'for Law in all, or any; and for Law and Fact, 'in whatſoever is not charged as Treaſon, when 'it ſhall be diſtinguiſhed: As ſtill my Prayers 'were, that by their Lordſhips Wiſdom and ho-'nourable Direction, ſome way might be found to 'diſtinguiſh them; and that having (not without 'much difficulty) prevailed with my Counſel to 'attend, their Lordſhips would be pleaſed to hear 'them ſpeak in this perplexed Buſineſs.' While I was ſpeaking this, the Lords were very attentive, and two of them took Pen and Paper at the Table, and took Notes: And it was unanimouſly granted, that my Counſel ſhould be heard; and ſo they were. And the [3] Order then made upon their Hearing was, that they ſhould adviſe me, and be heard themſelves in all things concerning Matter of Law, and in all things, whether of Law or Fact, that [4] was not charged as Treaſon; and that they would think upon the Diſtinguiſhment in time convenient.

[3] *See the Order*, apud Ruſhw. *p.* 822. Pryn, *p.* 43.

[4] *were.*

Wedneſday at Night, *Jan.* 3. 1643. I received an [5] Order for my Appearance, and to anſwer to the Impeachment againſt me, on the Monday following, *Jan.* 8. This Summons ſeemed ſudden, after ſo great an Intermiſſion: yet I could not petition for more Time, till Saturday, *Jan.* 6. becauſe (as the Meſſenger told me) the Houſe ſat not again till then. Then I [6] petitioned for more Time, in regard my Counſel were not in Town: and I had Time given till Tueſday, *Jan.* 16. and that Day ſet peremptorily. Notwithſtanding the ſhortneſs of this Time, my Counſel being out of Town, as not expecting it, I was on Sunday, *Jan.* 7. ordered again to appear in Mr. *Smart*'s Suit the next day. The Warrant bare date a Fortnight before; yet partly to ſanctify the [7] *Sabbath*, and partly to ſhew his great Civility to me in giving me warning, I was not ſerved with it till Sunday Night at Seven of the clock. The next Morning I went to *Weſtminſter*, as I was commanded: but I was ſent back, and not ſo much as called upon. So, beſide the Charge I was at, that Day was loſt and taken from me and my Buſineſs, as ſhort time as I had given me.

[5] *See the Order* apud Ruſhw. *p.* 823. Pryn, *p.* 43.

[6] *The Petition may be found* apud Ruſhw. *p.* 823. *And the Order of the Lords, p.* 824. *Both* apud Pryn, *p.* 44.

[7] *For ſo thoſe Puritans ſtiled and accounted the Sunday,* H. W.

(*a*) *Vid.* Ruſhworth, *p.* 822. Pryn, *p.* 43. *This Anſwer is otherwiſe worded in* Pryn's *Compl. Hiſt. p.* 43. *who took it (I ſuppoſe) from the Parliament-Records,* W. S. A. C. *It is thus worded,* All Advantages of Exception to the ſaid Articles of Impeachment to this Defendant ſaved and reſerved, this Defendant humbly ſaith, That he is Not Guilty of all or any of the Matters by the ſaid Impeachment charged, in ſuch manner and form as the ſame are by the ſaid Articles of Impeachment charged.

Then

Then Tueſday came on, *Jan.* 16. And whereas I was ordered to appear at the Lords Houſe at Nine in the Morning, I was by another [1] Order put off to One of the Clock in the Afternoon. Then I appeared. The [2] Committee, that were to preſs the Evidence againſt me, began to proceed upon the former general Articles, as well as upon the latter. But to the firſt Articles I had never been called to anſwer, nor ever joined Iſſue. Upon this, there was much looking one upon another, as if they meant to ask where the Failure was. But by this means there could not then be any Proceeding. So I was there [3] peremptorily ordered to put in my Anſwer on Monday, *Jan.* 22. both to the original and to the additional Articles, and in Writing.

[1] Vide *the Order* apud Ruſh. *p.* 824. Pryn, *p.* 45.

[2] *Mr.* Maynard *was then chief Manager for the Commons. See his Speech made then to the Lords,* apud Ruſhw. *p.* 824. & Pryn, *p.* 45.

[3] *See the Order* apud Ruſhw. *p.* 825. Pryn, *p.* 46,47.

At this Day and Time I appeared, as I was ordered to do; but [4] could not obtain of the Lords either to take my former Anſwer off from the File, if I muſt put in another; nor to diſtinguiſh the Articles, which were Treaſon, and which Miſdemeanor; nor leave for my Counſel to ſpeak to the Generality and Uncertainty of the original Articles; which they profeſſed were ſuch, as no Man living could prepare Anſwer for. But I muſt put in my (*a*) Anſwer preſently, or be taken *pro Confeſſo.* So in theſe Streights I put in my Anſwer to both Articles; which follows *in hæc verba.*

[4] *See the Archbiſhop's Petition made herein,* Jan. 19. apud Ruſhw. *p.* 825. Pryn, *p.* 46.

The Humble Anſwer of William *Archbiſhop of* Canterbury, *to the firſt and farther Articles of Impeachment brought up by the Honourable Houſe of Commons againſt him, and by Order of the Right Honourable the Lords in Parliament of the* 16*th of this Inſtant directed to be put in.*

AS to the 13th Article of the ſaid firſt Articles, and the Matters therein charged, and all Matters or Things in the ſame, or any of the reſt of the ſaid Articles contained, which concern any Act of Hoſtility, whether between the King and his Subjects, or between Subject and Subject, or which may be conceived to ariſe upon the coming of any *Engliſh* Army againſt *Scotland*, or the coming of the *Scotiſh* Army into *England*; or upon any Action, Attempt, Aſſiſtance, Counſel, or Device, having relation thereunto, and falling out by the occaſion of the late Troubles, preceding the late Concluſion of the Treaty, and Return of the *Scotiſh* Army into *Scotland:* This Defendant ſaith, That it is enacted by an Act, made during the Sitting of this preſent Parliament, that the ſame, and whatſoever hath enſued thereupon, whether trenching upon the Laws and Liberties of the Church and Kingdom, or upon his Majeſty's Honour and Authority, in no time hereafter may be called in queſtion, or reſented as a Wrong, national or perſonal; and that no mention be made thereof in time coming, neither in Judgment, nor out of Judgment; but that it be held and reputed as tho never ſuch Things had been thought or wrought; as by the ſaid Act may more at large appear: With this, That this Defendant doth aver that he is none of the Perſons excepted by the ſaid Act, or the ſaid Offences charged upon this Defendant any of the Offences excepted by the ſaid Act.

And as to all the reſt of the ſaid firſt and farther Articles, this Defendant, ſaving to himſelf all Advantages of Exception to the ſaid Articles, humbly ſaith, He is not guilty of all, or any the Matters by the ſaid Articles charged, in ſuch Manner and Form as the ſame are by the ſaid Articles charged againſt him.

All *February* paſſed over, and Mr. *Pryn* not yet ready; he had not yet ſufficiently prepared his Witneſſes. But on Monday, *March* 4. an [5] Order paſſed to call me to the Houſe, to anſwer my Charge of High Treaſon on Tueſday *March* 12. following. And on Saturday, *March* 9. I received a Note from the Committee which were to preſs the Evidence againſt me, what Articles they meant to begin with; which had a Shew of ſome fair Reſpect. But the Generality and Uncertainty of the Articles was ſuch, as render'd it a bare Shew only; no Particular being charged, concerning which I might provide for any Witneſſes or Counter-proof.

[5] *See the Order,* apud Ruſh. *p.* 827. Pryn, *p.* 48.

And now being ready to enter upon the Hearing and the Tryal it ſelf, I hold it neceſſary for me to acquaint the Reader with ſome general Things before that begin: partly to the end he may ſee the Courſe of this Tryal, and the Carriage which hath been in it; and partly to avoid the often and tedious Repetition, which elſe muſt neceſſarily be of ſome of them; and eſpecially, that they may not be mingled either with the Evidence, or my Anſwers to it, to interrupt the Current, or make any thing more obſcure.

1. The Committee appointed by the Houſe of Commons, to manage and preſs the Evidence againſt me, were Serjeant *Wilde*, Mr. *Browne*, Mr. *Maynard*, Mr. *Nichols*, Mr. *Hill*. But none ſpake at the Bar but the firſt four. Mr. *Hill* was Conſul *Bibulus:* Mr. *Pryn* was truſted with the providing of all the Evidence.

2. Mr. *Pryn* took to him two young Men to help to turn his Papers, and aſſiſt him; Mr. *Grice* and Mr. *Beck*. Mr. *Grice* was Son to Mr. *Tho. Grice*, Fellow of *St. John Bapt. College* in my Time, and after beneficed near *Stanes*.

3. And though my Hopes, under God, were upon the Lords; yet when my Tryal did come on, it did ſomewhat trouble me to ſee ſo few Lords in that great Houſe: For at the greateſt Preſence that was any Day of my Hearing, there were not above fourteen, and uſually not above eleven or twelve. Of theſe one third part, at leaſt, each Day took or had occaſion to be gone before the Charge of the Day was half given. I never had any one Day the ſame Lords all preſent at my Defence in the Afternoon, that were at my Charge in the Morning; ſome leading Lords ſcarce preſent at my Charge four Days of all my long Tryal, nor three at my Defence; and which is moſt, no one Lord preſent at my whole Tryal but the Right Honourable the Lord *Gray* of *Wark*, the Speaker,

(*a*) *This Anſwer was put in* Jan. 22. *being ſhort, and in general pleading Not guilty, and making only a ſhort particular Plea to the* 13*th Article. The ſaid Anſwer may be found in* Ruſhw. *p.* 826. & Pryn, *p.* 47. *I have tranſcribed it from* Pryn, *and cauſed it to be here inſerted.* H. W.

without whoſe Preſence it could not be a Houſe. In this caſe I ſtood in regard of my Honourable Judges.

4. When my Hearing came on, uſually my Charge was in giving till almoſt Two of the clock. Then I was commanded to withdraw: And upon my humble Petition for Time to anſwer, I had no more given me than till Four the ſame Afternoon; ſcarce Time enough adviſedly to peruſe the Evidence: My Counſel not ſuffer'd to come to me till I had made my Anſwer, nor any Friend elſe, but my Sollicitor Mr. *Dell*, to help to turn my Papers; and my Warder of the *Tower* to ſit by to look to this. And this was not the leaſt Cauſe why I was at firſt accuſed of no leſs than Treaſon, [1]*Ne quis neceſſariorum juvaret periclitantem Majeſtatis Crimina ſubdebantur*; as it fell out in *Silanus* his Caſe, who had more Guilt about him (yet not of Treaſon) than (God be thanked) I have, but was proſecuted with like Malice, as appears in that Story. At Four a clock, or after, the Houſe ſat again, and I made my Anſwer: And if I produced any Witneſs, he was not ſuffered to be ſworn; ſo it was but like a Teſtimony at large, which the Lords might the more freely believe, or not believe, as they pleaſed. After my Anſwer, one or more of the Committee replyed upon me. By that time all was done, it was uſually half an hour paſt Seven. Then, in the Heat of the Year (when it overtook me) I was preſently to go by Water to the *Tower*, full of Wearineſs, and with a Shirt as wet to my Back with Sweat, as the Water could have made it, had I fallen in. Yet I humbly thank God for it, he ſo preſerved my Health, as that though I were weary and faint the Day after, yet I never had ſo much as half an hour's Head-ach, or other Infirmity, all the time of this comfortleſs and tedious Tryal.

[1] *Tacit. L. 3. Annal.*

5. Now for the Method, which I ſhall hold in this Hiſtory of my Tryal, it ſhall be this: I will ſet down the Evidence given on each Day by it ſelf, and my Anſwer to it. But whereas all the Evidence was given together, and ſo my whole Anſwer after, to avoid all looking back, and trouble of turning Leaves to compare the Anſwer with the Evidence, I will ſet down each particular Evidence and my Anſwer to it, and ſo all along, that the indifferent Reader may, without farther Trouble, ſee the Force of the one, and the Satisfaction given in the other, and how far every Particular is from Treaſon. And if I add any thing to my Anſwers in any place, either it is becauſe in the Shortneſs of Time then given me to make my Anſwer, it came not to my preſent Thoughts; or if it did, yet I forbare to ſpeak it with that Sharpneſs, holding it neither fit nor ſafe, in my Condition, to provoke either my Accuſers, or my Judges. And whatſoever is ſo added by me in either of theſe reſpects, the Reader ſhall find it thus ' ' marked in the Margent, as here it ſtands in this. (a)

6. Nor did I wrong Mr. *Pryn*, where I ſay, *That for all the haſte to put in my Anſwer* Jan. 22. *he could not make this broken Buſineſs ſo ſoon ready againſt me*: For 'tis well known he kept a kind of School of Inſtruction for ſuch of the Witneſſes as he durſt truſt, that they might be ſure to ſpeak home to the purpoſe he would have them. And this an *Utter Barriſter*, a Man of good Credit, knows; who, in the hearing of Men beyond Exception, ſaid, *The Archbiſhop is a Stranger to me; but Mr.* Pryn's *tampering about the Witneſſes is ſo palpable and foul, that I cannot but pity him, and cry ſhame of it.* When I heard this, I ſent to this Gentleman, to know if he tendered my Caſe ſo far as to witneſs it before the Lords. The Anſwer I received was, That the Thing was true, and that very Indignation of it made him ſpeak; but heartily prayed me I would not produce him as a Witneſs; for if I did, the Times were ſuch, he ſhould be utterly undone: And 'tis not hard to gueſs by whom. Upon this I conſulted ſome Friends; and upon regard of his Safety on the one ſide, and my own Doubt, leſt if forced to his undoing, he might through Fear blanch and mince the Truth to my own prejudice who produced him, I forbare the Buſineſs, and left Mr. *Pryn* to the Bar of Chriſt, whoſe Mercy give him Repentance, and amend him. But upon my Chriſtianity this Story is Truth.

The Firſt Day of my Hearing.

AND now I come to Tueſday, *March* 12. 1643. the Day appointed for my Tryal to begin: And begin it did. When I was come, and ſettled at the Bar, Serjeant *Wilde* made a ſolemn Speech for Introduction. I had a Character given me before of this Gentleman, which I will forbear to expreſs; but in this Speech of his, and his future Proceedings with me, I found it exactly true. His Speech my decayed Memory cannot give you at large; but a Skeleton of it I here preſent, according to ſuch Limbs as my brief Notes then taken, can now call to my Memory.

[2] He began, and told the Lords, That the Children which I had travailed with, were now come to the Birth; and that my Actions were ſo foul, and my Treaſon ſo great, as that the like could not be read in any Hiſtory; nay, ſo great, as that, *nullus Poeta fingere*, no Poet could ever feign the like. And that if all Treaſon were loſt, and not to be found in any Author what it is, it might be recovered and found out in me and my Actions: with divers Pieces of *Latin* Sentences to this effect. [And though theſe high and loud Expreſſions troubled me much at the preſent, yet I could not but think, that in this *Canto* of his he was much like one of them which cry up and down the City, *Have you any old Ends of Gold and Silver?*]

[2] *See a Relation of what then paſſed before* Wilde *began his Speech*, apud Ruſhw. *p.* 827. *and* Wilde's *Speech entire*, Ibid. *p.* 828, &c. *and in* Pryn's *Compl. Hiſt. p.* 51, &c.

After this, he proceeded to give Reaſons why I was not ſooner proceeded againſt, having now lain by it above three Years. The firſt Reaſon he gave was the Diſtractions of the Time. [And they indeed were now grown great; but the Diſtractions which were now, can be no Argument why I was not proceeded againſt at the Beginning of the Parliament, when Things were in ſome better

(a) Note, *That where entire ſet Speeches were made by the Archbiſhop, although ſpoken by him at the Bar, the ſame Marks are put to them. But whereſoever thoſe Marks are found in the Hiſtory, from the ſecond to the laſt Day of the Tryal inclusive, the Words to which they are affixed were not ſpoken at the Bar at that time, but either added afterwards by the Archbiſhop at the Recapitulation of his Anſwer, or inſerted in writing the Hiſtory.* H. W.

Quiet.] His ſecond Reaſon was the [2] Death of ſome Perſons. [But this could be no Reaſon at all: For if the Perſons he ſpeaks of were Witneſſes againſt me, more might die, but the Dead could not be made alive again by this Delay; unleſs Mr. Serjeant had ſome hope the Reſurrection might have been by this time, that ſo he might have produced them. And if the Perſons were Members of the Houſe of Commons, as all Men know Mr. *Pym* was in the Chair for Preparation of my Tryal; then this is known too, That Mr. *Pym* came up to the Committee of Lords full of great hopes to prove God knows what againſt me. The Perſons to be examined were *William* Lord Biſhop of *London*, and *Matthew* Lord Biſhop of *Ely*, my very worthy Friends, and Men like to know as much of me as any Men. A Lord then preſent told me, there were ſome eighteen or nineteen Interrogatories, upon which theſe Biſhops were to be examined againſt me, concerning my Intercourſe with *Rome*; but all were built upon the firſt, which was their Knowledge of the Man, who (it ſeems) was thought to be my chief Agent in that Secret. But both the Biſhops denying upon their Oaths that they, or either of them, ever knew any ſuch Man, all the reſt of the Interrogatories, what relations he had to me, and the like, muſt needs fall to nothing, as they did. And the Lord told me farther, he never ſaw Mr. *Pym*, and the reſt, ſo abaſhed at any thing in his Life. After this Mr. *Pym* (as 'tis well known) gave over that Chair, deſpairing to do that againſt me which was deſired.]

[2] *The Death and Diſperſion of our Witneſſes, the Loſs of ſome of our Members, who have been employed and taken pains in this Buſineſs. So* Wilde's *Speech* apud Pryn, *p.* 51.

His third Reaſon was a good large one, and that was [3] other Impediments. [And that's true, ſome Impediments there were, no doubt, or elſe I had come ſooner to hearing. And, as I conceive, a chief Impediment was, that there was not a Man whoſe Malice would make him diligent enough to ſearch into ſuch a forſaken Buſineſs, till Mr. *Pryn* offered himſelf to that Service. For I think I may be confident, that that honourable and great Houſe would not ſeek any Man out of their own Body for any ſuch Imployment, had not Suit, ſome way or other, been made for it.]

[3] *The Multitude of Diverſions which we have had, and have daily. So* Wilde's *Speech*, Ibid.

After theſe Reaſons given for the Delay of my Tryal, he fell upon me again as foul as at firſt; as that I was the Author of all the Extravagancies in the Government, and of all the Concuſſions in the State; That the Quality of my Perſon aggravated my Crime; That my Abilities and Gifts were great, but that I perverted them all; and that I was guilty of [3] Treaſon in the higheſt Altitude. [Theſe were the Liveries which he liberally gave me; but I had no mind to wear them: And yet I might not deſire him to wear this Cloth himſelf, conſidering where I then ſtood, and in what Condition.]

[3] *Treaſon in the higheſt Pitch and Altitude. So* Wilde's *Speech*, *p.* 52.

This Treaſon in the Altitude, he ſaid, was in my Endeavour to alter the Religion eſtabliſhed by Law, and to ſubvert the Laws themſelves: And that to effect theſe, I left no way unattempted. For Religion, he told the Lords, That I laboured a Reconciliation with *Rome*; That I maintained Popiſh and *Arminian* Opinions; That I ſuffered [1] Tranſubſtantiation, Juſtification by Merits, Purgatory, and what not, to be openly preached all over the Kingdom; That I induced ſuperſtitious Ceremonies, as [2] Conſecrations of Churches, and Chalices, and Pictures of Chriſt in Glaſs-Windows; That I gave liberty to the Prophanation of the Lord's-Day; That I held Intelligence with Cardinals and Prieſts, and endeavoured to aſcend to Papal Dignity; Offers being made me to be a Cardinal. [And for the Laws, he was altogether as wild in his Aſſertions, as he was before for Religion: And if he have no more true Senſe of Religion, than he hath Knowledge in the Law, (though it be his Profeſſion) I think he may offer both long enough to Sale, before he find a Chapman for either.] And here he told the Lords, That I held the ſame Method for this, which I did for Religion. [And ſurely that was to uphold both, had the Kingdom been ſo happy as to believe me.] But he affirmed (with great Confidence) [3] That I cauſed Sermons to be preached in Court to ſet the King's Prerogative above the Law, and Books to be printed to the ſame effect; That my Actions were according to theſe. Then he fell upon the Canons, and diſcharged them upon me. Then, that I might be guilty enough, [if his bare Word could make me ſo] he charged upon me the Benevolence, the Loan, the Ship-Money, the illegal pulling down of Buildings, Incloſures; ſaying, That as Antichriſt ſets himſelf above all that is called God; ſo I laboured to ſet the King above all that is called Law. And after a tedious Stir, he concluded his Speech with this, That I was like *Naaman* the *Syrian*, a great Perſon (he confeſſed) but a Leper. [So ended this Noble *Celeuſtes*.]

[1] *Tranſubſtantiation is not mentioned in* Wilde's *Speech* apud Pryn. *p.* 52.

[2] *The particular Ceremonies, charged with Popery and Superſtition, are not named in* Wilde's *Speech*. Ibid.

[3] *None of the Particulars, which follow to the end (ſave the concluſive Sentence) are to be found in* Wilde's *Speech* apud Pryn; *but only ſome general Invectives and Accuſations to this purpoſe.* H. W.

I was much troubled to ſee my ſelf, in ſuch an Honourable Aſſembly, made ſo vile: Yet ſeeing all Mens Eyes upon me, I recollected my ſelf, and humbly deſired of the Lords two Things: 'One, 'That they would expect Proof, before they give 'up their Belief to theſe loud, but looſe Aſſerti-'ons: Eſpecially ſince it is an eaſy thing for Men 'ſo reſolved, to conviciate, inſtead of accuſing; 'whenas the Rule given by *Optatus*, 'holds firm, *Quum intenditur Crimen*, 'when a Crime is objected, (eſpe-'cially ſo high a Crime, as this charg-'ed on me) 'tis neceſſary that the Proof be manifeſt,' which yet againſt me is none at all. The other, 'That their Lordſhips would give me leave, not to 'anſwer this Gentleman's Particulars, (for that I 'ſhall defer till I hear his Proofs) but to ſpeak ſome 'few things concerning my ſelf, and this grievous 'Impeachment brought up againſt me.'

Optat. *l.* 6. cont. Parmenianum.

Which being yielded unto me, I then ſpake as follows.

'My Lords, my being in this Place, 'and in this Condition, recalls to 'my Memory that which I long 'ſince read in [4] *Seneca*; *Tormentum eſt, etiamſi abſolutus quis fuerit, Cauſam dixiſſe*: 'Tis not a Grief only, no, 'tis no leſs than a Torment, for an

This Speech is extant alſo in Ruſhw. *p.* 830, *&c.* Heylin, *p.* 516, &c. Pryn, *p.* 53, &c.

[4] Sen. *l.* 6. de Benef. *c.* 28.

'inge-

'ingenuous Man to plead [a] Criminally, much more Capitally, at ſuch a Bar as this; yea, though it ſhould ſo fall out, that he be abſolved. The great Truth of this, I find at preſent in my ſelf: And ſo much the more, becauſe I am a Chriſtian; and not that only, but in Holy Orders; and not ſo only, but by God's Grace and Goodneſs preferred to the greateſt Place this Church affords: and yet now brought, *Cauſam dicere*, to plead, and for no leſs than Life, at this great Bar. And whatſoever the World thinks of me, (and they have been taught to think [b] more ill, than, I humbly thank Chriſt for it, I was ever acquainted with;) yet, my Lords, this I find *Tormentum eſt*; 'tis no leſs than Torment to me to appear in this Place to ſuch an Accuſation. Nay, my Lords, give me leave, I beſeech you, to ſpeak plain Truth: No Sentence that can juſtly paſs upon me, (and other I will never fear from your Lordſhips) can go ſo near me as *Cauſam dixiſſe*, to have pleaded for my ſelf, upon this Occaſion, and in this Place. For, as for the Sentence (I thank God for it) I am at St. *Paul*'s Ward; *If I have committed any thing worthy of death, I refuſe not to die*, Acts 25. 11. For, I bleſs God, I have ſo ſpent my time, as that I am neither aſhamed to live, nor afraid to die. Nor can the World be more weary of me, than I of it: For ſeeing the Malignity which hath been raiſed againſt me by ſome Men, I have carried my Life in my hands theſe divers Years paſt. But yet, my Lords, if none of theſe Things, whereof theſe Men accuſe me, merit Death by Law; tho I may not in this Caſe, and from this Bar appeal unto *Cæſar*, yet to your Lordſhips Juſtice and Integrity I both may and do appeal; not doubting but that God of his Goodneſs will preſerve my Innocency. And as *Job*, in the midſt of his Affliction, ſaid to his miſtaken Friends, ſo ſhall I to my Accuſers; *God forbid I ſhould juſtify you; till I die I will not remove my Integrity from me; I will hold it faſt, and not let it go: my Heart ſhall not reproach me, as long as I live.* Job 27. 5.

[a] *Capitally or Criminally*, Ruſhworth & Pryn.

[b] *Much more*, Ruſhw. & Pryn.

'My Lords, I ſee by the Articles, and have now heard from this Gentleman, that the Charge againſt me is divided into two main Heads; [c] the Laws of the Land, and the Religion by thoſe Laws eſtabliſhed.

[c] *An Endeavour to ſubvert*, Ruſh. & Pryn.

'For the Laws firſt; I think I may ſafely ſay, I have been, to my Underſtanding, as ſtrict an Obſerver of them all the Days of my Life, ſo far as they concern me, as any Man hath; and ſince I came into Place, I have followed them, and been as much guided by them, as any Man that ſat where I had the Honour to ſit. And for this I am ſorry I have loſt the [d] Witneſs of the Lord Keeper *Coventry*, and of ſome other Perſons of Honour, ſince dead. And the Learned Counſel at Law, which attended frequently at the Council-Table, can witneſs (ſome of them [e]) that in References to that Board, and in Debates ariſing at the Board, I was uſually for that part of the Cauſe where I found Law to be: And if the Counſel deſired to have their Clients Cauſe referred to the Law, (well I might move in ſome Caſes for Charity or Conſcience, to have admittance, but) to the Law I left them, if thither they would go. And how ſuch a Carriage as this through the whole Courſe of my Life, in private and publick, can ſtand with an Intention; nay, a Practice to overthrow the Law, and to introduce an Arbitrary Government, which my Soul hath always hated, I cannot yet ſee. And 'tis now many Years ſince I learned of my great Maſter (*in humanis*) *Ariſtole, Periculoſum eſſe*; that it is *a very dangerous thing to truſt to the Will of the Judge, rather than the written Law.* And all Kingdoms and Commonwealths have followed his Judgment ever ſince; and the School-Diſputes have not diſſented from it. Nay more, I have ever been of Opinion, that human Laws bind the Conſcience; and have accordingly made conſcience of obſerving them. And this Doctrine I have conſtantly preached, as Occaſion hath been offered me. And how is it poſſible I ſhould ſeek to overthrow thoſe Laws, which I held my ſelf bound in Conſcience to keep and obſerve? Eſpecially, ſince an Endeavour to overthrow Law, is a far greater Crime than to break or diſobey any particular Law whatſoever; all Particulars being ſwept away in that General. And, my Lords, that this is my Judgment, both of Parliaments and Laws; I beſeech your Lordſhips that I may read a ſhort Paſſage in my Book againſt *Fiſher* the Jeſuit, which was printed and publiſhed to the World, before theſe Troubles fell on me, and before I could ſo much as ſuſpect this Charge could come againſt me; and therefore could not be purpoſely written to ſerve any Turn. [*I had leave, and did read it; but, for Brevity-ſake, refer the Reader to the Book it ſelf.*]

[d] *Teſtimony*, Ruſhw. & Pryn.

[e] *here preſent*, Heylin & Ruſh. & Pryn.

Ariſt. 2. *Polit.* c. 7, 8.

Tho. 2. 22. q. 60. Ar. 5.

Confer. with Fiſher, §. 26. *Num.* 14. *p.* 211.

'As for Religion, I was born and bred up in and under the Church of *England*, as it yet ſtands eſtabliſhed by Law. I have, by God's Bleſſing, and the Favour of my Prince, grown up in it to the Years which are now upon me, and to the Place of Preferment which I [f] yet bear: And in this Church, by the Grace and Goodneſs of God, I reſolve to die.

[f] *now*, Ruſh. & Pryn.

'I have ever ſince I underſtood ought in Divinity, kept one conſtant Tenor in this my Profeſſion, without variation or ſhifting from one Opinion to another, for any worldly Ends: And if my Conſcience would have ſuffered me to ſhift Tenets in Religion with Time and Occaſion, I could eaſily have ſlid through all the Difficulties which have preſſed upon me in this kind. But, of all Diſeaſes, I have ever [g] hated a Palſy in Religion; well knowing, that too often a Dead-Palſy ends that Diſeaſe in the fearful Forgetfulneſs of God and his Judgments. Ever ſince I came in place, I laboured nothing more, than that the external publick Worſhip of God ([h] too much ſlighted in moſt Parts of this Kingdom) might be preſerved, and that with as much Decency and Uniformity as might be; being ſtill of opinion, that Unity cannot long continue in the Church, where Uniformity is ſhut out at the Church-Door. And I evidently ſaw, that the publick Neglect of God's Service in the outward Face of it, and the naſty lying of many Places dedicated to that Service,

[g] *held a Palſy, &c. moſt dangerous*, Ruſhw.

[h] *ſo*, Ruſh. & Pryn.

'had almost cast a damp upon the true and inward 'Worship of God; which while we live in the 'Body needs external Helps, and all little enough 'to keep it in any Vigour. And this I did to the 'uttermost of my Knowledge, according both to 'Law and Canon, and with the Consent and 'Liking of the People: Nor did any Command 'issue out from me against the one, or without 'the other, that I know of.

'Farther, my Lords, give me 'leave, I beseech you, to tell [1] you 'this also; That I have as little Ac- 'quaintance with Recusants of any 'sort, as I believe any Man of [2] Place 'in *England* hath: And for my Kin- 'dred, no one of them was ever a 'Recusant, but Sir *William Webb*, 'Grandchild to my Uncle Sir *Wil- 'liam Webb*, sometime Lord Mayor 'of *London*; and [3] him, with some 'of his Children, I reduced back a- 'gain to the Church of *England*, as is well known, 'and I as able to prove.

[1] *acquaint you with*, Rush. & Pryn.

[2] *my Place hath or ever had since the Reformation*, Rush. & Pryn.

[3] *since which*, Rush. & Pryn.

'One thing more I humbly desire may be 'thought on; 'tis this: I am fallen into a great 'deal of Obloquy in Matter of Religion, and 'that so far, as that 'tis charged in the Articles, 'That I have endeavoured to advance and bring 'in Popery. Perhaps, my Lords, I am not igno- 'rant what Party of Men have raised this Scandal 'upon me, nor for what end, nor perhaps by 'whom set on: But howsoever, I would fain have 'a good Reason given me (if my 'Conscience [4] led me that way, 'and that with my Conscience I 'could subscribe to the Church of 'Rome) what should have kept me here (before 'my Imprisonment) to endure the '[5] Libels, and the Slanders, and the 'base Usage in all kinds, which 'have been put upon me, and these 'to end in this Question for my Life: I say, I 'would fain know a good Reason of this.

[4] *flood*, Rush. & Pryn.

[5] *Libelling*, Rush. & Pryn.

'For, First, my Lords, Is it because of any 'Pledges I have in the World to sway me against 'my Conscience? No sure. For I have nor Wife 'nor Children, to cry out upon me to stay with 'them; and if I had, I hope the Call of my 'Conscience should be heard above them.

'Or Secondly, Is it because I was loth to leave 'the Honour and the Profit of the Place I was 'risen unto? Surely no: for I desire your Lord- 'ships, and all the World else should know, I do 'much scorn Honour and Profit, both the one and 'the other, in comparison of my Conscience. 'Besides, it cannot be imagined by any reasonable 'Man, but that if I could have complied with '*Rome*, I should not have wanted either Honour 'or Profit. And suppose I could not have so much 'of either, as here I had; yet sure, would my 'Conscience have served me that way, less of either 'with my Conscience would have prevailed with 'me, more than greater against my Conscience.

'Or Thirdly, Is it because I lived here at ease, 'and was loth to venture the Loss of that? Not 'so neither: for whatsoever the World may be 'pleased to think of me, I have led a very painful 'Life, and such as I could have been very well 'content to change, had I well 'known how. And had my Con- 'science [1] led me that way, I am 'sure I might have lived at far more 'ease; and either have avoided the barbarous Li- 'bellings, and other bitter and grievous Scorns, 'which I have here endured, or at the least been 'out of the hearing of them. Nay, my Lords, 'I am as innocent in this Business of Religion, as 'free from all Practice, or so much as Thought of 'Practice for any Alteration to Popery, or any 'way blemishing the true Protestant Religion 'established in the Church of *England*, as I was 'when my Mother first bare me into the World. 'And let nothing be spoken against me but Truth, 'and I do here challenge whatsoever is between 'Heaven and Hell, to say their worst against me 'in point of my Religion: in which by God's 'Grace I have ever hated Dissimulation; and had 'I not hated it, perhaps it might have been better 'with me for worldly Safety, than now it is. But 'it can no way become a Christian Bishop to halt 'with God.

[1] *served*, Rush. and Pryn.

'Lastly, If I had any purpose to blast the true 'Religion established in the Church of *England*, 'and to introduce Popery, sure I took a very wrong 'way to it. For, my Lords, I have 'staid [1] as many that were going to '*Rome*, and reduced [2] as many that 'were already gone, as (I believe) 'any Bishop or other Minister in this 'Kingdom hath done; and some of them Men 'of great Abilities, and some of 'them [3] Persons of great Place. 'And is this the way, my Lords, to 'introduce Popery? I beseech your 'Lordships consider it well. For 'surely, if I had blemished the true 'Protestant Religion, I could not 'have settled such Men in it; and if 'I had [4] purposed to introduce Po- 'pery, I would never have reduced 'such Men from it. And though it 'please the Author of the *Popish Royal 'Favourite* to say, *That scarce one of 'the swaying Lord Prelates is able to say, 'that ever he converted one Papist to our 'Religion*; yet how void of Charity 'this Speech of his is, and how full of Falshood, 'shall appear by the number of those Persons, 'whom by God's Blessing upon my Labours I 'have settled in the true Protestant Religion esta- 'blished in *England*: And with your Lordships 'leave, I shall name them, that you may see both 'their Number and their Condition; though I 'cannot set them down in that Order of Time, 'in which I either converted or settled them.

[1] *more*, Rush. & Pryn.

[2] *more*, Rush. & Pryn.

[3] *Men of great Abilities, and some.* Rushw. & Pryn.

[4] *promised*, Rush. & Pryn. W. Pryn *in his* Popish Royal Favour. *p.* 71. Pryn *in printing the Archbishop's Speech, omitteth this whole Passage concerning himself.* H.W.

'1. And first, *Henry Birk-head* of *Trinity-College* 'in *Oxford* was seduced by a Jesuit, and brought 'up to *London* to be conveyed beyond the Seas. 'His Friends complained to me: I had the Hap- 'piness to find him out, and the Blessing from 'God to settle his Conscience. So he returned to '*Oxford*, and there continued (*a*).

(*a*) *See* Rushworth, *p.* 832. *who relateth, that when some of the Lords hearing the Name of* Birkenhead, *and imagining him to be the Author of the* Oxford Aulicus, *smiled at it; the Archbishop taking notice of it, stopped, and assured the Lords, that he meant not him, but another Person of like Name. Yet after all,* Pryn *in publishing this Speech, hath the Impudence to affirm in the Margin of his Book, That this Convert of the Archbishop's; was the Author of all the libellous Popish* Oxford Aulicus's; *although he knew full well, that his Name was* John Birkenhead: *and adds, that at the naming of this Convert, most of the Lords and Auditors smiled; but saith not one word of the Archbishop's Correction of their Mistake.* H. W.

'2, 3. Two

'2, 3. Two Daughters of Sir *Rich. Lechford* in 'Surrey were ſent to Sea, to be carried to a Nun-'nery. I heard of it, and cauſed them to be 'brought back, before they were got out of the 'Thames. I ſettled their Conſciences, and both 'of them ſent me great thanks ſince I was a Pri-'ſoner in the Tower.

'4, 5. Two Scholars of *St. John's-College* in *Cam-'bridge*, *Topping* and *Aſhton*, had ſlipped away from 'the College, and here at *London* had got the *French* 'Ambaſſador's Paſs, (I have the Paſs to ſhew:) I 'found means to get them to me, and I thank God 'ſettled both their Minds, ſent them back to their 'College. Afterwards hearing of *Topping*'s Wants, 'I allowed him Means till I procured 'him a Fellowſhip [c]: And he is at 'this time a very hopeful Young-'Man, as moſt of his time in that 'Univerſity, a Miniſter, and Chaplain in Houſe 'at this preſent, to the Right Honourable the 'the Earl of *Weſtmoreland*.

[c] *in St. John's,* Ruſh. & Pryn.

'6, 7, 8. Sir *William Webb* my Kinſman, and 'two of his Daughters; and the better to ſecure 'them in Religion, I was at the Charge (their 'Father being utterly decayed) to marry them to 'two religious Proteſtants; and they both conti-'nued very conſtant. 9. And his eldeſt Son I 'took from him, placed him with a careful Divine, 'maintained him divers Years, and then ſettled 'him with a Gentleman of good Worth.

'10, 11. The next, in my remembrance, was 'the Lord *Maio* of *Ireland*, who, with another 'Gentleman (whoſe Name I cannot 'recall) was brought to me to *Ful-'ham*, by [7] Mr. *Jefford*, a Servant of 'his Majeſty's, and well known to 'divers of your Lordſhips.

[7] *Cheſford,* Ruſh. & Pryn.

'12. The Right Honourable the Lord Duke of 'Buckingham was almoſt loſt from the Church of 'England, between the continual cunning Labours 'of *Fiſher* the Jeſuit, and the Per-'ſuaſions of the Lady his Mother [8]. 'After ſome Miſcarriages, K. *James* 'of ever-bleſſed Memory commanded 'me to that Service. I had God's Bleſſing upon 'me ſo far, as to ſettle my Lord Duke to his 'Death. 13. And I brought the 'Lady his Mother to the Church 'again; but ſhe was not ſo happy, 'as to continue with us.

[8] *and Siſter,* Ruſh. & Pryn.

[9] *Right Honourable the Counteſs of* Buckingham, Ruſh. & Pryn.

'14. The Lady Marchioneſs *Ha-'milton* was much ſollicited by ſome 'Prieſts, and much troubled in mind about it. 'My Lord ſpake with me of it; and though 'at that preſent I was ſo overlaid with Buſineſs, 'that I could not (as I much deſired) wait upon 'that Honourable Perſon myſelf, yet I told my 'Lord I would ſend one to his Lorſhip, that 'ſhould diligently attend that Service, and that I 'would give him the beſt direction I could. And 'this I did, and God be thanked ſhe died very 'quietly and very religiouſly, and a good Pro-'teſtant: And my Lord Marquiſs told me, he 'had acknowledged this Service of mine to an 'Honourable Lord, whom I now ſee preſent.

'15. Mr. *Chillingworth's* (*a*) Learning and Abi-'lities are ſufficiently known to all your Lord-'ſhips. He was gone, and ſettled at *Doway*. 'My Letters brought him back; and he lived and 'died a Defender of the Church of *England*. 'And that this is ſo, your Lordſhips cannot but 'know: For Mr. *Pryn* took away my Letters, and 'all the Papers which concerned him, and they 'were examined at the Committee.

'16, 17. Mr. *Digby* was a Prieſt; 'and Mr. *James* [1] *Gentleman*, a School-'maſter in a Recuſant's Houſe. This 'latter was brought to me by a Mi-'niſter (as far as I remember) in *Buckinghamſhire*. 'I converted both of them, and they remain ſettled.

[1] *a Gentleman,* Ruſh. & Pryn.

'18. Dr. *Hart* a Civilian, Son to a Neighbour 'of mine at *Fulham*. He was ſo far gone, that he 'had written part of his Motives which wrought '(as he ſaid) that Change in him. I got ſight of 'them, ſhew'd him wherein he was deceived, 'had God's Bleſſing to ſettle his Conſcience, and 'then cauſed an able Divine to anſwer his Mo-'tives, and give him the Copy.

'19. There were, beſide theſe, Mr. *Chriſtopher 'Seburne*, a Gentleman of an antient Family in '*Herefordſhire*; and, 20. Sir *William Spencer* of '*Yarnton* in *Oxfordſhire*. 21. The Sons 'and Heirs of [2] Mr. *Wintchome* and '[3] Mr. *Willſcot*, whom I ſent with 'their Friends good-liking to *Wad-'ham-College* in *Oxford*; and I re-'ceived a Certificate, *Anno* 1638, of their conti-'nuing in conformity to the Church of *England*: 'nor did ever any of theſe relapſe again to *Rome*, 'but only the old Counteſs of *Buckingham*, and 'Sir *William Spencer*, that ever I 'heard of [4]. And if any of your 'Lordſhips doubt of the Truth of 'any of theſe Particulars, I am able 'and ready to bring full proof of 'them all. And by this time I hope 'it appears, *that one of the ſwaying 'Prelates of the time is able to ſay, he 'hath converted one Papiſt to the Pro-'teſtant Religion.* And let any Cler-'gyman of *England* come forth, and 'give a better Account of his Zeal 'to this preſent Church.

[2] *Winchcomb,* Ruſh. & Pryn.

[3] *Wolleſcot,* Ruſh. & Pryn.

[4] *It being only in God's power, not mine, to preſerve them from Relapſe;* Ruſh. & Pryn.

Note, *That the vulgar Copies of this Speech, printed in* Ruſh. *&c. are very different from this, being taken from the Archbiſhop's Mouth as he ſpoke; this from the Original, as he wrote it.* H. W.

'And now, my Lords, with my 'moſt humble Thanks for your Lord-'ſhips Favour and Patience in hear-'ing me, I ſhall ceaſe to be farther 'troubleſom for the preſent; not 'doubting but I ſhall be able to an-'ſwer whatever ſhall be particularly objected a-'gainſt me.'

After I had ended this Speech, I was commanded to withdraw. As I went from the Bar, there was Alderman *Hoyle* of *York*, and ſome other which I knew not, very angry, and ſaying, it was a very ſtrange Converſion that I was like to make of them; with other Terms of Scorn. I went patiently into the little Committee-Chamber, at the entring into the Houſe. Thither Mr. *Peters* followed me in great haſte, and began to give me ill Language, and told me that he and other Miniſters were able to name Thouſands [6] that they had converted. I knew him not, as having never ſeen him (to my remembrance) in my Life, though I had heard enough of him. And as I was going to anſwer him, one of my Counſel, Mr. *Hearn*, ſeeing how violently he began, ſtept between us, and told him of his uncivil Carriage towards me in my Affliction: and indeed he came as if he

[6] *Hundreds of real Converts to Chriſt, for every one of his pretended ones, and that himſelf had converted above* 120 *Papiſts.* Pryn, *p.* 56.

(*a*) *A deſperate Apoſtate-Papiſt*; *Mr.* Cheynes's *Sermon at his Funeral, informs us how good a Proteſtant he lived and died. Thus Godly* Will. Pryn *in his Marginal Note on this place,* p. 56.

would

would have ſtruck me. By this time, ſome Occaſion brought the Earl of *Eſſex* into that Room, and Mr. *Hearn* complained to him of Mr. *Peters*'s Uſage of me; who very honourably checked him for it, and ſent him forth. Not long after, Mr. *Hearn* was ſet upon by Alderman *Hoyle*, and uſed as coarſly as *Peters* had uſed me, and (as far as I remember) only for being of Counſel with ſuch a one as I; though he was aſſigned to that Office by the Lords.

What put them into this Choler, I know not; unleſs they were angry to hear me ſay ſo much in my own defence: eſpecially for the Converſion of ſo many, which I think they little expected. For the next day a great Lord met a Friend of mine, and grew very angry with him about me; not forbearing to ask what I meant, to name the Particulars which I had mentioned in the end of my Speech, ſaying many Godly Miniſters had done more. And not long after this (the day I now remember not) Mr. *Peters* came and preached at *Lambeth*, and there told them in the Pulpit, that a great Prelate, their Neighbour, (or in words to that effect) had bragged in the Parliament-Houſe, that he had converted Two and Twenty; but that he had Wiſdom enough, not to tell how many Thouſands he had perverted: with much more Abuſe. God of his Mercy relieve me from theſe Reproaches, and lay not theſe Mens cauſeleſs Malice to their charge.

After a little ſtay, I received my Diſmiſſion for that time, and a Command to appear again the next day at Nine in the Morning: which was my uſual Hour to attend, though I was ſeldom called into the Houſe in two hours after.

The Second Day of my Hearing.

I Came as commanded, *March* 13. 1643. But here before the Charge begins, I ſhall ſet down the Articles, upon which, according to the Order of *March* 9. they which were intruſted with the Evidence meant this day to proceed. They were the Firſt and Second Original Articles, and the Second Additional Article: which follow in theſe words.

I. That he hath traytorouſly endeavoured to ſubvert the Fundamental Laws and Government of the Kingdom; and inſtead thereof, to introduce an Arbitrary and Tyrannical Government againſt Law: And to that end hath wickedly and traytorouſly adviſed his Majeſty, that he might, at his own Will and Pleaſure, levy and take Money of his Subjects without their Conſent in Parliament. And this he affirmed, was warrantable by the Law of God.

II. He hath, for the better Accompliſhment of that his traytorous Deſign, adviſed and procured divers Sermons, and other Diſcourſes, to be preached, printed and publiſhed, in which the Authority of Parliaments, and the Force of the Laws of the Kingdom are denied; and an abſolute and unlimited Power over the Perſons and Eſtates of his Majeſty's Subjects is maintained and defended, not only in the King, but alſo in himſelf, and other Biſhops, above and againſt the Law. And he hath been a great Protector, Favourer and Promoter of the Publiſhers of ſuch falſe and pernicious Opinions.

Second Additional Article.

II. That within the ſpace of ten Years laſt paſt, the ſaid Archbiſhop hath treacherouſly endeavoured to ſubvert the Fundamental Laws of this Realm; and to that end hath in like manner endeavoured to advance the Power of the Council-Table, the Canons of the Church, and the King's Prerogative, above the Laws and Statutes of the Realm. And for manifeſtation thereof, about ſix Years laſt paſt, being then a Privy-Counſellor to his Majeſty, and ſitting at the Council-Table, he ſaid, *That as long as he ſat there, they ſhould know that an Order of that Board ſhould be of equal force with a Law or Act of Parliament.* And at another time uſed theſe Words, *That he hoped e'er long, that the Canons of the Church and the King's Prerogative ſhould be of as great power as an Act of Parliament.* And at another time ſaid, *That thoſe which would not yield to the King's Power, he would cruſh them to pieces.*

Theſe three Articles they begun with; and the firſt Man appointed to begin, was Mr. *Maynard*: And after ſome general things againſt me, as if I were the moſt violent Man for all illegal Ways;

I. The Firſt Particular charged againſt me, was out of my Diary: the Words theſe, *The King declared his Reſolution for a Parliament in caſe of the* Scotiſh *Rebellion. The firſt Movers of it were my Lord Deputy of* Ireland, *the Lord Marquiſs* Hamilton, *and myſelf; and a Reſolution voted at the Board, to aſſiſt the King in Extraordinary Ways, if the Parliament ſhould prove peeviſh, and refuſe,* &c. The Time was *December* 5. 1639. That which was inforced from theſe Words, was, Firſt, that I beſtowed the Epithet *Peeviſh* upon the Parliament; and the Second, that this voting to aſſiſt the King in Extraordinary Ways, in caſe the Parliament refuſed, proceeded from my Counſel.

1. To this I replied: And firſt I humbly deſired once for all, that all things concerning Law may be ſaved intire unto me, and my Counſel to be heard in every ſuch Particular.

2. Secondly, that the Epithet *Peeviſh* was a very peeviſh Word, 'if written by me. I ſay, *If*: For 'I know into whoſe hands my Book is fallen; but 'what hath been done with it, I know not. This 'is to be ſeen, ſome Paſſages in that Book are half 'burnt out, whether purpoſely or by chance, God 'knows: and ſome other Papers taken by the ſame 'hand from me, are now wanting. Is it not poſſible 'therefore ſome Art may be uſed in this?' Beſides, if I did uſe the Word *Peeviſh*, it was in my private Pocket-Book, which I well hoped ſhould never be made publick; and then no Diſgrace thereby affix'd to the Parliament. And I hope, ſhould a Man forget himſelf in ſuch an Expreſſion of ſome Paſſage in ſome one Parliament, (and this was no more) it is far ſhort of any thing that can be called Treaſon. And yet farther, moſt manifeſt it is in the very Words themſelves, that I do not beſtow the Title upon that Parliament, in that Caſe; but ſay only, '*If it ſhould prove peeviſh*: 'which is poſſible, doubtleſs, that in ſome Particulars a Parliament may; though for the Happineſs of this Kingdom, I would to God it were 'impoſſible. But ſuppoſe the word *peeviſh* had 'been abſolutely ſpoken by me, is it lawful upon 'Record to ſay the Parliament *An.* 42. '*Hen.* 3. was *Inſanum Parliamentum*, a mad Parliament; and that in the 6 *Hen.* 4. *Indoctum*, an unlearned Parliament; and that in the 4 *Hen.* 6. a Parliament of Clubs? And ſhall it be High Treaſon in me, to ſay a Parliament in ſome one Particular was peeviſh? or but to ſuppoſe if it were? Can any Man think, that an unlearned, or a mad Parliament, or one of Clubs, did not 'do

Sir Ed. Coke, *Inſt. p.* 3. *c.* 1.

'do ſomething peeviſhly? Might my
[o] Speed *in* H. 4. §. 42. 'Predeceſſor, [o] *Tho. Arundel*, tell the 'Commons openly in Parliament that 'their Petitions were ſacrilegious? 'And may not I ſo much as ſuppoſe ſome one 'Action of a Parliament to be *peeviſh*, but it ſhall 'be Treaſon? May an ordinary Hiſtorian ſay of 'that unlearned Parliament, [p] That
[p] Ibid. 'the Commons were fit to enter 'Common with their Cattle, for any 'Vertue they had more than Brute-Beaſts? And 'may not I in my private Notes write the Word '*Peeviſh* of them without Treaſon?

3. Thirdly, Whereas 'tis ſaid, That the *voting at the Council-Table to aſſiſt the King in extraordinary Ways, if,* &c. *was by my Counſel*; there is no ſuch thing in my Diary. There is, that I, with others, adviſed a Parliament; but there is not one Word, that the voting mentioned at the Council-Table proceeded from any Advice of mine. 'So there 'is no Proof from my Diary, and other Proof beſide 'that, was not ſo much as urged; which was not 'in favour, but becauſe they had it not: For had 'they had any other Proof, I ſee already it ſhould 'not have been loſt for want of urging.' Where I deſired their Lordſhips alſo to obſerve in what a Difficulty I have lived with ſome Men, who will needs make me a great Enemy to Parliaments, and yet are angry with me, that I was one, with others, who moved for that Parliament. So it ſeems, nothing that I do can content ſome Men: For a Parliament, or againſt it; nothing muſt be well, if the Counſel be mine.

4. Fourthly, For *the voting of Aſſiſtance in extraordinary Ways*, I was included in the general Vote of the Table; and therefore that cannot be called or accounted my Counſel.

5. Fifthly, It is expreſſed in my *Diary*, whence all this Proof is taken, that it was in and for the *Scotiſh* Buſineſs; and ſo is within the Act of Oblivion. 'And theſe Anſwers I gave to Mr. *Brown*, 'when, in the ſumming up of the Charge againſt me 'in the Honourable Houſe of Commons, he made 'this to be my Counſel to the King; and he began 'with it in his charging of the Points againſt Law.'

II. The ſecond Particular this Day charged againſt me, was, That after the ending of the late Parliament I did uſe theſe Words to the King, *That now he might uſe his own Power*, or Words to that effect. This was atteſted by Sir *Henry Vane* the elder, then a Counſellor, and preſent.

1. To this my Anſwer was, That I ſpake not theſe Words, either in Terms, or in Senſe, to the uttermoſt of my Knowledge.

2. Secondly, If I had ſpoken theſe Words, either they were ill adviſed Words, but no Treaſon, and then they come not home to the Charge; or they are treaſonable, and then I ought by
[q] 1 Eliz. c. 6. §. antepenult. '[q] Law to have been tryed within ſix Months. 'Mr. *Brown*, in his Reply 'to me in the Houſe of Commons, 'ſaid, That this Statute expired with the Queen, 'becauſe it concerned none but her, and the Heirs 'of her Body. I had here urged
[r] Part 4. Inſt. c. 74. '[r] Sir *Edward Coke*, as urging this 'Statute, and commending the Moderation of it: But I was therein 'miſtaken, for he ſpeaks of 1 *Eliz. cap.* 1. And 'that [s] Statute is in force, and is for
[s] 1 Eliz. c. 1. & 1 Ed. 6. c. 12. 'Tryal within ſix Months, for ſuch 'Crimes as are within that Statute. 'So it comes all to one for my Cauſe, 'ſo either of the Statutes be in force. And to this 'Charge in general, I gave the ſame Anſwers 'which are here.'

3. Thirdly, Sir *Henry Vane* is in this a ſingle Witneſs; whereas by [t] Law, he that is accuſed of Treaſon muſt be convicted by two Witneſſes, or his own Confeſſion without Violence; neither of which is in this Caſe. And ſtrange it is to me, that at ſuch a full Table no Perſon of Honour ſhould remember ſuch a Speech, but Sir *Henry Vane*.
[t] 1 Ed. 6. c. 12. §. ult. & 1 El. c. 6. §. ult.

4. Fourthly, Both this and the former Charge relate to the *Scotiſh* Buſineſs; and ſo are within the Act of Oblivion, which I have pleaded.

'Beſides, here is nothing expreſſed in the Words 'charged, which favours of Practice, Conſpiracy, 'Combination, or Force, and cannot therefore 'poſſibly be adjudged Treaſon; eſpecially ſince 'there is no Expreſſion made in the Words witneſſed, what Power is meant: For what ſhould 'hinder the King to uſe his own Power? But legal ſtill; ſince nothing is ſo properly a King's 'own Power, as that which is made or declared 'his own by Law. As for the Inference, That '*this was called his own in oppoſition to Law*: Firſt, 'Sir *Henry Vane* is a Witneſs to the Words only, 'and not to any Inference; ſo the 'Words have but one Witneſs, and 'the Inference none. And per- 'haps it were as well for themſelves, 'as for Perſons queſtioned in great 'Courts, if they who are imploy- 'ed about the Evidence would be 'more ſparing of their [u] Inferences, 'many Men laying hold of them 'without Reaſon or Proof.
[u] *The dreadful Licence of Inferences among our* Engliſh *Pleaders in Caſes of Death.* Speed *in* H. 7. §. 61.

'Laſtly, For the Honour of Sir *Henry Vane*, let 'me not forget this: He is a Man of ſome Years; 'and Memory is one of the firſt Powers of Man 'on which Age works; and yet his Memory ſo 'good, ſo freſh, that he alone can remember 'Words ſpoken at a full Council-Table, which no 'Perſon of Honour remembers but himſelf: Had 'any Man elſe remember'd ſuch Words, he could 'not have ſtood ſingle in this Teſtimony. But I 'would not have him brag of it: For 'I have read in St. *Auguſtine*, that *qui-* Aug. l. 7. de 'dam peſſimi, ſome, even the worſt Civ. Dei. c. 3. 'of Men have great Memories, and 'are *tanto pejores*, ſo much the worſe for having 'them. God bleſs Sir *Henry*.'

I have ſtaid the longer upon theſe two, becauſe they were apprehended to be of more weight than moſt which follow.

III. The next was a Head containing my illegal Preſſures for Money, under which the next Particular was, That in the Caſe of Ship-Money I was very angry againſt one *Samuel Sherman* of *Dedham* in *Eſſex*: That I ſhould ſay *Dedham* was a Maritime Town; and that when the Sum demanded of him was named, I ſhould ſay a proper Sum; whereas the Diſtreſs came to eleven Subſidies.

To this I anſwered, Firſt, Here was no Proof but *Sherman*; and in his own Cauſe. Secondly, He himſelf ſays no more, than that he believes I was the Inſtrument of his Oppreſſion, (as he called it;) whereas his Cenſure was laid upon him by the Council-Table, not by me: Nor was I in any other Fault than that I was preſent, and gave my Vote with the reſt. So here's no Proof at all but his Belief. 'Laſtly, Here can be no Treaſon, 'but againſt *Dedham* or *Sherman*, that I can diſcover.'

IV. The

IV. The next to *Sherman* comes in my great Friend, Alderman *Atkins*; and he teſtifies, That when he was brought to the Council-Table, about the Ship-Money, none was ſo violent againſt him as I was; and that this Preſſure for Ship-Money was before the Judges had given ſentence for the King. And that at another time I preſſed him hard to lend Money, the King being preſent: At which time he conceived that I favoured Alderman *Harriſon* for Country-ſake; becauſe himſelf was committed, and not the other.

To this, I muſt confeſs, I did uſe to be ſerious and zealous too in his Majeſty's Service; but not with any the leaſt Intention to violate Law. And if this, here inſtanced, were before the Judgment given for the King; yet it was long after the Judges had put the Legality of it under their Hands. And I, for my part, could not conceive the Judges would put that under their Hands to be Law, which ſhould after be found unlawful. Therefore in this, as I erred with Honourable Company at the Council-Table, ſo both they and I had, as we thought, ſufficient Guides to lead us.

As for the Partiality which he puts upon me in preſerving my Countryman, Alderman *Harriſon*, from Priſon: Firſt, he himſelf durſt not affirm it upon his Oath, but ſays only, that he conceives I favoured him; but his Conceit is no Proof. Secondly, If I had favoured him, and done him that office, 'tis far ſhort of Treaſon. But the truth is, Alderman *Harriſon* gave a modeſt and a civil Anſwer; but this Man was rough, even to Unmannerlineſs: and, ſo far as I remember, was committed for that.

'And whereas he ſays, I preſſed him hard to 'lend Money, and that none was ſo violent as I; 'he is much miſtaken. For of all Men in that 'Fraternity, I durſt never preſs him hard for any 'thing, leaſt of all for Money. For I knew not 'what Stuffing might fly out of ſo full a Cuſhion, 'as afterwards 'tis ſaid did, when being a Colo-'nel he was preſſed, but not hard, in a little Skir-'miſhing in *Finsbury-Fields*.'

V. Then it was urged, That I aggravated a Crime againſt Alderman *Chambers*, and told him, That if the King had many ſuch *Chambers*, he would have never a *Chamber* to reſt in: That in the Caſe of Tunnage and Poundage, he laboured to take Bread from the King; and that I preſſed upon him in the Buſineſs of Coat and Conduct-Money.

To this I gave this Anſwer, That by the Affection Mr. *Chambers* then ſhewed the King, I had ſome reaſon to think, he deſired ſo many *Chambers* to his Uſe; that if the King had many ſuch Subjects, he might want a Chamber for himſelf; or to that effect. And the violence of his Carriage in that Honourable Aſſembly gave juſt Occaſion to other Men to think ſo. But as for the Buſineſs of Tunnage and Poundage, and of Coat and Conduct-Money, I conceived both were lawful on the King's part. And I was led into this Opinion by the expreſs Judgment of ſome Lords preſent, and the Silence of others in that behalf; none of the great Lawyers at the Table contradicting either: And no Witneſs to this, but Alderman *Chambers* himſelf.

VI. The ſixth Particular was, That I urged the Buſineſs of Ship-Money upon Alderman *Adams*.

To this my Anſwer was, That I never preſſed the Ship-Money, but as other Lords did at the Council-Table, nor upon other Grounds: Nor doth Alderman *Adams* ſay any more, than that he was preſſed to this Payment by me and others. And to me it ſeems ſtrange, and will, I hope, to all Men elſe, that this, and the like, ſhould be a common Act of the Lords at the Council-Table, but ſhould be High Treaſon in no body but in me. And howſoever, if it be Treaſon, 'tis againſt three Aldermen, *Atkins*, *Chambers* and *Adams*.

VII. The Seventh Particular was, That I was ſo violent about the ſlighting of the King's Proclamations, as that I ſaid, A Proclamation was of as great force, or equal to a Statute-Law; and that I compared the King to the Stone ſpoken of in the Goſpel; that *whoſoever falls upon it, ſhall be broken; but upon whomſoever it falls, it will grind him to powder.* S. *Matth.* 21. 44. And for this they brought three Witneſſes, Mr. *Griffin*, *Tho. Wood* and *Rich. Hayles*.

1. This was in the Caſe of the Soap-buſineſs, and * the two Witneſſes were Soap-boilers. They and their Company ſlighted all the Proclamations which the King ſet out; and all the Lords in the Star-Chamber were much offended, (as I conceived they had great reaſon to be) at the great and open Daring of that whole Company. And whatſoever Sentence paſſed upon them in that whole Buſineſs, was given by the Court of Star-Chamber, not by me. * *two of the.*

For the Words: Firſt, theſe Men have good Memories, that can punctually, being plain ordinary Men, ſwear Words ſpoken full twelve Years ſince; and yet, as good as their Memory is, they ſwear doubtfully touching the time, as that the Words were ſpoken in *May* 1632, or 33.

2. Secondly, My Lords, 'tis impoſſible theſe Words ſhould be ſpoken by me. For I think no Man in this Honourable Preſence thinks me ſo ignorant, as that I ſhould not know the vaſt difference that is between an Act of Parliament and a Proclamation. Neither can theſe Gentlemen, which preſs the Evidence, think me ſo wilfully fooliſh ſo to ſpeak, conſidering they accuſe me here for a cunning Delinquent. 'So God forgive 'theſe Men the Falſhood and the Malice of this 'Oath.'

3. For the Words ſpoken of the Stone in Scripture, 'tis ſo long ſince, I cannot recall whether I ſaid it or no: Nor have I any great Reaſon to believe theſe angry Witneſſes in their own Cauſe. But if, by way of Alluſion, I did apply that Place to the King and them, 'tis far enough from Treaſon. 'And let them, and their like, take heed leſt it 'prove true upon themſelves: For ſeldom do Sub-'jects fall upon their King, but in the end they 'are broken; and if it ſo happen that he falls up-'on them, they are ground to powder.' And *Solomon* taught me this Anſwer, where he ſays, *The Anger of a King is Death*, Prov. 16. 14. And yet I would not be miſtaken: For I do not conceive this is ſpoken of a King and his natural Anger, (though it be good Wiſdom to ſtir as little Paſſion in Kings as may be;) but of his legal Anger: According to which, if the Stone roll ſtrictly, few Men can ſo live, but for ſomething or other they may be in danger of grinding.

4. And for theſe Soap-boilers, they have little cauſe to be ſo vehement againſt me. For if the Sentence paſſed againſt them in the Star-Chamber, were in any thing illegal, though it were done by that Court, and not by me; yet I alone, ſo ſoon as I heard but muttering of it, was the only means of reſettling them and their Trade, which none of all

all the Lords elſe took care of. 'And the Sum 'of theſe Anſwers I gave to Mr. *Brown*, when he 'gave up the Sum of his Charge againſt me.'

VIII. The next Particular was about Depopulations. A Commiſſion of Grace, to compound with ſome Delinquents in that kind, was iſſued under the Broad-Seal, to ſome Lords, and other Perſons of Honour of the Council, of which I was one. One Mr. *Talboys* was called thither: And the Charge about this was, That when he pleaded, that by Statute 39 *Eliz.* he might convert ſome, to Paſture; I ſhould ſay, *Do you plead Law here? Either abide the Order, or take your Tryal at the Star-Chamber:* And that he was fined 50 *l.*

In this Particular Mr. *Talboys* is ſingle, and in his own Cauſe; but I was ſingle at no Sitting of that Commiſſion: Nor did I ever ſit, unleſs the Lord Privy-Seal and Mr. Secretary *Coke* were preſent, that we might have Direction from their Knowledge and Experience.

And for the Words (if ſpoken) they were not to derogate from the Law; but to ſhew, that we ſate not there as any Judges of the Law, but to offer his Majeſty's Grace to ſuch as would accept it.

As for the Fine mentioned, we impoſed none upon him or any other, but by the Conſent of the Parties themſelves. If any Man thought he was not faulty, and would not accept of the Favour ſhewed him, we left him to the Law. But the plain truth is, this Gentleman being Tenant to the Dean and Chapter of *Chriſt-Church* in *Oxford*, offered them (as they conceived) great wrong in the Land he held of them; inſomuch as they feared other their Tenants might follow his Example, and therefore complained of him. And becauſe I laid open his Uſage of his Landlords before the Commiſſioners, he comes here to vent his Spleen againſt me. 'And 'tis obſervable, that in all the buſineſs of 'Depopulations, in which ſo many appeared, no one 'complained either againſt me or any other Lord, 'but only this *Talboys*. Mr. *Brown*, when he preſſed the Sum of this Charge againſt me, added, 'That at the Council-Table I was for all illegal Pro'jects, as well as for theſe Incloſures. But, Firſt, 'I was neither for this nor any other, either longer 'or otherwiſe than I underſtood them to be law'ful. And, Secondly, I oppoſed there the Buſineſs 'of Salt and the baſe Money; and I alone took off 'that of the Malt and the Brewing: And three Gen'tlemen of *Hertfordſhire* (which County was princi'pally concerned in the Caſe of the Malt) came 'over to *Lambeth* to give me thanks for it.'

IX. Then was charged upon me the printing of Books, which aſſerted the King's Prerogative above Law, *&c.* The Inſtance was in Dr. *Cowell*'s Book, *Verbo* * *Rex*: That this Book was decryed by Proclamation; That Complaint was made to me, that this Book was printing in a cloſe Houſe without Licence, and by *Hodgkinſon*, who was my Printer; That I referred them to Sir *John Lamb*; That they came to me again, and a third time, and I ſtill continued my Reference; which Sir *John Lamb* ſlighting, the Book came forth. The Witneſſes to this, were *Hunt* and *Wallye*, if I miſtook not their Names.

* *No ſuch word there ſure, it ſhould be* Prerogativa Regis. *W. S. A. C.*

1. For this Book of Dr. *Cowell*'s, I never knew of it, till it was printed; or ſo far gone on in printing, that I could not ſtay it. And the Witneſſes ſay, *it was in a cloſe Houſe, and without Licence*; ſo that neither I nor my Chaplains could take notice of it.

2. They ſay, they informed me of it, but name no time, but only the Year 1638. But they confeſs I was then at *Croydon*: So being out of Town (as were almoſt all the High Commiſſioners) I required Sir *John Lamb*, who, being a High Commiſſioner, had in that Buſineſs as much Power as my ſelf, to look to it carefully, that the Book proceeded not; or if it were already printed, that it came not forth. If Sir *John* ſlighted his own Duty and my Command, (as themſelves ſay) he is living, and may anſwer for himſelf; and I hope your Lordſhips will not put his Neglect upon my Account.

3. As for *Hodgkinſon*, he was never my Printer; but *Badger* was the Man whom I employed, as is well known to all the Stationers. Nor was *Hodgkinſon* ever imployed by me in that kind or any other: Upon juſt Complaint I turned him out of a Place, but never put him into any. And therefore thoſe Terms which were put upon me, of my *Hodgkinſon*, and my Sir *John Lamb*, might have been ſpared. Sir *John* was indeed Dean of the Arches, and I imployed him, as other Archbiſhops did the Deans which were in their Times; otherwiſe no way mine. And *Hodgkinſon* had his whole dependance on Sir *Henry Martin*, and was a mere Stranger to me. 'And this Anſwer I gave to Mr. 'Brown, when he ſumm'd up the Charge. Nor 'could any Danger be in the printing of that Book 'to miſlead any Man; becauſe it was generally 'made known by Proclamation, that it was a Book 'condemned, and in ſuch Particulars; but for other 'things, the Book very uſeful.'

X. The next Charge was, That when Dr. *Gill*, School-Maſter of *Paul*'s School in *London*, was warned out by the Mercers (to the Care of which Company that School ſomeway belongs) upon Dr. *Gill*'s Petition to the King, there was a Reference to ſome other Lords and my ſelf to hear the Buſineſs. The Charge is, That at this Hearing I ſhould ſay the Mercers might not put out Dr. *Gill* without his Ordinary's Knowledge: And that upon mention made of an Act of Parliament, I ſhould reply, *I ſee nothing will down with you but Acts of Parliament; no regard at all of the Canons of the Church:* And that I ſhould farther add, *That I would reſcind all Acts which were againſt the Canons; and that I hoped ſhortly to ſee the Canons and the King's Prerogative of equal force with an Act of Parliament.*

To this I anſwer'd, That if all this Charge were true, yet this is but the ſingle Teſtimony of *Samuel Bland*, an Officer belonging to the Company of Mercers, and no ſmall Stickler againſt Dr. *Gill*, whoſe aged Reverend Father had done that Company great Service in that School for many Years together.

The Reference, he grants, was to me and others; ſo I neither thruſt my ſelf into the Buſineſs, nor was alone in it.

And as there is a Canon of this Church, (*Can.* 77.) That no Man may be allowed to teach School, but by the Biſhop of the Dioceſs; ſo *à paritate rationis*, it ſtands good, they may not turn him out, without the ſaid Biſhop's Knowledge and Approbation. And 'tis expreſſed in another Canon, (*Can.* 79.) *That if any School-Maſter offend in any of the Premiſes* (there ſpoken of) *he ſhall be admoniſhed by his Ordinary; and if he do not amend upon that his Admonition, he ſhall then be ſuſpended from teaching*: Which, I think, makes the Caſe plain, that the Mercers might not turn out Dr. *Gill*, without ſo much as the Knowledge of his Biſhop.

And

And for the Words, That *I ſaw nothing would down with them but an Act of Parliament, and that no regard was had to the Canons*; I humbly conceive there was no Offence in the Words. For though the Superiority by far in this Kingdom belongs to the Acts of Parliament; yet ſome Regard, doubtleſs, is or ought to be had to the Canons of the Church. 'And if nothing will down with Men 'but Acts of Parliament, the Government cannot 'be held up in many Particulars.'

For the other Words, God forgive this Witneſs; for I am well aſſured I neither did nor could ſpeak them. For is it ſo much as probable, that I ſhould ſay, *I would reſcind all Acts that are againſt the Canons?* What Power have I, or any particular Man, to reſcind Acts of Parliament? Nor do I think any Man that knows me, will believe I could be ſuch a Fool, as to ſay, That *I hoped ſhortly to ſee the Canons and the King's Prerogative equal to Acts of Parliament*; ſince I have lived to ſee (and that often) many Canons rejected, as contrary to the Cuſtom of the Place; as in Choice of Pariſh-Clerks, and about the Reparation of ſome Churches, and the King's Prerogative diſcuſſed and weighed by Law: Neither of which hath, or can be done, by any Judges, to an Act of Parliament. 'That 'there is Malice in this Man againſt me, appears 'plainly; but upon what 'tis grounded, I cannot 'tell: unleſs it be that in this Buſineſs of Dr. *Gill*, 'and in ſome other about placing Lecturers, (which 'in ſome Caſes this Company of the Mercers took 'on them to do) I oppoſing it ſo far as Law and 'Canon would give me leave, croſſed ſome way 'either his Opinion in Religion, or his Purſe-'Profit. I was (I confeſs) ſo much moved at 'the Unworthineſs of this Man's Teſtimony, that 'I thought to bind this Sin upon his Soul, not 'to be forgiven him till he did publickly ask me 'Forgiveneſs for this notorious publick Wrong 'done me. But by God's Goodneſs I maſter'd 'my ſelf; and I heartily deſire God to give him 'a ſenſe of this Sin againſt me his poor Servant, 'and forgive him.' And if theſe Words could poſſibly ſcape me, and be within the Danger of that Statute; then to that Statute which requires my Tryal within ſix Months, I refer my ſelf.

XI. The Eleventh Charge of this Day, was the Impriſonment of Mr. *George Waker*, about a Sermon of his preached to prove (as he ſaid) That 'tis Sin to obey the greateſt Monarchs in things which are againſt the Command of God; That I had Notes of his Sermons for four or five Years together, of purpoſe to intrap him; That I told his Majeſty he was factious; That Sir *Dudly Carlton* writ to keep him cloſe; That in this Affliction I proteſted to do him kindneſs, and yet did contrary.

[1] f. *Waker.*

My Anſwer was, That for the Scope of his Sermon, *to obey God rather than Man*, no Man doubts but it ought to be ſo, when the Commands are oppoſite. But his Sermon was viewed, and many factious Paſſages, and of high nature, found in it. And yet I did not tell the King he was factious, but that he was ſo complained of to me; and this was openly at the Council-Table.

And whereas he ſpeaks of Notes of his Sermons for divers Years, with a purpoſe to intrap him; all that he ſays, is, That he was told ſo, but produces not by whom. And truly I never had any ſuch Notes, nor ever uſed any ſuch Art againſt any Man in my Life. For his Commitment, it was done by the Council-Table; and after, upon ſome Miſcarriage of his there, by the Court of Star-Chamber, not by me; nor can that be imputed to me, which is done there by the major Part, and I having no Negative. And if Sir *Dudly Carlton* writ to keep him cloſe at his Brother's Houſe, contrary to the Lords Order, let him anſwer it: And if he ſuppoſes that was done by me, why is not Sir *Dudly* examined to try that Truth? As for the Proteſtation, which, he ſays, I made to his Wife and his Brother, that I complained not againſt him; it was no Denial of my Complaint made againſt him at the firſt, that I heard he was factious: but that after the time, in which I had ſeen the full Teſtimony of grave Miniſters in *London*, that he was not factious, I made no Complaint after that, but did my beſt to free him. And the Treaſon in theſe two Charges, is againſt the Company of the Mercers and Mr. *Waker*.

XII. The next Charge was, That Dr. *Manwaring* having been cenſured by the Lords in Parliament for a Sermon of his againſt the Liberty and Propriety of the Subject, was yet after this preferred by me, in contempt of the Parliament-Cenſure, both to the Deanery of *Worceſter*, and the Biſhoprick of *St. Davids*: And my own Diary witneſſes that I was complained of in Parliament for it; and that yet after this I did conſecrate him Biſhop.

1. To this I anſwered, That he was not preferred by me to either of theſe; and therefore that could not be done in contempt of the Parliament-Cenſure, which was not done at all. For as for *St. Davids*, 'tis confeſſed, Secretary *Windebank* ſignified the King's Pleaſure, not I. And whereas it was added, that this was by my means; that is only ſaid, but not proved. And for *Worceſter*, there is no Proof but the Docket-Book: Now, my Lords, 'tis well known in Court, that the Docket doth but ſignify the King's Pleaſure for ſuch a Bill to be drawn; it never mentions who procured the Preferment. So that the Docket can be no Proof at all againſt me; and other there is none.

2. For the Sermon, 'tis true, I was complained of in Parliament, that I had been the cauſe of Licenſing it to the Preſs; and 'tis as true, that upon that Complaint I was narrowly ſifted, and an Honourable Lord now preſent, and the Lord Biſhop of *Lincoln*, were ſent to Biſhop *Mountain*, who licenſed the Sermon, to examine and ſee whether any Warrant had come from me, or any Meſſage: But when nothing appeared, I was acquitted in open Parliament, to ſome body's no ſmall Grief. 'God forgive them, and their Malice againſt me; 'for to my knowledge my Ruin was then thirſted 'for. And as I anſwered Mr. *Brown*'s ſummary 'Charge, when he preſſed this againſt me, could 'this have been proved, I had been undone long 'ſince; the Work had not been now to be done.'

That he was after conſecrated by me, is true likewiſe; and I hope, 'tis not expected I ſhould ruin my ſelf, and fall into a *Præmunire*, by refuſing the King's Royal Aſſent; and this for fear leſt it might be thought I procured his Preferment. 25 Hen. 8. c. 20. §. ult.

But the truth is, his Majeſty commanded me to put him in mind of him when Preferments fell; and I did ſo: But withal, I told his Majeſty of his Cenſure, and that I feared ill Conſtruction would be made of it.

To this it was replied, That I might have refuſed to conſecrate, the Cauſe why being ſufficient, and juſtifiable in Parliament, and excepted in that Law. 'But how ſufficient ſoever that Cauſe may

'be

'be in Parliament, if I had been in a Præmunire 'there-while, and loſt my Liberty, and all that I 'had beſide, for diſobeying the Royal Aſſent; I 'believe I ſhould have had but cold Comfort when 'the next Parliament had been ſummoned; no 'Exception againſt the Man being known to me, 'either for Life or Learning, but only this Cen-'ſure: nor is there any Exception which the 'Archbiſhop is by that Law allowed to make, if 'my Book be truly printed.'

XIII. Then followed the Charge of Dr. *Heylin*'s Book againſt Mr. *Burton*; out of which it was urged, That an unlimited Power was preſſed very far; and out of *p.* 40. *That a way was found to make the Subject free, and the King a Subject*: that this Man was preferred by me; that Dr. *Heylin* confeſſed to a Committee, that I commanded him to anſwer Mr. *Burton*'s Book; and that my Chaplain Dr. *Braye* licenſed it.

' Heylin *cont.* Burton, *p.* 40.

I anſwered as follows: I did not prefer Dr. *Heylin* to the King's Service; it was the Earl of *Danby*, who had taken honourable Care of him before in the Univerſity. His Preferments I did not procure: for it appears by what hath been urged againſt me, that the Lord Viſcount *Dorcheſter* procured him his Parſonage, and Mr. Secretary *Coke* his Prebend in *Weſtminſter*.

For his Anſwer to the Committee, that I commanded him to write againſt *Burton*, it was an ingenuous and a true Anſwer, and became him and his Calling well; for I did ſo. 'And neither I in 'commanding, nor he in obeying, did other than 'what we had good Precedent for in the Primi-'tive Church of Chriſt. For when ſome Monks 'had troubled the Church at *Carthage*, but not 'with half that danger which Mr. *Burton*'s Book 'threatned to this; *Aurelius*, then Biſhop, com-'manded St. *Auguſtine* to write againſt 'it; and he did ſo. His words are, '*Aurelius ſcribere juſſit, & feci.*' But though I did, as by my Place I might, command him to write an Anſwer; yet I did neither command nor adviſe him to inſert any thing unſound or unfit. If any ſuch thing be found in it, he muſt anſwer for himſelf, and the Licenſer for himſelf. For as for licenſing of Books, I held the ſame courſe which all my Predeceſſors had done: and when any Chaplain came new into my Houſe, I gave him a ſtrict Charge in that particular. And in all my Predeceſſors times, the Chaplains ſuffer'd for Faults committed, and not their Lords; though now all is heaped on me.

Aug. 2. Retract. *c.* 21.

'As for the particular Words urged out of 'Dr. *Heylin*'s Book, *p.* 40. there is neither Expreſ-'ſion by them, nor Intention in them, againſt ei-'ther the Law, or any lawful Proceedings; but 'they are directed to Mr. *Burton* and his Doctrine 'only. The words are, *You have found out a way* '(not the Law, but you Mr. *Burton*) *to make the* '*Subject free, and the King a Subject.* Whereas it 'would well have beſeem'd Mr. *Burton*, to have 'carried his Pen even at the leaſt, and left the King 'his Freedom, as well as the Subject his.'

XIV. From this they proceeded to another Charge; which was, That I preferred Chaplains to be about the King and the Prince, which were diſaffected to the publick Welfare of the Kingdom. The Inſtance was in Dr. *Dove*; and a Paſſage read out of his Book againſt Mr. *Burton*: and it was added, that the declaring of ſuch Diſaffection was the beſt Inducement or Bribe to procure them Preferment.

To this I then ſaid, and 'tis true, I did never knowingly prefer any Chaplain to the King or Prince, that was ill-affected to the Publick. And for Dr. *Dove*, if he uttered by Tongue or by Pen any ſuch wild Speech concerning any Members of the Honourable Houſe of Commons, as is urged, thereby to ſhew his Diſaffection to the Publick; he is living, and I humbly deſire he may anſwer it. But whereas it was ſaid, That this was the beſt Inducement or Bribe to get Preferment; this might have been ſpared, had it ſo pleaſed the Gentleman which ſpake it: but I know my Condition, and where I am, and will not loſe my Patience for Language.

And whereas 'tis urged, That after this he was named by me to be a Chaplain to the Prince his Highneſs; the thing was thus: His Majeſty had ſuit made to him, that the Prince might have Sermons in his own Chappel for his Family. Hereupon his Majeſty approving the Motion, commanded me to think upon the Names of ſome fit Men for that Service. I did ſo: but before any thing was done, I acquainted the Right Honourable the Lord Chamberlain, that then was, with it; my Lord knew moſt of the Men, and approved the Note, and delivered it to his Secretary Mr. *Oldſworth*, to ſwear them. This was the Fact; and at this time, when I put Dr. *Dove*'s Name into the Liſt, I did not know of any ſuch Paſſage in his Book, nor indeed ever heard of it till now. For I had not read his Book, but here and there by ſnatches.

XV. I am now come (and 'tis time) to the laſt Particular of this Day. And this Charge was, The giving of Subſidies to the King in the Convocation, without Conſent in Parliament: That the Penalties for not paying were ſtrict, and without Appeal, as appears in the Act; where it is farther ſaid, that *we do this according to the Duty which by Scripture we are bound unto*; which reflects upon the Liberties of Parliaments in that behalf. But it was added, they would not meddle now with the late Canons for any thing elſe, till they came to their due place.

1. My Anſwer to this was, That this was not my ſingle Act, but the Act of the whole Convocation, and could not be appliable to me only.

2. That this Grant was no other, nor in any other way, *mutatis mutandis*, than was granted to Queen *Elizabeth* in Archbiſhop *Whitgift*'s time. This Grant was alſo put in execution, as appeared by the Originals which we followed. Theſe Originals (among many other Records) were commanded away by the Honourable Houſe of Commons, and where they now are I know not; but for want of them, my Defence cannot be ſo full.

3. For the Circumſtances, as *that the Penalties are without Appeal*, and the like, 'tis uſual in all ſuch Grants. And *that we did it according to our Duty and the Rules of Scripture*, we conceived was a fitting Expreſſion for ourſelves, and Men of our Calling, without giving Law to others, or any Intention to violate the Law in the leaſt. For thus, I humbly conceive, lies the mutual Relation between the King and his People, by Rules of Conſcience: The Subjects are to ſupply a full and honourable Maintenance to the King; and the King (when Neceſſities call upon him) is to ask of his People, in ſuch a way as is, *per pacta*, by Law and Covenant agreed upon between them, which in this Kingdom is by Parliament: yet the Clergy ever granting their own at all times. And that this was my Judgment long before this, appeas

pears by a Sermon of mine appointed to be preached at the opening of the Parliament, in the Year 1625. My Words are theſe; *If you would have indeed a flouriſhing both State and Church, the King muſt truſt and indear his People, and the People muſt honour, obey, and ſupport their King*, &c. This, I hope, is far enough from derogating from any Law: and if I ſhould privately have ſpoken any thing to him contrary to this, which I had both preached and printed, how could his Majeſty have truſted me in any thing?

My Sermon on Pſal. 75. 2, 3. *p.* 14.

This brought this tedious Day to an end. And I had an Order the ſame Day to appear again on Saturday, *March* 16. 1643. with a Note alſo from the Committee which were to charge me, that they meant then to proceed upon part of the ſecond Additional Article, and upon the third Original, and the third and fifth Additional Articles. The ſecond Additional Article is written down before: And here follow the reſt now mentioned to be next proceeded upon.

The Third Original is,

III. He hath by Letters, Meſſages, Threats, Promiſes, and divers other ways, to Judges and other Miniſters of Juſtice, interrupted and perverted; and at other times, by the Means aforeſaid, hath endeavoured to interrupt and pervert the Courſe of Juſtice in his Majeſty's Courts at *Weſtminſter*, and other Courts, to the Subverſion of the Laws of this Kingdom: whereby ſundry of his Majeſty's Subjects have been ſtopped in their juſt Suits, and deprived of their lawful Rights, and ſubjected to his tyrannical Will, to their utter Ruin and Deſtruction.

The Third and Fifth Additionals follow:

III. That the ſaid Archbiſhop, to advance the Canons of the Church and Power Eccleſiaſtical above the Law of the Land, and to pervert and hinder the Courſe of Juſtice, hath at divers times within the ſaid time, by his Letters and other undue Means, and Sollicitations uſed to Judges, oppoſed and ſtopped the granting of his Majeſty's Writs of Prohibition, where the ſame ought to have been granted for Stay of Proceedings in the Eccleſiaſtical Court; whereby Juſtice hath been delayed and hindered, and the Judges diverted from doing their Duties.

V. That the ſaid Archbiſhop about eight Years laſt paſt, being then alſo a Privy Counſellor to his Majeſty, for the End and Purpoſe aforeſaid, cauſed Sir *John Corbet* of *Stoak* in the County of *Salop*, Bart. then a Juſtice of Peace of the ſaid County, to be committed to the Priſon of the *Fleet*, where he continued Priſoner for the ſpace of half a year or more; for no other cauſe but for calling for the *Petition of Right*, and cauſing it to be read at the Seſſions of the Peace for that County, upon a juſt and neceſſary Occaſion. And during the time of his ſaid Impriſonment, the ſaid Archbiſhop, without any colour of Right, by a Writing under the Seal of his Archbiſhoprick, granted away Parcel of the Glebe-Land of the Church of *Adderly* in the ſaid County, whereof the ſaid Sir *John Corbet* was then Patron, unto *Robert* Viſcount *Kilmurry*, without the Conſent of the ſaid Sir *John*, or the then Incumbent of the ſaid Church: which ſaid Viſcount *Kilmurry* built a Chappel upon the ſaid Parcel of Glebe-Land, to the great prejudice of the ſaid Sir *John Corbet*, which hath cauſed great Suits and 'Diſſenſions between them. And whereas the ſaid Sir *John Corbet* had a Judgment againſt Sir *James Stonehouſe* Knight, in an Action of Waſte in his Majeſty's Court of *Common-Pleas* at *Weſtminſter*, which was afterwards affirmed in a Writ of Error in the *King's-Bench*, and Execution thereupon awarded; yet the ſaid Sir *John*, by means of the ſaid Archbiſhop, could not have the Effect thereof, but was committed to Priſon by the ſaid Archbiſhop and others at the Council-Table, until he had ſubmitted himſelf unto the Order of the ſaid Table; whereby he loſt the Benefit of the ſaid Judgment and Execution.

' *Contentions*, Ruſhw.

The Third Day of my Hearing.

SAturday, *March* 16. 1643. In the interim between the 13th and this 16th of *March*, upon ſome ſtrict Charge to look to the *Tower*, my Sollicitor was not ſuffer'd to come in to me. Whereupon, ſo ſoon as I was ſettled at the Bar, before the Evidence began to be open'd, I ſpake to the Lords as follows.

My Lords, I ſtand not here to complain of any Thing, or any Man; but only am inforced to acquaint your Lordſhips with my ſad Condition. Your Lordſhips have appointed my Secretary to be my Sollicitor, and given him leave to aſſiſt me in the turning of my Papers, and to warn in ſuch Witneſſes, and to fetch me the Copies of ſuch Records as I ſhall have occaſion to uſe. And I humbly deſire your Lordſhips to conſider, that myſelf being impriſoned, and ſo utterly diſenabled to do theſe things myſelf; it will be abſolutely impoſſible for me to make any Defence, if my Sollicitor be denied to come to me, as now he is. ' This was granted, and the Hearing adjourned till Monday following; and I humbly thank'd their Lordſhips for it.

' *Here the Relation is imperfect. It ſeems he moved, that his Sollicitor might come to him, and in the mean time the Hearing put off.* W. S. A. C.

The Fourth Day of my Hearing.

THE fourth Day of my Hearing was Monday, *March* 18. and was only my Anſwer to the third Day's Charge, and the only time in which I was not put to anſwer the ſame Day.

I. The firſt Charge of this Day was about *St. Paul's*. And firſt out of my Diary, (where I confeſs it one of my Projects to repair that antient Fabrick;) and three ſtrict Orders of the Lords of the Council, for the demoliſhing of the Houſes built about that Church. One was *November* 21. 1634. the demoliſhing of the Houſes commanded by this before *Jan.* 6. for one, and for the reſt by *Midſummer*. Another was *March* 26. 1631. a Committee appointed, with Power to compound with the Tenants, and with Order to pull down, if they would not compound. The third was *Mar.* 2. 1631. which gives Power to the Sheriffs to pull down, if Obedience be not yielded.

To this I confeſs I did, when I came firſt to be Biſhop of *London*, project the Repair of that antient and famous Cathedral of *St. Paul*, ready to ſink into its own Ruins. And to this I held myſelf bound in general, as Biſhop of the Place; and in particular for the Body of the Church, the Repair

pair of which is by the local Statutes laid upon the Biſhop. And the Biſhop was well able to do it, while he enjoyed thoſe Lands which he had, when that Burden was laid upon him. 'But what 'ſacrilegious Hands deſpoiled that Biſhoprick of 'them, 'tis to no purpoſe to tell.' And truly, my Lords, ſince I am in this preſent Condition, I humbly and heartily thank God, that *St. Paul's* comes into my Sufferings; and that God is pleaſed to think me worthy to ſuffer either for it, or with it any way: though I confeſs, I little thought to meet that here, or as a Charge any where elſe. And ſo God be pleaſed (as I hope in Chriſt he will) to pardon my other Sins, I hope I ſhall be able (Human Frailties always ſet aſide) to give an eaſy Account for this. But whereas I ſaid, *the Repair of* St. Paul's *was a ſtrange piece of Treaſon*; and they preſently replied, that they did not charge the *Repair* upon me, but *the Manner of doing it, by demoliſhing of Mens Houſes*: To that I anſwered as follows; with this firſt, That the Work hath coſt me above One Thouſand and Two Hundred Pounds out of my own Purſe, beſides all my Care and Pains, and now this heavy Charge to boot: no one Man offering to prove, that I have miſ-ſpent or diverted to other uſe, any one Penny given to that Work; or that I have done any thing about it, without the Knowledge, Approbation, and Order of his Majeſty, or the Lords of the Council, or both.

To the Particulars then. For the three Orders taken out of the Council-Books, I ſhall not need to repeat them. But what is the Myſtery, that theſe Orders are reckoned backward, the laſt firſt? Is it to aggravate, as if it roſe by ſteps? That cannot well be; becauſe the firſt Order is the foureſt, if I conceive it right. Beſides, here was real Compoſition allotted for them, and that by a Committee named by the Lords, not by me. And I think it was very real; for it coſt Eight or Nine Thouſand Pounds (as appears upon the Accounts) merely to take down the Houſes (which had no Right to ſtand there) before we could come at the Church to repair it.

And if any thing ſhould be amiſs in any of theſe, (which is more than I either know or believe) they were the Council's Orders, not mine. And ſhall that be urged as Treaſon againſt me, which is not imputed to them ſo much as a Miſdemeanour? Beſides, the Lords of the Council are in the antient Conſtitution of this Kingdom one Body; and whatſoever the major part of them concludes, is reputed the Act of the whole, not any one Man's. And this I muſt often inculcate, becauſe I ſee ſuch publick Acts like to be heaped upon my Particular.

1. The firſt Witneſs about this Buſineſs of *St. Paul's* is *Mich. Burton*, and 'tis charged that his Houſe was pulled down in King *James*'s time; that he was promiſed Relief, but had none; that hereupon he got a Reference from his Majeſty that now is, and came with it to the Council, and was referred to the Committee: That Sir *Hen. Martin* told him, that the Archbiſhop was his hindrance; that he reſorted to me, and that I bid him go to King *James* for his Recompence.

To this my Anſwer was, That this Houſe, which he ſays was his, was (as is confeſſed by himſelf) taken down in King *James*'s time, when an Attempt was made about the Repair of this Cathedral, but nothing done. If he deſired Satisfaction, he was to ſeek it of them who took down his Houſe, not of me. If his Majeſty that now is gave him a Reference, he was by the Lords of the Council, or by me (if to me it were referred) to be ſent to the Sub-Committee, becauſe Satisfaction for each Houſe was to be ordered by them. Nor had I any reaſon to take it on my Care, which was done ſo long before. He ſays, that Sir *Henry Martin* told him that I hindred him: but that's no proof that Sir *Henry Martin* told him ſo; for 'tis but his Report of Sir *Henry Martin*'s Speech; and I hope Sir *Henry* neither did, nor would do me ſuch apparent Wrong. He was the third Man to whom I brake my Intentions touching the Repair, and the Difficulties which I foreſaw I was to meet with; and he gave me all Encouragement. And it may be, when nothing would ſatisfy the eager Old Man, I might bid him go to King *James* for Recompence: but 'tis more than I remember if I did ſo. And this Man is ſingle, and in his own Caſe; and where lies the Treaſon that is in it? Beſides, leaſt Conſideration was due to this Houſe: for not many Years before the demoliſhing of it, it was built at the Weſt End of *St. Paul's* for a Lottery, (it was ſaid to be the Houſe of one *Wheatly*;) and after the Lottery ended, finiſh'd up into a Dwelling-Houſe, to the great annoyance of that Church: the Biſhop, and Dean, and Chapter being aſleep while it was done.

2. The next Charge about *St. Paul's* was witneſſed by *Mary Berry*, That her Husband was fain to ſet up his Trade elſewhere, and that every Man reported the Biſhop was the cauſe of it.

Her Husband was forced by this Remove to ſet up his Trade elſewhere; ſo ſhe ſays: and perhaps in a better place, and with Satisfaction ſufficient to make him a better Stock: Where's the Wrong? Beſide, ſhe is ſingle, and in her own Cauſe, and no Proof, but that every Man reported the Biſhop was the means to remove him. And it is obſervable, that in King *James*'s time, when the Commiſſion iſſued out for the demoliſhing of theſe very Houſes, the Work was highly applauded; and yet no Care taken for Satisfaction of any private Man's Intereſt: 'That now great 'Care hath been taken, and great Sums of Money 'expended about it, yet I muſt be a Traytor, 'and no leſs for doing it. This makes me think 'ſome Party of Men were heartily angry at the 'Repair itſelf, though for very ſhame it be turned 'off upon the demoliſhing of the Houſes.'

3. The next that came in, was *Tho. Wheeler*: He ſays that his Houſe was pulled down by the Committee, by my direction, above eleven Years ago; and that word was brought him of it.

His Houſe was pulled down; but himſelf confeſſes it was by the Committee. It was, he ſays, above eleven Years ago, and the Time limited in that Article is 'ſix Years. He ſays, that word was brought him that I was the cauſe, or gave the direction. Word was brought him, but he names not by whom, nor from whom; ſo all this Proof is a ſingle Hearſay of he knows not whom: whereas I had the Broad Seal of *England* for all that was done. It was replied here, That for demoliſhing of theſe Houſes the King's Commiſſion was no full and legal Warrant; I ſhould have procured Authority from Parliament. I replied to this Interruption, That Houſes more remote from the Church of *St. Paul's* were pulled down by the King's Commiſſion only in King *Edward* the Third's time; and

'*Sixteen.* vide.

and humbly deſired a Salvo might be entered for me, till I might bring the [1] Record: which was granted.

4. The laſt Inſtance for this Charge of *St. Paul's*, was the Houſe of *W. Wakern*; who witneſſed, that he had a Hundred Pound Recompence for his Houſe, but then was after fined in the High-Commiſſion-Court 100 *l.* for Profanation, of which he paid 30 *l.*

To this I gave this Anſwer, That his Charge is true; and that after he had received 100 *l.* Compoſition, the Cry of the Profanation brought him into the High-Commiſſion. It was thus: The Skulls of dead Men (perhaps better than himſelf) were tumbled out of their Graves into his Draught, and part of the Foundation of the Church (as appeared in the taking down of his Houſe) was broken, or pared away, to make room for the Uncleanneſs to paſs into the Vault: And ſurely were I to ſit again in the High-Commiſſion, I ſhould give my Vote to cenſure this Profanation. But himſelf confeſſes, he paid but Thirty Pound of it, which was too little for ſuch an Offence. And beſides, my Lords, this was the Act of the High-Commiſſion, and cannot be charged ſingly upon me.

And I cannot forbear to add thus much more, That the Biſhop, and Dean, and Chapter, whoever they were, did ill to give way to theſe Buildings, and to increaſe their Rents by a Sacrilegious Revenue; no Law, that I know, giving way to build upon conſecrated Ground, as that Church-Yard is. But howſoever, the preſent Tenants being not *in dolo*, I ever thought fit they ſhould have Recompence for their Eſtates, and they had it.

II. The next Charge was about the Shops of the Goldſmiths in *Cheapſide* and *Lombardſtreet*. An Order was made at the Council-Table, *Novemb.* 12. 1634. That within ſix Months the Goldſmiths ſhould provide themſelves Shops there, and no where elſe, till all thoſe Shops were furniſhed; and this under a Penalty, and to give Bond.

Theſe two were the antient Places for Goldſmiths only, time out of mind: and it was thought fit by the Lords, for the Beauty of the Place, and the Honour of the City, to have theſe Places furniſhed as they were wont, and not to have other Trades mixed among them. Beſide, it concerned all Mens Safety; for if any Plate were ſtoln, the Inquiry after it might be made with more eaſe and ſpeed: whereas if the Goldſmiths might dwell here and there, and keep their Shops in every By-place of the City, ſtoln Plate might eaſily be made off, and never heard of. But howſoever, if in this Order there were any thing amiſs, it was the Order of the Council-Table, not mine: and far enough off from Treaſon, as I conceive.

1. Upon this Charge there were two Inſtances. The firſt is Mr. *Bartley*; who ſaid, his Houſe was taken from him, by Order to the Lord Mayor, 1637. That my Hand was to the Order; That he was impriſoned ſix Months, and recovered 600 *l.* Damages of Sir *Ed. Bromfield*; That after this he was committed to *Flamſted*, a Meſſenger belonging to the High-Commiſſion, about Dr. *Baſtwick*'s and Mr. *Burton*'s Books; That after this he was ſent for to the Council, and there heard my Voice only; That when he deſired ſome help, Sir *Thomas Ailsbury*'s Man told him, he were as good take a Bear by the Tooth; That all this was for his entertaining a Man that came out of *Scotland*: and laſtly, That Dr. *Haywood*, my Chaplain, had licenſed a Popiſh Book.

To which I gave this Anſwer; That if the Lord Mayor put him from his Houſe, by Order from the Lords, (being a Stationer among the Goldſmiths) then it was not done by me: and though my Hand were to the Order, yet not mine alone; and I hope my Hand there ſubſcribed no more Treaſon than other Lords Hands did. And if he did recover 600 *l.* againſt Sir *Ed. Bromfield*, who (I think) was the Lord Mayor ſpoken of, ſurely he was a Gainer by the buſineſs. And whereas he ſays, he was after ſeized again, and committed to *Flamſted* about the Books named; if he were (as was informed) a great Vender of thoſe and ſuch-like Books, leſs could not be done to him than to call him to anſwer. He ſays farther, that he was ſent for to the Council-Table, and there he heard my Voice only againſt him. It may be ſo, and without all fault of mine: for that heavy Office was uſually put upon me and the Lord Keeper, to deliver the Senſe of the Board to ſuch as were called thither, and examined there; and by this means, if any ſour or diſpleaſing Sentence paſſed, (how juſt ſoever, it mattered not) it was taken as our own, and the Envy of it fell on us. And that this was ſo, many Lords here preſent know well. He adds what Sir *Thomas Ailsbury*'s Man ſaid, when he would have petitioned again: but ſince Mr. *Bartley* is ſingle here, and in his own Cauſe, why doth he reſt upon a Hearſay of Sir *Thomas Ailsbury*'s Man? Why was not this Man examined, to make out the Proof? And if this Man did ſo far abuſe me, as to ſpeak ſuch words of me, ſhall I be abuſed firſt, and then have that Abuſe made a Charge? That he was troubled thus for a *Scotchman*'s coming to him, is nothing ſo, nor is any Proof offered; though then the Troubles were begun in *Scotland*: and therefore if this had any relation to that Buſineſs, I pleaded again the Act of Oblivion. For that of Dr. *Haywood*, I ſhall give my Anſwer in a more proper place; for 'tis objected again.

2. The ſecond Inſtance was in Mr. *Manning*'s Caſe. He ſpeaks alſo of the Order of the Council, *November* 12. 1634. That the Goldſmiths in their Book make an Order upon it, *June* 15. 1635. That they which obey not, ſhould be ſuſpended, (I think 'tis meant from Uſe of their Trade;) That when ſome intreated them to Obedience, I ſhould ſay, *This Board is not ſo weak, but that it can command*; or to that effect.

For the Council's Order, it was theirs, not mine. For the Order which the Company of Goldſmiths made upon it, it was their own Act, I had nothing to do with it. For the Words, if I did ſpeak them (which is more than I remember) he is ſingle that ſwears them, and in his own Cauſe. But, my Lords, I muſt needs ſay, whether I ſpake it then or not, moſt true it is, that the Council-Table is very weak indeed, if it cannot command in things of Decency, and for Safety of the Subject, and where there is no Law to the contrary. And this was then my Anſwer.

III. The Third Charge of this Day was, That I forced Men to lend Money to the Church of *St. Paul's*: and Mrs. *Moore* was called upon. But this was deſerted.

IV. The next Charge was concerning a long and tedious Suit between *Rich* and *Poole*, about the Parſonage of *North-Cerny* in *Glouceſter-ſhire*: That

[1] *See this Record twice referred to afterwards. In the latter place the uſeful Words of it are recited. So that, perhaps, it will not be neceſſary to print the whole Patent; but if it be, I have a Copy of it.* W. S. A. C. *This came not to my hands.* H. W.

Rich was turned out, after three Years Possession, by a Reference procured by *Poole* to my Lord Keeper *Coventry* and my self; and that I did in a manner act the whole Business at the Reference: That Letters were sent from the Council to Sir *William Masters*, one of the Patrons, to see *Poole* instituted, and to imprison *Rich* if he refused Obedience: That after, by the Lord Marshal's Procurement, there was another Reference obtained to thirteen Lords, who awarded for *Rich*.

I was never more weary of any Business in my Life than I was of this Reference. And I was so far from acting the whole Business, as that I did nothing but as the Lord Keeper directed, the Cause was so entangled with *Quare Impedits*, and many other Businesses of Law. Our Judgments upon full Hearing went with *Poole*, and we certified accordingly. And upon this (it may be) the Letters mentioned were sent down for *Poole*. And if the Lord Keeper that now is, then his Majesty's Sollicitor, could not or durst not meddle, but gave back his Fee, (as was farther urged) his Lordship is living to tell the Cause himself; for here was none set down, though it were urged as if he did it because I was a *Referree*. And in the mean time, this is but a bare Report concerning him. If the thirteen Lords, to whom it was after referred, were of another Opinion, that was nothing to us, who, without any Touch of Corruption, did as our Knowledge and Conscience guided us. And, my Lords, it seems this Title was very doubtful; for after all this, it came into this Parliament, was referred to a Committee, where Mr. *Rich* was very willing to compound the Business. 'And well he 'might; for I was since certified by a Gentleman, 'a Lawyer, that understood well, and was at the 'Hearing of that Cause, that it was one of the 'foulest Causes, on *Rich*'s side, that ever he heard. 'And out of this I took the Sum of my Answer, 'which I gave to Mr. *Brown*, when he summed up 'my Charge.'

The Witnesses to this Charge were Mr. *Rich* his Brother, and my good Friend Mr. *Talboys*. But this latter witnesses nothing but that he heard me say that *Poole*'s Behaviour was unfit; so there I checked the one Party: And that upon some Words given me by *Rich*, I should say, *Do you throw Dirt in my Face?* And why might I not ask this Question, if his Words deserved it? So upon the matter, here is *Rich* single in his Brother's Case, and nothing throughout that looks like Treason.

Here I had Snap given me, That I slighted the Evidence: Whereas they (as 'twas said) did not urge these Particulars as Treason, but as Things tending to the Violation of Law, and should be found to make Treason in the Result. 'The truth 'is, I did then think within my self, that such 'Evidence might very well be slighted in an Accu- 'sation of Treason. But I thought better to for- 'bear; and so in my continued Patience expected 'the next Charge.'

V. Which was Mr. *Foxlie*'s Imprisonment about Popish Books. That he was tender'd the Oath *ex Officio*, then brought before the Council, and imprisoned again by a Warrant under my Hand and others, and my Hand first to the Warrant, his Wife not suffer'd to come to him till he was sick; that the chief Cause of all this was the Impropriations, because he desired to name the Men for the Feoffment.

My Lords, this Man confesses he was called in question about Popish Books; but expressing no more, I cannot tell what to make of it; nor can I tell how to accuse him of Popish Books. 'For I 'cannot tell which is least, his Understanding of 'them, or his Love to them.' And for tendring him the Oath *ex Officio*, that was the usual Proceeding in that Court. When he was brought before the Lords of the Council, he says the Warrant for his Imprisonment was under my Hand, and others: This was according to Course; so the Commitment of him was by the Lords, not by me. But my Hand was first; so was it in all Things else, to which I was to set it. And the Restraint of his Wife from coming to him, was by the same Order of the Lords: And upon her Petition, when her Husband was sick, both of them confess she had Admittance. But whereas he says the chief Cause of his Commitment was the Feoffment, he is much mistaken: Himself says before it was about Popish Books. This I am sure of, the Feoffment was not so much as mentioned against him; though he freely confesses that he got twelve Men to undertake that Feoffment: which was a great deal more Power than he could take to himself by Law. And his Wife speaks not one word to the Cause of his Imprisonment. So he is single, and in his own Cause; and no Treason, unless it be against Mr. *Foxlie*.

VI. The next Charge of this Day was Mr. *Vassal*'s Imprisonment: And to save Repetition, I shall weave all the Circumstances of Aggravation and my Answer together.

First, He is single in all, both Substance and Circumstance. Secondly, He says, *That he conceives I was the cause of his Imprisonment.* But his Conceit is no Proof. He says again, That I said at the Council-Table, (whither he was called) *Why sit we here, if we be not able to judge?* It may be, my Lords, I said so; I remember not now: But if I did say so, it was of such Things only as were fit and proper for that honourable Board to judge of. Then he charged me, that I should there say, *That he did eat the Bread out of the King's Childrens Mouths; and that if he were in another Country he would be hang'd for it.* 'I doubt this Gentle- 'man has borrowed some of Sir *Henry Vane*'s Me- 'mory: But I remember no such thing.' Yet if I did say it, it was no Treason: For if I did say he might be hang'd for the like in some other Countries, it was because the Laws and Customs of other Countries, and this of ours, differ in many Things. So that by this Speech he was to thank the Law of the Land for his Preservation, notwithstanding his Opposition against Majesty; which, where the Laws were not so favourable to the Subject, would not be endured.

He says, *He was fain to deposite* 300*l.* *into the Hand of Sir* Abra. Dawes, *and that it was taken out the next Day:* But he says withal, it was done by a Decree at the Council-Board; and I hope I shall not be held Author of all Decrees which passed there. He says that I called him *Sirrah:* A high Crime, if I did so! High Treason at least! But sure this Gentleman's Spleen swell'd up *Sir* into *Sirrah:* 'For that is no Language of mine to meaner 'Men than Mr. *Vassal* is. The main of this 'Charge is Words; and those (if utter'd) hasty, 'not treasonable. And as *M. Lepidus* 'spake in the Case of *C. Lutorius Pris-* [a] Tacit. L. 3. Annal. 'cus, *Vana à sceleſtis, dicta à maleſi-* 'ciis *differunt*; Vain Things differ 'from wicked, and Words from malicious Deeds. 'And let any Man else be sifted as I have been 'for all the time I have been a Bishop, which is 'now upon the Point of twenty and three Years,

'and

'and I doubt not but as high Words as these will 'be heard fallen from him upon less occasion, and 'of greater Personages than Mr. *Vassal* is. Be- 'sides, Mr. *Vassal*, at the end of his Testimony, 'desired the Lords he might have Reparation; 'which altogether in Law infirms that which he 'testified.'

VII. After this followed a Charge about a Grant passed from his Majesty to one Mr. *Smith*. The Difference was between Mrs. *Burrill* and him. As far as I can recall, it was thus: The King had made a Grant to Mr. *Burrill*, in his Life-time, of a Wharf, or something else belonging to the *Thames*. Mr. *Smith* conceals this, and gets a Grant from his Majesty over the head of the Widow and her Children: And, as himself confesses, his Majesty being informed that Mrs. *Burrill* was Sister to the reverend Prelate Bishop *Andrews*, being then dead, * should say, That he would not have granted it to Mr. *Smith*, had he known so much. This was an honourable Memory of his faithful Servant, her worthy Brother. But whatsoever was done in this Business, was by Order of the Council-Board, and not by me; as was also the 250 *l.* which (he says) was paid in to Sir *William Beecher*, (by way of Deposite, as I conceive.) In which, if he had any hard Measure, the Law was open for his Right. And in the whole Business he is single, and in his own Cause.

* *did.*

VIII. The next Charge was Sir *Jo. Corbet's*; which because it is expressed at large in the Article before recited, I shall not here repeat, but apply the Answer to it, which I then gave.

Sir *John* says he *was sent for about reading the* Petition of Right *at a Sessions in the Country; and that the Earl of* Bridgewater *should say he was disaffected to the King*. This concerns not me in any thing. He says, *That for this he was committed, lay long in the* Fleet, *and was denied Bail*. But he says it was denied by the whole Board. 'So, by his 'own Confession, this was the Act of the Council, 'not mine. And this Answer I gave to Mr. *Brown*, 'when he put this part of the Charge into his 'Sum.'

In his Cause with Sir *John Stonehouse* about a Waste, I cannot recall the Particulars: But whatever was done therein, himself confesses was by Order at the Council-Table, and his Majesty present, *April* 18. 1638.

For the Isle built by the Lord Viscount *Kilmurry*, the Grant which I made, was no more than is ordinary in all such Cases; and 'tis expressed in the Body of the Grant, *Quantum in nobis est, & de jure possumus*. So there is nothing at all done to the prejudice of Sir *John's* Inheritance: For if we cannot grant it by Law, then the Grant is voided by its own Words. And that the Grant was such, and no other, I shew'd the Deeds ready attested out of the Office. Besides, had I wronged him, there was an ordinary Remedy open by Appeal to the *Delegates*. And this was well known to him; for he did so appeal from a like Grant against him by the now Lord Bishop of *Duresme*, then of *Litchfield*, and Sir *John's* Diocesan. And whereas 'tis alledged, *That I made this Grant without the Consent of him the Patron, or the then Incumbent*; Sir *John* acknowledges, like a Gentleman, that I sent unto him for his Consent, if it might have been had. And this I foresaw also, that if I had denied the Lord Viscount that which was not unusual, then the Complaint would have fallen more heavy on the other side, that I made Persons of Quality in a manner Recusants, by denying them that Conveniency which was in my power to grant. So I must be faulty, whatever I do.

IX. Then the Business of the Tythes of *London* was raised up in Judgment against me. And it was read out of my Diary, that I projected to give the Ministers Assistance therein.

I had been much to blame, having been Bishop of *London*, should I have had other Thoughts: For their Case is very hard; all their Offerings being shrunk away into nothing but a poor *Easter*-Book. The Ministers of *London* had often petitioned about some Relief long before my Time; and I did then, and do still think it most just they should have it. 'For they 'are now under the Task-Masters of *Egypt*; (*Exod.* '5. 7.) the Tale of Brick must be made, they must 'preach twice a Sunday, get Straw where they can.' And yet I never thought of any thing contrary to Law, had all been done which I desired: For that was no more than that the Citizens would voluntarily yield to some reasonable Addition, where Right and Need appeared. And this, I am sure, nor did nor could cross with the Act of Parliament concerning the Tythes of *London*. And Mr. *Mos*, who is their only Witness in this Particular, says no more against me, but that *I pressed this Business much and often*. Which is most true I did; and held it my Duty so to do; but still in the way before mentioned.

X. After this came the great Charge (as it was accounted) concerning the Censure of Mr. *Pryn*, and *Burton*, and *Bastwick*, in the *Star-Chamber*, and their Banishment (as 'tis called) upon it. The Witnesses produced in some Circumstances of that Cause, were Mr. *Cockshott*, *Tho. Edwards*, *William Wickens*, Mr. *Burton*, Mrs. *Bastwick*, and Mr. *Pryn* himself. The Censure is known and urged to be against Law: But so far as any Particular is put upon me, my Answer is present to it.

1. And, First, for Mr. *Cockshott*, he says, Mr. *Attorney* Banks *sent him* (being then his Servant) *to give me an Account of that Business*. Hence 'tis inferred that I took care of it. This might have had some shew of Proof, if I had sent to Mr. Attorney to give me an Account of it. But there's no Word of any such Proof. And yet, considering what relation their Cause had to the Church, if I had sent and desired some Account of the Proceedings, I humbly conceive (my Place in the Church considered) it could have been no great Crime.

2. Then were read certain Warrants, one *Feb.* 1. 1632. for Commitment, another of *Feb.* 2. 1636. to bar Access to them. These were Acts of the Lords sitting in *Star-Chamber*, not mine. Then was read a third Order, after Sentence given, of *May* 13. 1634. for the seizing of his Books. But this, as the former, was an Act of the Court, not mine: And 'tis expressed in the Order (as the Charge it self lays it down) for the Disposal of the Books according to Law. Then the Warrant of their Commitment to the Islands, *Aug.* 27. 1637. This Commitment was no Device of mine; nor did I ever hear of it till it was spoken by others in the *Star-Chamber*. Nor do any one of these Warrants prove any thing that can be called my Act. And I humbly conceive that I ought not by Law, nor can by Usage of Parliamentary Proceedings, be charged single for those Things which were done in publick Courts. The last Order was, *Nov.* 12. 1637. about the Aldermen of *Coventry*, and the *Quo Warranto* resolved upon against the Charter of that City, *only for supposed Favours shewed to Mr.* Pryn *in his Passage that way*. First, 'tis confessed in the Charge that this was an Act of the Lords. Secondly, That it was made at a full Board. Third-

ly, 'Tis not urged that any one Man diſliked it. Fourthly, The Complaint which cauſed it, was, that both Aldermen and their Wives, and other Citizens, were not content to ſhew Mr. *Pryn* Kindneſs; but they both did and ſpake that which was diſgraceful to the *Star-Chamber* Sentence. But howſoever, there is no Particular in that Order that is or can be charged upon me.

3. This for the Warrants. The next Witneſs concerning this Charge was *Tho. Edwards*. He ſays, *That three Hampers of Mr.* Pryn's *Books were taken out of his Houſe*, (whither it ſeems they were conveyed for Safety) *and no Warrant ſhewed to take them.* The weaker Man he, to let his Friend's Books go ſo. But this Witneſs hath not one Word of me.

4. The next Witneſs was *William Wickens*. He ſays, *He knew of no Warrant neither; but that Licence was given by the Sheriffs about ſix Years ſince.* Here's never a Word concerning me: Nor am I to anſwer for the Sheriffs Act. And whereas it is an Aggravation in the Charge, *That all Mr.* Pryn's *Books were ſold; Tho. Edwards* ſays there were but three Hampers of them; and this Witneſs ſays he bought them for two and thirty Pounds. And theſe neither by Number nor Price could be half of Mr. *Pryn*'s Books, if I have heard Truth of his Library.

5. After this Man's Teſtimony, comes Mr. *Pryn* himſelf in his own Cauſe. He made a long Relation of the Buſineſs, and full of Bitterneſs againſt me. This I doubt not was purpoſely done, to repreſent me as odious as he could to the Lords and the Hearers. But I ſhall aſſume nothing to my ſelf, that was done by Order of the Court of *Star-Chamber*: Whatſoever was done there by common Conſent, was their Act, not mine; and if any Treaſon be in it, they are as guilty as I; for Treaſon admits no Acceſſaries. Nor will I meddle with the Language: God forgive him that, and whatever elſe he hath done againſt me. Only I ſhall anſwer to all ſuch Particulars of his as ſeem to touch upon my ſelf.

(1.) Firſt then he ſays, *He brought a Prohibition*, An. 1629. *and that was the Ground of my Hatred againſt him.* For Prohibitions, I ſhall anſwer when they are charged: But as I remember not this, ſo I bare him no hatred; and bearing him none, it could not be for that cauſe: Nor doth he ſo much as offer to prove it was.

(2.) Next he ſays, *I gave Direction to Mr. Attorney* Noy, *and that Dr.* Heylin *drew ſome Informations for him.* Dr. *Heylin* was well acquainted with Mr. Attorney; but how long, or upon what Grounds, I know not: Nor did I give Mr. Attorney any Direction. What Dr. *Heylin* did, if he did any thing, is nothing to me, unleſs I ſet him on; which is not proved, nor ſworn.

(3.) He farther ſays, That *Mr. Attorney read his Book twice over, and ſaid, that he found nothing amiſs in it.* I know not what Mr. Attorney ſaid to him, nor what he may ſay of Mr. Attorney now he is dead: This I am ſure of, and 'tis well known to ſome of your Lordſhips, he ſaid far otherwiſe in open Court.

(4.) He ſays, That *his Book was licenſed to the Preſs, and after that ſeized; and that the Meſſenger told him it was done by me.* This was done by Warrant of the High Commiſſion, not by me: Nor doth he offer any Proof againſt me, but that the Meſſenger told him ſo; which is a bare Hearſay, and no Proof.

(5.) Then he ſays, That *there was another Order given about his Buſineſs, and that I did it.* But he brings no Proof for this, but that Mr. *Ingram*, the then Keeper of the *Fleet*, told him ſo. But this is as bare a Hearſay as the former, and Mr. *Ingram* not produced to make out the Proof.

(6.) Then he ſays, *He writ me a Letter, and that I ſent it to Mr. Attorney, to have him yet farther proceeded againſt.* 'Tis true, my Lords, he did write unto me; but whether it were a Letter, or a Libel, I leave other Men to judge. This Letter I did ſend to Mr. Attorney; but only to let him ſee how I was uſed, not to have any farther Proceeding againſt him. But Mr. Attorney was ſo moved at the ſight of it, that when he ſaw me next, he told me he would call him *Ore tenus* for it. Therefore, it ſeems, ſomewhat was very much amiſs in it, call the Writing what you will.

(7.) He ſays, *Mr. Attorney thought he had not kept the Letter; but he was deceived, for he had it.* But how was Mr. Attorney deceived? I'll tell your Lordſhips what himſelf told me. When Mr. Attorney ſaw that I would not agree to any farther Proſecution, he ſent for Mr. *Pryn*, ſhewed him the Letter, and thought, after he had read it, to give him ſome good Counſel, to deſiſt from that libelling Humour of his. But Mr. *Pryn*, after he had got the Letter into his hands, went to the Window, as if he meant to read it; and while Mr. Attorney was otherwiſe buſied, he tare it into ſmall pieces, and threw it out at the Window; and then ſaid unto him, *This ſhall never riſe in Judgment againſt me.* Now he confeſſes he hath the Letter ſtill, and that Mr. Attorney was deceived: Belike he tare ſome other Paper for it, and put the Letter in his Pocket. 'But that you may ſee 'the Honeſty of this Man, and what Conſcience 'he makes of that which he ſpeaks upon his Oath; 'here he ſays he had the Letter ſtill, and that 'Mr. Attorney was deceived: And yet after 'this, when he ſets out his Breviate of my Life, he confeſſes, in an 'unſavoury marginal Note, *That he 'tare it, Mr. Attorney having need of 'ſuch a Paper.* And for this Breviate 'of his, if God lend me Life and Strength to end 'this firſt, I ſhall diſcover to the World the baſe 'and malicious Slanders with which it is fraught.'

W. Pryn's *Breviate of the Archbiſhop's Life*, p. 19.

(8.) He went on, and ſaid, *There was an Order made againſt him when Term was done, ſo that he could have no Remedy.* This is directly againſt the Court and their Order, not againſt me.

(9.) Then he cites out of the Epiſtle before my Speech in the Star-Chamber, That *I cenſured him for having his Hand in the Pamphlets of thoſe times, and yet was doubtful of it.* The Words are; *For I doubt his Pen is in all the Pamphlets.* But, Firſt, 'tis acknowledged I gave no Vote at all in his Cenſure; and if I did not judicially cenſure him, then ſure I was not doubtful, and yet cenſured. Secondly, He was cenſured upon his own Pamphlet: And his Hand was certainly in his own, what Doubt ſoever I might make of its being in theirs. And, Thirdly, if the Words be extended to their Pamphlets alſo, that's nothing to prove I doubted of the Juſtneſs of the Sentence. For the Words are not, *I doubt his Pen is in all thoſe Pamphlets of Mr.* Burton *and Dr.* Baſtwick; but in all the Pamphlets, whether their Libels, or any others: ſo I might be doubtful of the one, and yet certain enough of the other.

Paulo poſt medium.

(10.) And

(10.) And whereas he adds, That *he was jointly charged with Dr.* Baſtwick *and Mr.* Burton, *yet could not be ſuffered to ſpeak together for a joint Anſwer; and that his Croſs-Bill was refuſed*: All this was done by the Court of Star-Chamber, not by me. And your Lordſhips know well the Lord Keeper managed the Affairs of that Court, not I.

(11.) Then he ſays, That *at laſt Mr.* Holt *came to him, but was threatened that very Afternoon for it.* But he doth not tell your Lordſhips by whom; and for my part, more than civil giving him the time of the day, I never ſpake with him in all my Life.

(12.) He tells your Lordſhips next, *how he paſſed through* Coventry (to which I have ſpoken already) *and how through* Cheſter, *and how ſome* Cheſter *Men were uſed concerning him and his Entertainment.* But, my Lords, whatſoever was done in this, was by the High Commiſſion at *York*; and if any thing be therein amiſs, they muſt anſwer that did it.

(13.) Laſtly, He ſpake of ſending Sir *William Balfore* to me, and ſome other like Particulars. Of all which there is no Proof, but a bare Relation what Mr. *Hungerford*, Mr. *Ingram*, and Sir *William Balfore* ſaid; which is all Hearſay, and makes no Evidence, unleſs they were preſent to witneſs what was ſaid. 'And here give me leave to obſerve, that Mr. *Pryn* hath in this Charge woven together all that he could ſay concerning both Cauſes, for which he was cenſured: For in the third Particular he ſpeaks of his Book, for which he was firſt cenſured; and in the ninth and tenth of his Croſs-Bill, and the like, which were in his ſecond Cauſe.'

6. The ſixth Witneſs was Mr. *Burton*, a Party too. For that which he ſaid agreeable to Mr. *Pryn*, it received the ſame Anſwer. And he added nothing new, but *that his Wife was kept from him by Warrant from the Lords.* And if it was by the Lords Order, then was it not by me. And when it was replied, That till he was ſentenced to *Guernſey*, his Wife had acceſs to him: Mr. *Burton* anſwered, Yea; *but*, my Lords, *ſhe was not ſuffered to be with me at Nights.* At which the Lords fell a laughing, and there ended his Charge.

7. The laſt Witneſs was Mrs. *Baſtwick*; and ſhe alſo ſaid nothing different from Mr. *Pryn*, but that ſhe was kept from her Husband, and that ſhe petitioned the Lords about it; but of me in particular, not one Word. 'And though Mr. *Brown*, in his laſt Reply upon me, ſaid, The Time of theſe Mens Cenſure, was the noted Time of the Oppreſſion of the Subjects Liberty; yet I ſhall crave leave to ſay of theſe Men, as St. *Auguſtine* once ſaid of two great *Donatiſts* in his time, who (it ſeems) had received ſome Sentence, and afterwards a Return, not altogether unlike theſe Men: (they were *Felicianus* and *Pretextatus*) of thoſe thus St. *Auguſtine*; *If theſe Men were innocent, why were they ſo condemned? And if they were guilty, why were they with ſuch Honour returned and received?* This applies it ſelf. And here I am willing to put the Reader in mind too, That Mr. *Brown* drawing up an exact Sum of my Charge, and preſſing it hard againſt me, to my Remembrance (and I think my Notes could not have ſlipped it) paſſed by this Charge concerning Mr. *Pryn*; and I cannot but think he had ſome Reaſon for it.'

Si innocentes erant, quare ſic damnati ſunt? ſi ſcelerati, quare ſic recepti? *Aug. Epiſt.* 172.

XI. This tedious Charge being over, the World ran round, and I was brought back again to another Charge about demoliſhing the Houſes at *St. Paul's*; and here three Witneſſes more came againſt me.

1. The firſt was Mr. *Bently*: He ſaid, *There were above ſixty Houſes pulled down.* I anſwered, I know not the Number; but if there were ſo many, the Recompence given was ſufficient for more. He ſaid farther, That *there was twenty Yards between the Church and ſome of the Houſes.* There were very few, if any ſuch, (let him look to his Oath;) but then ſome were cloſe upon the Wall of the Church. And ſuppoſe all had been twenty Yards diſtant; that was not room enough to bring in, and lodge Materials for the Repair, and to turn the Carriages. And here again I made mention of my *Salvo*, before deſired, for the Record of *Ed.* 3. touching the like Buildings, and their Demolition.

2. The ſecond Witneſs was Mr. *Goare*. For the ſixty Houſes, as was before teſtified, I gave the ſame Anſwer; as alſo, that the Act of the Council-Table cannot be ſaid to be my Act. For St. *Gregory's* Church, they were not left without a Place for Divine Service, (as he would fain have it thought:) For they were aſſigned to a part of *Chriſt-Church*, till another Church might be built for them. And for the pulling down of St. *Gregory's*, 'tis well known to divers of that Pariſh, that I was not ſo much as one of the Referrees, to whoſe View and Conſideration it was referred. But the truth is, this Man rented the Parſonage-Houſe, and had a good Pennyworth of it to gain by his Under-Tenant. The going down of that Houſe troubles him, and not the Church.

3. The third Witneſs, *Walter Biggs*, ſays nothing different from the two former; *but that I ſaid I was oppoſed for the pulling down of the Houſes.* Whence it was inferred, that it was my Act; becauſe I was oppoſed. But, my Lords, I hope, I might ſay, [I was oppoſed] without any Offence, or without taking the Order of the Council-Table to my ſelf: For 'tis well known the Work of that Repair, under God, was mine; and I took no indirect, no oppreſſing way to it: nor can I now be aſhamed of that, which, in future times, in deſpite of the preſent Malice, will be my Honour. So that the Care of the Work lying upon me, I might well ſay *I was oppoſed*, though the Oppoſition went higher, againſt the Orders of the Lords.

XII. The laſt Charge of this Day, was about the putting down of two Brewers in *Weſtminſter*, becauſe the exceſſive and noiſome Smoke from thence much annoyed the King's Houſe, Gardens and Park at *St. James's*. Theſe two were Mr. *Bond* and Mr. *Arnold*.

1. For Mr. *Bond*, he begins with ſomewhat that I ſhould ſay at the Council-Table; as namely, that he muſt ſeal a Bond of two thouſand Pounds to brew no more with Sea-Coal. Now this argues, if I did ſo ſpeak, that it was in delivering to him the Senſe of the Board; which Office (as I have before expreſſed, and is well known) was uſually put upon me, if I were preſent. And your Lordſhips may here again ſee what Envy hath followed me upon that which I could not decline. He ſays farther, That upon this *Mr. Attorney* Banks *proceeded againſt him in the Exchequer*; That there, upon ſome Occaſion, the Lord Chief Baron ſhould

ſay,

ſay, *Ye are wiſe Witneſſes for the King*; That *his Counſel were forbid to plead, and ſo a Verdict paſſed for the King.* All this is nothing to me; I was neither Chief Baron nor Witneſs, nor one of the Jury that gave the Verdict. He ſays, *He was informed, that there was an Order of Council made, that no Man ſhould put up a Petition for him*: But himſelf doth not ſo much as mention, that this Order was procured by me: And it is but a Report that no Petition might be delivered for him; and none of them that told him ſo, produced for Proof. So he ſcandalizes the Lords by Hearſay.

Next he ſays, That *the King graciouſly ſent him with a Reference to the Council for Satisfaction.* Firſt, I muſt believe, if he were ſo ſent, the Wrong being only the King's, and he willing he ſhould have ſatisfaction however for his Loſs; 'That the 'Lords would never refuſe, in ſuch a caſe, what-'ſoever is here ſaid to the contrary. Secondly, 'It may be obſerved how gracious the King was 'to the Subject; that though the Annoyance 'was great to that Houſe of his Recreation and 'Retiring near the City, yet he would not have 'Mr. *Bond* ſuffer without Satisfaction: notwith-'ſtanding which Goodneſs of the King, he comes 'into this great Court; and ſo he may have a 'blow at me, blaſts (as much as in him lies) all 'the King's Proceedings, under the Name of Op-'preſſion, and that in a high degree.' He ſays alſo, *That a Friend of his perſuaded him to come to me, and offer me ſomewhat to* St. Paul's; *and that he did come to me accordingly, and that I ſaid I muſt have of him a Thouſand Pounds to* St. Paul's: *That he was not unwilling to give it, becauſe his Brewing was worth twice as much to him.* My Lords, I humbly deſire your Lordſhips to conſider this part of the Charge well. Firſt, what Friend of his this was, that came ſo to him, he ſays not, nor do I know, and ſo have no poſſibility to examine. Secondly, he ſays not that I ſent this Friend of his to him, thus to adviſe him; and then his coming no way concerns me. Thirdly, when he was come upon this Friend's perſuaſion, if he were willing to give a Thouſand Pounds to *St. Paul's*, in regard of his double Gain from his Brew-Houſe, as himſelf confeſſes; I do not ſee (under favour) what Crime or Oppreſſion is in it. Laſtly, I remember none of this, and let him well weigh his Oath with himſelf; for I cannot call to mind one Penny that he gave to *St. Paul's*: nor yet ſhall I ever think it a Sin, to take a Thouſand Pounds to ſuch a Work, from any rich and able Man that ſhall voluntarily offer it; eſpecially upon hope of gaining twice as much.

To make this Charge the heavier, he ſays, I ſent him to the Queen-Mother, who lay then at *St. James's*; and that there he was laboured by ſome about her to change his Religion, and then he ſhould have all Favour. This is a bold Oath; let him look to it, for I ſent him not. It may be I might tell him, that if the Queen-Mother were offended with the Annoyance from his Houſe, it would not be in my power to help him; which was true. And that about his Religion, was added, to make your Lordſhips think that I ſent him thither for that purpoſe: but God be thanked, this Witneſs ſays not any one word tending that way. And for the Queen-Mother, ſince ſhe is thus mentioned, I ſhall crave leave to ſay two things: the one, That I did both in open Council, and privately, oppoſe her coming into *England*, with all the ſtrength I had; though little to my own eaſe, as I after found: the other, That after ſhe was come, the Lords of the Council went in a Body to do their Duty to her; that time I could not but go; but never either before or after was I with her.

Then he concludes, That there was a *Capias* out for him, and that he was fain to make an eſcape by night; which he did to Alderman *Pennington*, who very nobly ſuccoured him privately in his Houſe. All which concerns me nothing.

2. The other Witneſs is Mr. *Arnold*; who told as long a Tale as this, to as little purpoſe. He ſpeaks of three Brew-Houſes in *Weſtminſter*, all to be put down, or not brew with Sea-Coal; that Secretary *Windebank* gave the Order. Thus far it concerns not me. He added, that I told him they burnt Sea-Coal: I ſaid indeed, I was informed they did; and that I hope was no offence. He ſays, That upon Sir *John Banks*'s new Information, four Lords were appointed to view the Brew-Houſes, and what they burnt. But I was none of the four, nor did I make any Report, for or againſt. He ſays, Mr. Attorney *Banks* came one day over to him, and told him that his Houſe annoyed *Lambeth*, and that I ſent him over. The truth is this; Mr. Attorney came one day over to dine with me at *Lambeth*, and walking in the Garden before Dinner, we were very ſufficiently annoyed from a Brew-Houſe; the Wind bringing over ſo much Smoke, as made us leave the place. Upon this, Mr. Attorney asked me, why I would not ſhew myſelf more againſt thoſe Brew-Houſes, being more annoyed by them than any other? I replied, I would never be a means to undo any Man, or put him from his Trade, to free myſelf from Smoke. And this Witneſs doth after confeſs, that I ſaid the ſame words to himſelf. Mr. Attorney at our parting ſaid, he would call in at the Brew-Houſe: I left him to do as he pleaſed, but ſent him not. And I humbly deſire Mr. Attorney may be examined of the Truth of this.

He farther ſays, That he came over to me to *Lambeth*, and confeſſes the Words before-mention'd; and that he offered me Ten Pound yearly to *St. Pauls*, and that I ſaid he might give Twenty. He ſays, That I ſent him to Mr. Attorney; but withal told him, that if he found not ſuch Favour as I wiſhed him, it was a ſign he had more powerful Adverſaries than my Friendſhip could take off. In all this I cannot ſee what fault I have committed. And I foretold him Truth: for though the Buſineſs were after referred to Mr. Attorney and myſelf, (as himſelf ſays) yet we were not able to end it. Then he ſays, I would not ſuffer Sir *Edw. Powell*, Maſter of the Requeſts, to deliver his Petition to the King. But firſt, this is but Sir *Edward Powell*'s Report, and ſo no Proof, unleſs he were produced to juſtify it. Secondly, the World knows I had no power in Sir *Edward*; he would then willingly have delivered Petition, or any thing elſe, that he thought might hurt me: and the Cauſe is known.

Laſtly, He ſays, Mr. Attorney ſent out a *Capias* for him; that the Sheriff came by force to take him, and what hard ſhift he made to eſcape: That after, upon his Petition, the Lords gave him ſix Months time to provide himſelf elſewhere; and that he was fain to give Five Hundred Pound Bond not to brew there. To all this I then ſaid, and ſay ſtill, Firſt, here's no one thing charged upon me in particular. Secondly, here's not a word of my Advice or Endeavour to ſet on Mr. Attorney, or to move the Lords to any thing againſt him. And whereas it hath been urged, that my

Power

Power was such, that I sway'd the Lords to go my way; this cannot be said, without laying an Imputation upon the Lords, as if they could so easily be overwrought by any one Man, and that against Law: which is a most unworthy Aspersion upon Men of Honour. And if all this were true, it is but Treason against a Brew-House. Nor yet may this be called slighting of any Evidence, which is but to answer home in my own just Defence. 'And out of this I gave my Answer to 'Mr. *Brown*'s summary Charge against me in the 'House of Commons, for that which concerned 'these two Brewers.'

And here, before I close this Day, give me leave, I beseech your Lordships, to observe two things. First, That here have been thirteen Witnesses at least produced in their own Cause. Secondly, That whereas here have been so many things urged this day about the Star-Chamber and the Council-Table; the Act made this Parliament, for the regulating of the one, and the taking away of the other, takes no notice of any thing past: and yet Acts past (and those Joint-Acts of the Council, and not mine) are urged as treasonable, or conducing to Treason, against me. Nay, the Act is so far from looking back, or making such Offences Treason, as that if any offend in future, and that several times, yet the Act makes it but Misdemeanour, and prescribes Punishments accordingly.

The Fifth Day of my Hearing.

FRiday, *March* 22. 1643. The first Charge of this Day was concerning the Indictment of Mr. *Newcommin*, a Minister at *Colchester*, for refusing to administer the Sacrament, but at the Rails; and the Prosecution, which followed against *Burrowes* for this. The two Witnesses of the Particulars, are *Burrowes* and Mr. *Aske*.

1. The Testimony which *Burrowes* gave, was, That Mr. *Newcommin* would not administer the Communion, but at the Rail; That he indicted him for receiving it there; That the Foreman threw it out, *&c.* If Mr. *Newcommin* did this, Complaint might have been made of him; but howsoever here's no one word of any Command from me. And it seems the factious Malice of *Burrowes* was seen, that the Foreman at first threw away the Indictment. He says, That upon this he was called into the High Commission; a Warrant from me; his House beset; *Stockdall* left the Warrant with the Mayor; a *Habeas Corpus* not obeyed. The Warrant, by which he was detained, was from the High Commission, not from me: and himself says, there were six or seven Hands to the Warrant. But then he says, my Hand alone was to another Warrant; which is impossible, for there must be three Hands at the least, or no Warrant can issue out. And all his Proof of this latter is, that he saw my Hand; which I hope he may do, though other Hands besides mine were to it. For the *Habeas Corpus*, if the Mayor said (for so *Burrowes* adds) he would obey my Warrant, rather than the King's Writ, because it came first; he was extremely ill advised: but if a Mayor of a Town give an undiscreet, or a worse Answer, I hope that shall not be imputed to me. And if there be any thing in this Business, why is not *Stockdall* the Messenger produced, that knows those Proceedings? Lastly, he speaks of a Letter sent to Judge *Crawley*, and shew'd to Judge *Hutton*. But first, he says not that Letter was sent by me, or by my means. Secondly, he names not the Contents of the Letter; without which, no Man can tell whether it charge any thing upon me or not. And until the Letter be produced, or sufficiently witnessed, (neither of which is offer'd) 'tis but like a written Hearsay. And I humbly pray you to observe from himself, that the two Reverend Judges looking into the Business, said, it was a mere Cheat for Money, and returned him back to *Colchester*: which is a Proof too, that the *Habeas Corpus* was obeyed; for if he were not brought up before them, how could he be returned by them?

2. Then Mr. *Aske*, the second Witness, was produced. He said, there came Players to Town, and that some, which said they came from me, were taken in a Tavern upon *Easter-Eve* at unseasonable Hours. I know not of any that were sent from me: but if any were, and kept any disorder in the Town, especially at such a time, Mr. *Aske* did very well to question them. He says, That upon the matter I referred him twice to Sir *John Lambe*, and that at the second time he found the Plot was to make him an Instrument about the Rails, which he absolutely refused. I did refer him (and it may be twice) to Sir *John Lambe*; but if Sir *John* spake to him about the Rails, he had no Commission from me so to do. 'I under-'stood Mr. *Aske* too well, to offer to make him an 'Instrument in such a Business. His 'Zeal would have set the Rails on 'fire, so soon as ever he had come 'near them.' *Frigidum dictum. W. & A. C.*

Next he says, That Mr. *Newcommin* was indicted, as is afore said, and that Indictment found: That Letters Missive were sent for him and his Wife, by *Stockdall*. If Letters Missive by *Stockdall*, then they were sent by the High Commission, whose joint Act cannot be charged upon me: And if any thing can be proved, why is not *Stockdall* produced? He says, that he went into *Holland* to avoid the Oath *ex Officio*. The Oath *ex Officio* was then the common, and, for ought I yet know, then the legal Course of that Court: so I could not help the Tender of that Oath unto them, had they staid and appeared. But the truth is, he was too guilty to appear; for his Wife was a Separatist, and himself confesses that she came not to the Prayers of the Church. And as for him, I ever found him the great Maintainer of all wilful Opposition against the Church. He farther says, he came to me to *Croydon*, and that there I told him he might have put the Indictment against Mr. *Newcommin* in his Pocket. Indeed, my Lords, if I did say so, I think I spake it truly. For if he had borne any respect to the Reputation of the Clergy, I think he might have pocketed it for one Sessions, without any prejudice at all to the Law, or any thing else. God knows, this is often done. And if thereupon I added, (as Mr. *Aske* says I did) That if he were so strictly set against Churchmen in the Temporal Courts, he must look for as strict Proceedings in the High Commission; I see no great Crime in it: for we are as strictly bound to prosecute in the one, as he was in the other. And if his Clerk (as he says) was attached, who read the Indictment; yet it is not said by himself, that he was attached for reading it. 'And if it were 'so, that some Jurors were attached, and not 'Mr. *Aske*'s Clerk only, (as Mr. *Brown* pressed it 'in the Sum of his Charge) yet the Answer comes 'all to one. For no Witness says, these Jurors

'were

'were called into the High Commiſſion for being 'Jurors, or diſcharging that legal Duty. And 'then I hope a Man's being of a Jury 'ſhall not excuſe him 'for anſwering 'any Crime in any Court, that hath 'power to call him; provided he be not called 'off at the time of his Service, or while he is 'under the privilege of that Court, in which he 'is a Juror. And according to this, I gave 'Mr. *Brown* my Anſwer. And howſoever, the 'Attachment goes of courſe out from the Commiſ-'ſion, and not from me.'

'from.

II. The ſecond Charge of this Day was about the Cenſure which fell on the Inhabitants of *Beckington* in *Somerſetſhire*, about their refuſing to remove the Communion-Table according to the Order of their Dioceſan: About which were produced three Witneſſes, to whoſe Evidence I ſhall anſwer in order.

1. The firſt was *William Longe*, who ſays he was Foreman of the Jury, when theſe Men were indicted for a Riot; and that, as he conceives, the Parſon ſpake with the Judge about it, which cauſed a ſudden Verdict. The Parſon of the Place ſpake with the Judge, and he conceives that produced a ſudden Verdict: Firſt, he doth but conceive ſo, and that can make no Proof. If it did make Proof, 'tis only againſt the Parſon, not againſt me. And if the Parſon ſpeaking of it, did ſay, (as Mr. *Longe* affirms he did) That this Riot was like a *Waldenſian* or *Swiſſerland* Commotion; he muſt anſwer for his own diſtempered Language, me it cannot concern.

2. The ſecond Witneſs was *George Longe*. He ſays the Biſhop of *Bath* commanded the Communion-Table to be removed, and ſet at the upper end of the Chancel; that the Church-Wardens refuſing, were excommunicated: but he ſays withal, that they appealed to the Arches, and had remedy. Then he adds farther, That the Biſhop proceeded again, but the Church-Wardens would not remove it, ſaying it was an Innovation, and againſt Law. But, my Lords, 'tis neither: and therefore theſe Church-Wardens were in a great Contempt againſt their Biſhop, to the ill example of all that Country. And that it is no Innovation againſt Law, appears by the Injunctions of Queen *Elizabeth*, where it is commanded expreſly to be ſet there. The Words are;

Injunct. of Q. Eliz. fine. *The Holy Table in every Church* (not Cathedrals only) *ſhall be decently made, and ſet in the place where the Altar ſtood.*

Now all Men know, that with us in *England* the Altar ſtood North and South, at the upper end of the Chancel; and to ſet it Eaſt and Weſt, had been croſs the place where the Altar ſtood, and not in it. And this being Law in the beginning of the Reformation, cannot now be an Innovation.

When they came to me again, (as they ſay they did) if I then told them they deſerved to be laid by the heels for the Contempt of their Biſhop; under favour, my Lords, I ſpake Truth. And give me leave, I beſeech you, to tell you this: It began to be a general Complaint, not of the Biſhop of *Bath* only, but of other Biſhops alſo, that they could do little or no ſervice in their ſeveral Countries, by reaſon of the Inhibitions which iſſued out of my Courts to ſtay their Proceedings. And I wanted no good Friends in Court to tell the King as much, when any thing was complained of. By this I was brought into great Streights: deny Appeals, I might not; frequent granting in my Courts, deſtroyed in a manner the Biſhops Juriſdictions. In this difficulty, ſeeing the Wilfulneſs of theſe Men, and knowing they had received full benefit by their Appeal once already in the ſame Caſe; I did refuſe to hear any more of it, (unleſs there were new Matter) but yet left them free to appeal to the Delegates.

For Mr. *Hughes*, the Parſon there, if he gave ill Words, or laid violent hands on any of his Neighbours, it concerns not me; let him anſwer for what he hath ſaid or done. 'Tis farther ſaid, That Mr. *Hughes* was with me at *Windſor*, and had Letters from me to the Lord Chief Juſtice *Finch*. But this Witneſs delivers not this upon his own knowledge; I ſent no Letter by him, nor did he ſee me ſend by any other: ſo this is merely a Report, and he doth not ſo much as tell from whom. Yea, but then he ſays, That Mr. *Morgan* (a Man inward with the Judge) told him, that the Judge told him, that the little Man had put a Spoke in their Cart; and thereupon (as he conceives) the Petty-Jury was changed. Here are, if your Lordſhips mark them, two great Proofs. The one is the Witneſs's Report of Mr. *Morgan*'s Report, that the Judge had ſaid ſo of me: But why is not Mr. *Morgan* produced to clear this? The other is not the Knowledge, but the Conceit only of the Witneſs: *He conceives*, which I am confident cannot ſway with your Lordſhips for a Proof. 'Beſides, were Mr. *Morgan* never ſo in-'ward with that Judge, yet it follows not, that 'he muſt know all. And if that Judge did mean 'me, (for name me he did not) he did me the 'more wrong. For I never deſired any thing of 'any Judge, him or other, but what was accor-'ding to Law. Nay, I ſo expreſſed myſelf, as 'that, if by miſtake or miſ-information I had 'deſired any thing which was not according to 'Law, I humbly deſired my Motion might be, as 'if it had never been made.'

3. The third Witneſs is Mr. *Jo. Aſh*. That which this Gentleman ſays, is, That Sir *John Lambe* told, that the Man which came about that Buſineſs, could have no Appeal admitted without me; and that if he would be ſo troubleſome, he ſhould be laid by the heels. I have given your Lordſhips an account, why he could not have an Appeal without me: he had had the benefit of an Appeal before in the ſame Cauſe. And for this Witneſs, he delivers no Knowledge of his own; but only he ſays, the Man employ'd related it to him: ſo 'tis a Relation, no Proof. He ſays, the Penance was enjoined them in three Churches. And truly, my Lords, their Diſobedience to their Biſhop was great; but if the Penance enjoined were too heavy, it was the Act of their own Biſhop, not mine. Then he ſays, That the Lord *Finch* told him, another powerful Hand was upon him; intimating me. Firſt, this is no Knowledge of the Witneſs, but a Speech of the Lord *Finch*. Secondly, if the Lord *Finch* did ſay ſo of a powerful Hand, he wronged me much, but himſelf more, to confeſs he could be drawn awry in Judgment. Thirdly, this Witneſs ſays not that he named me, but that he intimated me: I pray your Lordſhips Judgment, what a forward Witneſs this Man is, that can upon Oath deliver what is intimated, and of whom.

He ſays farther, That upon Petition to Sir *William Portman* for ſome Aſſiſtance, the Biſhop of *Bath* laid all upon me; and that when himſelf came to me at the *Tower*, ſince my Reſtraint, I told him the Biſhop of *Bath* did like an obedient Biſhop to his Metropolitan. For this, my Lords,

here

here is no Proof, that the Biſhop laid this buſineſs upon me, but Sir *William Portman*'s Report. Sir *William* is a worthy Gentleman, why is not he produced? Why is not the Biſhop, that is ſaid to lay all upon me, brought into the Court, that he may clear himſelf and me, if he had ſaid it not; or that I may make him aſhamed, if he ſaid it? For 'tis confeſſed, that in the firſt Buſineſs, the Church-Wardens had their Remedy by their Appeal to me; but that then the Biſhop began again, as the former Witneſs declared. Nor knew I any thing of this Buſineſs till the Appeal came. As for my Anſwer to himſelf, that, under favour, is quite miſtaken: For I did not ſay, That in this Particular, but that in his general Proceedings in his Dioceſs, the Biſhop of *Bath* carried himſelf like an obedient Biſhop to his Metropolitan. Nor can my Words be drawn to mean this Particular: For how could I ſay that in this Particular he carried himſelf like an obedient Biſhop to me, when after Remedy given to theſe Men by their firſt Appeal into my Court, he began with them again upon the ſame Cauſe? Beſides, my Lords, this is not the firſt time Mr. *Aſh* hath miſtaken me.

'Mr. *Brown*, in ſumming up this Charge againſt 'me, falls twice very heavily upon this Buſineſs of 'Beckington. Firſt, For the Point of Religion: 'And there he quoted a Paſſage out of my Speech 'in the *Star-Chamber*, where I do reſerve the In'differency of the ſtanding of the Communion-'Table either way; and yet (ſaith he) they were 'thus heavily ſentenced for that which I my ſelf 'hold indifferent. But 1ſt, This Sentence was laid 'upon them by their own Biſhop, not by me. '2dly, The more indifferent the Thing was, the 'greater was their Contumacy to diſobey their 'Ordinary. And had it not been a Thing ſo 'indifferent, and without danger of advancing 'Popery, would Queen *Elizabeth*, who baniſhed 'Popery out of the Kingdom, have endured it in 'her own Chappel all her time? 3dly, The Heavi'neſs of the Sentence, ſo much complained of, 'was but to confeſs their Contumacy in three 'Churches of the Dioceſs, to example other Mens 'Obedience. Secondly, For the ſame Point, as it 'contained Matter againſt Law, I anſwered Mr. 'Brown, as I had before anſwered the Lords.'

III. The third Charge was about certain Houſes given to *St. Edmond*'s *Lombard-Street*, where old Mr. *Pagett* is Parſon. The Witneſſes are two.

1. The firſt is Mr. *Symms*, who ſays, That after a Verdict, Mr. *Pagett* the Incumbent, upon a pretence that theſe Tenements were Church-Land, got a Reference to the Lord Biſhop of *London*, then Lord Treaſurer, and my ſelf. My Lords, we procured not the Reference; but when it was brought to us under the King's Hand, we could not refuſe to ſit upon it. Upon full hearing, we were ſatisfied that the Cauſe was not rightly ſtated; and therefore we referred them to the Law again for another Tryal, and for Coſts to the Barons of that Court. 'And this was the Anſwer 'which I gave to Mr. *Browne*, when he inſtanced 'in this Caſe.' He ſays the Houſes were given to ſuperſtitious Uſes; But Poſſeſſions are not to be carried away for ſaying ſo. If Men may get Land from others by ſaying it was given to ſuperſtitious Uſes, they may get an eaſy Purchaſe. And Mr. *Symms* is here in his own Caſe. But whether the Houſes were given to ſuperſtitious Uſes, or not, is the Thing to be tried in Law, and not to be pleaded to us. He complains that I would not hear his Petition alone: And ſurely, my Lords, I had no reaſon, ſince it was referred to another with me. And yet I ſee, though I was not in the Reference alone, nor would hear it alone, yet I muſt be alone in the Treaſon. And here I deſired that Mr. *Pagett*, the Incumbent, might be heard.

2. The other Witneſs was Mr. *Barnard*: He ſays he was preſent at the Hearing; and that Mr. *Symms* ſaid he was undone, if he muſt go to a new Tryal. But, my Lords, ſo may Men ſay, that by their Troubleſomeneſs in Law-ſuits go about to undo others. He ſays that Mr. *Pagett* named his own Referees: If that be ſo, 'tis no Fault of mine. He ſays the Reference was made to us only to certify, not to make any Order in it: If this be ſo, here's no Proof ſo much as offered that we did not certify, as we were requir'd, and then had power given to order it; which we did. And he confeſſes the Counſel on both ſides had full hearing before ought was done.

IV. The fourth Charge of this Day was concerning the Impriſonment of one *Grafton*, an Upholſter in *London*. The Witneſſes three: Of which,

1. The firſt is *Grafton*, in his own Cauſe: And 'tis much if he cannot tell a plauſible Tale for himſelf. He ſays firſt, That twelve Years ago he was committed, and fined fifty Pounds by other Commiſſioners. By others, my Lords; therefore not by me: And an Act of the High Commiſſion, by his own Words, it appears to be. He ſays, He was continued in Priſon by my Procurement, as he verily believes. Firſt, (as he verily believes) is no Proof. And the ground of his Belief is as weak: For he gives no reaſon of it but this, That Dr. *Ryves*, the King's Advocate, ſpake with the Barons; but he doth not ſay about what, or from whom. He adds farther, That Mr. *Ingram*, Keeper of the *Fleet*, would not give way to his Releaſe, notwithſtanding the Barons Orders, till he heard from me. Here's no Man produced that heard Mr. *Ingram* ſay ſo; nor is Mr. *Ingram* himſelf brought to teſtify. Laſtly, he ſays, That he then made Means in Court, and ſo repaired to the Barons again, but all in vain; and that Baron *Trevor* cried out, *O the Biſhop! O the Biſhop!* Firſt, here's a Confeſſion of Means in Court made to the Judges: So belike they may have Means made to them, ſo it be not by me. For the Particular, I did humbly deſire the Baron, being then preſent, might be asked. He was asked: He bluſhed, and fumbled. The Lords laughed, and I could not hear what he ſaid.

2. The ſecond Witneſs was Mr. *Lenthall*. But he ſaid nothing, but that there was an Order for *Grafton*'s Liberty; which is not denied.

3. The third was Mr. *Rivett*. He ſays, That Mr. *Ingram* ſaid that *Grafton* was a *Browniſt*, and muſt be brought into the *Fleet* again, becauſe he did much hurt among the King's Subjects. This is a bare Report of a Speech of Mr. *Ingram*; it no way concerns me. And a Separatiſt he is from the Church of *England*: But whether a *Browniſt*, or no, I cannot tell, there are ſo many Sects, (God help us.) And much harm he hath done among weak People: For moſt true it is, which St. *Cyril* obſerves, Προειοιμάζει ὁ Διάβολος τὰ σχίσματα τῶν λαῶν, ἵνα εὐπαρόδεκτος γένηται ὁ ἐρχόμενος, *That the Devil prepares theſe ſchiſmatical Separations, that ſo much the more eaſily the Enemy may be received.* As for this Man, he was in his way cunning enough; for under pretence that he ſuffer'd by me, he got Madam *Vanlet*, and other of the *French*, to negotiate

tiate with the Queen's Majeſty in his behalf. And this I found, that ſometimes, when her Majeſty knew not of it, they ſent to the Barons for Favour for him. 'And yet I never heard that Baron *Trevor* ever cried out, *O the French! O the French!* Nor can I tell what ſtopped his Mouth in this Cry, and opened it ſo wide in the other, when we moved to defend our ſelves and our Proceedings. Where, I humbly deſire, this Paſſage of the Law may be conſidered; in the caſe of depraving the *Common-Prayer-Book*, (ſo much ſcorned and vilified at this day) and for not coming to Church. The Words of the Law are, *For due Examination hereof, the Queen's moſt excellent Majeſty, the Lords Temporal, and all the Commons in this preſent Parliament aſſembled, do in God's Name earneſtly require and charge all the Archbiſhops, Biſhops, and other Ordinaries, that they ſhall endeavour, to the uttermoſt of their Knowledge, that the due and true Execution hereof may be had throughout their Dioceſſes and Charges, as they will anſwer before God*, &c. 1 Eliz. c. 2. Now, if I do not this, here's an apparent Breach of the Law: And if I do it againſt this common and great Depraver of this Book, then the Judge, who by this Law ſhould aſſiſt me, cries, *O the Biſhop!* And this Anſwer I gave Mr. *Brown*, when he ſumm'd his Charge againſt me.'

V. The fifth Charge of this Day was Mr. *John Ward*'s Caſe, in a Suit about Simony in the High Commiſſion.

He ſays, (for he alſo is in his own Cauſe) That upon a pretence of a Lapſe by Simony, I procured a Preſentation from the King to the Church of *Dinnington*. His Majeſty truſted me with the Titles, which did accrue to him in that kind: And becauſe *Simony* had been ſo rife, commanded me to be careful I might not betray this Truſt. And therefore the Simony being offered to be proved, I procured his Majeſty's Preſentation for tryal of the Title. And this I conceive was no Offence; though this be that which he calls the Heavineſs of my Hand upon him. He farther ſays, That I ſent to the Biſhop of *Norwich* to admit the King's Clerk, the Church being void, 7 *Junii* 1638. Nor do I yet ſee, my Lords, what Crime it is in me, truſted eſpecially as before, to ſend to the Biſhop to admit when the Church is void: Many Lay Patrons do that, upon Allegation of Simony, before Proof. 'And Mr. *Bland*, produced as a Witneſs alſo, ſays, That the Lord *Goring* prevailed with the Lord Biſhop of *Norwich* not to admit. 'And I hope an Archbiſhop, and truſted therein by his Majeſty, may as lawfully write to the Ordinary for Admiſſion of the King's Clerk, as any Lay Lord may write againſt it.' But Mr. *Ward* ſays nothing to this of the Lord *Goring*; but adds, That Sir *John Rowſe* prevented this Admiſſion by a *Ne Admittas*, *Junii* 12. And that thereupon I ſaid, *It was to no purpoſe for us to ſit there, if after a long Tryal, and Judgment given, all might be ſtopped.* If I did ſay ſo, I think it is a manifeſt Truth that I ſpake: for it were far better not to have Simony tryed at all in Eccleſiaſtical Courts, than after a long Tryal to have it called off into *Weſtminſter-Hall*, to the double Charge and Trouble of the Subject. But if the Law will have it otherwiſe, we cannot help that. Nor is this Expreſſion of mine any Violation of the Law.'

Then he ſays, a Letter was directed from the Court of the High-Commiſſion to the Judges, to revoke the *Ne Admittas*; and that I was forward to have the Letter ſent. How forward ſoever I was, yet it is confeſſed the Letter was ſent by the Court, not by me: and let the Letter be produced, it ſhall therein appear, that it was not to revoke the *Ne Admittas*, but to deſire the Judges to conſider, whether it were not fit to be revoked, conſidering the Church was not void till *Jun.* 14. And it hath been uſual in that Court, to write or ſend ſome of their Body to the Temporal Judges, where they conceive there hath been a Miſinformation, or a Miſtake in the Cauſe; the Judges being ſtill free to judge according to Law, both for the one and the other. And here he confeſſes the Writ of *Ne Admittas* was revoked by three Judges, and therefore I think legally.

But here he hopes he hath found me in a Contradiction. For when I writ to the Biſhop of *Norwich*, *Junii* 7. 1638. I there ſaid the Church was void; whereas this Letter to the Judges ſays it was not void till *Junii* 14. But here is no Contradiction at all: For after the Tryal paſt, and the Simony proved, the Church is void to ſo much as the Biſhop's giving of Inſtitution; and ſo I writ *Junii* 7. But till the Sentence was pronounced in open Court, and read, the Church was not void, as touching thoſe Legalities, which (as I humbly conceive) do not till then take place in *Weſtminſter-Hall*: And the reading of the Sentence was not till *Junii* 14. However, if I were miſtaken in my own private Letter to the Biſhop, yet that was better thought on in the Letter from the High Commiſſion to the Judges. He ſays, laſtly, That upon a *Quare Impedit*, after taken forth, it was found that the King had no Right. Why, my Lords, if different Courts judge differently of Simony, I hope that ſhall not be imputed to me. In the Court where I ſat I judged according to my Conſcience, and the Law, and the Proof, as it appeared to me. And for Dr. *Ryves*'s Letter, which he ſays was ſent to the Curſitor to ſtop the *Ne Admittas*, let Dr. *Ryves* anſwer it. The Witneſs himſelf confeſſes that Dr. *Ryves* ſays the Command to the Curſitor was from the Lord Keeper, not from me. 'And here ends the Treaſon againſt Mr. *Ward*; and till now I did not think any could have been committed againſt a Miniſter.'

VI. Then followed the Caſe of *Ferdinando Adams* his Excommunication, and the Suits which followed it: As it will appear by the Witneſſes following, which were four.

1. The firſt was Mr. *Henry Dade*, the Commiſſary then, before whom the Cauſe began. And he confeſſes, He did excommunicate *Adams* for not blotting out a Sentence of Scripture, which the ſaid *Adams* had cauſed to be written upon the Church-Wall, as in many Churches Sentences of Scripture are written. But he tells your Lordſhips too, that this Sentence was, [*] *My Houſe ſhall be called a Houſe of Prayer; but ye have made it a Den of Thieves.* The Commiſſary's Court was kept (as uſually it is) at or toward the Weſt-end of the Church; and juſt over the Court *Adams* had written this Sentence upon the Wall, merely to put a Scorn and a Scandal (though I hope an unjuſt one) upon that Court. 'He was commanded to blot it out: He would not, becauſe it was Scripture; as if a Man might not revile and ſlander, nay, ſpeak Treaſon too, (if he will be ſo wicked) and all in Scripture-Phraſe: Witneſs that leud Speech lately utter'd, [†] *To your Tents, O Iſrael*, &c.' Upon this he was excommunicated; and I cannot but think he well deſerved

[*] *Mat.* 21. 13.

[†] 1 *Reg.* 12. 16.

ſerved it. For the Suit which followed againſt Mr. *Dade* in the Star-Chamber; the Motion that Mr. Attorney would leave him to the common Proſecutor, and not follow it in his own Name, himſelf confeſſes, was made in open Court by Mr. *Bierly*, and that from me he had no Inſtructions at all.

2. The ſecond Witneſs is *Adams* in his own Cauſe. To the place of Scripture I have ſpoken already. And the next that he ſays, is, That Sir *Nath. Brent*, in my Viſitation, commanded the ſetting of the Communion-Table at the upper end of the Chancel; That upon his not blotting out the paſſage of Scripture, he had an Action; and that his Solicitor was committed by *J. Jones*, till he relinquiſhed his Suit. In all this there is not one word of any thing that I did. And for that which Sir *Nath. Brent* did about placing the Communion-Table, 'tis 'anſwered before. He ſays alſo, That when he ſaw he muſt proſecute his Suit againſt Commiſſary *Dade* in his own Name, he left the Kingdom. And ſurely, my Lords, if he would leave the Kingdom rather than proſecute his Cauſe in his own Name, 'tis more than a ſign, that his Cauſe was not very good.

' *In the ſecond Charge of this Day.*

3. The third Witneſs was Mr. *Cockſhot*, one of Mr. Attorney *Banks*'s Servants. He ſays, That *Adams* moved him, and he Mr. Attorney; and that thereupon Mr. Attorney gave his Warrant againſt *Dade*. By which your Lordſhips may ſee how active Mr. *Cockſhot* was againſt a Church-Officer, and in ſo foul a Scandal. He ſays alſo, That Mr. *Dade* came to Mr. Attorney, and told him, that I did not think it fit, a Proſecution in ſuch a Cauſe ſhould be followed in Mr. Attorney's Name. Firſt, 'tis true, I did not think it fit; nor did Mr. Attorney himſelf, when, upon Mr. *Bierly*'s Motion, he fully underſtood it. Secondly, The Cauſe being ſo ſcandalous to a Church-Officer, I conceive I might ſo ſay to Mr. *Dade*, or any other, without offence. But then, Thirdly, here's not one word that I ſent Mr. *Dade* to Mr. Attorney about it: He came and uſed my Name, ſo Mr. *Cockſhot* ſays; but not one word that I ſent him. Laſtly, He ſays, That Mr. Attorney told him, that I blamed him for the Buſineſs, and that thereupon he chid this Witneſs, and ſent him to me; and that I rebuked him for it: but he particularly remembers not what I ſaid. Nor truly, my Lords, do I remember any of this. But if I did blame Mr. Attorney for lending his Name in ſuch a ſcandalous Cauſe as this, I did (as I conceive) what became me. And if he chid his Man, he did what became him. And if I rebuked Mr. *Cockſhot* when he was ſent to me, ſure he deſerved it; and it ſeems it was with no great Sharpneſs, that he cannot remember any thing of it. 'And ſo I an-'ſwered Mr. *Brown*, when he inſtanced in this.'

4. The laſt Witneſs was Mr. *Pryn*, who ſays, No Appeal was left him. But that, under favour, cannot be: For if my Courts refuſed him (which is more than I know) he might have appealed to the Delegates. He ſays, That he adviſed *Adams* to an Action of the Caſe; that he blamed *Lechford* for deſerting the Suit, and that he adviſed him to go to Mr. Attorney. So here's no Aſſiſtance wanting to *Adams*, but the Church-Officer Mr. *Dade* muſt have none. Yet I blame not Mr. *Pryn*, becauſe he ſays he did it as his Counſel. He ſays farther, That when *Adams* was put to prefer his Bill in his own Name, that then the Excommunication was pleaded in Bar: But he doth not ſay it was pleaded by me, or my Advice; nor do I hear him ſay, it was unjuſtly pleaded. And had not *Adams* been wilful, he might have taken off the Excommunication, and then proceeded as it had pleaſed him.

VII. Then the Charge went on againſt me, about the Stop of Mr. *Bagſhawe* the Reader of the *Middle-Temple*. The Witneſſes are two Lawyers, who accompanied Mr. *Bagſhawe* to *Lambeth*, Mr. *White* and Mr. *Pepys*. They ſay, That Mr. *Bagſhawe* inſiſted upon theſe two Points; Firſt, That a Parliament might be held without Biſhops; and, Secondly, That Biſhops might not meddle in Civil Affairs. My Lords, theſe things are now ſettled by an Act of this Parliament, but then they were not. And I conceive, under favour, that Mr. *Bagſhawe* (the Crazineſs of theſe Times conſidered) might have beſtowed his time better upon ſome other Argument: And ſure no Man can think, that either my ſelf, or any Church-Governour, could approve his Judgment in that Particular. And whereas they ſay, That the Lord Keeper *Finch*, and the Lord Privy-Seal told them, that I was the Man that complained of it to the King and the Lords: 'Tis moſt true, I did ſo; and I think I had been much to blame if I had not done it. And if when they came over to *Lambeth* about it, they heard me tell Mr. *Bagſhawe* (as they alſo ſay they did) that he ſhould anſwer it in the High-Commiſſion Court next Term; I humbly conceive this no great Offence; but out of all queſtion no Treaſon to threaten the High-Commiſſion to a Reader of the Inns of Court.

VIII. The laſt Charge of this Day was concerning the Lord Chief Juſtice *Richardſon*, and what he ſuffered for putting down Wakes and other diſorderly Meetings in *Somerſetſhire*, at the Aſſizes there holden.

The ſingle Witneſs to this is *Edward Richardſon*, (a Kinſman of the Judge's, as I ſuppoſe.) He ſays, That Complaints were made to the Judge of Wakes and Feaſts of Dedication; That his Majeſty writ Letters about it to Sir *Robert Philips* and others. They certify a Command comes by the Lord Keeper to revoke the Order next Aſſizes. Firſt, 'Tis not done. Then by Command from the Lords of the Council, the Judge, upon that ſecond Command, revokes it; but as 'tis certified, not fitly. In all this here's not one Word that concerns me. Then he ſays, That upon this laſt Certificate, the buſineſs was referred to the Lord Marſhal and my ſelf, and the Judge put from that Circuit. I cannot now remember what Report we made: But whate'er it was, the Lord Marſhal agreed to it as well as I. Then a Letter of mine was produced of *Octob.* 4. 1633. But the Letter being openly read, nothing was found amiſs in it. And, under your Lordſhips favour, I am ſtill of Opinion, that there is no Reaſon the Feaſts ſhould be taken away for ſome Abuſes in them; and thoſe ſuch as every Juſtice of Peace is able by Law to remedy, if he will do his duty. 'Elſe by 'this kind of Proceeding, we may go back to the 'old Cure, and remedy Drunkenneſs by rooting 'out all the Vines; the Wine of whoſe Fruit 'cauſes it. As for the Pretences, which this 'Witneſs ſpake of; they were none of mine, as 'appears evidently by the Letter it ſelf.'

As an Appendix to theſe, was added a Letter of my Secretary Mr. *Dell*, to Sir *John Bridgman*, Chief Juſtice of *Cheſter*, in a Cauſe of one *Ed. Morris*. It was (as I think it appears) upon an In-

croachment made in the Marches Court upon the Church; in which Caſe I conceive, by my Place, I may write to any Judge for Information: And there is nothing peremptory in the Letter. The Words are (*If things be rightly ſuggeſted.*) But howſoever, the Letter is *Dell*'s; and if he have done amiſs in it, he is here preſent to anſwer. And it will be a hard buſineſs with Men of Honour, if, when any Lord ſhall command his Secretary to write, and give him Directions for the matter, he ſhall afterwards be anſwerable for every Slip of his Secretary's Pen; eſpecially in ſo high a way, as 'tis charged on me. But the beſt is, here's nothing amiſs that I know.

The Sixth Day of my Hearing.

I. THurſday, *March* 28. 1644. The firſt Charge of this Day concerned the Cenſure, Deprivation and Impriſonment of Mr. *Huntly*. The Witneſſes produced are four.

1. Mr. *Merifield* comes on firſt. He ſays, That himſelf was committed by the Lords of the Council; and that there I ſaid, That he the ſaid *Merifield* deſerved to be laid by the Heels, and to be called into the Star-Chamber. This Man was (as I take it) Mr. *Huntly*'s Attorney; and if I did ſpeak thoſe Words concerning him, ſurely his Words and Carriage deſerved it; elſe I am confident the Lords would not have committed him for a naked, and an orderly following of his Client's Cauſe; eſpecially in the Preſence of two Judges, Juſtice *Jones* and Juſtice *Crook*, who, he ſays himſelf, were preſent. 'And this Anſwer I gave Mr. 'Brown; who, in the Sum of his Charge againſt 'me, omitted not this Caſe of Mr. *Merifield*; for 'ſo was this Attorney's Name.'

2. The next Witneſs is Mr. *Huntly* himſelf. He ſays, That I ſaid unto him, That he being an Eccleſiaſtical Perſon, and in an Eccleſiaſtical Cauſe, ought not to decline the Church-Cenſure. Then followed his Impriſonment, and his Action for falſe Impriſonment, and the reſt of his Proceedings. In all which the High-Commiſſion proceeded againſt him, and he proceeded againſt the High-Commiſſioners; nothing done by me, or againſt me, in particular. So nothing of his Charge falls upon me, but the Words; and for them, they are very far from offering to 'exempt any Clergyman, him, or other, from the Temporal Laws, if things cognizable by them. But I humbly conceive, his Oath of Canonical Obedience conſidered, that he ought not to decline the Eccleſiaſtical Judicature, in Things merely Eccleſiaſtical. And if in this my Judgment I do err, yet it is Error without Crime; and ſurely, my Lords, no Treaſon.

' Exclude from the Benefit.

3. The third Witneſs is *John Dillingham*. He ſays, That Mr. *Huntly* moved before the Lord Chief Juſtice *Richardſon*; and that the Judge replied, By his Faith he durſt not do him Juſtice. To this, my Lords, I anſwer: Here's never a Word that he durſt not do him Juſtice for fear of me; that's not ſaid by the Witneſs, and ought not, by Conjectures, be inforced againſt me. But howſoever, if he ſpake theſe words, the more ſhame for him. He is dead, and I will not rake into his Grave; but if he ſo ſpake, it ſeems he was none of thoſe Judges which *Jethro* adviſed *Moſes* to make for the eaſe of himſelf, and the good of the People, *Exod.* 18. 21. 'Mr. *Brown*, in ſum-'ming up of his Charge, preſſed this Speech of 'the Judge hard upon me; which inforces me to 'add thus much more, That this Witneſs lays it 'hard upon the Judge, not upon me: For no 'Proof is offered, that I did ſollicit him in that 'Cauſe: And if he wanted Courage to do Juſ-'tice, why ſat he there?'

4. The fourth Witneſs was Mr. *Pit*, a ſworn Officer; he ſays, the Order concerning Mr. *Huntly* was from the Council, and that there was then a full Board; ſo this was no ſingle Act of mine. He ſays farther, That he was not ſimply prohibited, but only till he had acquainted the Lord Keeper with it, or thoſe Judges whoſe Courts it concerned. And this was ſo ordered (as I conceive) to remedy the tedious and troubleſome Interpoſitions of Mr. *Huntly*. Where it is not unfit for me to inform your Lordſhips, that this Cauſe of Mr. *Huntly*'s was in my Predeceſſor Archbiſhop *Abbot*'s time; I had nothing to do in it, but as any other ordinary Commiſſioner then preſent had.

And here, at the entring upon my Anſwers this Day, I did in general put the Lords in mind, that nothing of late times was done, either in Star-Chamber, or at Council-Table, which was not done in King *James* and Queen *Elizabeth*'s Times, before I was born; and that many Parliaments have been ſince, and no Man accuſed of Miſdemeanour for things done there, much leſs of Treaſon. Nor is there any one Witneſs that hath charged me, That that which I did, was to overthrow the Laws, or to introduce Arbitrary Government: 'That's only the Conſtruction made 'on't at the Bar; which, as it is without all Proof 'for any ſuch Intention, ſo I am confident they ſhall 'anſwer for it at another Bar, and for ſomething 'elſe in theſe Proceedings.'

II. Then followed the Charge about Prohibitions; in which are many Particulars, which I ſhall take in order, as the ſeveral Witneſſes charged them upon me.

1. The firſt is Mr. *Pryn*. He ſays, That in *An.* 4to *Caroli* he brought a Prohibition, and that thereupon I ſhould ſay, *Doth the King give us Power, and then are we prohibited? Let us go and complain.* Firſt, If this were *Anno* 4 *Caroli*, it was long before the Article; ſo that I could neither expect the Charge, nor provide the Anſwer. Secondly, I humbly conceive there's no Offence in the Words: For if a Prohibition be unjuſtly granted upon Miſinformation, or otherwiſe; or if we do probably conceive it is ill grounded, I hope 'tis no Sin to complain of it to the King, the Fountain of Juſtice in both Courts. Yea, but he ſays farther, That I ſaid I would lay him by the heels that brought the next: 2. And this Mr. *Burton* witneſſes with him. Firſt, If I did ſay ſo, they were but a few haſty Words; for upon ſecond thoughts it was not done. Next, I deſire your Lordſhips to conſider what manner of Witneſs Mr. *Burton* is; who confeſſes here before your Lordſhips, that he brought the next with a purpoſe to tempt me: You know whoſe Office that is; and ſo Mr. *Burton* hath abundantly ſhewed himſelf, and proclaimed his Religion.

3. As for Mr. *Combs*, he ſays juſt the ſame with Mr. *Pryn*, and I give the ſame Anſwer. *' f. Combs.*

Then about taking down of a Pew in a Church in *London*, (my Notes are uncertain for the Name) which Pew was ſet above the Communion-Table; That I required to have it pulled down; That they came to me to have an Order for it: and that there-

thereupon I ſhould ſay, *You deſire an Order of Court, that you may have it to ſhew, and get a Prohibition; but I will break the back of Prohibitions, or they ſhall break mine.* 4, 5. And this is jointly witneſſed by Mr. *Pocock* and Mr. *Langham*: and this they ſay was thirteen or fourteen Years ago. Excellent Memories, that can punctually ſwear Words ſo long after! But, my Lords, I confeſs to your Lordſhips, I could never like, that Seats ſhould be ſet above the Communion-Table: if that be an Error in me, be it ſo. For the Words, I did not ſpeak them of Prohibitions in general, but of ſuch as I did conceive very illegal; as, for ought I yet know, this muſt have been. 'And this was the 'Anſwer which I gave Mr. *Brown*, when in ſumming up the Charge he inſtanced in this againſt 'me.' 6. To theſe *Rowland Tomſon* adds new Words; *That I wondered who durſt grant a Prohibition, the High-Commiſſion Court being above all.* But he confeſſes, he knows not the time when this was ſpoken. Let him look to his Oath, for I am as confident he knows not the thing. And I farther believe, that neither he, nor any the reſt of my Accuſers think me ſo ignorant, as to ſay the High-Commiſſion Court was above all.

7. *Francis Nicolas* ſays, That about four Years ſince he delivered a Prohibition, and was committed for it. 8. To this, *Quaterman* comes in, and ſays more than *Nicolas* himſelf: for he ſays, he delivered it in upon a Stick, and was committed for it. Firſt, if he were committed, it was not for bringing the Prohibition, but for his unmannerly Delivery of it; and to reach it into the Court upon a Stick to call the People to ſee it, was no handſome way of Delivery. And one that brought a Prohibition (whether this Man or no, I cannot certainly ſay) threw it with that violent Scorn into the Court, that it bounded on the Table, and hit me on the Breaſt, as I ſat in Court. Howſoever, his Commitment was the Act of the Court, not mine: And for *Quaterman*, he is an exaſperated Man againſt me and that Court, as hath appeared to the World many ways.

9. Mr. *Edwards* was called up next; and he ſays, It was a common thing to lay them by the heels which brought Prohibitions. And they were commonly brought by bold impudent Men, picked out of purpoſe to affront the Court. And then if the Court made their Impriſonment as common as they their Rudeneſs, where's the fault? And I pray mark, this is ſtill the Act of the Court, not mine.

10. Mr. *Welden* ſays, That there was a Command given to lay hold of a Man, which brought a Prohibition: But more he ſays not. Nor did he offer to make himſelf Judge of the Juſtice of the Court in that behalf. And conſidering what Affronts have been put upon the Court of High Commiſſion by the Bringers of Prohibitions, I hope it ſhall not be accounted a Crime to ſtay him that brings it, till the Prohibition be ſeen and conſidered.

11. 'The next Witneſs is Mr. *Ward*; and he is 'an angry Witneſs, for his Cauſe before-men-'tioned about Simony.' That which he ſays, is, That *Ann.* 1638. he that brought a Prohibition in a Cauſe of Mr. *Foetroughts*, was laid by the heels: but he himſelf confeſſes, the Court then declared, that they were affronted by him; and then he was puniſhed for that Miſdemeanour in his Carriage, not for bringing the Prohibition. He ſays farther, That I directed ſome Commiſſioners to attend the Judges about it, and that the Party had no benefit by his Prohibition. For my directing Attendance upon the Judges, I think I did what well became me; for there came a Rule before the Prohibition, which required the Court ſo to do: 'And Mr. *Pryn* objected, becauſe this was 'not done; and now I am accuſed, becauſe I gave 'direction to do it.' And if the Party had no benefit by his Prohibition, it muſt needs follow, that either the Judges were ſatisfied by our Information of the Cauſe; or if not, that they did Mr. *Foetroughts* the wrong, and not we.

12. The laſt Witneſs about Prohibitions, was Mr. *Wheeler*. He ſays, that in a Sermon of mine long ſince, I uſed theſe words; *They which grant Prohibitions to the diſturbance of the Church's Right, God will prohibit their Entrance into the Kingdom of Heaven:* And he ſays he writ down the Words, that he might remember them. If this Gentleman will tell me what Text I then preached on, I will look upon my Sermon, (if that, with my other Papers, be not taken from me) and ſhew the place. In the mean time, with that Limitation with which he confeſſes I ſpake them, I conceive there is no fault at all in the words. For it will be found no ſmall fault in Judges to grant Prohibitions to the diſturbance of the Rights of the Church, which no Law of God or Man warrants them to do. So the words I ſpake, muſt needs be underſtood of illegal Prohibitions. For they which are legal, do only ſtop the Church from doing wrong, but do no wrong to the Church by diſturbing her Rights. 'Mr. *Brown* charged this 'Sermon-Note upon me alſo, and I gave him this 'Anſwer. Nevertheleſs, I cannot but be ſorry 'to hear it from Mr. *Wheeler's* own mouth, that 'he was ſo careful to write this Paſſage, and ſo 'ready to come to witneſs it againſt me, conſi-'dering how many Years I have known him, and 'how freely he hath often come to my Table, and 'been welcome to me; yet never told me, this 'Paſſage in my Sermon troubled him. It ſeems 'ſome Malignity or other laid it up againſt this 'wet Day.'

Here, having thus anſwered all Particulars, I humbly craved leave of their Lordſhips, to inform them ſome few things concerning Prohibitions. As Firſt, that there was a great Conteſtation about them, between my Predeceſſor, Archbiſhop *Bancroft*, and the then Judges, and this before King *James* and the Lords of the Council; and Mr. Attorney *Hobart* pleaded for the Church againſt them. Sir *Henry Martin* gave me Copies of all thoſe Papers on both ſides. No final End made, that I could ever hear of. This calling them all in queſtion, was far more than ever was done by me, or in my time; and yet no Accuſation at all, much leſs any of Treaſon, put up againſt Archbiſhop *Bancroft* for this. Secondly, I have here Papers atteſted of all the Prohibitions, which have been admitted in my Courts of Arches and Audience; and I find, there are as many (if not more) admitted in my ſeven Years time, as in any ſeven Years of my Predeceſſor Archbiſhop *Abbot*. And theſe Papers I delivered into the Court. As for the High-Commiſſion, the Records are all taken from us; elſe I make no doubt, but it would ſoon appear by them, that as many have been admitted there alſo. Thirdly, There is a great difference touching Prohibitions, and the ſending of them, ſince the Times of Reformation, and before. For before, the Biſhops Courts were kept under a foreign Power; and there were then

Sir Timothy Baldwin *hath theſe Papers.* W. S. A. C.

then weighty Reaſons for Prohibitions, both in regard of the King's Power, and the Subjects Indemnity. But ſince the Reformation, all Power exerciſed in the Spiritual Courts is from the King, as well as the Temporal; ſo that now there neither is nor can be ſo much Cauſe as formerly was. And yet all that I did humbly and earneſtly deſire, was, that ſome known Bounds might be ſet to each Court, that the Subject might not, to his great Trouble and Expence, be hurried, as now he was, from one Court to another. And here I deſired a *Salvo*, till I might bring [1] Archbiſhop *Parker*'s Book, to ſhew his Judgment in this Point, in the beginning of the Reformation, if it ſhall be thought needful. 'Accord-'ing to whoſe Judgment (and he proves it at 'large) there is open Wrong done to the Eccleſi-'aſtical Juriſdiction by Prohibitions.'

[1] Ma. Parkeri Antiq. Britan. in vita Joh. Stafford. p. 326, 327.

III. The next Charge is about my undue taking of Gifts: A Charge which I confeſs I did not think to meet here. And I muſt and do humbly deſire your Lordſhips to remember, that till this Day I have not been accuſed, in the leaſt, for doing any thing corruptly: And if I would have had any thing to do in the baſe dirty Buſineſs of Bribery, I needed not have been in ſuch Want as now I am. But my Innocency is far more to my Comfort, than any Wealth ſo gotten could have been: For I cannot forget that of *Job*, That [2] *Fire ſhall conſume the Tabernacles of Bribery.* 'And in the *Roman* Story, [3] 'when *P. Rutilius*, a Man *Summâ Innocentiâ*, of greateſt Integrity, was 'accuſed, condemned, and baniſhed, 'tis obſerved, by the Story, that he ſuffered all 'this not for Bribery, of which he was not guil-'ty, but *ob Invidiam*, for Envy; againſt which, 'when it rages, no Innocency, no Worth of any 'Man is able to ſtand.

[2] Job 15. 34.

[3] Calviſ. Chro. p. 251.

1. But to come to the Particulars: The firſt is the Caſe of Sir *Edward Greſham*'s Son, unhappily married againſt his Father's Will; a Suit in the High-Commiſſion about it; and that there he had but fifty Pounds Damages given him. That was no fault of mine: My Vote gave him more; but it was carried againſt me. The Bond of two hundred Pounds, which was taken according to [4] Courſe in the Court, was demanded of me by Sir *Edward*, to help himſelf that way; and 'tis confeſſed I granted it. But then 'tis charged, That in my Reference to Sir *John Lambe*, to deliver him the Bond, I required him to demand one half of the Forfeiture of the Bond toward the Repair of *St. Paul's*. 'Tis true, I did ſo: But, 1ſt, I deſire it may be conſidered, that it was wholly in my Power whether I would have delivered him the Bond, or not. 2dly, That upon this groſs Abuſe, I might have ſued the Bond in my own Name, and beſtowed the Money upon what charitable Uſes I had thought fit. 3dly, That I did nothing herein but what the Letters-Patent for Repair of *St. Paul's* gave me Power to do. 4thly, That this is the third time *St. Paul's* is urged againſt me: Which I am not ſorry for; becauſe I deſire (ſince 'tis once moved) it may be ſifted to the uttermoſt. And whereas, to make all Eccleſiaſtical Proceedings the more odious, it was urged, That the Rubrick in the *Common-Prayer Book* mentions no Licence, but Asking of Banes: That Rubrick is to be underſtood where no Licence is granted: For elſe no Licence at all for Marriage without Banes-asking can be good; which is againſt the Common both Law and Practice of the Kingdom. *Can. 62. Ec. Ang.*

[4] Can. Ec. Ang. 101.

2. The ſecond Particular was charged by one Mr. *Stone*, of *London*; who ſaid, He ſent into *Lambeth* two Butts of Sack, in a Cauſe of ſome *Cheſter*-Men, whom it was then in my Power to relieve, and mitigate their Fine ſet upon them in the High-Commiſſion at *York*, about Mr. *Pryn*'s Entertainment, as he paſſed that way; and that this Sack was ſent in before my Compoſition with him what ſhould be mittigated, and ſo before my Return of the Fine mitigated into the Exchequer. The Buſineſs, my Lords, was thus: His Majeſty having taken the Repair of the Weſt-end of *St. Paul's* to himſelf, granted me to that end all the Fines in the High-Commiſſion Court, both here and at *York*, and left the Power of Mitigation in me. The *Cheſter*-Men, which this Witneſs ſpeaks of, were deeply ſentenced at *York* for ſome Miſdemeanours about Mr. *Pryn*, then lately ſentenced in the *Star-Chamber*. One or more of them were Debtors to this Mr. *Stone*, to the Value of near three thouſand Pounds, (as he ſaid.) Theſe Men, for fear of the Sentence, kept themſelves cloſe, and gave Mr. *Stone* to know how it was with them; and that if he could not get me to moderate the Fine, they would away, and ſave themſelves, (for they had now heard the Power was in me.) Upon this, Mr. *Stone*, to ſave his own Debt of three thouſand Pounds, ſends his Son-in-Law Mr. *Wheat* and Dr. *Bailie*, Men that were bred in the College of *St. John* under me, and had ever ſince good Intereſt in me, to deſire my Favour. I at firſt thought this a Pretence, and was willing to preſerve to *St. Paul's* as much as fairly I might. But at laſt, upon their earneſt pleading that the Men were not rich, and that Mr. *Stone* was like (without any fault of his) to be ſo much damnified, I mitigated their Fines, which were in all above a thouſand Pounds, to two hundred. I had great Thanks of all Hands; and was told from the *Cheſter*-Men, that they heartily wiſhed I had had the Hearing of their Cauſe from the beginning. While Mr. *Wheat* and his Brother Dr. *Bailie* were ſolliciting me for favour to Mr. *Stone*, he thinks upon ſending Sack into my Houſe, and comes to my Steward about it. My Steward acquaints me with it. I gave him abſolute Command not to receive it, nor any thing from any Man that had Buſineſs before me: So he refuſes to admit of any. Mr. *Stone* preſſes him again, and tells him he had no relation to the *Cheſter*-Mens Cauſe; but would give it for the great Favour I had always ſhew'd to his Son-in-Law. But ſtill I commanded my Steward to receive none. When Mr. *Stone* ſaw he could not faſten it, he watches a time when my Steward was out of Town, and my ſelf at Court, and brings in his Sack, and tells the Yeoman of my Wine-Cellar he had leave to lay it in. My Steward comes home, finds the Sack in the Cellar; tells me of it: I commanded it ſhould be taken out, and carried back. Then Mr. *Stone* comes, intreats he may not be ſo diſgraced; proteſts, as before, that he did it meerly for my great Favour to his Son-in-Law; and that he had no relation to the *Cheſter*-Mens Buſineſs: And ſo after he proteſted to my ſelf, meeting me in a Morning, as I was going over to the *Star-Chamber*. Yet afterwards this Religious Profeſſor (for ſo he carries himſelf) goes home, and puts the Price of the Sack upon the *Cheſter*-Men's Account. Hereupon they complain to the Houſe of Commons; and *Stone* is their Witneſs.

This

This is the Truth of this Buſineſs, as I ſhall anſwer it to God. 'And whether this do not 'look like a thing plotted by the Faction, ſo much 'imbittered againſt me, let underſtanding Men 'judge.' Mr. *Wheat*, his Son-in-Law, was preſent in Court, and there avowed that he tranſacted the Buſineſs with me, and that he went not out of Town till I had agreed to the Mitigation; that in all that time there was no Tender of Sack, or or any thing elſe, unto me; and he and Dr. *Bailie* the only Men with whom I tranſacted the whole Buſineſs. 'And ſo much could Dr. *Bailie* alſo witneſs, 'but that (as the Times are) I could not bring 'him from *Oxford*.' With Mr. *Stone* himſelf I never treated. For my Steward, he is dead three Years ſince, who could have been my Witneſs clean thorough the Buſineſs. And when I preſſed Mr. *Stone* at the Bar with the Proteſtation which he made to me, that he had no relation herein to the *Cheſter*-Men, he that remembred every Circumſtance elſe, ſaid he remembred not that. Then I offered to take my voluntary Oath of the Truth of it; but that was not admitted. Then it was preſſed, That this Bribe muſt needs be before the Agreement; for he ſays the Sack was ſent in to my Houſe--------, and the Mitigation of the Fine into the *Exchequer* not till--------. But that is nothing; for my Agreement was paſſed, and I meddled no more with it. Yea, but he ſays, That Mr. *Holford* my Servant had forty Pounds more than I agreed upon, before he would finiſh their Buſineſs. Mr. *Holford* was the King's Officer for thoſe Returns into the *Exchequer*: And if after my Agreement made, he either unduly delay'd their Buſineſs, or corruptly took any Money from them, he is living, and muſt anſwer for his own Fault: Me it cannot concern, who did not ſo much as know of it.

'Mr. *Wheat*, having thus teſtified in open Parliament, before the Lords, was within a Day or 'two called before the Committee; there re-examined in private, and very ſtrictly, touching the 'time of my Agreement made: Then (not without ſome Harſhneſs) commanded not to depart 'the Town, till he heard farther from them. This 'himſelf afterwards told me. Hereupon I reſolved to call him again for farther Evidence, and, 'if I ſaw cauſe, to acquaint the Lords with this 'Uſage. And I did call upon it divers times after; 'but one Delay or other was found, and I could 'never obtain it. And ſuch a kind of calling my 'Witneſſes to a private After-reckoning, is that 'which was never offered any Man in Parliament. 'And here Mr. *Brown*, in ſumming up my Charge, 'did me a great deal of Right: For neither to the 'Lords, nor in the Houſe of Commons, did he 'vouch ſafe ſomuch as to name this falſe, baſe, and 'unworthy Charge; of which my greateſt Enemies 'are ready to acquit me.'

3. The third Particular was charged by one Mr. *Delbridge*; who ſays, He was oppreſſed at the Council-Table by the Lord Keeper *Finch*; that he was adviſed by Mr. *Watkins* to give my Secretary Mr. *Dell* Money, to get my Hand to a Petition to the Lord Keeper, who, he ſaid, would not oppoſe me: That *Dell* took of him one hundred and fifty Pounds, and procured my Hand to his Petition. I remember nothing of this Buſineſs, and it lies wholly upon my Secretary; who being my Sollicitor, is here preſent in Court, and deſires he may anſwer the Scandal. There's no Touch at all upon me, but that (he ſays) my Secretary got my Hand to his Petition to the Lord Keeper. This Petition of his was either juſt or unjuſt: If juſt, I committed no Fault it ſetting my Hand to it; if unjuſt, he muſt confeſs himſelf a diſhoneſt Man, to offer to get my Hand to boulſter out his Injuſtice: And yet if the Injuſtice of it were varniſhed over with fair Pretences, and ſo kept from my Knowledge, the Crime is ſtill his own, and nothing mine, but an Error at moſt. As for Mr. *Watkins*, he did me much Wrong, if he ſent any Man to my Houſe on ſuch an Errand.

'Here my Secretary had leave to ſpeak; denied 'the whole Buſineſs; and produced Mr. *Hollys*, 'with whom it was ſaid the hundred and fifty 'Pounds before named ſhould be depoſited, who '(to my Remembrance) ſaid he knew of no ſuch 'Thing.'

4. The fourth Inſtance was a Bond for the Payment of Money as a Fine: The Bond found in Sir *Jo. Lamb*'s Chamber, with a Note upon the Back of it, for one hundred Pound received, and Sir *John* by my Direction was to call for the reſt. And here it was ſaid, That I uſed the Name of *St. Paul's* in an illegal way to get Money; which might well have been ſpared. For (as is aforeſaid) I had a Broad-Seal, which gave me all Fines in the High Commiſſion Court to the repairing of the Weſt-end of *St. Paul's*, and with Power to mitigate. And the Fines are the King's, and he may give them by Law. The Broad-Seal is in the hands of Mr. *Holford*, who is thereby appointed Receiver of all ſuch Fines; but is upon Record to be ſeen: And if it be doubted, I humbly deſire a *Salvo* till the Record can be taken out, and ſhewed. But I preſume theſe Gentlemen have ſeen it. And Commutations for ſuch Crimes, as Sir *James Price*'s was, are according to Law, and the antient Cuſtom and Practice in this Kingdom, eſpecially where Men of Quality are the Offenders. And the Power of commuting is as legal in that Court as any other: And if that be doubted, I humbly deſire my Counſel may argue it.

5. The fifth Inſtance was a Charge concerning a Leaſe in *Lancaſhire*, held in three Lives by Sir *Ralph Aſhton*. 'Tis ſaid by his Son Mr. *Aſhton*, (the only Witneſs in the Cauſe) That I by Power at *Cheſter* and *York*, and the High Commiſſion here, being Landlord in Right of my Archbiſhoprick, did violently wreſt this Leaſe of the Rectory of *Whally* in *Lancaſhire* out of his hands againſt Law, and made him take a Leaſe for Years, and pay a great Fine beſides, and other Fines beſides toward the Repair of *St. Paul's*, and raiſed the Rent ſixty Pound. Truly, my Lords, I am not any whit ſollicitous to anſwer this Charge. I challenged this Leaſe as void, and had great reaſon ſo to do, both for the Invalidity of the Leaſe it ſelf, and the Unworthineſs of the Tenant, both to me and my See. If in the Preparations for Tryal at Law, the Judge at *Cheſter* (altogether unknown to me, and unlaboured by me) did ſay, (as Mr. *Aſhton* ſays he did) That for higher Powers above he durſt not, he was the more unworthy. And for *York*, I needed no Power there; for I reſolved to have him called into the High Commiſſion here: which was after done.

This Gentleman his Son came to me about the Leaſe: I told him plainly, it was void in Law, and that I meant to overthrow it; That if his Father would ſurrender, I would renew it for Years at a reaſonable Rate; but if he put me to expence in Law, I would ſecure my ſelf, as well as legally I might. He replied, That Mr. Sollicitor *Littleton* (for ſo then he was) ſaid, he durſt not be againſt me. And there was good reaſon for it; he was my Counſel, and feed in that Particular. And what

a poor Evaſion was this? Were there no other Lawyers for him, becauſe Mr. Sollicitor was for me? The truth is, all that ever I did in this Buſineſs, was not only with the Knowledge, but by the Advice of my Counſel, which were Mr. Sollicitor *Littleton*, and Mr. *Herbert*.

And at laſt this Gentleman ſubmitted himſelf and the Cauſe; and if (as he ſays) Dr. *Eden* perſuaded him to it, that's nothing to me. As for the Fine, I referred the Moderation of it wholly to my Counſel: they pitched upon Sixteen Hundred Pounds, and gave ſuch Days of Payment, as that a good part is yet unpaid: and this Sum was little above one Year's Rent; for the Parſonage is known to be well worth Thirteen Hundred Pounds a Year, if not more. And after the Buſineſs was ſettled, my Lord *Wimbleton* came to me, and gave me great thanks for preſerving this Gentleman, being (as he ſaid) his Kinſman, whom, he confeſſed, it was in my power to ruin.

For the raiſing of the Rent Sixty Pounds, it was to add Means to the ſeveral Curates to the Chappels of Eaſe: And I had no reaſon to ſuffer Sir *Ralph Aſhton* to go away with ſo much Profit, and leave the Curates both upon my Conſcience and my Purſe. And for his Fine to *St. Paul's*, I gave him all the eaſe I could. But ſince his Son will force it from me, he was accuſed of Adultery with divers Women, and confeſſed all: And whither that Fine went, and by what Authority, I have already ſhewed. And thus much more, my Lords, at Mr. *Bridgman*'s Intreaty, I turned this Leaſe into Lives again without Fine: But ſince I have this Reward for it, I wiſh with all my heart I had not done it. For I am confident in ſuch a Caſe of Right, your Lordſhips would have left me to the Law, and more I wou'd not have asked. And I think this (though intreated into it) was my greateſt Error in the Buſineſs.

6. The laſt Inſtance was about the Converſion of ſome Money to *St. Paul's*, out of Adminiſtrations: By name, Two Thouſand Pounds taken out of *Wimark's* Eſtate, and Five Hundred out of Mr. *Gray's*. Firſt, whatſoever was done in this kind, I have the Broad-Seal to warrant it. And for Mr. *Wimark's* Eſtate, all was done according to Law, and all care taken for his Kindred. And if I had not ſtirred in the buſineſs, four Men, all Strangers to his Kindred, would have made themſelves, by a broken Will, Executors, and ſwept all away from the Kindred. Secondly, for Mr. *Gray's* Eſtate, after as odious an Expreſſion of it as could be made, and as void of Truth as need be, the Proceedings were confeſſed to be orderly and legal, and the Charge deſerted.

Then there was a fling at Sir *Charles Cæſar's* getting of the Maſterſhip of the Rolls for Money, and that I was his Means for it: And ſo it was thence inferred, That I ſold Places of Judicature, or helped to ſell them. For this they produced a Paper under my Hand: But when they had thrown all the Dirt they could upon me, they ſay, they did only ſhew what Probabilities they had for it, and what reaſon they had to lay it in the end of the Fourth Original Article; and ſo deſerted it. And well they might; for I never had more hand in this Buſineſs, than that when he came to me about it, I told him plainly, as things then ſtood, that Place was not like to go without more Money, than I thought any wiſe Man would give for it: Nor doth the Paper mentioned ſay any more, but that I informed the Lord Treaſurer what had paſſed between us.

This Day ended, I was ordered to appear again, *April* 4. 1644. and received a Note from the Committee, under Serjeant *Wild's* Hand, dated *April* 1. That they meant to proceed next upon the Fifth and Sixth Original Articles, and upon the Ninth Additional; which follow *in hac verba*:

V. He hath traitorouſly cauſed a Book of Canons to be compoſed and publiſhed, and thoſe Canons to be put in execution, without any lawful Warrant and Authority in that behalf. In which pretended Canons many Matters are contained contrary to the King's Prerogative, to the Fundamental Laws and Statutes of this Realm, to the Right of Parliament, to the Propriety and Liberty of the Subjects; and Matters tending to Sedition, and of dangerous Conſequence; and to the Eſtabliſhment of a vaſt, unlawful and preſumptuous Power in himſelf and his Succeſſors: Many of the which Canons, by the Practice of the ſaid Archbiſhop, were ſurreptitiouſly paſſed in the late Convocation, without due Conſideration and Debate; others by Fear and Compulſion were ſubſcribed unto by the Prelates and Clerks there aſſembled, which had never been voted and paſſed in the Convocation, as they ought to have been. And the ſaid Archbiſhop hath contrived and endeavoured to aſſure and confirm the unlawful and exorbitant Power which he hath uſurped and exerciſed over his Majeſty's Subjects, by a wicked and ungodly Oath, in one of the ſaid pretended Canons, enjoined to be taken by all the Clergy, and many of the Laity of this Kingdom.

VI. He hath traitorouſly aſſumed to himſelf a Papal and Tyrannical Power, both in Eccleſiaſtical and Temporal Matters, over his Majeſty's Subjects in this Realm of *England*, and in other Places, to the Diſinheriſon of the Crown, Diſhonour of his Majeſty, and Derogation of his ſupreme Authority in Eccleſiaſtical Matters. And the ſaid Archbiſhop claims the King's Eccleſiaſtical Juriſdiction, as incident to his Epiſcopal and Archiepiſcopal Office in this Kingdom; and doth deny the ſame to be derived from the Crown of *England*: which he hath accordingly exerciſed, to the high Contempt of his Royal Majeſty, and to the Deſtruction of divers of the King's liege People in their Perſons and Eſtates.

The Ninth Additional Article.

IX. That in and about the Month of *May* * 1641. preſently after the Diſſolution of the laſt Parliament, the ſaid Archbiſhop, for the ends and purpoſes aforeſaid, cauſed a Synod or Convocation of the Clergy to be held for the ſeveral Provinces of *Canterbury* and *York*; wherein were made and eſtabliſhed, by his Means and Procurement, divers Canons and Conſtitutions Eccleſiaſtical, contrary to the Laws of this Realm, the Rights and Privileges of Parliament, and Liberty and Property of the Subject; tending alſo to Sedition, and of dangerous Conſequence. And, amongſt other things, the ſaid Archbiſhop cauſed a moſt dangerous and illegal Oath to be therein made and contrived; the Tenor whereof followeth in theſe Words: *That I* A. B. *do ſwear, that I do approve the Doctrine and Diſcipline or Government eſtabliſhed in the Church of* England, *as containing all things neceſſary to Salvation; and that I will not endeavour, by my ſelf or any other, directly or indirectly, to bring in any Popiſh Doctrine, contrary to that which is ſo eſtabliſhed: Nor will I ever*

* 1640. Ruſh.

give

give my consent to alter the Government of this Church by Archbishops, Bishops, Deans, and Archdeacons, &c. as it stands now established, and as by right it ought to stand; nor yet ever to subject it to the Usurpations and Superstitions of the See of Rome. *And all these things I do plainly and sincerely acknowledge and swear, according to the plain and common Sense and Understanding of the same Words, without any Equivocation or mental Evasion, or secret Reservation whatsoever. And this I do heartily, willingly and truly, upon the Faith of a Christian. So help me God in Jesus Christ.* Which Oath the said Archbishop himself did take, and caused divers other Ministers of the Church to take the same, upon pain of Suspension and Deprivation of their Livings, and other severe Penalties: And did also cause *Godfrey*, then Bishop of *Gloucester*, to be committed to Prison for refusing to subscribe to the said Canons, and to take the said Oath; and afterward the said Bishop submitting himself to take the said Oath, he was set at liberty.

On Thursday *April* 4. 1644. I was again brought to the House, made a sufficient Scorn and Gazing-stock to the People; and after I had waited some Hours, was sent back, by reason of other Business, unheard; but order'd to appear again on Monday *April* 8. Then I appeared again, and was used by the basest of the People as before. I did not appear any Day but it cost me six or seven Pounds: I grew into want. This made my Counsel and other Friends to persuade me, the next time I had admittance to speak, to move the Lords again for some necessary Allowance, notwithstanding my former Petition had been rejected. This Advice I meant to have followed that Day: But after some Hours Attendance I was sent back again unheard, and order'd to come again on Thursday *April* 11. This Day I did not come to the House; a Warrant being sent to the Tower, which stayed me till Tuesday *April* 16.

The Seventh Day of my Hearing.

I. *April* 16. I appeared, and (as I remember) here Mr. *Maynard* left off, (save that now and then he interposed, both in the Reply, and otherwise) and Mr. *Nicolas*, a Man of another Temper, undertook the managing of the Evidence.

And the first Charge was concerning the late Canons, [a] which, he said, were against Law to sit, the Parliament being dissolved. No, my Lords, nothing against Law that I know: For we were called to sit in Convocation by a different Writ from that which called us as Bishops to the Parliament. And we could not rise, till his Majesty sent us another Writ to discharge us: and this is well known to the Judges, and the other Lawyers here present. So we continued sitting, though the Parliament rose. Nor was this Sitting continued by any Advice or Desire of mine: For I humbly desired a Writ to dissolve us. But the best Counsel then present, both of Judges, and other Lawyers, assured the King we might legally sit. And here is a Copy attested under their Hands.

[a] 1. *for the making of which, he said it was against Law for the Convocation.*

Vide supra, post init.

Then he urged, out of my Diary, at *May* 29. 1640. That I acknowledged there were seventeen Canons made, which I did hope would be useful to the Church. 'Tis true, my Lords, I did hope so. And had I not hoped it, I would never have passed my Consent unto them. And when I writ this, there was nothing done or said against them. And if by any Inadvertency, or human Frailty, any thing erroneous or unfit, have slipped into those Canons, I humbly beseech your Lordships to remember, it is an Article of the Church of *England*, That General Councils may err (*Art.* 21.) and therefore this National Synod may mistake. And that since (if any Error be) it is not wilful, it may be rectified, and in Charity passed by.

For the Bishop of *Gloucester's* refusing to subscribe the Canons, and take the Oath; which is here said by the Counsel, but no Proof offered; the truth is this: He, first pretended (to avoid his Subscription) that we could not sit, the Parliament risen. He was satisfied in this by the Judges Hands. Then he pretended the Oath. But that which stuck in his stomach, was the Canon about suppressing of the Growth of Popery, (*Can.* 3.) For, coming over to me to *Lambeth* about that Business, he told me he would be torn with wild Horses before he would subscribe that Canon. I gave him the best Advice I could; but his Carriage was such, when he came into the Convocation, that I was forced to charge him openly with it, and he as freely acknowledged it; as there is plentiful Proof of Bishops and other Divines then present. And for his Lordship's being after put to take the Oath, (which was also urged) it was thus. I took my self bound to acquaint his Majesty with this Proceeding of my Lord of *Gloucester's*, and did so. But all that was after done about his Commitment first, and his Release after, when he had taken the Oath, was done openly at a full Council-Table, and his Majesty present, and can no way be charged upon me, as my Act: For it was my Duty to let his Majesty know it, to prevent farther Danger then also discovered. But I am here to defend my self, not to accuse any Man else.

Next he urged, That I had interlined the original Copy of the Canons with my own Hand. But this is clearly a Mistake, if not a wilful one. For, perusing the Place, I find the Interlining is not in my Hand, but my Hand is to it, as (I humbly conceive) it was fit it should. And the Words are in the Ratification of the Canons, and therefore were necessarily to be in the Original, howsoever slipped in the writing of them.

As for the Oath so bitterly spoken of at the Bar, and in the Articles; either it was made according to Law, or else we were wholly misled by Precedent, and that such as was never excepted against. For in the Canons made in King *James* his Time, there was an Oath made against [b] Simony; and an Oath for [c] Church-Wardens; [d] and an Oath about [e] Licences and Marriages; [f] and an Oath for [g] Judges in Eccle-siastical Courts: And some of these Oaths as dangerous as this is accounted to be. And all these established by no other Authority than these late were.' And yet neither those Canons, nor those Oaths, were ever declared illegal by any ensuing Parliament, nor the Makers of them accused of any Crime, much less of Treason. So that, we had in this Synod unblamed Precedent for, what we did, as touching our Power of doing it.

[b] *Can.* 40.
[c] *Can.* 118.
[d] *Can.* 103.
[e] *Can.* 127.

But, after all this, he said he would pass these things by, (that is, when he had made them as odious as he could) and would charge nothing up-

on me but the Votes of both Houses; namely, That these Canons contain Matters contrary to the King's Prerogative, to the Fundamental Laws of the Realm, to the Rights of Parliaments, to the Propriety and Liberty of the Subject, and Matters tending to Sedition, and of dangerous Consequence. So these Votes of the Honourable Houses made so long after, (and therefore cannot well be an Evidence against the making of that which was done so long before) is the Task lying now upon me to answer; which, with your Lordships Honourable Favour, I shall in all Humbleness address my self unto.

Before these Words were well out of my Mouth, Mr. *Nicolas* with much Earnestness interposed; That he hoped their Lordships would not endure that the *solemn Votes of both Houses* should be called into question by any Delinquent; and was sure the House of Commons would not endure it. Upon this the Lords presently gave their Resolution, that I might not speak to any thing that was declared by Votes; but was to answer only to the Fact, whether I made the Canons or no. To this, with Leave humbly asked, I replied, That if I might not answer to the Votes, I must yield the Evidence, which I could not do; and that if I might answer, I must dispute the Votes, which their Lordships resolved I should not do: That then I was in a Perplexity, and must necessarily offend either way; and therefore humbly besought them to consider not my Case only, but their own too. For I did conceive it would concern them in Honour, as much as me in Safety, That no Charge might be brought against me in that great Court, to which I should not be suffered to make answer: or else that they in Honour would not judge me for that, to which my Answer is not suffered to be given. With this, that all these Canons were made in open and full Convocation, and are Acts of that Body, and cannot be ascribed to me, though President of that Synod, but are the joint Acts of the whole Body: So by me they were not made; which is my Answer.

'And according to this I framed my Answer to 'Mr. *Brown*'s Summary of my Charge, both hinting the Canons in general, and concerning the 'Instance before given about the Bishop of *Glocester*.

'But though I was not allowed there to make 'any farther Answer in defence of these Canons; 'nor can hold it fit to insert here so long an Answer as these Votes require; I humbly desire 'the courteous Reader, if he please, to look upon 'the Answer which I have made to 'a Speech [1] of Mr. *Nathaniel Fynes*, 'in the House of Commons, against 'these Canons. In which Answer, 'I humbly conceive, I have satisfied 'whatsoever these Votes contain against them. Howsoever, I can'not but observe this in present. The Words in 'the sixth Original Article, are as they are above 'cited; That the late Canons contain Matters 'contrary to the King's Prerogative, the Laws, 'Oc. But in the ninth Additional all the rest 'of the Exceptions are in against them, but 'these Words about the King's Prerogative are 'quite left out. I would fain know, if I could, 'what is the reason of this Omission in these added Articles: Is it for shame, because there was 'a purpose to charge me (as Ser'jeant *Wild* did in his Speech the 'first Day) That I laboured to advance the King's Prerogative above 'the Law? To advance it, and yet made contrary Canons against it; which is the way to 'destroy it. What pretty Nonsense is this? Or is 'it because the Framers of these Additionals (whom 'I conceive were some Committee, with the help 'of Mr. *Pryn*) thought the time was come, or 'coming, in which the King should have no more 'Prerogative? Or if there be a third Reason, let 'them give it themselves.'

Et Art. 2. additionalis.

This was all concerning the Canons. Then followed the sixth Original Article about my assuming of Papal Power; where Mr. *Brown*, in summing up of his Charge, was pleased to say, 'That no Pope 'claimed so much as I had done. But he was herein much mistaken: For never any Pope claimed 'so little. For he that claimed least, claimed it in 'his own Right, which was none; whereas I claimed nothing but in the King's Right, and by 'virtue of his Concession: between which there 'is a vast Latitude.' The first Proof upon this Article was read out of certain Letters sent unto me by the University of *Oxford*, I being then their Chancellor. Which great Titles were urged to prove my assuming of Papal Power, because I did not check them in my Answers to those Letters.

(1.) The first Title was *Sanctitas tua*, which Mr. *Nicolas* said, was the Pope's own Title; but he is deceived: for the Title was commonly given to other Bishops also, clean through the Primitive Church, both *Greek* and *Latin*. 'He replied in 'great heat (as his manner it seems is) That 'tis 'Blasphemy to give that Title (*Sanctitas*) in the 'Abstract, to any but God. And though, by the 'Course of the Court I might not answer then to 'the Reply, yet now I may: And must tell Mr. 'Nicolas, that 'tis a great Presumption for him, a 'Lawyer, and no studied Divine, to charge Blasphemy upon all the Fathers of the 'Primitive Church. 'Tis given to [*] St. 'Augustine by *Hilarius* and *Eudius*, 'and in the Abstract. And (which 'is the Charge laid to me) St. *Augustine* never 'checks at, or finds fault with the Title, nor 'with them for writing it. And 'St. *Augustine* himself gives that [2] 'Title to *Eudius*, answering his 'Letters, which I was not to do to 'theirs: And after that to [4] *Quintianus*. Neither is any thing more 'common, than this Stile among the Fathers, as 'all Learned Men know. And 'tis 'commonly given by [5] St. *Gregory the* 'Great to divers Bishops; who being Pope himself, would not certainly have given away his own 'Title (had it been peculiar to him) 'to any other Bishop. Nor would 'any of the Fathers have given this 'Epithet to their Brethren, had 'any Savour of Blasphemy been about it.' But there is a two-fold Holiness, the one Original, Absolute and Essential, and that is in God only, and incommunicable to any Creature; [*] the other Derivative and Relative; and that is found

[*] Apud Aug. Epist. 88, 98.

[2] Aug. Epist. 102.

[4] Aug. Epist. 103.

[5] Greg. Eulogio Episcopo Alexandrino. Apud H. Spelman. in Concil. p. 80. Et Episc. Arelatensi. *Ibid.* p. 95.

[1] *Made* December 14. 1640. *and extant in* Rushworth, par. 3. vol. 1. p. 105.

[*] *The Managers against the Archbishop in another Place pretend, that this Title was never given to any* English *Bishop at least: But herein they are much mistaken; for it was often given to them. To produce but one Instance: Pope* Leo III. *gave this Title to* Ethelard *Archbishop of* Canterbury, *and that in a Letter wrote to* Kenulphus *King of* Mercia. Angl. Sacr. par. 1. p. 460. H. W.

in

in the Creatures, both Things and Perſons; or elſe God ſhould have no Saints, no Holy Ones. For no Man can be ſaid to be *Sanctus*, Holy, but he who in ſome degree hath *Sanctitatem*, Holineſs, reſiding in him. And this I anſwered at the preſent. 'But, according to Mr. *Nicolas* his Divinity, 'we ſhall learn in time to deny the Immortality of 'the Soul: For Immortality, in the Abſtract, is 'applied to God only, 1 *Tim.* 6. 16. *Who only 'hath Immortality*. Therefore if it may not in an 'under and a qualified Senſe, by Participation, be 'applied to the Creature, the Soul of Man cannot 'be immortal.'

(2.) The ſecond Title is *Spiritu Sancto effuſiſſime plenus*. My Lords, I had ſent them many hundred Manuſcripts, and in many Languages. Upon this, in Alluſion to the Gift of Tongues, (and it was about *Pentecoſt* too that I ſent them) the luxuriant Pen of the Univerſity Orator ran upon theſe Phraſes; which I could neither foreſee before they were written, nor remedy after: And finding fault, could not remedy that which was paſt. Beſides, all theſe Letters were in anſwer to mine; I was to anſwer none of theirs: that might have made me work enough, had I wanted any.

(3.) The third Stile is *Summus Pontifex*. But this was in my Lord of *London*'s Letters; and he muſt anſwer if any thing be amiſs. But *Pontifex*, and *Summus* too, is no unuſual Stile to and of the chief Prelate in any Nation.

(4.) The fourth Stile is *Archangelus, & ne quid nimis*. Yes ſure, the meaneſt of theſe Titles is *multum nimis*, far too much, applied to my Perſon and Unworthineſs: Yet a great ſign it is that I deſerved very well of that Univerſity in the Place I then bare, or elſe they would never have beſtowed ſuch Titles upon me. And if they did offend in giving ſuch an unworthy Man ſuch high Language, why are not they called in queſtion for their own Fault?

(5.) The laſt which I remember, is, *Quo rectior non ſtat Regula*, &c. And this is no more than an abſolute *Hyperbole*; a high one I confeſs; yet as high are found in all Rhetorical Authors: And what ſhould make that Blaſphemy in an Univerſity Orator, which is every where common, and not only allowed, but commendable, I know not: 'Eſpe-'cially ſince the Rule of the Interpretation of them 'is as well known as the Figure. Where the Words 'are not to be underſtood in their proper and 'literal Senſe, but as St. *Auguſtine* 'ſpeaks, when that which is ſpoken, '*longè eſt amplius*, is far larger than 'that which is ſignified by it.' And if I had aſſumed any of theſe Titles to my ſelf, which I am, and ever ways far from doing; yet 'tis one thing to aſſume Papal Title, and another to aſſume Papal Power, (which is the thing charged) tho I thank God I did neither. 'If I have here omitted any Title, 'it is mere Forgetfulneſs; for one part or other of 'the Anſwers given will reach it, whate'er it be. 'And, as I told Mr. *Brown*, when he charged 'this on me, Dr. *Strowd*, the Univerſity Orator, 'who writ thoſe Letters, and gave thoſe Titles, 'was called up before a Committee of this Parlia-'ment, examined about them, acquitted, and diſ-'miſſed.'

[1] St. Aug. 16. Civ. Dei, c. 21.

(6.) Theſe Titles from the Letters being paſt, he quoted another, which he called a blaſphemous Speech too, out of my Book againſt *Fiſher*; where, he ſaid, I approved of [2] *Anſelme*, an Enemy to the Crown; and took on me to be Patriarch of this other World. Let any Man look into that place of my Book, and he ſhall find that I make uſe of that Paſſage only to prove that the Pope could not be appealed unto out of *England*, according to their own Doctrine: Which I hope is no Blaſphemy. And for St. *Anſelme*, howſoever he was ſwayed with the Corruptions of his Time, yet was he in other things worthy the Teſtimony which the Authors by me cited give him. 'And if any 'Man be angry that the Archbiſhop of *Canterbury* 'is called the Patriarch of this other World, he 'may be pleaſed to remember that St. *Jerom* gives 'St. *Auguſtine*, who was Biſhop of '*Hippo*, and no Archbiſhop, a greater 'Title than that: For he writes [3] *Beatiſſimo Papæ Auguſtino* more than once, 'and again, as appears in his Epiſtles 'to St. *Auguſtine*.'

[2] *Cont.* Fiſher, §. 25. p. 171.

[3] S. Hieron. apud Aug. Epiſt. 11, 13, 14, 17, 18, &c.

(7.) To theſe Sir *Nathaniel Brent*'s Teſtimony is produced: Who ſays, That he over-heard me ſay to another, *That I would not ſo eaſily quit the Plenitude of my Power*, or to that effect. He confeſſes he was coming in, and finding me ſpeaking with another, made ſtay, and ſtood afar off, and knows not of what I ſpake, (for ſo he ſaid) but over-heard the Words. I beſeech your Lordſhips, obſerve this Witneſs: He confeſſes he knows not of what I ſpake, and yet comes here upon his Oath, to teſtify of Plenitude of Power in relation to my aſſuming Papal Power. If he meant not this, his Teſtimony is nothing; for Plenitude of Power may extend to many other Things; and I might juſtly ſay, (if I ſaid it) *That I would not eaſily part with the Plenitude of my Power*, in relation to other Biſhops of my Province, who by Law have not ſo full Power as I have. But if he did mean this, then his Teſtimony is worſe than nothing: Nothing, in regard he confeſſes he knows not of what I was ſpeaking; and worſe than nothing, that not knowing, he would give ſuch a Teſtimony upon Oath. '[(a) As for the Statutes 'themſelves, there was ſcarce one urged againſt 'me, but it was either a Statute or a Preſcription 'of that Univerſity long before I was born into the 'World, and could not therefore be of my new-ma-'king. And this was my Anſwer to Mr. *Brown* in 'the Houſe of Commons. And ſuch Bannition, Diſ-'commoning, and the like, are well known to be.']

II. The next Charge of this Day was, That I went about to exempt the Clergy from the Civil Magiſtrate.

1. The firſt Witneſs is Mr. *Pincen*. He ſays he heard me ſay at the High-Commiſſion, *That the Clergy were now debaſed; that heretofore it was otherwiſe, and I hope to ſee it ſo again*. Truly, my Lords, if I did ſay thus, (which is more than I can call to Memory) I ſpake Truth: They were debaſed; and I did hope to ſee it otherwiſe: For the debaſing of the Clergy will make their Office and their Doctrine baſe, as well as their Perſons. But here is not a word of freeing them from Laws or the Temporal Magiſtrate. It was replied, He did mention the Civil Magiſtrate. 'If he did, he mentions no 'time; by which I might be enabled to make 'Counter-proof. He is ſingle. They are Words, 'and if within the Statute, then triable by it with-

(a) *Theſe ſix Lines are inſerted out of place, and belong clearly to his Defence of making new Statutes for the Univerſity, which followeth afterwards.* W. S. A. C.

'in ſix Months. And I deſire this grave Gentleman to conſider his Oath: For if I ſpake of any 'ſuch Exemption, I muſt ſpeak againſt my Conſcience and Judgment; which, I humbly thank God, 'I uſed not to do. Nor is it altogether impoſſible 'for the Civil Magiſtrate ſometimes to oppreſs 'poor Clergymen. But a little will be thought too 'much of this And therefore to Mr. *Brown*'s ſummary Charge, I gave the former Anſwer, That I 'ſpake of Exemption from Oppreſſion, not from 'Law.'

2. The ſecond Witneſs was Alderman *Railton*, about the carrying up of the Sword in the Church when he was Lord Mayor. He ſays I once ſent him word about it, but knows not by whom; and after heard no more of it, but refers himſelf to Mr. *Marſh*. He ſays, There was an Order of the Council-Table, *May* 3. 1633. concerning the ſubmitting of the Sword in time and place of Divine Service. If an Order of Council, then was it no Act of mine, as I have often pleaded, and muſt as often as it comes. He ſays farther, That I ſpake theſe Words, or to this effect, *That the Church had been low for theſe hundred Years; but I hoped it would flouriſh again in another hundred.* But here's no one Word of Exemption from Civil Magiſtracy. And I hope your Lordſhips will take Witneſſes as they ſpeak, not as Men ſhall infer and deſcant upon them. 'And then, my Lords, under favour, I ſee 'no harm in the Words.' Only I ſhall recall my Hope: For if I had then any hope to ſee it flouriſh in another hundred Years, 'tis that which I cannot hope for now. He ſays, There was a Reference to the Counſel on both ſides; and that under that Reference the Buſineſs died. And if it died then, what makes it here before the Reſurrection? Yea, but ſays Mr. *Nicolas*, Here's Agitation about the ſubmitting of the Sword, which is the Emblem of Temporal Power. But neither to foreign nor home Power, but only to God; and that in the place, and at the performance of his Holy Worſhip: At which time and place Chriſtian Kings ſubmit themſelves, and therefore cannot ſtand upon the Emblems of their Power. Nor would the Lords of the Council have made either Order or Reference, had there been any thing of danger, or againſt Law, in this kind of ſubmitting. Mr. *Yorke* was produced as another Witneſs, but ſaid juſt the ſame with *Marſh*; and ſo the ſame Anſwer ſerved him.

III. Then followed a Charge about the Charter of *York* to be renewed; and that I did labour to have the Archbiſhop of *York*, his Chancellor, and ſome of the Reſidentiaries, named in it to be Juſtices of Peace within the City. To prove this, Alderman *Hoyle* is produced; who ſays, There was an Order of the Council about this; but cannot ſay that I procured it. So far then this Proof reaches not me. For the Biſhop, his Chancellor, and ſome of the Reſidentiaries, to be Juſtices of Peace within the City; if I were of this Opinion, (as then adviſed) I am ſure there's no Treaſon in it, and I believe no Crime. And, under your Lordſhip's Favour, I could not but think it would have made much Peace, and done much Good in all the Cities of *England* where Cathedrals are. Laſtly, he ſays, There was a debauched Man committed about Breach of the Sabbath; and being caſually ſmother'd, I ſhould ſay, *They deſerved to be hanged that killed him.* Concerning this Man; he loſt his Life, that's confeſſed. His Debauchery; what it was, is not proved. And were he never ſo diſorderly, I am ſure he was not without legal Tryal to be ſhut up into a Houſe, and ſmother'd; that is againſt both Law and Conſcience: And the Officers then in being had reaſon to ſmother the Buſineſs as much as they could; and, it may be, deſerved ſomewhat, if not that which this Alderman ſays I ſaid, to his beſt Remembrance: For ſo, and with no more Certainty, he expreſſed it. This I am ſure I ſaid, That if the Biſhop, or any of the Church, had been then in their Charter, the poor Man's Life had not been loſt.

IV. The fourth Charge was juſt of the ſame nature, concerning the Charge of *Shrewsbury*. For this there were produced two Witneſſes, Mr. *Lee* and Mr. *Mackworth*. But they make up but one between them: For Mr. *Lee* could ſay nothing but what he acknowledges he heard from Mr. *Mackworth*. And Mr. *Mackworth* ſays firſt, That the School-Maſter's Buſineſs was referred to other Lords and my ſelf. That's no Crime: And, to my knowledge, that has been a troubleſome Buſineſs for theſe thirty Years. He ſays, I cauſed that there ſhould go a *Quo Warranto* againſt the Town. This is but as Mr. *Owen* informed him; ſo no Proof. Beſide, 'tis no Crime, being a Referee, if I gave legal Reaſon for it. Nor is it any Crime that the Biſhop and his Chancellor ſhould be Juſtices within the Town, as is aforeſaid in the Caſe of *York*; conſidering eſpecially, that then many Clergy-Men bare that Office in divers Counties of *England*. He adds, That an old Alderman gave fifty Pound to *St. Paul's*. But out of what Conſideration, I know not, nor doth he ſpeak. And if every Alderman in the Town would have given me as much to that uſe, I would have taken it, and thanked them for it. Then he ſays, There was an Order from all the Lords Referees, for ſettling all Things about their Charter. So, by his own Confeſſion, the whole Buſineſs was tranſacted publickly, and by Perſons of great Honour, and nothing charged upon my particular. If Mr. *Owen* ſent me in a Butt of Sack, and after put it upon the Town-Account, (for ſo he alſo ſays) Mr. *Owen* did ill in both; but I knew of neither. And this the Counſel, in their Reply, ſaid they urged not in that kind. Laſtly, The Charter it ſelf was read to both Points, of the Biſhop and his Chancellor being Juſtices of Peace within the Town, and the not bearing up of the Sword: To both which I have anſwer'd already. And I hope your Lordſhips cannot think his Majeſty would have paſſed ſuch a Charter, or that his Learned Counſel durſt have put it to him, had this thing been ſuch a Crime as 'tis here made.

V. The next Charge was out of my Diary, at *March* 5. 1635. The Words are; William Juxon, *Lord Biſhop of* London, *made Lord High Treaſurer of* England. *No Churchman had it ſince* Henry VII's *Time. I pray God bleſs him, to carry it ſo, that the Church may have Honour, and the King and the State Service and Contentment by it. And now if the Church will not hold up themſelves, under God, I can do no more.* I can ſee no Treaſon in this, nor Crime neither. And though that which I did to help on this Buſineſs was very little, yet Aim I had none in it, but the Service of the King, and the Good of the Church: And am confident it would have been both, had not ſuch troubleſome Times followed, as did.

VI. Then they inſtanced in the Caſe of Mr. *Newcommin*. But that Cauſe being handled before, they did only refer the Lords to their Notes: And ſo did I to my former Anſwers.

VII. Then followed the Caſe of *Thorn* and *Middleton*, which were fined in the High-Commiſſion, about ſome Clergy-Mens Buſineſs, *Thorn* being Conſtable. The Witneſſes in this Caſe are three.

1. The

1. The firſt is *Huntford*, (if I took his Name right:) And for the Cenſure of theſe Men, he confeſſes, it was in and by the High-Commiſſion; and ſo no Act of mine, (as I have often pleaded.) But then he ſays, that I there ſpake theſe words, *That no Man of their Rank ſhould meddle with Men in Holy Orders.* Firſt, he is in this part of the Charge ſingle, and neither of the other Witneſſes comes in to him. Secondly, I humbly deſire the Proceedings of the High-Commiſſion may be ſeen, (which are taken out of our hands.) For ſo far as I can remember any thing of this Cauſe, the Miniſter, Mr. *Lewis*, had hard meaſure. And perhaps thereupon I might ſay, That Men of their Rank ſhould not in ſuch ſort meddle with Men in Holy Orders. But to tax the Proceedings of a violent buſy Conſtable, was not to exempt the Clergy from Civil Magiſtracy.

Upon this, he falls juſt upon the ſame words, and ſays, That I utter'd them about their offering to turn out a Corrector from the Printing-Houſe. This Corrector was a Miniſter, and a well-deſerving Man. The Truſt of the Preſs was referred to the High-Commiſſion Court. And I hope your Lordſhips will not think, that not to ſuffer the Printers to turn out a deſerving Man at their pleaſure, is to exempt the Clergy from the Civil Magiſtrate. The Buſineſs, my Lords, was this: This Corrector was principally entertained for the *Latin* and *Greek* Preſs eſpecially, which I had then not without great Pains and ſome Coſt erected. They were deſirous to keep only one for the *Engliſh*, and him at the cheapeſt. Among them their Negligence was ſuch, as that there were found above a thouſand Faults in two Editions of the Bible and Common-Prayer-Book. And one which cauſed this Search was, that in *Exod.* 20. where they had ſhamefully printed, *Thou ſhalt commit Adultery.* For this the Maſters of the Printing-Houſe were called into the High-Commiſſion, and cenſured, as they well deſerved it. As for this Corrector, whom they would have heaved out, they never did ſo much as complain of him to any that had power over the Preſs, till this fell upon themſelves for ſo groſs an Abuſe. Nor did they after this proceed againſt him, to make him appear faulty; and till that were done, we could not puniſh. And for this Buſineſs of the Preſs, he is ſingle too. And I have told your Lordſhips that which is a known Truth. 'And *Hunsford* being bit in his Credit, 'and Purſe, and Friends, by that Cenſure, for ſo 'groſs an Abuſe of the Church and Religion, 'labours to faſten his Fangs upon me in this 'way.'

2. The ſecond Witneſs is Mr. *Bland*. But all that he ſays is, That there was once a Diſmiſſion of this Cauſe out of the Court, and that though I diſliked it, yet I gave way to it, becauſe all Parties were agreed. And no word of Proof, that I was any cauſe of bringing it back into the Court again. What's my fault in this?

3. The third Witneſs was *Thorn* in his own Cauſe: and 'tis plain, by his own words, that this Cauſe was depending in Court before my time. And I believe, were the Records of the Court here, Mr. *Lewis* would not be found ſo great an Offender as Mr. *Thorn* would make him. This I am ſure of, both the High-Commiſſion and myſelf have been quick enough againſt all Miniſters which have been proved to be debauched in their Life and Converſation. And he ſays nothing againſt me, but that I ſided with his Adverſaries; which is eaſy to ſay againſt any Judge that delivers his Sentence againſt any Man. But neither of theſe come home to *Hunsford*.

VIII. The next Charge is in the Caſe of one Mr. *Tomkins*, about the taxing of a Miniſter in a Caſe of Robbery, and Repayment by the Country.

To this Mr. *Newdigate* is produced; who ſays, as he remembers, that I ſhould ſpeak theſe words, *That Miniſters were free from ſuch Taxes, and I hoped to ſee the Times in which they might be free again.* Firſt, This Gentleman is ſingle. Secondly, He ſpeaks not poſitively, but *as he remembers.* Thirdly, This Tax, I do humbly conceive, is not by Law to be laid upon any Miniſter. For no Man is ſubject to this Tax, but they which are to keep Watch and Ward; which Miniſters in that kind are not bound unto. And this I learned of the Lord Keeper *Coventry* at the Council-Table. So I might well then hope to ſee Miniſters free from all ſuch Taxes, by the right Underſtanding and due Execution of our own Laws, without aſſuming any Papal Power.

IX. The laſt Inſtance of this Day was the bringing of Sir *Rich. Samuel* into the High-Commiſſion, for doing his Office as Juſtice of the Peace upon ſome Clergymen. Firſt, For this, this Gentleman is ſingle, and in his own Caſe. Secondly, Himſelf confeſſes, that his bringing into the High-Commiſſion was long after the Fact. Therefore in all probability not for that; nor doth he ſay that I cauſed his bringing in. He ſays farther, That one Article for which he was called into the Commiſſion, was, that he was an Enemy to the Clergy. But he doth not ſay, that I preferred theſe Articles againſt him: nor doth he tell, or can I remember, what the other Articles were, which with this may be bad enough to merit what was there laid againſt him. And whatſoever was done, appears by his own Narration to be the Act of the High-Commiſſion, or the Council-Table, and ſo not chargeable upon me alone. And whereas he ſays, I blamed him much at the Council-Table; let him tell why, and then I'll give him a farther Anſwer: And ſure if I did blame him, I had juſt cauſe ſo to do. Laſtly, he ſays, I did uſe the word *baſe* to him, when he came to me. Sure I cannot believe I did; it was not my Language to meaner Men. If it did ſlip from me, it was in relation to his Enmity to the Clergy, not to his Perſon or Quality. 'And I 'conceive 'tis no genteel part, for a Man of Place 'and Power in his Country, to oppreſs poor Cler-'gymen which neighbour about him. In which 'kind this Gentleman, *peſſime audiebat*, heard ex-'tremely ill.'

This Day thus ended, I was ordered to appear again on Monday, *April* 22. I came, and my former Anſwers having taken off the edge of many Men, (for ſo I was told by good Hands) the Scorns put upon me at my landing, and elſewhere, were ſomewhat abated, though when it was at beſt I ſuffered enough. After I had attended the Pleaſure of the Houſe ſome hours, I was remitted without hearing, and commanded to attend again upon Thurſday, *April* 25. but ſent back again then alſo, and ordered to appear on Tueſday, *April* 30. And when I came, I was ſent away once more unheard: no Conſideration had of myſelf, or the great Charge which this frequent coming put me to. I was then ordered to appear again on Saturday, *May* 4. Then I was heard again; and the Day proceeded as follows.

My

My Eighth Day of Hearing.

SAturday, *May* 4. 1644. To raiſe up Envy againſt me, Mr. *Nicolas* falls firſt to repeating the Titles which were given me in Letters from *Oxford*; to which I gave anſwer the day before. From thence he fell again upon the former Charge, my Endeavour to exempt the Clergy from the Civil Power. And very loud he was, and full of ſour Language upon me. To this General, I anſwered with another more true; That I never did attempt to bring the Temporal Power under the Clergy, nor to free the Clergy from being under it: But I do freely confeſs, I did labour all I could to preſerve poor Clergymen from ſome Laymens Oppreſſion, which lay heavy on them. And *de Vi Laica* hath been an old, and a great, and too juſt a Complaint. And this I took to be my Duty, doing it without wrong to any Man; as ſincerely I did to the beſt of my knowledge: And aſſuring myſelf, that God did not raiſe me to that Place of Eminency, to ſit ſtill, ſee his Service neglected, and his Miniſters diſcountenanced; nay, ſometimes little better than trampled on. 'And my ſtanding 'thus to the Clergy, and their juſt Grievances, is 'not the leaſt cauſe of my preſent Condition. In 'which my Caſe (though not my Abilities) is 'ſomewhat like *Cicero*'s. For having now for ma-'ny Years defended the publick State of the 'Church, and the private of many Church-men, 'as he had done many Citizens; when he by pre-'vailing Factions came into danger
Paterc. L. 2. Hiſt. 'himſelf, *ejus Salutem defendit nemo*, 'no Man took care to defend him 'that had defended ſo many: which 'yet I ſpeak not to impute any thing to Men of 'my own Calling, who, I preſume, would have 'lent me their juſt Defence, to their power, had 'not the ſame Storm which drove againſt my 'Life, driven them into Corners to preſerve themſelves.'

I. The firſt Inſtance was in Mr. *Shervil*'s Caſe; in which Mr. *John Steevens* tells what I ſaid to the Counſel pleading in the *Star-Chamber*, which was, That they ſhould take care not to cauſe the Laws of the Church and the Kingdom to claſh one againſt another. I ſee, my Lords, nothing that I ſpake was let fall, nor can I remember every Speech that paſſed from me; he may be happy that can. But if I did ſpeak theſe words, I know no Crime in them: It was a good Caveat to the Counſel, for ought I know. For ſurely the Laws of Church and State in *England* would agree well enough together, if ſome did not ſet them at odds. And if I did farther ſay to the then Lord Keeper, (as 'tis charged) *That ſome Clergy-men had ſat as high as he, and might again*; which I do not believe I ſaid: yet if I did, 'tis a known Truth. For the Lord *Coventry*, then Lord Keeper, did immediately ſucceed the Lord Biſhop of *Lincoln* in that Office. But though I dare ſay, I ſaid not thus to the Lord Keeper, whoſe Moderation gave me no cauſe to be ſo round with him, yet to the Counſel at the Bar, I remember well, upon juſt occaſion given, that I ſpake to this effect; That they would forbear too much depreſſing of the Clergy, either in their Reputation or Maintenance, in regard it was not impoſſible that their Profeſſion, now as high as ours once was, may fall to be as low as ours now is; 'if the Profeſſors ſet themſelves againſt the 'Church, as ſome of late are known to have done: 'And that the ſinking of the Church would be 'found the ready way to it.'

II. The ſecond Inſtance was about calling ſome Juſtices of the Peace into the High-Commiſſion, about a Seſſions kept at *Tewksbury*.

1. The firſt Witneſs for this (for three were produced) was Mr. *Jo. Steevens*. He ſays, That the Iſle where the Seſſions were kept, was joined to the Church. If it were not now a part of the Church, yet doubtleſs being within the Church-yard, it was conſecrated Ground. He ſays, That Seſſions were kept there heretofore. And I ſay, the more often the worſe. He ſays, That I procured the calling of them into the High-Commiſſion. But he proves no one of theſe things, but by the Report of Sir *Rob. Cook* of *Glouceſterſhire*, a Party in this Cauſe. He ſays again, That they had the Biſhop's Licence to keep the Seſſions there. But the Proof of this alſo is no more than that Sir *Rob. Cook* told him ſo: ſo all this hitherto is Hearſay. Then he ſays, the 88th Canon of the Church of *England* was urged in the Commiſſion-Court, which ſeems to give leave in the cloſe of the Canon, that Temporal Courts or Leets may be kept in Church or Church-Yard. Firſt, that Clauſe in the end of the Canon is referred to the ringing of Bells, not to the Profanations mentioned in the former part of that Canon. Nor is it probable, the Miniſter and Church-Wardens ſhould have power to give ſuch leave, when no Canon gives ſuch power to the Biſhop himſelf. And were it ſo, here's no Proof offered, that the Miniſter and Church-Wardens did give leave: And ſuppoſe ſome Temporal Courts might upon urgent occaſion be kept in the Church with leave, yet that is no Warrant for Seſſions, where there may be Tryal for Blood. He ſays farther, That the Civilians quoted an old Canon of the Pope's, and that that prevailed againſt the Canon of our Church, and Sentence given againſt them. All thoſe Canons which the Civilians urged, are Law in *England*, where nothing is contrary to the Law of God, or the Law of the Land, or the King's Prerogative Royal: and to keep off Profanation from Churches, is none of theſe. Beſides, were all this true which is urged, the Act was the High-Commiſſion's, not mine. Nor is there any thing in it that looks toward Treaſon.
25 H. 8. c. 19. §. ult.

2. The ſecond Witneſs is Mr. *Edward Steevens*. He confeſſes that the Sentence was given by the High-Commiſſion, and that I had but my ſingle Vote in it. And for the Place itſelf, he ſays, the Place where the Seſſions were kept, was ſeparated from the Iſle of the Church by a Wall breaſt-high; which is an evident Proof that it was formerly a part of that Church, and continued yet under the ſame Roof.

3. The third Witneſs is Mr. *Talboyes*, (who, it ſeems, will not be out of any thing which may ſeem to hurt me.) He ſays, The Pariſh held it no part of the Church. Why are not ſome of them examined, but this Man's Report from them admitted? They thought no harm (he ſays) and got a Licence. But why did they get a Licence, if their own Conſcience did not prompt them that ſomething was irregular in that buſineſs? He ſays, he was informed the Seſſions had been twice kept there before. And I ſay, under your Lordſhips favour, the oftner the worſe. But why is not his Informer produced, that there might be Proof, and not Hearſay? Upon this, I ſaid, (ſo he concludes) That I would make a Precedent againſt

keeping

keeping it any more. If I did say so, the Cause deserved it; Men in this Age growing so bold with Churches, as if Profanation of them were no fault at all.

III. The third Instance concerned Sir *Tho. Dacres*, a Justice of Peace in *Middlesex*, and his Warrant for punishing some disorderly Drinking. The Witnesses the two Church-Wardens, *Collier* and *Wilson*; two plain Men, but of great Memories: for this Business was when I was Bishop of *London*, and yet they agree in every Circumstance, in every Word, though so many Years since. Well, what say they? It seems Dr. *Duck*, then my Chancellor, had cited these Church-Wardens into my Court; therefore either there was, or at least to his Judgment there seemed to be somewhat done in that Business against the Jurisdiction of the Church. They say then, That the Court ended, Dr. *Duck* brought them to me. And what then? Here is a Cause, by their own confession, depending in the Ecclesiastical Court; Dr. *Duck* in the King's Quarters, where I cannot fetch him to testify; no Means left me to know what the Proceedings were; and I have good cause to think, that were all the Merits of the Cause open before your Lordships, you would say, Sir *Tho. Dacres* did not all according to Law. But what is the Heart of this Charge? It is, say they, That I commanded Dr. *Duck* to prosecute them. And what fault was in this? For if it were just, why should not Dr. *Duck* go on with his Prosecution? If Dr. *Duck* and I were both mistaken in the Particular, 'twas easy getting a Prohibition. Yea, but they say I said, *If this must be so, Sir* Thomas Dacres *shall be Bishop of* London, *and I'll be Sir* Tho. Dacres. For ought I see in the Weight of it, this whole Charge was but to bring in this Speech. And truly, my Lords, my old decay'd Memory is not such, as that I can recall a Speech thirteen or fourteen Years since. But if I did say it, I presume 'tis not High Treason for a Bishop of *London* to say so much of Sir *Tho. Dacres*. 'Mr. *Brown*, in the summing up 'the Charge against me, laid the Weight of the 'Charge in this, That these Church-Wardens were 'prosecuted for executing the Warrant of a Justice 'of Peace upon an Ale-house Keeper, for tipling 'on the Sabbath-Day, contrary to the Statutes '*Jac.* 7. *&* *Car.* 3. To which I answered, That 'those Statutes did concern the Ale-house Keepers 'only; nor were the Church-Wardens called in 'question for that; but because being Church-'Officers, and a Church-Man tipling there, they 'did not complain of that to the Chancellor of the 'Dioceſs. Mr. *Brown* replied, There was no Cler-'gy-Man there. I am glad I was so mistaken. 'But that excuseth not the Church-Wardens, who 'being Church-Officers, should have been as rea-'dy to inform the Bishop, as to obey the Justice 'of Peace.'

IV. The fourth Instance was about Marriages in the *Tower*, which I opposed against Law. The Witness Sir *William Balfore*, then Lieutenant of the *Tower*. He says, that I did oppose those Marriages: And so say I. But I did it for the Subject of *England*'s sake: for many of their Sons and Daughters were there undone. Nor Banes, nor Licence, nor any Means of Fore-knowledge to prevent it. Was this ill? He says, That when he spake with me about it, I desired him to speak with his Majesty about it, because it was the King's House. What could I do with more moderation? He confesses he did so, and that he moved the King that the Cause might be heard at the Council-Table, not at the High-Commission. To this his Majesty inclined, and I opposed nothing, so the general Abuse might be rectified. Then he says, Mr. Attorney *Noye* said at the Council-Table, it was the King's free Chappel, and that no Pope in those times offer'd to inhibit there. First, if Mr. Attorney did so say, he must have leave to speak freely in the King's Cause. Secondly, (as I humbly conceive) the Chappel for ordinary Use of Prisoners and Inhabitants of the *Tower*, where these disorderly Marriages are made, is not that which is called the King's free Chappel; but another, in the side of the white Tower by the King's Lodgings. Thirdly, if it be, yet I have herein not offended; for I did all that was done by the King's leave, not by any Assumption of Papal Power. Then he tells the Lords, That in a Discourse of mine with him at *Greenwich*, about this Business, I let fall an Oath. I am sorry for it, if I did: but that's no Treason. 'And I know 'whom the Deponent thinks to please by this In-'terposition: for to the matter it belongs not.' In conclusion, he says truly, That the King committed the Business to some Lords and Judges, that so an end might be put to it; and in the mean time ordered, that till it were ended, there should be no more Marriages in the *Tower*. How this Business ended, I know not. It began, I am sure, by Authority of his Majesty's Grant of the High-Commission, to question and punish all such Abuses, *tam in locis exemptis, quam non exemptis*. And his Majesty having graciously taken this Care for the Indemnity of the Subject, I troubled myself no more with it; my Aim being not to cut off any Privileges of that Place, but only to prevent the Abuses of that lawless Custom. 'And if *cui* '*bono* be a considerable Circumstance, as it uses 'to be in all such Businesses, then it may be 'thought on too, that this Gentleman the Lieute-'nant had a considerable share for his part out of 'the Fee of every Marriage. Which I believe 'was as dear to him as the Privilege.'

V. The next Instance is broke out of the *Tower*, and got as far as *Oxford*. The Witness, Alderman *Nixon*. He says, The Mayor, and the Watch set by him, were disturbed by the Proctors of the University, and a Constable imprisoned. The Night-Walk, and the keeping of the Watch, is the antient, known, and constant Privilege of the University, for some hundred of Years; and so the Watch set by the Town (purposely to pick a Quarrel) was not according to Law. He adds, That when the Right Honourable the Earl of *Berkshire* would have referred the Business to the King's Counsel Learned, I refused, and said I would maintain it by my own Power, as Chancellor. If I did say this (which I neither remember nor believe) I might better refuse Lawyers, (not the Law, but Lawyers) than they a sworn Judge of their own Nomination, which they did.

The Case was briefly this. There were some five or six Particulars which had, for divers Years, bred much Trouble and Disagreement between the University and the City; of which (to my best remembrance) this about the Night-Watch, and another about Felons Goods, were two of the chief. The University complained to me. I was so far from going any By-way, that I was resolved upon a Tryal at *Westminster-Hall*, thinking (as I after found) that nothing but a legal Tryal would set those two Bodies at quiet. The Townsmen liked not this: Came some of the chief of them to *London*; prevailed with their Honourable Steward

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my Lord the Earl of *Berkshire*, to come to me to *Lambeth*, and by his Lordship offer'd to have all ended without so great Charge at Law, by reference to any of the Judges. I said I had no mind to wrong the Town, or put them to charge, but thought they would fly off from all Awards; and therefore stuck to have a legal Tryal. After this, some of the chief Aldermen came to me with my Lord, and offer'd me, That if the University would do the like, they would go down and bring it up under the Mayor and Aldermens Hands, that they would stand to such end as Judge *Jones*, who rode that Circuit, should, upon Hearing, make. They did so, and brought the Paper so subscribed; (and therefore I think Alderman *Nixon*'s Hand is to it as well as the rest:) Upon this I gave way; the University accepted; the Judge heard and settled. And now when they saw my Troubles threatning me, they brake all, whistled up their Recorder to come and complain at the Council-Table, his Majesty present. And I remember well, I told his Lordship (then making the aforesaid Motion to refer to the King's Learned Counsel) that his Lordship well knew what had passed; and that being so used as I had been by the Townsmen, I would trouble my self with no more References to Lawyers, or to that effect. And I appeal to the Honour of my Lord, whether this be not a true Relation.

VI. The sixth Instance concerns the putting of one Mr. *Grant* out of his Right. He says, (but he is single, and in his own Cause) That Mr. *Bridges* was presented to an Impropriation; and that suing for Tythe, he (the said *Grant*) got a Prohibition, and Mr. *Bridges* a Reference to the then Lord Keeper *Coventry* and my self; That we referred them to the Law, and that there *Grant* was non-suited, and so outed of his Right. First, In all this there's nothing said to be done by me alone. Secondly, The Lord Keeper, who well understood the Law, thought it fittest to refer them to the Law: and so we did. If he were there non-suited first, and outed after, it was the Law that put him out, not we. 'Yet your Lordships 'see here was a Prohibition granted in a Case, 'which the Law it self after rejected.'

VII. Then follows the Instance, That I had a purpose to abolish all Impropriations. The first Proof alledged was a Passage out of Bishop *Mountague*'s Book, *p.* 210. That Tythes were due by Divine Right, and then no Impropriations might stand. And Mr. *Pryn* witnessed very carefully, That this Book was found in my own Study, and given me by Bishop *Mountague*. And what of this? Doth any Bishop print a Book, and not give the Archbishop one of them? Or must I answer for every Proposition that is in every Book that is in my Study, or that any Author gives me? And if Bishop *Mountague* be of opinion that Tythes are due by Divine Right, what is that to me? Your Lordships know many Men are of different Opinions in that Difficulty; and I am confident you will not determine the Controversy by an Act of Parliament. They were nibling at my Diary in this, to shew that it was one of my Projects to fetch in Impropriations; but it was not fit for their purpose: For 'tis expressed, That if I lived to see the Repair of *St. Paul's* near an end, I would move his Majesty for the like Grant for the buying in of Impropriations. And to buy them from the Owners, is neither against Law, nor against any thing else that is good; nor is it any Usurpation of Papal Power.

Diary, in fine, *num.* 21.

2. The second Proof was my procuring from the King such Impropriations in *Ireland*, as were in the King's power, to the Church of *Ireland*. 'Which 'Mr. *Nicolas* (in his gentle Language) calls Rob-'bing of the Crown.' My Lords, the Case was this. The Lord Primate of *Armagh* writ unto me, how ill conditioned the State of that Church was for want of Means; and besought me that I would move his Majesty to give the Impropriations there, which yet remained in the Crown, for the Maintenance and Incouragement of able Ministers to live among the People, and instruct them; assuring me, they were daily one by one begged away by private Men, to the great Prejudice both of Crown and Church. And the Truth of this, the Lord Primate is now in this Kingdom, and will witness. I acquainted the King's great Officers, the Lord Treasurer, and the Chancellor of the *Exchequer* with it. And after long Deliberation, the King was pleased, at my humble Suit, to grant them in the way which I proposed: which was, That when they came into the Clergy's hands, they should pay all the Rents respectively to the King, and some Consideration for the several Renewings. And the Truth of this appears in the Deeds: So here was no Robbing of the Crown. For the King had all his set Rents reserved to a Penny, and Consideration for his Casualties beside. And, my Lords, the Increase of Popery is complained of in *Ireland*: Is there a better way to hinder this Growth, than to place an able Clergy among the Inhabitants? Can an able Clergy be had without Means? Is any Means fitter than Impropriations restored? My Lords, I did this, as holding it the best means to keep down Popery, and to advance the Protestant Religion. And I wish with all my heart, I had been able to do it sooner, before so many Impropriations were gotten from the Crown into private Hands.

VIII. Next I was charged with another Project in my Diary, which was to settle some fixed *Commendams* upon all the smaller Bishopricks. For this, I said, their own Means were too small to live and keep any Hospitality, little exceeding Four or Five Hundred Pounds a Year. I considered that the *Commendams* taken at large and far distant, caused a great Dislike and Murmur among many Men; that they were in some Cases *Materia odiosa*, and justly complained of. And hereupon I thought it a good Church-Work to settle some Temporal Lease, or some Benefice, *sine Cura*, upon the lesser Bishopricks, but nothing but such as was in their own Right and Patronage; that so no other Man's Patronage might receive prejudice by the Bishop's *Commendam*: Which was not the least Rock of Offence, against which *Commendams* endanger'd themselves. And that this was my Intent and Endeavour, is expressed in my Diary; and I cannot be sorry for it.

Diary, fine, *num.* 8.

IX. Then I was accused for setting old Popish Canons above the Laws. Mr. *Burton* is the sole Witness. He says, It was in a Case about a Pew, in which those Canons did weigh down an Act of Parliament. 'I did never think till now Mr. *Bur-'ton* would have made any Canons Pew-Fellows 'with an Act of Parliament.' But seriously, should not Mr. *Burton*'s Testimony for this have been produced at the second Instance of this Day? For in the end of that is just such another Charge; and the Answer there given will satisfy this, and that by Act of Parliament too.

25 Hen. 8. c. 19. § ult.

X. After

X. After this came a Charge with a great Outcry; That since my coming to be Archbishop, I had renewed the High-Commission, and put in many illegal and exorbitant Clauses, which were not in the former. Both the Commissions were produced. Upon this, I humbly desired that the Docket might be read, by which their Lordships might see all those Particulars which were added in the new Commission, and so be able to judge how fit or unfit they were to be added. The Docket was read; and there was no Particular found, but such as highly deserved Punishment, and were of Ecclesiastical Cognizance: as Blasphemy, Schism, and two or three more of like nature.

1. In this Charge, the first exorbitant Clause they insisted on, as added to the new Commission, was the Power given *in Locis Exemptis, & non Exemptis*; as if it were thereby intended to destroy all Privileges. No, not to destroy any Privilege, but not to suffer enormous Sins to have any Privilege. Besides, this Clause hath ever been in all Commissions that ever were granted. And I then shewed it to the Lords in the old Commission there present, *p.* 28, 32, 35, 42. 'Nay more, this Proceeding *tam in Locis Exemptis quam non Exemptis*, 'is allowed to the Governours of the Church, 'in the Exercise of their Ecclesiastical Jurisdiction, by Act of Parliament in 'Queen *Elizabeth*'s Time; which 'would never have been allowed, 'had it then been thought such a dangerous Business, as 'tis now made against me.'

1 Eliz. *c.* 2.

2. The second Clause was Power to censure, by Fine and Imprisonment. This also I shewed in the old Commission, *Fol.* 37. and is (as I conceive) in plain pursuance of the Act of Parliament upon which the High-Commission is grounded. For the King says there, *Fol.* 13. (and so 'tis in the new) That he grants this Power by virtue of his Supreme Authority, and Prerogative Royal, 'and of the said Act. Nay farther, 'tis added in this latter Commission, *And by our Authority Ecclesiastical*, which is not expressed in the former. And sure I would never have caused Authority Ecclesiastical to be added, had I any Plot (as 'tis urged) either to exalt the Clergy above the Laity, or to usurp Papal Power; which all Men know is far enough from ascribing Ecclesiastical Authority to the King. And as for Fine and Imprisonment, if that Power be not according to Law, why was it first admitted, and after continued in all former Commissions?

1 Eliz. *c.* 1. §. 8.

' *The Words of the Statute are,* By virtue of this Act.

3. The third Clause was the *Non Obstante*, which he said was against all Law, and of such a boundless extent, as was never found in Commission or other Grant in *England*. And he here desired the Lords that he might read it, which he did, with great Assurance of a Triumph. But after all this Noise which Mr. *Nicolas* had made, I shewed the same *Non Obstante* in the old Commission, *Fol.* 62. word for word, which I humbly desired might be read and compared: It was so. The Lords looked strangely upon it; Mr. *Nicolas* was so startled, that he had not patience to stay till his Reply, (which he saw impossible to be made) but interrupted me, and had the face to say in that Honourable Assembly, That I need not stand upon that; for he did but name that, without much regarding it. And yet at the giving of the Charge, he insisted principally upon that Clause, and in higher and louder Terms than are before expressed. Had such an Advantage been found against me, I should have been accounted extremely negligent, if I compared not the Commissions together; or extremely impudent, if I did.

4. The fourth Exception was, That by this Commission I took greater Power than ever any Court had, because both Temporal and Ecclesiastical. First, Whatsoever Power the High-Commission had, was not taken by them, till given by his Majesty, and that according to Use and Statute, (for ought hath been yet declared.) Secondly, They have not Power of Life or Limb, therefore not so great Power as other Courts have. Thirdly, They may have more various Power in some respects, but that cannot make it greater. 'As for the Expression in which 'tis said, *I took* '*this Power*; that is put most unworthily and un-'justly too, to derive the Envy as much as he could 'upon my Person only.' For he could not hold from comparing me to Pope *Boniface* VIII. and saying, That I took on me the Power of both Swords. But this was only *ad faciendum Populum*. For he knows well enough, that to take both the Swords, as the Pope takes them, is to challenge them originally as due to him and his Place: Not to take both, as under the Prince, and given by his Authority; and so not I alone, but all the Commissioners take theirs.

5. Fifthly, To prove that this vast Commission (as it was called) was put in execution, Mr. *Burton* is produced. He says, That when he was called into the High-Commission, he appealed to the King, and pleaded his Appeal; and that thereupon I and the Bishop of *London* writ to the King to have him submit to the Court. He confesses he was dismissed upon his Appeal, till his Majesty's Pleasure was farther known. And it was our Duty, considering what a Breach this would make upon the Jurisdiction of the Court, to inform his Majesty of it; and we did so. The King declared that he should submit to the Court, as is confessed by himself. Then he says, Because he would not submit to the Court, he was censured notwithstanding his Appeal. And he well deserved it, that would not be ruled by his Majesty, to whom he had appealed. And the Commission had Power to do what they did. Besides, himself confesses, all this was done by the High-Commission, not by me. Nor doth he urge any Threat, Promise, or Sollicitation of mine, any way to particularize the Act upon me: And farther, he is single, and in his own Cause.

XI. Then followed the last Charge of this Day, which was the Patent granted for the Fines in the High-Commission, for finishing the West End of *St. Paul's*, cried out upon as illegal, and extorted from the King, and such as took all Power from him for the space of the Ten Years, for which time it was granted. This is the fourth time that *St. Paul's* is struck at. My Lords, let it come as often as it will, my Project and Endeavour in that Work was honest and honourable to both Church and Kingdom of *England*. No Man in all this Search and Pursuit hath been able to charge me with the turning of any one Penny or Pennyworth to other use than was limited to me. I took a great deal of care and pains about the Work, and cannot repent of any thing I did in that Service, but of human Frailty. And whereas 'tis said, this Patent was extorted from his Majesty; as there is

no Proof offered for it, ſo is there no Truth in it. For his Majeſty's Piety was ſo forward, that nothing needed to be extorted from him. Thus went I on, *bona fide*, and took the prime Direction of the Kingdom for drawing the Patent, the Lord Keeper *Coventry*, Mr. *Noy*, and Sir *Henry Martin*. And therefore if any thing be found againſt Law in it, it cannot be imputed to me, who took all the care I cou'd to have it beyond Exception. And I marvel what Security any Man ſhall have, that adventures upon any great and publick Work in this Kingdom, if ſuch Counſel cannot be truſted for drawing up of his Warrant. 'And whereas it was ſaid, This 'Patent for the ten Years ſpace took away both 'Juſtice and Mercy from the King; that's nothing 'ſo: For whatever the Words be, to enable me the 'better for that Work, yet theſe being inſeparable from him, may be uſed by him, notwithſtanding this or any other Patent. And if theſe be inſeparable, (as 'tis granted they are) no inſeparable 'thing can be taken away; or if it be taken, 'tis 'void in Law, and the King is where he was in 'the Exerciſe of his Right, both for Juſtice and 'Mercy. And ſo I anſwered Mr. *Brown*'s ſummary Charge againſt me. And as for that which 'he farther urged concerning *St. Gregory's* Church, 'Mr. *Jingo Jones* and others were truſted with 'that whole Buſineſs, and were cenſured for it in 'this preſent Parliament. In all which Examina-'tion, no part of the Charge fell on me.' And becauſe here are ſo many things urged about Free-Chappels, Lay-Fees, Patents, Appeals, and the like, I humbly deſire a *Salvo* may be enter'd for me; and that my Counſel may be heard for Matter of Law, if any Doubt ſtick with your Lordſhips.

This Day ended, I did, according to my Reſolution formerly taken, move the Lords for Means, conſidering my Charge in coming, and how oft I had attended, and was not heard. Their Lordſhips conſidered of my Motion, and ſent me out word I ſhould petition them. I did humbly petition their Lordſhips *May* 6. My Petition was preſently ſent down to the Houſe of Commons, that ſo by both Houſes it might be recommended to the Committee for Sequeſtrations. But upon a Speech in the Houſe of Commons, that it was fit to ſee what would become of me, before they troubled themſelves with thinking of Means for me, my Petition was caſt aſide.

At my parting from the Houſe, I was ordered to appear again on Thurſday, *May* 9. but then fairly put off by an Order (ſent to the Lieutenant of the Tower) to Monday, *May* 13. So the Scorn and Charge of that Day was ſcaped. But then I appeared according to this Order, and had Scorn plenty, for what I eſcaped the Day before: And, after long Attendance, was diſmiſſed again unheard; and had Thurſday, *May* 16. aſſigned unto me. That Day held, and proceeded thus.

The Ninth Day of my Hearing.

I. MAY 16. 1644. The firſt Charge of this Day was about a Reverſion of the Town-Clerk's Office of *Shrewsbury* to one Mr. *Lee*, which he deſir'd might be inſerted into the new Charter. Firſt, Mr. *Lee* is ſingle here, and in his own Caſe. Secondly, It appears by his own Confeſſion, out of the Mouth of Mr. *Barnard*, that there was a Reference of this Buſineſs to thoſe Lords to whom *Shrewsbury* Charter was referred: For he ſays, That Mr. *Barnard* told him his Buſineſs was ſtayed, and he thought by me; but did not know whether the Lord Keeper's Hand were not in it. So it ſeems by himſelf, this was done by the Lords Referees, and not by me. Thirdly, I did not then think, nor do now, that the Reverſion of a Place, to be ſold for three hundred Pound, (as he confeſſes that was) was fit to be put into a Town-Charter. But yet neither I, nor the Lord Keeper, did any thing in that Stop, but what we acquainted his Majeſty with, and had his Approbation of. And whereas he ſays, That he acquainted the Right Honourable the Earl of *Dorſet* with the Stay that was made, and that thereupon his Lordſhip ſhould ſay, *Have we two Kings?* I cannot believe that Honourable Lord would ſo ſay, unleſs he were much abuſed by Mr. *Lee*'s Information, both in regard of his Love to me, and in regard it could not proceed from a Man of ſo great a Judgment as that Lord is. For I beſeech your Lordſhips conſider, may not Lords, to whom a Buſineſs is referred, give his Majeſty good Reaſon to alter his mind in ſome Particulars which they have debated, and not he? And may not this be done without any one of them taking on him to be a ſecond King?

II. The ſecond Charge was laid on me by Sir *Arthur Haſelrig*, (which ſhould have come in the Day before, as Mr. *Nicolas* ſaid, but that Sir *Arthur* was abſent in the neceſſary Service of the State.) Sir *Arthur*, being ſingle, and in his own Caſe, ſays, That Sir *John Lambe* preſented a blind Parſon to a Living of his. If Sir *John* did that, or any unworthy thing elſe, *ætatem habet*, let him anſwer for himſelf. He ſays farther, That this Living is an Impropriation, and ſo a Lay-Fee by Law; and that when he told me ſo much, I made him this Anſwer, *That if I lived, no Man ſhould name or ſtand upon his Lay-Fee.* I conceive, my Lords, here's a great Miſtake in the main: For I have been credibly informed, and do believe, that Benefice is preſentative, and ſo no Lay-Fee. And then there's no Fault to preſent unto it, ſo the Clerk be fit. Secondly, There's a main Miſtake in my Words, which I remember well, and where it was that I ſpake them. My Words, under this Gentleman's Favour, and your Lordſhips, were theſe, and no other; *That I had good Information that the Benefice was preſentative; and that if I lived, I hoped to order it ſo, that no Man ſhould make a preſentative Benefice a Lay-Fee; there were too many of them already.* Thirdly, If I did ſpeak the Words as they are charged, if they come within that Statute of ſix Months, ſo often mentioned, to that I refer my ſelf: *whatſoever the Bird at this time of the Year ſings*, as Mr. *Nicolas* was pleaſed to put it upon me. And truly, my Lords, I could eaſily return all his Bitterneſs upon himſelf, could it befit my Perſon, my preſent Condition, or my Calling.

III. The third Charge was about the refuſing of a Pardon, which Mrs. *Baſtwick* ſaid ſhe produced in the High-Commiſſion Court ſome nine or ten Years ſince: And ſhe adds, That I ſhould then ſay, it ſhould not ſerve his turn. But this was no rejecting of the Pardon; for ſhe confeſſes I ſaid I would move his Majeſty about it. So that if it did not ſerve his turn, it was from the King himſelf, upon Motion made, and Reaſon given, not from any Power aſſumed by the High-Commiſſion or my ſelf. And the Act, whatever it were, was the Act of the whole Court, not mine. As for the Words, (if mine) I give the ſame Anſwer as before, notwithſtanding Mr. *Nicholas* his Bird.

IV. The

IV. The fourth Charge was, That whereas there was a Proclamation to be printed about the Pacification with the *Scots*, it was ſuddenly ſtopp'd, and an Order after for burning of the Pacification. Firſt, Mr. *Hunſcot* is ſingle in this Charge. Secondly, Whatſoever was done in this, was by Order of Council: And himſelf names an Order, which could not come from me. Thirdly, He charges me with nothing but that I ſent word the Proclamation was to be ſtayed; which, if I did, I did it by Command. Howſoever, this concerns the *Scotiſh* Buſineſs, and therefore to the Act of Oblivion I refer my ſelf. 'With this, that I ſee by 'this Teſtimony, Mr. *Hunſcourt* (for I took his 'Name uncertainly) hath not yet forgotten, *Thou 'ſhalt commit Adultery*; ſo deſirous he is to catch 'me at the Preſs.'

V. The fifth Charge was about a Benefice in *Northamptonſhire*, in the Caſe of Mr. *Fautrye* and Mr. *Johnſon*, and Dr. *Beal*'s ſucceeding them. In which broken Buſineſs, (for ſuch it was) Firſt, That Buſineſs was all along acted by the High-Commiſſion, not by me. Secondly, That though in the Caſe of Simony the Benefice be loſt, *ipſo facto*, yet that muſt be proved before the Incumbent can be thruſt out, and another inſtituted, elſe Churchmen were in a miſerable Condition for their Livelihood. Excommunication is in many Caſes void in Law, *ipſo facto*; and yet, *ante latam Sententiam*, till Sentence be orderly pronounced againſt it, no Man ſhall be ſubjected to thoſe fearful Conſequences which follow upon it. 'And upon this 'ground of natural Equity, that in the Statute 'concerning the Uniformity of Common-Prayer 'proceeds:' Where 'tis ſaid, [1] *That a Party once convicted for depraving the Common-Prayer Book, and relapſing into the ſame Crime, ſhall be deprived of all his Spiritual Promotions*, ipſo facto. But how? without any legal Proceedings? No; God forbid: For the Words preceding immediately in the Statute, are, *That he muſt be firſt legally convicted of that criminal Relapſe*; and then follows *ipſo facto*, and not before. And therefore the Super-inſtitution, before the Simony tried and judged, was illegal; beſide the great danger to the Pariſhioners, while two Parſons, and their ſeveral Friends are ſcrambling for the Tythes. Secondly, *Fautrye* was not cenſured for the original Cauſe of Simony, but for an Intruder, and Colluder too with *Jeames*, to abuſe the King's Grant of the Benefice. Thirdly, It ſeems *Fautrye* had no better Opinion of his own Cauſe: For he went to his Benefice in *Jerſey*, and ſet not his Title on foot again till after ſeven Years; and that, I think, was when he heard that Mr. *Johnſon* was a Pretender to it. And his Bond upon the Sentence was to make a final Peace. For the Prohibition, which he ſays was refuſed, I have anſwered that before, in the Charge about Prohibitions. Beſides, it appears by [2] Law, that as Prohibitions may be granted in ſome Caſes, ſo in ſome Caſes they may be refuſed. For Dr. *Beal*, there is not the leaſt ſhew of Proof offered, that I brought him in, if to do ſo be a Crime.

[1] 1 *Eliz. c.* 2.

[2] 13 *Ed.* 1.

Thus far Mr. *Fautrye* went. As for Mr. *Johnſon*'s Title, he ſays, That the Lords ordered it for him, and declared that we in the High-Commiſſion could put no Man out of his Freehold. Where firſt, if your Lordſhips have ordered this Buſineſs, I muſt crave to know how far I ſhall have leave to ſpeak to it: For if there be any Errors charged upon the Sentence given in the High-Commiſſion, if they may not be ſpoken to, they cannot be ſatisfied. This I am ſure of, the Commiſſion hath Power to deprive: For the [3] Statute gives it Power *to uſe all Eccleſiaſtical and Spiritual Cenſures*; of which Deprivation is known to be one: And that Power is expreſly given to deprive ſome Offenders of all their Spiritual Promotions, by the following [4] Statute. Therefore I think it follows neceſſarily, either that we have Power over Freehold in that Caſe, or elſe that a Benefice is not a Freehold. But I have no reaſon, howſoever, to ſpeak any thing (were I left never ſo free) againſt your Lordſhips Order, which very honourably left Dr. *Beal* to the Law; as 'tis confeſſed by *Johnſon*.

[3] 1 *Eliz. c.* 1. §. 8.

[4] 1 *Eliz. c.* 2.

Beſides theſe two in their own Cauſe, one Mr. *Jenkins* is produced; but to what end I know not, unleſs it be to beſpatter Dr. *Beal*. He ſays, That ſeven Years ſince Dr. *Beal* was Vice-Chancellor of *Cambridge*; that in his Sermon then he inveighed bitterly againſt the Power of Parliaments, and named ſome unſavoury Speeches of his, both concerning their Perſons and Proceedings. Surely, if Dr. *Beal* did as is teſtified, he was much to blame. But what is this to me? If it be ſaid I did not puniſh him: How could I puniſh that I knew not? And I profeſs I heard not of it till now at Bar. If it be ſaid I did prefer him; that I do abſolutely deny. And neither Mr. *Jenkins*, nor any other, offers the leaſt Proof that I knew the one, or did the other.

VI. The ſixth Charge was concerning the Statutes of the Univerſity of *Oxford*; in which, and the Cathedrals of the new Erection, Mr. *Nicolas* ſays I took on me to be an univerſal Law-giver. Many ſuch Offices he beſtows upon me, which God knows, and I believe he too, that I never affected. No, my Lords, the great Neceſſities of that Univerſity called upon me for it: Their Statutes lay in a miſerable confuſed Heap. When any Difficulty aroſe, they knew not where to look for Remedy or Direction. Then into the Convocation-Houſe, and make a new Statute; and that many times proved contrary to an old one concerning the ſame Buſineſs: Men in the mean time ſworn to both, which could not poſſibly be kept together. By this means Perjury was in a manner unavoidable: And themſelves confeſs in their [5] Regiſter, (which is now in Court) that till this was done, they did in a ſort ſwear, that they might be forſworn.

[5] *Jurati ante ut Perjuri evaderent, fol.* 69.

Beſides, my Lords, I did not aboliſh any the old Books, in which the Statutes lay ſo confuſed, ſome in one Book, and ſome in another; but left them all entirely in the Univerſity, in caſe in after-times any uſe might be made of them. Nor did I with them, as ſome antient Philoſophers are ſaid to have done with the Works of ſome that went before them; that is, make them away, to advance their own Honour the more, as if without any help of former Pains, they had done all themſelves: Holding it Honour more than enough for me, that God had ſo highly bleſſed me in this Work, as to finiſh and ſettle thoſe Statutes, which the greateſt Men in their Times, Cardinal *Wolſey* firſt, and after him Cardinal *Pool*, aſſayed, but left as imperfect as they found them. Neither did I any thing in this Work but by the Conſent of the Univerſity, and according to an Act (and a Delegacy thereby appointed) of their own Convocation.

Mr. *Nicolas* ſays, There is a Razure in one of the Acts, and ſupplied in other Ink. I told your Lordſhips then preſently, (being loth to lie never ſo little under ſuch an Imputation) that if there be any ſuch, it muſt be charged upon the Univerſity, not upon me, for thoſe Records were never in my hands; nor is it ſo much as ſaid they were. And ſince I withdrew to make my Anſwer, I have viewed the Record, and an Alteration or Addition there is; and 'tis a known Hand. 'Tis Dr. *Duppa*'s Hand, now Lord Biſhop of *Salisbury*, and then Vice-Chancellor; who I doubt not but is able to give a good account of what he did therein, and why. And for ought appears, 'tis nothing but the Amendment of ſome ſlip, which their ignorant Regiſter *French* had failed in, and the Vice-Chancellor thought it ſafeſt to mend with his own Hand. And for my own part, if ever I did any thing worth Thanks from the Publick in all my Life, I did it in this Work for that Univerſity. And I wiſh with all my Heart the Times were ſo open, as that I might have the Univerſity's Teſtimony both of me and it. 'Since I cannot, a great Lord, preſent in 'the Houſe when this Charge was laid againſt me, 'ſupplied in part their Abſence; for he was over-'heard to ſay to another Lord, *I think my Lord* '*Archbiſhop hath done no good Work in all his Life,* '*but theſe Men will object it as a Crime againſt him* '*before they have done.*

With this Charge about the Statutes it was let fall, (and I well know why, 'It was to heat a No-'ble Perſon then preſent,') That I procured my ſelf to be choſen Chancellor of that Univerſity. If I had ſo done, it might have been a great Ambition in me, but ſurely no Treaſon. But, my Lords, I have Proof great ſtore, might I be enabled to fetch it from *Oxford*, that I was ſo far from endeavouring to procure this Honour to my ſelf, as that I laboured by my Letters for another. And 'tis well known, that when they had choſen me, I went inſtantly to his Majeſty, ſo ſoon as ever I heard it, and humbly beſought him that I might refuſe it, as well foreſeeing the Envy that would follow me for it; and it did plentifully every way. But this for ſome Reaſons his Majeſty would not ſuffer me to do.

Then were objected againſt me divers Particulars contained in thoſe Statutes: As, Firſt, The making of new Oaths. The Charters of the Univerſity are not new, and they gave Power to make Statutes for themſelves, and they have ever been upon Oath. Secondly, The next Illegality is, That Men are tied to obey the Proctors in ſinging the Litany. This is antient, and in uſe long before ever I came to the Univerſity; and it is, according to the Liturgy of the Church of *England*, eſtabliſhed by Law. Thirdly, The Statute of Bannition from the Univerſity. But there is nothing more antient in the Univerſity-Statutes than this. Fourthly, That nothing ſhould be propoſed in Convocation, but what was conſented unto among the Heads of Colleges firſt; which was ſaid to be againſt the Liberty of the Students. The young Maſters of Arts, void of Experience, were grown ſo tumultuous, that no Peace could be kept in the Univerſity, till my worthy Predeceſſor, the Right Honourable *William Earl* of *Pembroke*, ſettled this Order among them: As he did alſo, upon the ſame grounds, ſettle the preſent way of the Choice of their Proctors. In both which I did but follow and confirm (for ſo much as lay in me) the good and peaceable Grounds which he had laid in thoſe two Buſineſſes. 'And Mr. *Brown*, who, in the ſumming up of my 'Charge, urged this againſt me, mainly miſtook 'in two Things. The one was, That he ſaid this 'Inhibition of Propoſals was in Congregations; 'whereas it was only in Convocations, where 'more weighty Buſineſſes are handled. The other 'was, That this ſtay of Propoſals was made till I 'might be firſt acquainted with them. No; it was 'but till the Heads of Colleges had met, and con-'ſidered of them, for avoiding tumultuary Pro-'ceedings. And when my Honourable Predeceſ-'ſor made that Order, it was highly commended 'every where: And is it now degenerated into a 'Crime, becauſe it is made up into a Statute?' Fifthly, That ſome Things are referred to arbitrary Penalties. And that ſome Things are ſo referred, is uſual in that Univerſity, and many Colleges have a particular Statute for it: Nor is this any more Power than ordinary School-Maſters have, which have not a Statute-Law for every Puniſhment they uſe in Schools. And in divers Things the old known Statute is, That the Vice-Chancellor ſhall proceed *groſſo modo*, that is, without the regular Forms of Law, for the more ſpeedy ending of Differences among the Scholars.

Sixthly, That the 'Statute made by me againſt Conventicles is very ſtrict. But for theſe that Statute is expreſs *de illicitis Conventiculis*; and I hope ſuch as are unlawful may be both forbid and puniſhed. Beſides, it is according to the Charter of *Richard* the Second to that Univerſity. Seventhly, The ſeventh was the Power of diſcommoning. But this alſo hath ever been in power and in uſage in that Univerſity, as is commonly known to all *Oxford*-Men: And no longer ſince than King *James* his Time, Biſhop *King*, then Vice-Chancellor, diſcommoned three or four Townſmen together. Eighthly, That Students were bound to go to Priſon upon the Vice-Chancellor's, or Proctor's Command. This alſo was antient, and long before my coming to the Univerſity. And your Lordſhips may be ſure the Delegacy, appointed by themſelves, would not have admitted it, had it not been antient and uſual. Ninthly, and laſtly, 'About the ſtay of granting Graces, unleſs there were Teſtimony from the Biſhop of the Dioceſs. This was for no Graces; but of ſuch as live not reſident in the Univerſity, and ſo they could not judge of their Manners and Converſation. And for their Conformity to the Church of *England*, none (as I conceive) can be a fitter Witneſs than the Biſhop of the Dioceſs in which they reſided. And, my Lords, for all theſe thus drawn up by ſome of their own Body, I obtained of his Majeſty his Broad-Seal for Confirmation; and therefore no one thing in them is by any Aſſumption of Papal Power, as 'tis urged; but by the King's Power only.

'*Tit.* 15. §. 12.

'*Tit.* 9. §. 2.

VII. Then followed the ſeventh Charge, About the Statutes of ſome Cathedral Churches. Firſt, my Lords, for this, I did it by Letters-Patents from the King, bearing date *Mar.* 31. *decimo Caroli*, and is extant upon Record. And all that was done, was *per juris remedia*, and ſo nothing intended againſt Law, nor done, that I know. They had extreme need of Statutes; for all lay looſe for want of Confirmation, and Men did what they liſted: And I could not but obſerve it; for I was Dean of *Glouceſter*, where I found it ſo. In ſeeking to remedy this, I had nothing but my Labour for my Pains; and now this Accuſation to boot. The Particulars urged are, 1. That I had ordered that nothing ſhould be done in theſe Statutes, *me inconſulto.*

ſulto. And I had great reaſon for it. For ſince I was principally truſted in that Work by his Majeſty, the King, if any Complaint were made, would expect the Account from me. And how could I give it, if other Men might do all, and I not be ſo much as conſulted before they paſſed?

2. That I made a Statute againſt letting Leaſes into three Lives. But firſt, my Lords, the Statute which makes it lawful to let Leaſes for one and twenty Years, or three Lives, hath this Limitation in it, *That they ſhall not let for any more Years than are limited by the ſaid Colleges or Churches.* Now in *Wincheſter*-Church, and ſome other, the old local Statute is moſt plain, that they ſhall let no Leaſe into Lives. Let the Dean and Prebendaries anſwer their own Acts, and their Conſciences, as they can. And in thoſe Statutes which I did not find pregnant to that purpoſe, I did not make the Statute abſolute, but left them free to renew all ſuch Leaſes as were antiently in Lives before. And this give me leave to ſay to your Lordſhips, without offence; If but a few more Leaſes be granted into Lives, no Biſhop nor Cathedral Church ſhall be able to ſubſiſt. And this is conſiderable alſo, That, as the State of the Church yet ſtands, the Laity have the benefit, by the Leaſes which they hold, of more than five parts of all the Biſhops, Deans and Chapters, and College Revenues in *England.* 'And ſhall it be yet 'an Eye-ſore to ſerve themſelves with the reſt of 'their own? This Evidence Mr. *Brown*, whoſe 'part it was to ſum up the Evidence againſt me at 'the end of the Charge, wholly omitted: for 'what cauſe, he beſt knows.'

13 Eliz. c. 10. §. penult.

VIII. The next Charge was about my Injunctions in my Viſitation of *Winton* and *Sarum*, for the taking down of ſome Houſes. But they were ſuch as were upon conſecrated Ground, and ought not to have been built there; and yet with Caution ſufficient to preſerve the Leſſees from over-much Damage. For it appears *apud Acta*, that they were not to be pulled down till their ſeveral Leaſes were expired. And that they were Houſes not built long ſince, but by them; and that all this was to be done, to the end that the Church might ſuffer no damage by them: and that this Demolition was to be made *juxta Decreta Regni*, according to the Statutes of the Kingdom. Therefore nothing injoined contrary to Law: or if any thing were, the Injunction took not place, by the very Tenour of that which was charged. 'Mr. *Brown* 'omitted this Charge alſo, though he hung hea-'vily upon the like at *St. Paul's*, though there was 'Satisfaction given, and not here.'

IX. The ninth Charge was my intended Viſitation of both the Univerſities, *Oxford* and *Cambridge*. For my Troubles began then to be foreſeen by me, and I viſited them not. 1. This was urged as a thing directly againſt Law. But this I conceive cannot be, ſo long as it was with the King's Knowledge, and by his Warrant. 2. Secondly, Becauſe all Power of the King's Viſitations was ſaved in the Warrant, and that with conſent of all parts. 3. Thirdly, Becauſe nothing in this was ſurreptitiouſly gotten from the King, all being done at a moſt full Council-Table, and great Counſel at Law heard on both ſides. 4. Fourthly, Becauſe it did there appear, that three of my Predeceſſors did actually viſit the Univerſities, and that *Jure Eccleſiæ ſuæ Metropoliticæ*. 5. Fifthly, No Immunity pleaded, why the Archbiſhop ſhould not viſit; for the Inſtance againſt Cardinal *Poole*, is nothing. For he attempted to viſit, not only by the Right of his See, but by his Power Legatine from the Pope; whereas the Univerſity-Charters are expreſs, that ſuch Power of Viſitation cannot be granted *per Bullas Papales*. And yet now 'tis charged againſt me, that I challenged this by Papal Power (*a*). 'Mr. *Brown* wholly neglected this 'Charge alſo, which, making ſuch a ſhew, I 'think he would not have done, had he found it 'well grounded.'

X. The tenth Charge was my Viſitation of *Merton-College* in *Oxford*. The Witneſs Sir *Nathaniel Brent*, the Warden of the College, and principally concerned in that Buſineſs. He ſaid, Firſt, That no Viſitation held ſo long. But if he conſult his own Office, he may find one much longer, held and continued at *All-Souls-College* by my worthy Predeceſſor Archbiſhop *Whitgift*. Secondly, He urged that I ſhould ſay, *I would be Warden for ſeven Years.* If I did ſo ſay, there was much need I ſhould make it good. Thirdly, That one Mr. *Rich. Nevil*, Fellow of that College, lay abroad in an Ale-houſe; that a Wench was got with child in that Houſe, and he accuſed of it; and that this was complained of to me, and Sir *Nath. Brent* accuſed for conſpiring with the Ale-Wife againſt *Nevil*. I am not here to accuſe the one, or defend the other. But the Caſe is this: This Cauſe between them was publick, and came to Hearing in the Vice-Chancellor's Court, Witneſſes examined, Mr. *Nevil* acquitted, and the Ale-Wife puniſhed. In all this I had no hand. Then in my Viſitation it was again complained of to me. I liked not the buſineſs; but forbare to do any thing in it, becauſe it had been legally cenſured upon the place. 'This part of the Charge Mr. *Brown* urged againſt 'me in the Houſe of Commons, and I gave it the 'ſame Anſwer.' Laſtly, When I ſat to hear the main Buſineſs of that College, Sir *Nathaniel Brent* was beholden to me that he continued Warden. For in Archbiſhop *Warham*'s time, a Predeceſſor of his was expelled for leſs than was proved againſt him. And I found that true which one of my Viſitors had formerly told me, namely, That Sir *Nathaniel Brent* had ſo carried himſelf in that College, as that if he were guilty of the like, he would lay his Key under the door, and be gone, rather than come to anſwer it. Yet I did not think it fit to proceed ſo rigidly. But while I was going to open ſome of the Particulars againſt him, Mr. *Nicolas* cut me off, and told the Lords, this was to ſcandalize their Witneſſes. So I forbare.

XI. Then followed the laſt Charge of this Day, concerning a Book of Dr. *Baſtwick*'s, for which he was cenſured in the High-Commiſſion. The Witneſſes in this Charge were three. Mr. *Burton*, a mortal Enemy of mine, and ſo he hath ſhewed himſelf. Mrs. *Baſtwick*, a Woman and a Wife, and well tutoured: for ſhe had a Paper, and all written which ſhe had to ſay; though I ſaw it not till 'twas too late. And Mr. *Hunſcot*, a Man that

(*a*) *The Archbiſhop had collected many Papers, Decrees, and Precedents, to aſſert his Privilege of viſiting the Univerſities, in Right of his See, about the Year* 1635. *Which being ſeized on by* Pryn, *among his other Papers at* Lambeth, *were by him, after the Archbiſhop's Death, publiſhed in his own Name, with this Title,* The Plea of the Univerſity of *Oxford* refuted, *&c. London* 1647. *eight Sheets in* 4to. H. W.

comes

comes in to ſerve all turns againſt me, ſince the Sentence paſſed againſt the Printers for *Thou ſhalt commit Adultery.*

In the Particulars of this Charge, 'tis firſt ſaid, That this Book was written *contra Epiſcopos Latiales.* But how cunningly ſoever this was pretended, 'tis more than manifeſt, it was purpoſely written and divulged againſt the Biſhops and Church of *England.* Secondly, That I ſaid that Chriſtian Biſhops were before Chriſtian Kings: So *Burton* and Mrs. *Baſtwick.* And with due Reverence to all Kingly Authority be it ſpoken, who can doubt but that there were many Chriſtian Biſhops, before any King was Chriſtian? Thirdly, Mr. *Burton* ſays, That I applied thoſe words in the Pſalm, *Whom thou may'ſt make Princes in all Lands,* to the Biſhops. For this, if I did err in it, many of the Fathers of the Church miſ-led me, who interpret that place ſo: And if I be miſtaken, 'tis no Treaſon. But I ſhall ever follow their Comments before Mr. *Burton*'s. Fourthly, Mrs. *Baſtwick* ſays that I then ſaid, *No Biſhop, and no King:* If I did ſay ſo, I learned it of a wiſe and experienced Author, King *James*, who ſpake it out and plainly in the Conference at *Hampton-Court.* And I hope it cannot be Treaſon in me to repeat it. Fifthly, Mrs. *Baſtwick* complained, That I committed her Husband cloſe Priſoner. Not I, but the High-Commiſſion; not cloſe Priſoner to his Chamber, but to the Priſon, not to go abroad with his Keeper: which is all the cloſe Impriſonment which I ever knew that Court uſe. Laſtly, The Pinch of this Charge is, That I ſaid *I received my Juriſdiction from God, and from Chriſt*; contrary to an Act of Parliament, which ſays, Biſhops derive their Juriſdiction from the King. This is witneſſed by all three, and that Dr. *Baſtwick* read the Statute. That Statute ſpeaks plainly of Juriſdiction *in Foro contentioſo*, and Places of Judicature, and no other. And all this forinſecal Juriſdiction, I and all Biſhops in *England* derive from the Crown. But my Order, my Calling, my Juriſdiction *in Foro Conſcientiæ*, that is from God, and from Chriſt, and by Divine and Apoſtolical Right. And of this Juriſdiction it was that I then ſpake, (if I named Juriſdiction at all, and not my Calling in general.) For I then ſat in the High-Commiſſion, and did exerciſe the former Juriſdiction under the Broad Seal, and could not be ſo ſimple to deny the Power by which I then ſat. Beſide, the Canons of the Church of *England*, to which I have ſubſcribed, are plain for it. Nay farther, the Uſe and Exerciſe of my Juriſdiction *in Foro Conſcientiæ*, may not be but by the Leave and Power of the King within his Dominions. And if Biſhops and Presbyters be all one Order, (as theſe Men contend for) then Biſhops muſt be *Jure Divino*, for ſo they maintain that Presbyters are. 'This part of the Charge 'Mr. *Brown* preſſed in his Report to the Houſe of 'Commons; and when I gave this ſame Anſwer, 'he in his Reply ſaid nothing but the ſame over 'and over again, ſave that he ſaid, I fled to he 'knew not what inward Calling and Juriſdiction: 'which Point, as I expreſſed it, if he underſtood 'not, he ſhould not have undertaken to judge me.'

Pſal. 45. 17.

Conf. at Hampton-Court, *p.* 84.

37 H. 8. c. 17.

Can. 1.

The 16th of *May* I had an Order from the Lords, for free Acceſs of four of my Servants to me.

On Friday, *May* 17. I received a Note from the Committee, that they intended to proceed upon part of the Sixth Original Article remaining, and upon the Seventh; which Seventh Article follows *in hac Verba.*

VII. That he hath traitorouſly endeavoured to alter and ſubvert God's true Religion by Law eſtabliſhed in this Realm; and inſtead thereof to ſet up Popiſh Superſtition and Idolatry: and to that end hath declared and maintained in Speeches and printed Books divers Popiſh Doctrines and Opinions, contrary to the Articles of Religion eſtabliſhed. He hath urged and enjoined divers Popiſh and Superſtitious Ceremonies, without any warrant of Law; and hath cruelly perſecuted thoſe who have oppoſed the ſame, by corporal Puniſhment and Impriſonment; and moſt unjuſtly vexed others who refuſed to conform thereto, by Eccleſiaſtical Cenſures of Excommunication, Suſpenſion, Deprivation and Degradation, contrary to the Law of this Kingdom.

The Tenth Day of my Hearing.

MOnday, *May* 20. 1644. This day Mr. Serjeant *Wild* undertook the Buſineſs againſt me. And at his entrance he made a Speech, being now to charge me with Matter of Religion. In this Speech he ſpake of a Tide, which came not in all at once: And ſo he ſaid it was in the intended Alteration of Religion. Firſt a Connivance, then a Toleration, then a Subverſion. Nor this, nor that: but a Tide it ſeems he will have of Religion. And I pray God his Truth (the True Proteſtant Religion here eſtabliſhed) ſink not to ſo low an Ebb, that Men may with eaſe wade over to that ſide, which this Gentleman ſeems moſt to hate. He fears both Ceremonies and Doctrine: but in both he fears where no Fear is; which I hope ſhall appear. He was pleaſed to begin with Ceremonies.

I. In this he charged firſt my Chappel at *Lambeth*, and Innovation in Ceremonies there.

1. The firſt Witneſs for this was Dr. *Featly*: he ſays, (1.) There were Alterations ſince my Predeceſſor's time. And I ſay ſo too, or elſe my Chappel muſt lie more undecently than is fit to expreſs. He ſays, I turned the Table North and South. The Injunction ſays it ſhall be ſo. 'And then the Innovation 'was theirs in going from, not mine 'in returning to that way of placing it. Here 'Mr. *Brown*, in his laſt Reply in the Houſe of 'Commons, ſaid, That I cut the Injunction ſhort, 'becauſe in the words immediately following 'tis 'ordered, That *this Place of ſtanding ſhall be altered, when the Communion is adminiſtred.* But firſt, the 'Charge againſt me is only about the Place of it; 'of which that Injunction is ſo careful, that it 'commands, That *when the Communion is done, it 'be placed where it ſtood before.* Secondly, it was 'never charged againſt me, that I did not remove 'it at the time of Communion, nor doth the 'Reaſon expreſſed in the Injunction require it; 'which is, *When the Number of Communicants is 'great, and that the Miniſter may be the better heard of 'them.* Neither of which was neceſſary in my 'Chappel, where my Number was not great, and 'all might eaſily hear.'

Injunct. of Q. Eliz. fine.

(2.) The

(2.) The second thing which Dr. *Featly* said, was in downright Terms, That the Chappel lay nastily, all the time he served in that House. Was it one of my Faults too, to cleanse it?

(3.) Thirdly, He says, the Windows were not made up with coloured Glass, till my time. The truth is, they were all shameful to look on, all diversly patched, like a poor Beggar's Coat. Had they had all white Glass, I had not stirred them. And for the Crucifix, he confesses it was standing in my Predecessor's time, though a little broken: so I did but mend it, I did not set it up, (as was urged against me.) 'And it was 'utterly mistaken by' Mr. *Brown*, 'that I did repair the Story of those 'Windows, by their like in the Mass-Book. No, 'but I and my Secretary made out the Story, as 'well as we could, by the Remains that were un-'broken. Nor was any Proof at all offered, that 'I did it by the Pictures in the Mass-Book; but 'only Mr. *Pryn* testified, that such Pictures were 'there; whereas this Argument is of no conse-'quence: There are such Pictures in the Missal, 'therefore I repaired my Windows by them. The 'Windows contain the whole Story from the 'Creation to the Day of Judgment: three Lights 'in a Window; the two Side-Lights contain the 'Types in the Old Testament, and the Middle-'Light the Antitype and Verity of Christ in the 'New: And I believe the Types are not in the 'Pictures in the Missal. In the mean time, I know 'no Crime or Superstition in this 'History. And though *Calvin* do 'not approve Images in Churches, 'yet he doth approve very well of 'them which contain a History; and says plain-'ly, that these have their use, *in docendo & admo-'nendo*, in teaching and admonishing the People: 'And if they have that use, why they may not 'instruct in the Church, as well as out, I know 'not. Nor do the Homilies in this 'particular differ much from *Calvin*.'

[1] *In his Reply.*

Calv. 1 *Instit. c.* 11. §. 12.

Hom. of Idol. par. 2. *To.* 2. *p.* 27. *fine.*

But here the [2] Statute of *Edw.* 6. was charged against me, which requires *the Destruction of all Images, as well in Glass-Windows, as elsewhere.* 'And this was also earnestly pressed by Mr. *Brown*, 'when he repeated the Sum of the Charge against 'me in the House of Commons.' To which I answered at both times: First, That the Statute of *Edw.* 6. spake of other Images; and that Images in Glass-Windows were neither mentioned, nor meant in that Law: the words of the Statute are, *Any Images of Stone, Timber, Alabaster or Earth, graven, carved or painted, taken out of any Church*, &c. *shall be destroyed*, &c. and not reserved to any superstitious use. So here's not a word of Glass-Windows, nor the Images that are in them. Secondly, That the contemporary Practice, (which is one of the best Expounders of the Meaning of any Law) did neither destroy all coloured Windows, though Images were in them, in the Queen's time, nor abstain from setting up of new, both in her and King *James*'s time. And as the Body of this Statute is utterly mistaken, so is the Penalty too; which for the first and second Offence is but a small Fine, and but Imprisonment at the King's Will for the third. 'A great way short of Punish-'ment for Treason. And I could not but won-'der, that Mr. *Brown* should be so earnest in this 'Point, considering he is of *Lincolns-Inn*, where 'Mr. *Pryn*'s Zeal hath not yet beaten down the 'Images of the Apostles in the fair Windows of 'that Chappel; which Windows also were set up 'new long since that Statute of *Edw.* 6. And 'tis well known, that I was once resolved to have 'returned this upon Mr. *Brown* in the House of 'Commons, but changed my mind, lest thereby I 'might have set some furious Spirit on work to 'destroy those harmless goodly Windows, to the 'just dislike of that Worthy Society.'

[2] 3 & 4 *Ed.* 6. *c.* 10.

But to the Statute Mr. *Brown* added, That the Destruction of all Images, as well in Windows as elsewhere, were 'condemned by the Homilies of the Church of *England*, and those Homilies confirmed in the Articles of Religion, and the Articles by Act of Parliament. This was also urged before; and my Answer was, First, That though we subscribed generally to the Doctrine of the Homilies, as good; yet we did not express, or mean thereby to justify and maintain every particular Phrase or Sentence contained in them. And Secondly, That the very words of the Article to which we subscribe, are, *That the Homilies do contain a godly and a wholesome Doctrine, and necessary for those Times.* Godly, and wholesome for all Times; but necessary for those, when People were newly weaned from the Worship of Images: afterwards, neither the Danger nor the Scandal alike. 'Mr. *Brown* in his Reply 'said, That since the Doctrine contained in the 'Homilies was wholesome and good, it must 'needs be necessary also for all Times. But this 'worthy Gentleman is herein much mistaken. 'Strong Meat, as well spiritual as bodily, is good 'and wholesome; but though it be so, yet if it 'had been necessary at all Times, and for all 'Men, the Apostle would never have fed the *Co-'rinthians* with Milk, and not with Meat, 1 *Cor.* 3. 1, 2. The Meat always good in itself, but not 'necessary for them which were not able to 'bear it.'

[1] *l. was commended*, or *commanded.*

Art. 35.

(4.) The fourth thing which Dr. *Featly* testifies, is, That there were Bowings at the coming into the Chappel, and going up to the Communion-Table. 'This was usual in Queen *Elizabeth*'s time, and 'of old, both among Jews, as appears in the Story 'of *Hezekiah*, 2 *Chron.* 29. 28. and among Chris-'tians, as is evident in *Rhenanus*'s 'Notes upon *Tertullian*.' And one of them, which have written against the late Canons, confesses it was usual in the Queen's Time; but then adds, *That that was a Time of Ignorance.* What, a Time of such a Reformation, and yet still a Time of Ignorance! I pray God the opposite be not a Time of Profaneness, and all is well. 'Mr. *Brown* in the Sum of his 'Charge given me in the House of Commons, in-'stanced in this also. I answered as before; with 'this Addition, *Shall I bow to Men in each House of 'Parliament, and shall I not bow to God in his House, 'whither I do, or ought to come to worship him? Sure-'ly I must worship God, and bow to him, though neither 'Altar nor Communion-Table be in the Church.*'

B. Rhenani Annot. in Tert de Coron. Mil. *p.* 40.

Ep Morton de Missa, *l.* 6. *c.* 5.

(5.) For Organs, Candlesticks, a Picture of a History at the back of the Altar, and Copes at Communions and Consecrations; all which Dr. *Featly* named: First, These things have been in use ever since the Reformation. And Secondly, Dr. *Featly* himself did twice acknowledge that it was in my Chappel, as it was at *Whitehall*; no difference. And it is not to be thought, that Queen *Elizabeth* and King *James* would have endured them all their Time in their own Chappel, had

had they been Introductions for Popery. And for Copes, they are allowed at Times of Communion, by the Canons of the Church. So that theſe, all or any, are very poor Motives from whence to argue an Alteration of Religion.

Can. Eccleſ. Angl. 24.

2. The ſecond Witneſs againſt my Chappel, was Sir *Nathaniel Brent*: But he ſays not ſo much as Dr. *Featly*; and in what he doth ſay, he agrees with him, ſaving that he cannot ſay, whether the Picture at the back of the Communion-Table, were not there before my time.

3. The third Witneſs for this Charge, was one Mr. *Boreman*, who came into my Chappel at Prayers-time, when I had ſome new Plate to conſecrate for uſe at the Communion; and I think it was brought to me for that end by Dr. *Featly*. This Man ſays firſt, He then ſaw me bow, and wear a Cope. That's anſwer'd. Secondly, That he ſaw me conſecrate ſome Plate; That in that Conſecration I uſed ſome part of *Solomon*'s Prayer at the Dedication of the Temple; and that in my Prayer I did deſire God to accept thoſe Veſſels. No Fault in any of the three. For in all Ages of the Church, eſpecially ſince *Conſtantine*'s time, that Religion hath had publick allowance, there have been Conſecrations of ſacred Veſſels, as well as of Churches themſelves. * And theſe inanimate Things are holy, in that they are deputed and dedicated to the Service of God. And we are ſaid *to miniſter about holy things*, 1 Cor. 9. 13. And *the Altar* is ſaid *to ſanctify the Gift*, S. Matth. 23. 19. which it could not do, if it ſelf were not holy. So then, if there be no Dedication of theſe things to God, no Separation of them from common uſe, there's neither *Thing* nor *Place* holy: And then no Sacrilege; no difference between Churches and common Houſes, between *Holy Tables* (ſo the Injunction calls them) and ordinary Tables. But I would have no Man deceive himſelf; Sacrilege is a grievous Sin, and was ſeverely puniſhed even among the Heathen. And St. *Paul*'s Queſtion puts it home, would we conſider of it; *Thou which abhorreſt Idols, committeſt thou Sacrilege?* Rom. 2. 22. Thou which abhorreſt Idols, to the very defacing of Church-Windows, doſt thou, thou of all other, commit Sacrilege, which the very Worſhippers of Idols puniſhed? And this being ſo, I hope my uſe of a part of *Solomon*'s Prayer, or the Words of my own Prayer (*That God would be pleaſed to accept them*) ſhall not be reputed Faults.

* Tho. p. 3. q. 63. A. 6. ad Secundum.

Injunct. of 2. Eliz. in fine.

But here ſtepped in Mr. *Pryn*, and ſaid, This was according to the Form *in Miſſali parvo*. But 'tis well known I borrowed nothing thence. All that I uſed was according to the Copy of the late Reverend Biſhop of *Wincheſter*, Biſhop *Andrews*, which I have by me to be ſeen, and which himſelf uſed all his time.

II. Then from my Chappel he went to my Study; and there the ſecond Charge was, 1. That I had a Bible with the five Wounds of Chriſt fair upon the Cover of it. This was curiouſly wrought in Needle-Work. The Bible was ſo ſent me by a Lady, and ſhe a Proteſtant; I was loth to deface the Work: but the Bible I kept in my Study from any Man's Hand or Eye, that might take offence at it. 'Mr. 'Brown touched upon this, and my Anſwer was 'the ſame, ſaving that I mentioned not the Lady. '2. That I had in my Study a Miſſal, and divers 'other Books belonging to the *Roman* Liturgy.' My Lords, 'tis true, I had many; but I had more of the *Greek* Liturgies than the *Roman*: And I had as many of both, as I could get. And I would know, how we ſhall anſwer their Errors, if we may not have their Books? I had Liturgies, all I could get, both antient and modern. I had alſo the *Alcoran* in divers Copies. If this be an Argument, why do they not accuſe me to be a *Turk*? 3. To this Charge was added my private Prayer-Book, which Mr. *Pryn* had taken from me in his Search. Where firſt I obſerved, That the Secrets between God and my Soul were brought to be divulged in open Court. 'Nihil 'gravius dicam: But ſee whether it can be paral-'lel'd in Heatheniſm.' But what Popery was found in theſe Prayers? Why, Firſt, they ſaid, My Prayers were in Canonical Hours, *Hora ſexta, & Hora nona*, &c. I injoined my ſelf ſeveral Hours of Prayer; that, I hope, is no Sin: And if ſome of them were Church-Hours, that's no Sin neither: *Seven times a day will I praiſe thee*, (Pſal. 119.) was the Prophet *David*'s, long before any Canonical Hours. And among Chriſtians they were in uſe before Popery got any head. God grant this may be my greateſt Sin. Secondly, The Prayer which I made at the Conſecration of the Chappel at *Hammerſmith*. I deſired that might be read, or any other. No offence found. Thirdly, The Word *Proſtratus* in my private Devotions, before I came to the Euchariſt. If I did ſo to God, what's that to any Man? But I pray, in all this curious Search, ('and 'Mr. *Pryn* here, and all along ſpared no pains) why were no Prayers to the B. Virgin and the Saints found, if I were ſo ſwallowed up in Popery?

III. From my Study he went on to my Gallery. The Serjeant would find out Popery e'er he had done. Thence I was charged with three Pictures: The firſt of them was a fair Picture of the four Fathers of the Weſtern Church, S. *Ambroſe*, S. *Jerome*, S. *Auguſtine* and S. *Gregory*. It was as lawful to have this Picture as the Picture of any other Men. Yea, but there was a Dove pictured over them, and that ſtood for the Holy Ghoſt. That's more than any Witneſs did or durſt depoſe. The Second, was the *Ecce Homo*, as *Pilate* brought Chriſt forth, and ſhewed him to the *Jews*. This Picture is common, and I yet know no hurt of it, ſo it be not worſhipped; and that I deteſt as much as any Man, and have written as much againſt it as any Proteſtant hath: And it was then read in part. And for both theſe Pictures I anſwered out of *Calvin*; That it is lawful to make, and have the Picture of any things, *quorum ſint capaces Oculi*, which may be ſeen. Now the Dove was viſible and ſeen, S. *John* 1. 32, 33. That's for the firſt Picture. And for the ſecond, the *Ecce Homo*, why did *Pilate* ſay *Ecce*, but that the *Jews* might and did ſee him? *John* 19. So both Pictures lawful by the Rule laid down by *Calvin*.

Cont. Fiſher. §. 33. *p.* 279.

L. 1. Inſt. c. 11. §. 12.

'Mr. *Brown* charged againſt both theſe Pictures 'very warmly. And when I had anſwered as be-'fore, in his Reply he fell upon my Anſwer; and 'ſaid it was in the Homilies, (but either he quo-'ted not the Place, or I elſe ſlipped it) That every 'Picture of Chriſt was a Lye, becauſe whole Chriſt 'cannot be pictured. But by this Argument it 'is unlawful to picture any Man, for the whole 'Man cannot be pictured. Who ever drew a Pic-'ture of the Soul? And yet who ſo ſimple as to 'ſay the Picture of a Man is a Lye? Beſides, the 'Ecce Homo, is a Picture of the Humanity of Chriſt 'only,

'only, which may as lawfully be drawn as any o-
'ther Man. And it may be I may give farther
'Anſwer, when I ſee the Place in the Homi-
'lies.'

The third Picture found in my Gallery, I marvel why it was produced; for it relates to that of our Saviour, St. *John* 10. 1, 2. where he ſays, That the Shepherd enters into the Sheepfold by the Door, but they which climb up to enter another way, are Thieves and Robbers. And in that Picture the Pope and the Fryars are climbing up to get in at the Windows: So 'tis as directly againſt Popery as can be. Beſides, it was witneſſed before the Lords by Mr. *Walter Dobſon*, an antient Servant, both to Archbiſhop *Bancroft* and *Abbot*, That both the *Ecce Homo* and this Picture, were in the Gallery when he came firſt to *Lambeth-Houſe*, which was about forty Years ſince: So it was not brought thither by me to countenance *Popery*. * And I hope your Lordſhips do not think me ſuch a Fool, if I had an Intention to alter Religion, I ſhould hang the Profeſſion of it openly in my Gallery, thereby to bring preſent Danger upon my ſelf, and deſtroy the Work which, themſelves ſay, I intended cunningly. And if there be any Error in having and keeping ſuch Pictures, yet that is no ſufficient Proof that I had any Intention to alter the Religion eſtabliſhed, which I deſire may be taken notice of once for all.

IV. From my Gallery the Serjeant croſſed the Water to *White-Hall*, (and ſure in haſte; for at that time he took no leave of Captain *Gueſt*, or his Wife, before he left *Lambeth*:) At the Court he met Sir *Henry Mildmay*. 1. This Knight being produced by him againſt me, ſays, That in my time Bowings were conſtantly uſed in the Chappel there. But, Firſt, Dr. *Featly* told your Lordſhips, there was nothing in my Chappel but as it was in uſe at *White-Hall*. So all the Popery I could bring, was there before. And, Secondly, if bowing to God in his own Houſe be not amiſs, (as how it ſhould I yet know not) then there can be no Fault in the conſtant doing of it: *Quod ſemel feciſſe bonum eſt, non poteſt malum eſſe, ſi frequenter fiat*: So St. *Jerome* teaches. Thirdly, I am very ſorry that any Reverence to God in his Houſe, and in the time of his Worſhip, ſhould be thought too much. I am ſure the Homilies, ſo often preſſed againſt me, cry out againſt the Neglect of Reverence in the Church. This Paſſage was read; and by this it ſeems, the Devil's Cunning was, ſo ſoon as he ſaw Superſtition thruſt out of this Church, to bring Irreverence and Profaneneſs in. 'Here Mr. *Brown* 'having preſſed this Charge, replies upon me in 'his laſt, That I would admit no Mean, but ei-'ther there muſt be Superſtition or Profaneneſs; 'whereas my Words can infer no ſuch thing. I ſaid '*this was the Devil's Practice*: I would have 'brought in the Mean between them, and preſer-'ved it too, by God's Bleſſing, had I been let a-'lone.'

S. Hierom. adverſus Vigilantium.

Tom. 2. Hom. 1. Princip.

2. Sir *Henry* ſays next, That he knew of no Bowings in that Chappel before my time, but by the Right Honourable the Knights of the Garter at their Solemnity. No time elſe? Did he never ſee the King his Maſter offer before my time? Or did he ever ſee him offer, or the Lord Chamberlain attend him there, without Bowing and Kneeling too? And for the Knights of the Garter, if they might do it without Superſtition, I hope I and other Men might do ſo too: Eſpecially ſince they were ordered by *Hen.* 5. to do it with great Reverence, *ad modum Sacerdotum*: Which proves the Antiquity of this Ceremony in *England*.

In Regiſtro Windeſorienſi, *p.* 65. 'tis commonly called the Black Book.

3. He farther ſays, There was a fair Crucifix in a piece of Hangings hung up behind the Altar, which he thinks was not uſed before my time. But that he thinks ſo, is no Proof. 4. He ſays, This fair Piece was hanged up in the *Paſſion Week*, as they call it. As they call it? Which they? Will he ſhut out himſelf from the *Paſſion Week*? All Chriſtians have called it ſo for above a † Thouſand Years together; and is that become an Innovation too, as they call it? 5. Fifthly, He ſays, The hanging up of this Piece was a great Scandal to Men but indifferently affected to Religion. Here I humbly crave leave to obſerve ſome few Particulars. Firſt, That here's no Proof ſo much as offer'd, That the Piece was hung up by me, or my Command. Secondly, That this Gentleman came often to me to *Lambeth*, and profeſſed much Love to me; yet was never the Man that told me his Conſcience, or any Man's elſe was troubled at it; which had he done, that ſhould have been a Scandal to no Man. Thirdly, That if this were ſcandalous to any, it muſt be offenſive in regard of the Workmanſhip; or *quatenus tale*, as it was a Crucifix: not in regard of the Work certainly, for that was very exact. And then if it were becauſe it were a Crucifix, why did not the old one offend Sir *Henry*'s Conſcience as much as the new? For the Piece of Hangings, which hung conſtantly all the Year at the back of the Altar, thirty Years together, upon my own Knowledge, and ſomewhat above, long before, (as I offer'd proof by the Veſtry-Men) and ſo all the time of Sir *Henry*'s being in Court, had a Crucifix wrought in it, and yet his Conſcience never troubled at it. Fourthly, That he could not poſſibly think that I intended any Popery in it, conſidering how hateful he knew me to be at *Rome*, beyond any my Predeceſſors ſince the Reformation: For ſo he proteſted at his return from thence to my ſelf. And I humbly deſire a *Salvo*, that I may have him called to witneſs it: which was granted.

† Et obſervabatur ab omnibus. Videlius (*and he no way ſuperſtitious*) in Ignat. Epiſt. ad Philip. Exercit. 16. *c.* 3.

When they had charged me thus far, there came up a Meſſage from the Houſe of Commons. I was commanded to withdraw: But that Buſineſs requiring more haſte, I was diſmiſſed with a Command to attend again on Wedneſday, *May* 22. But then I was put off again to Monday, *May* 27. And after much preſſing for ſome Maintenance, conſidering how oft I was made attend, and with no ſmall Expence, on *May* 25. I had an Order from the Committee of Sequeſtrations, to have Two Hundred Pounds allowed me out of my own now ſequeſter'd Eſtate: It was a Month before I could receive this. And this was all that ever was yet allowed me ſince the Sequeſtration of my Eſtate, being then of above Two Years continuance.

* *All theſe Pictures were placed in the Gallery by Cardinal* Pole, *when he built it, and continue there ſtill, having not been defaced by the* godly Party *in the time of the* Rebellion, *as were the Windows of the Chappel, and the Chappel it ſelf converted to a Dancing-Room by them, having firſt beat down Archbiſhop* Parker's *Tomb in the middle of it, and caſt his Bones upon the Dunghill.* H. W.

The Eleventh Day of my Hearing.

I. MOnday, *May* 27. 1644. This Day Mr. Serjeant *Wilde* followed the Charge upon me; and went back again to my Chappel-Windows at *Lambeth*: Three Witneſſes againſt them. The firſt was one *Pember* a Glaſier. He ſays, There was in one of the Glaſs-Windows on the North-ſide, the Picture of an old Man with a Glory, which he thinks was of God the Father. But his thinking ſo is no Proof; nor doth he expreſs in which of the North-Windows he ſaw it. And for the Glory, that is uſual about the Head of every Saint. And Mr. *Brown*, who was the ſecond Witneſs, and was truſted by me for all the Work of the Windows, both at *Lambeth* and *Croydon*, ſays expreſly upon his Oath, That there was no Picture of God the Father in the Windows at *Lambeth*. But he ſays, He found a Picture of God the Father in a Window at *Croydon*, and Archbiſhop *Cranmer*'s Arms under it; and that he pulled it down. So it appears this Picture was there before my time, and continued there in ſo zealous an Archbiſhop's time, as *Cranmer* was well known to be; and it was pulled down in my time. Neither did I know till now, that ever ſuch a Picture was there; and the Witneſs depoſes he never made me acquainted with it. The third Witneſs was Mr. *Pryn*. He ſays, He had taken a ſurvey of the Windows at *Lambeth*. And I doubt not his Diligence. He repeated the Story in each Window. I have told this before, and ſhall not repeat it. He ſays, The Pictures of theſe Stories are in the Maſs-Book. If it be ſo, yet they were not taken thence by me. Archbiſhop *Morton* did that work, as appears by his Device in the Windows. He ſays, The Story of the Day of Judgment was in a Window *in atrio*, that muſt not come into the Chappel. Good Lord! whither will Malice carry a Man? The Story oppoſite is of the Creation; and what, muſt not that come into the Chappel neither? The Chappel is divided into an inner and utter Chappel: in this outward the two Windows mentioned are; and the Partition or Skreen of the Chappel, which makes it two, was juſt in the ſame place where now it ſtands, from the very building of the Chappel, for ought can be proved to the contrary. So neither I, nor any Man elſe, did ſhut out the Day of Judgment. He ſays, I had read the Maſs-Book diligently. How elſe ſhould I be able really to confute what is amiſs in it? He ſays, I had alſo a Book of Pictures concerning the Life of Chriſt in my Study. And it was fit for me to have it; for ſome things are to be ſeen in their Pictures for the People, which their Writings do not, perhaps dare not avow.

II. The ſecond Charge of this Day, was about the Adminiſtration of the Sacrament in my Chappel. The Witneſſes two.

The firſt was Dr. *Haywood*, who had been my Chaplain in the Houſe. They had got from others the Ceremonies there uſed, and then brought him upon Oath. He confeſſed he adminiſtred in a Cope; and the Canon warranted it. He confeſſes (as it was urged) That he fetched the Elements from the Credential (a little Side-Table as they called it) and ſet them reverently upon the Communion-Table. Where's the Offence? For Firſt, the Communion-Table was little, and there was hardly room for the Elements to ſtand conveniently there, while the Service was in Adminiſtration. And, Secondly, I did not this without Example; for both Biſhop *Andrews* and ſome other Biſhops uſed it ſo all their time, and no Exceptions taken. The ſecond Witneſs was *Rob. Cornwall*, one of my menial Servants: A very forward Witneſs he ſhewed himſelf, but ſaid no more than is ſaid and anſwered before; both of them confeſſing that I was ſometimes preſent.

Can. Eccleſ. Angl. 24.

III. The third Charge was about the Ceremonies at the Coronation of his Majeſty. And, firſt, out of my Diary, *Feb.* 2. 1625. 'tis urged, That I carried back the *Regalia*, offer'd them on the Altar, and then laid them up in their place of ſafety. I bare the place at the Coronation of the Dean of *Weſtminſter*, and I was to look to all thoſe things, and their ſafe return into Cuſtody, by the place I then executed; and the offering them could be no Offence: For the King himſelf offers upon ſolemn Days; and the Right Honourable the Knights of the Garter offer at their Solemnity: And the Offertory is eſtabliſhed by Law in the Common-Prayer Book of this Church: And the Prebendaries aſſured me it was the Cuſtom for the Dean ſo to do. Secondly, They charged a Marginal Note in the Book upon me, That the Unction was *in formâ Crucis*. That Note doth not ſay that it ought ſo to be done; but it only relates the Practice, what was done. And if any Fault were in anointing the King in that Form, it was my Predeceſſor's Fault, not mine; for he ſo anointed him. Thirdly, they ſay, There was a Crucifix among the *Regalia*, and that it ſtood upon the Altar at the Coronation, and that I did not except againſt it. My Predeceſſor executed at that time, and I believed would have excepted againſt the Crucifix had it ſtood there: But I remember not any there; yet if there were, if my Predeceſſor approved the ſtanding of it, or were content to connive at it, it would have been made but a ſcorn had I quarrell'd it. Fourthly, They ſay, One of the Prayers was taken out of the *Pontifical*. And I ſay, if it were, it was not taken thence by me: And the Prayers are the ſame that were uſed at King *James*'s Coronation: And ſo the Prayer be good (and here's no Word in it, that is excepted againſt) 'tis no matter whence 'tis taken.

Heylin *affirmeth, That the old* Crucifix *being found among the* Regalia, *was then placed upon the Altar.* Life of *Laud*, *p.* 144.

Then leaving the Ceremonies, he charged me two Alterations in the Body of the King's Oath. One added, namely theſe Words (*agreeable to the King's Prerogative;*) the other omitted, namely theſe Words, (*quæ Populus elegerit*, which the People have choſen, or ſhall chuſe.) For this latter, the Clauſe omitted, that ſuddenly vaniſhed; for it was omitted in the Oath of King *James*, as is confeſſed by themſelves in the * printed Votes of this preſent Parliament. But the other highly inſiſted on, as taking off the total Aſſurance which the Subjects have by the Oath of their Prince for the Performance of his Laws. Firſt, I humbly conceive this Clauſe takes off none of the Peoples Aſſurance; none at all. For the King's juſt and legal Prerogative, and the Subjects Aſſurance for Liberty and Property, may ſtand well together, and have ſo ſtood for Hundreds of Years. Secondly, That Alteration, whatever it be, was not made by me; nor is there any Interlining or Alteration ſo much as of a Letter found in that Book. Thirdly, If any thing be amiſs therein, my Predeceſſor gave that Oath to the King, and not I.

* *p.* 706.

I was merely miniſterial both in the Preparation, and at the Coronation it ſelf, ſupplying the place of the Dean of *Weſtminſter*.

After this Day's Work was ended, it inſtantly ſpread all over the City, that I had altered the King's Oath at his Coronation, and from thence into all parts of the Kingdom; as if all muſt be true which was ſaid at the Bar againſt me, what Anſwer ſoever I made. The People, and ſome of the Synod, now crying out, That this one Thing was enough to take away my Life. And tho this was all that was charged this Day concerning this Oath, yet ſeeing how this Fire took, I thought fit, the next Day that I came to the Bar, to deſire that the Books of the Coronation of former Kings, eſpecially thoſe of Queen *Elizabeth* and King *James*, might be ſeen and compared, and the Copies brought into the Court, both from the *Exchequer*, and ſuch as were in my Study at *Lambeth*, and a fuller Inquiſition made into the Buſineſs; in regard I was as innocent from this Crime, as when my Mother bare me into the World. A *Salvo* was enter'd for me upon this. And every Day that I after came to the Bar, I called upon this Buſineſs: But ſomewhat or other was ſtill pretended by them which managed the Evidence, that I could not get the Books to be brought forth, nor any thing to be done, till almoſt the laſt Day of my Hearing. Then no Books could be found in the *Exchequer*, nor in my Study, but only that of King *James*; whereas, when the Keys were taken from me, there were divers Books there, as is confeſſed in the ' printed Votes of this Parliament, and one of them with a Watchet-Sattin Cover, now miſſing: And whether this of King *James* (had not my Secretary, who knew the Book, ſeen it drop out of Mr. *Pryn*'s Bag) would not have been concealed too, I cannot tell. At laſt, the Book of King *James* his Coronation, and the other urged againſt me concerning King *Charles*, were ſeen and compared openly in the Lords Houſe, and found to be the ſame Oath in both, and no Interlining or Alteration in the Book charged againſt me.

' P. 706.

' This Buſineſs was left by the Serjeant to Mr. ' *Maynard*, who made the moſt that could be out of ' my Diary againſt me: And ſo did Mr. *Brown*, ' when he came to give the Sum of the Charge ' againſt me, both before the Lords, and after in ' the Houſe of Commons. And therefore for the ' avoiding of all tedious Repetition, and for that ' the Arguments which both uſed are the ſame, and ' becauſe I hold it not fit to break a Charge of this ' moment into divers Pieces, or put them in dif- ' ferent Places, I will here ſet down the whole Bu- ' ſineſs together, and the Anſwer which I then ' gave.

' Mr. *Brown*, in the Sum of the Charge againſt ' me in the Commons Houſe, when he came to this ' Article, ſaid, He was now come to the Buſineſs ' ſo much expected. And I humbly beſought that ' Honourable Houſe, if it were a Matter of ſo ' great Expectation, it might be of as great At- ' tention too, while I ſhould follow that worthy ' Gentleman ſtep after ſtep, and anſwer as I ' went.

' 1. And, Firſt, he went about to prove out of ' my Diary, that this Addition (*of the King's* ' *Prerogative*) to the Oath, was made by me. ' Thus he ſays, That *Decemb.* 31. 1625. I went to ' *Hampton-Court*. That's true. He ſays, That ' there, *Jan.* 1. I underſtood I was named with ' other Biſhops to meet and conſider of the Cere- ' monies about the Coronation; and that, *Jan.* 4. ' we did meet at *White-Hall* accordingly; and that, ' *Jan.* 6. we gave his Majeſty an Anſwer. Not *I*, ' (as 'twas charged) but *We* gave his Majeſty an- ' ſwer. So if the Oath had been changed by ' me, it muſt have been known to the Committee, ' and broken forth to my Ruin long ſince. Then ' he ſays, That, *Jan.* 16. I was appointed to ſerve ' at the Coronation, in the room of the Dean of ' *Weſtminſter*. That's no Crime: And 'tis added in ' the Diary, that this Charge was delivered unto ' me by my Predeceſſor. So he knew that this Ser- ' vice to attend at the Coronation was impoſed ' upon me. He ſays next, That, *Jan.* 18. the ' Duke of *Buckingham* had me to the King, to ' ſhew his Majeſty the Notes we had agreed on, ' if nothing offended him. Theſe were only Notes ' of the Ceremonies. And the other Biſhops ſent ' me, being puny, to give the Account. Then he ' ſays, *Jan.* 23. It is in my Diary, *Librum habui* ' *paratum*, I had a Book ready. And it was time, ' after ſuch Meetings, and the Coronation being ' to follow *Feb.* 2. and I deſigned to aſſiſt and at- ' tend that Service, that I ſhould have a Book rea- ' dy: The Ceremonies were too long and various ' to carry them in Memory. And whereas 'tis ' urged, That I prepared and altered this Book, ' the Words in my Diary are *paratum habui*, I had ' the Book ready for my own uſe in that Service. ' Nor can *paratum habui* ſignify preparing or alter- ' ing the Book. And, Thirdly, tis added there, ' That the Book which I had ready in my hands, ' did agree *per omnia cum libro Regali*. And if it ' did agree in all Things with the King's record- ' ed Book then brought out of the *Exchequer*, where ' then is the Alteration ſo laboriouſly ſought to be ' faſten'd on me? I humbly beſeech you to mark ' this.

' Yet out of theſe Premiſes put together, Mr. ' *Brown*'s Inference was, That I made this Altera- ' tion of the Oath. But ſurely theſe Premiſes, nei- ' ther ſingle nor together, can produce any ſuch ' Concluſion; but rather the contrary. Beſide, ' Inference upon Evidence, is not Evidence, unleſs ' it be abſolutely neceſſary; which all Men ſee ' that here it is not. But I pray obſerve: Why was ' ſuch a ſudden ſtay made at *Jan.* 23. whereas it ' appears in my Diary at *Jan.* 31. that the Biſhops ' were not alone truſted with this Coronation-Buſi- ' neſs, *ſed alii Proceres*, but other Great and Noble ' Men alſo? And they did meet that *Jan.* 31. and ' ſat in Council about it. So the Biſhops Meet- ' ings were but preparatory to eaſe the Lords, ' moſt of the Ceremonies being in the Church-way. ' And then can any Man think that theſe great ' Lords, when they came to review all that was ' done, would let the Oath be altered by me, or ' any other, ſo materially, and not check at it? ' 'Tis impoſſible.

' 2. Secondly, This Gentleman went on to ' charge this Addition upon me thus; There were ' found in my Study at *Lambeth* two Books of King ' *James*'s Coronation, one of them had this Clauſe ' or Addition in it, and the other had it not; and ' we cannot tell by which he was crowned. There- ' fore it muſt needs be ſome wilful Error in me, to ' make choice of that Book which had this Addi- ' tion in it, or ſome great Miſtake. Firſt, If it ' were a Miſtake only, then it is no Crime: And ' wilful Error it could not be; for being named ' one of them that were to conſider of the Cere- ' monies, I went to my Predeceſſor, and deſired a ' Book, to ſee by it what was formerly done. He

'delivered me this now in* queſtion: I knew 'not whether he had more, or no; nor did I know 'that any one of them differed from other: 'Therefore no wilful Error. For I had no Choice 'to make of this Book which had the Addition, 'before that which had it not, but thankfully took 'that which he gave me. But, Secondly, if one 'Book of King *James* his Coronation, in which I 'could have no hand, had this Addition in it, (as 'is confeſſed) then was not this a new Addition 'of my making. And, Thirdly, it may eaſily be 'ſeen that King *James* was crowned by the Book 'which hath this Addition in it; this being in a fair 'Carnation-Sattin Cover, the other in Paper, with-'out a Cover, and unfit for a King's Hand, eſpe-'cially in ſuch a great and publick Solemnity.

'3. In the Third Place he ſaid, There were in 'this Book twenty Alterations more, and all, or 'moſt in my Hand. Be it ſo, (for I was never ſuf-'fered to have the Book to conſider of) they are 'confeſſed not to be material. The truth is, 'when we met in the Committee, we were fain to 'mend many Slips of the Pen, to make Senſe in 'ſome Places, and good *Engliſh* in other. And 'the Book being truſted with me, I had rea-'ſon to do it with my own Hand, but openly at 'the Committee all. Yet two Things, as matters 'of ſome moment, Mr. *Brown* checked at.'

(1.) The one was, That *Confirm* is changed into *Perform*. 'If it be ſo, *Perform* is the greater and more 'advantageous to the Subjects, becauſe it includes '*Execution*, which the other Word doth not. Nor 'doth this Word hinder, but that the Laws and 'Liberties are the People's already: For though 'they be their own, yet the King, by his Place, 'may and ought to perform the keeping and main-'taining of them. I ſay (if it be ſo,) for I was 'never ſuffered to have this Book in my hands, tho-'roughly to peruſe: Nor, under favour, do I be-'lieve this Alteration is ſo made, as 'tis urged. '[In the Book which I have by me, and was tran-'ſcribed from the other, it is *Confirm*.]

'(2.) The other is, That the King is ſaid to an-'ſwer *I will*, for *I do*. But when will he? Why 'all the Days of his Life; which is much more 'than *I do*, for the preſent. So if this Change be 'made, 'tis ſtill for the People's Advantage. [And 'there alſo 'tis *I do grant*.] And yet again, I ſay '(*if*) for the Reaſon before given. Beſides, in all the '*Latin* Copies there is a Latitude left for them that 'are truſted, to add to thoſe Interrogatories which 'are then put to the King any other that is juſt, 'in theſe Words, *Adjiciantur prædictis Interrogatio-'nibus quæ juſta fuerint*. And ſuch are theſe two 'mentioned, if they were made.

'4. Mr. *Brown*'s fourth and laſt Objection was, 'That I made this Alteration of the Oath, be-'cauſe it agrees (as he ſaid) with my Judgment: 'For that in a Paper of Biſhop *Harſnett*'s there is a 'Marginal Note in my Hand, that *Salvo Jure Coronæ* 'is underſtood in the Oaths of a King. But, Firſt, 'there's a great deal of difference between *Jus Re-'gis & Prærogativa*, between the Right and Inheri-'tance of the King and his Prerogative, tho ne-'ver ſo legal. And with Submiſſion, and until I 'ſhall be convinced herein, I muſt believe that no 'King can ſwear himſelf out of his native Right. 'Secondly, If this were, and ſtill be an Error in 'my Judgment, that's no Argument at all to prove 'Malice in my Will: That becauſe that is my 'Judgment for *Jus Regis*, therefore I muſt thruſt '*Prærogativam Regis*, which is not my Judgment, 'into a publick Oath which I had no Power to al-'ter. Theſe were all the Proofs which Mr. *May-'nard* at firſt, and Mr. *Brown* at laſt, brought 'againſt me in this Particular. And they are all 'but conjectural, and the Conjectures weak. But 'that I did not alter this Oath by adding the *Pre-'rogative*, the Proofs I ſhall bring are pregnant, and 'ſome of them neceſſary. They are theſe.

'1. My Predeceſſor was one of the Grand Com-'mittee for theſe Ceremonies. That was proved 'by his Servants to the Lords. Now his known 'Love to the Publick was ſuch, as that he would 'never have ſuffered me, or any other, to make 'ſuch an Alteration. Nor would he have con-'cealed ſuch a Crime in me, loving me ſo well as 'he did.

'2. 'Tis notoriouſly known that he crowned 'the King, and adminiſter'd the Oath, (which 'was avowed alſo before the Lords by his antient 'Servants:) And it cannot be rationally conceiv-'ed he would ever have adminiſter'd ſuch an al-'ter'd Oath to his Majeſty.

'3. 'Tis expreſſed in my Diary, at *Jan.* 31. '1625. (and that muſt be good Evidence for me, 'having been ſo often produced againſt me) that 'divers great Lords were in this Committee for 'the Ceremonies, and did that Day ſit in Council 'upon them. And can it be thought they would 'not ſo much as compare the Books? Or that com-'paring of them, they would endure an Oath with 'ſuch an Alteration to be tender'd to the King? 'Eſpecially ſince 'tis before confeſſed that one Co-'py of King *James* his Coronation had this Alte-'ration in it, and the other had it not.

'4. 'Tis expreſſed in my Diary, and made uſe 'of againſt me, at *Jan.* 23. 1625. that this Book 'urged againſt me did agree *per omnia cum Libro 'Regali*, in all things with the King's Book, 'brought out of the *Exchequer*. And if the Book 'that I then had, and is now inſiſted upon, did 'agree with that Book which came out of the *Ex-'chequer*, and that in all things, how is it poſſible 'I ſhould make this Alteration?

'5. With much Labour I got the Books to be 'compared in the Lords Houſe; that of King '*James* his Coronation, and this of King *Charles*; 'and they were found to agree in all things to a 'Syllable. Therefore 'tis impoſſible this ſhould 'be added by me. And this, I conceive, cuts off 'all conjectural Proofs to the contrary.

'Laſtly, In the printed Book of 'the Votes of this preſent Parlia-' P. 706. 'ment, it is acknowledged, that the 'Oath given to King *James* and King *Charles* was 'the ſame. The ſame: therefore unaltered. And 'this Paſſage of that Book I then ſhewed the 'Lords in my Defence. To this Mr. *Maynard* 'then replied, That the Votes there mentioned 'were upon the word *elegerit*, and the Doubt whe-'ther it ſhould be *hath choſen*, or *ſhall chuſe*. I 'might not then anſwer to the Reply, but the 'Anſwer is plain. For, be the Occaſion which 'led on the Votes what it will, as long as the 'Oath is acknowledged the ſame, 'tis manifeſt it 'could not be altered by me. And I doubt not, 'but theſe Reaſons will give this Honourable 'Houſe Satisfaction, that I added not this Parti-'cular of the Prerogative to the Oath.

'Mr. *Brown*, in his laſt Reply, paſſed over the 'other Arguments I know not how. But againſt 'this, he took exception. He brought the Book 'with him, and read the Paſſage; and ſaid, (as 'far as I remember) That the Votes had rela-'tion to the word *chuſe*, and not to this Altera-

'tion.

'tion. Which is in effect the ſame which Mr. *Maynard* urged before. I might not reply by the Courſe of the Court, but I have again conſidered of that Paſſage, *p.* 706. and find it plain. Thus, firſt they ſay, They have conſidered of all the Alterations in the Form of this Oath, which they can find: therefore of this Alteration alſo, if any ſuch were. Then they ſay, *Excepting that Oath whith was taken by his Majeſty and his Father King* James. There it is confeſſed, that the Oath taken by them was one and the ſame, called there *that Oath* which was taken by both. Where falls the Exception then? For 'tis ſaid, *Excepting that Oath*, &c. Why it follows, *Excepting that the word* chuſe *is wholly left out, as well* hath choſen *as* will chuſe. Which is a moſt manifeſt and evident Confeſſion, that the Oath of King *James* and King *Charles* was the ſame in all things, to the very leaving out of the word *chuſe*. Therefore it was the ſame Oath all along: no difference at all. For *Exceptio firmat Regulam in non Exceptis*; and here's no Exception at all of this Clauſe of the Prerogative. Therefore the Oath of both the Kings was the ſame in that, or elſe the Votes would have been ſure to mention it. Where it may be obſerved too, that Serjeant *Wilde*, though he knew theſe Votes, and was preſent both at the Debate and the Voting, and ſo muſt know that the word *chuſe* was omitted in both the Oaths; yet at the firſt he charged it eagerly upon me, that I had left this Clauſe of *chuſing* out of King *Charles*'s Oath, and added the other. God forgive him. But the World may ſee by this, and ſome other Paſſages, with what Art my Life was ſought for.

'And yet before I quite leave this Oath, I may ſay 'tis not altogether improbable, that this Clauſe, *And agreeing to the Prerogative of the Kings thereof*, was added to the Oath in *Edward* VI's or Queen *Elizabeth*'s time; and hath no relation at all to *the Laws of this Kingdom*, abſolutely mentioned before in the beginning of this Oath; but only to the words, *The Profeſſion of the Goſpel eſtabliſhed in this Kingdom*: And then immediately follows, *And agreeing to the Prerogative of the Kings thereof*. By which the King ſwears to maintain his Prerogative, according to God's Law, and the Goſpel eſtabliſhed, againſt all foreign Claims and Juriſdictions whatſoever. And if this be the meaning, he that made the Alteration, whoever it were (for I did it not) deſerves Thanks for it, and not the Reward of a Traytor.'

IV. Now to return to the Day. The fourth Charge went on with the Ceremonies ſtill. But Mr. Serjeant was very nimble; for he leaped from the Coronation at *Weſtminſter*, to ſee what I did at *Oxford*.

1. There the firſt Witneſs is Sir *Nathaniel Brent*. And he ſays, The ſtanding of the Communion-Table at *St. Mary's* was altered. I have anſwered to this Situation of the Communion-Table already. And if it be lawful in one place, 'tis in another. For the Chappel of *Magdalen-College*, and *Chriſt-Church* Quire, he confeſſes he knows of no Direction given by me to either: nor doth he know whether I approved the things there done or no. So all this is no Evidence. For the Picture of the Bleſſed Virgin at *St. Mary's* Door, as I knew nothing of it till it was done, ſo never did I hear any Abuſe or Diſlike of it after it was done. And here Sir *Nathaniel* confeſſes too, that he knows not of any Adoration of it, as Men paſſed the Streets or otherwiſe. When this Witneſs came not home, they urged the Statute of *Merton-College*, or the Univerſity, (§. 11.) where (if I took my Notes right) they ſay, I enjoined *debitam Reverentiam*. And as I know no fault in that Injunction or Statute, ſo neither do I know what due bodily Reverence can be given to God in his Church, without ſome Bowing or Genuflexion.

2. The ſecond Witneſs was Mr. *Corbett*. He ſays, That when decent Reverence was required by my Viſitors in one of my Articles, he gave Reaſons againſt it, but Sir *John Lambe* urged it ſtill. Firſt, My Lords, if Mr. *Corbett*'s Reaſons were ſufficient, Sir *John Lambe* was to blame in that; but Sir *John Lambe* muſt anſwer it, and not I. Secondly, It may be obſerved, that this Man, by his own Confeſſion, gave Reaſons (ſuch as they were) againſt due Reverence to God in his own Houſe. He ſays, That Dr. *Frewen* told him from me, *That I wiſhed he ſhould do as others did at* St. Mary's, *or let another execute his Place as Proctor*. This is but a Hearſay from Dr. *Frewen*, who being at *Oxford*, I cannot produce him. And if I had ſent ſuch a Meſſage, I know no Crime in it. He ſays, That after this he deſired he might enjoy in this particular the Liberty which the King and the Church of *England* gave him. He did ſo: and from that day he heard no more of it, but enjoyed the Liberty which he asked. He ſays, Mr. [1] *Channell* deſired the ſame Liberty as well as he. And Mr. *Channell* had it granted as well as he. He confeſſes ingenuouſly, that the Bowing required, was only *toward*, not *to* the Altar. And [*] to the Picture at *St. Mary's* Door, he ſays he never heard of any Reverence done to it; and doth believe, that all that was done at *Chriſt-Church* was ſince my time. But it muſt be his Knowledge, not his Belief, that muſt make an Evidence.

[1] *l. Cheynell.*

[*] *And the third Witneſs agrees in this.*

3. The third Witneſs was one Mr. *Bendye*. He ſays, There was a Crucifix in *Lincoln-College* Chappel ſince my time. If there be, 'tis more than I know. My Lord of *York* that now is, when he was Biſhop of *Lincoln*, worthily beſtowed much Coſt upon that Chappel; and if he did ſet up a Crucifix, I think it was before I had ought to do there. He ſays, There was Bowing at the Name of Jeſus. And God forbid but there ſhould; and the Canon of the Church *Can.* 18. requires it. He ſays, There were *Latin* Prayers in *Lent*, but he knows not who injoined it. And then he might have held his peace. But there were *Latin* Sermons and Prayers on *Aſh-Wedneſday*, when few came to Church, but the *Lent* Proceeders, who underſtood them. And in divers Colleges they have their Morning-Prayers in *Latin*, and had ſo, long before I knew the Univerſity. The laſt thing he ſaid, was, That there were Copes uſed in ſome Colleges, and that a Traveller ſhould ſay, upon the ſight of them, *That he ſaw juſt ſuch a thing upon the Pope's back.* This wiſe Man might have ſaid as much of a Gown: He ſaw a Gown on the Pope's back, therefore a Proteſtant may not wear one. Or entring into *St. Paul's*, he may cry, *Down with it! for I ſaw the Pope in juſt ſuch another Church in* Rome.

4. Then was urged the Concluſion of a Letter of mine ſent to that Univerſity: the words were to this effect; *I deſire you to remember me a Sinner, quoties coram Altare Dei procidatis.* The Charge lay upon the word *procidatis*; which is no more, than that when they there fall on their knees, or proſtrate

ſtrate to Prayer, they would remember me. In which Deſire of mine, or Expreſſion of it, I can yet ſee no Offence. No, nor in *coram Altare*, their ſolemneſt time of Prayer being at the Communion. 'Here Mr. *Brown* aggravated the things done in 'that Univerſity; and fell upon the Titles given 'me in ſome Letters from thence: but becauſe I 'have anſwered thoſe Titles already, I refer the 'Reader thither, and ſhall not make here any 'tedious Repetition. Only this I ſhall add, That 'in the Civil Law 'tis frequent to be ſeen, that 'not Biſhops only one to another, but the great 'Emperors of the World have commonly given 'that Title of *Sanctitas veſtra*, to Biſhops of 'meaner place than myſelf; to ſay no more. But 'here Mr. *Brown*, in his laſt Reply, was pleaſed 'to ſay, This Title was not given to any Biſhop 'of *England*. Firſt, If I had my Books about me, 'perhaps this might be refuted. Secondly, Why 'ſhould ſo grave a Man as he ſo much diſparage 'his own Nation? Is it impoſſible (be my Un-'worthineſs what it will) for an *Engliſh* Biſhop to 'deſerve as good a Title as another? Thirdly, 'Be that as it may, if it were (as certainly it 'was) lawfully given to other Biſhops, though 'they not *Engliſh*, then is it neither Blaſphemy, 'nor Aſſumption of Papal Power, as was charged 'upon it.'

V. From *Oxford* Mr. Serjeant went to *Cambridge*. And I muſt be guilty, if ought were amiſs there too. For this fifth Charge were produced three Witneſſes, Mr. *Wallis*, Mr. *Greece*, and Mr. *Seaman*. Their Teſtimonies agreed very near: ſo I will anſwer them together. Firſt, they ſay, That at *Peter-Houſe* there were Copes and Candleſticks, and Pictures in the Glaſs-Windows; and the like. But theſe things I have often anſwered already, and ſhall not repeat. They ſay, The chief Authors of theſe things were Dr. *Wren* and Dr. *Coſens*. They are both living, why are they not called to anſwer their own Acts? For here's yet no ſhew of Proof to bring any thing home to me. For no one of them ſays, that I gave direction for any of theſe. No, (ſays Mr. Serjeant) but why did I tolerate them? Firſt, No Man complained to me. Secondly, I was not Chancellor, and endured no ſmall Envy for any little thing that I had occaſion to look upon in that place. And Thirdly, This was not the leaſt Cauſe, why I followed my Right for Power to viſit there. And though that Power was confirmed to me, yet the Times have been ſuch, as that I did not then think fit to uſe it. It would have but heaped more Envy on me, who bare too much already. 'As for Mr. 'Greece, who hath laboured much againſt me in 'all this Buſineſs, God forgive him; and while he 'inherits his Father's ill Affections to me, God 'preſerve him from his Father's End.'

VI. From *Cambridge* he went to the Cathedrals, and firſt to *Canterbury*. Here the Charge is bowing *verſus Altare*; the two Witneſſes, two Prebendaries of that Church, Dr. *Jackſon* and Dr. *Blechenden*. And firſt, Dr. *Jackſon* ſays, the bowing was *verſus Altare*; ſo not *to*, but *toward* the Altar: and Dr. *Blechenden* ſays, it was the Adoration of the high Majeſty of God, to whom, if no Altar were there, I ſhould bow. Dr. *Jackſon* ſays, This Bowing was to his grief. Strange! I avow to your Lordſhips and the World, no Man did ſo much approve all my Proceedings in that Church, as he; and for this Particular, he never found the leaſt fault with it to me: and if he conceal his Grief, I cannot eaſe it. He ſays, This Bowing was not in uſe till within this ſix or ſeven Years. Sure the old Man's Memory fails him. For Dr. *Blechenden* ſays, The Communion-Table was railed about, and Bowings before it, when he came firſt to be a Member of that Church; and ſaith upon his Oath, that's above ten Years ago; and that it was practiſed before their new Statutes were made; and that in thoſe Statutes no Puniſhment is inflicted for the Breach or not Performance of this Reverence. I could tell your Lordſhips how often Dr. *Jackſon* hath ſhifted his Opinions in Religion, but that they tell me their Witneſſes muſt not be ſcandalized. As for the Statutes, my Secretary Mr. *Dell*, who copied them out, teſtified here to the Lords, that I left out divers Superſtitions which were in the old Book, and ordained many Sermons in their rooms.

The next Cathedral he inſtanced in, was *Winchester*. But there's nothing but the old Objections, Copes. And the wearing of them is warranted by the Canon; *Can.* 24. and Reverence at coming in and going out of the Church. And that, great Kings have not (in better Ages) thought much to do. And they did well to inſtance in the College of *Winchester*, as well as the Church; for 'tis confeſſed, the Injunction ſent thither requires, that the Reverence uſed be ſuch as is not diſſonant from the Church of *England*. So this may be a Comment to the other Injunctions. 'But for the Copes 'in Cathedrals, Mr. *Brown* in his laſt Reply was 'not ſatisfied. For he ſaid, the Canon mentioned 'but the wearing of one Cope. Be it ſo: but 'they muſt have that before they can wear it. 'And if the Canon enjoin the wearing of one, 'my Injunction might require the providing and 'uſing of one. Beſides, if there be no Popery, 'no Introduction to Superſtition in the having or 'uſing of one; then certainly there can be none 'in the having of more for the ſame uſe: the Superſtition being lodged in the Miſuſe, not in the 'Number.'

VII. From the Cathedrals, Mr. Serjeant went to view ſome Pariſh-Churches. And firſt 'tis charged, That in a Pariſh-Church at *Winchester* two Seats were removed, to make way for railing in of the Communion-Table. But for ought I know, this might have been concealed. For it was liked ſo well, that they to whom the Seats belonged, removed them at their own Charges, that the other might be done.

The next Inſtance was in *St. Gregory's* Church, by *St. Paul's*. The Charge was, the placing of the Communion-Table Altar-wiſe. To the Charge itſelf, Anſwer is given before. The Particulars which are new, are theſe: the Witneſs Mr. *Wyan*. He ſays, The Order for ſuch placing of the Table was from the Dean and Chapter of *St. Paul's*. And *St. Gregory's* is in their peculiar Juriſdiction. So the Holy Table was there placed by the Ordinary, not by me. He ſays next, That the Pariſhioners appealed to the Arches, but received an Order to command them and the Cauſe to the Council-Board; That it was a full Board when the Cauſe was heard, and his Majeſty preſent; and that there I maintained the Queen's Injunction about placing the Communion-Table. In all this, here's nothing charged upon me, but Maintenance of the Injunction: and I had been much to blame, if I ſhould not have maintained it. He ſays, Sir *Henry Martin* came and ſaw it, and ſaid it would make a good Court-Cupboard. If Sir *Q.* Eliz. *Injunct.* fine.

Henry

Henry did ſay ſo, the Scorn ill became either his Age or Profeſſion; though a Court-Cupboard be ſomewhat a better Phraſe than a Dreſſer. God forgive them who have in Print called it ſo. He ſays, That hereupon I did ſay, *That he which ſpake that, had a Stigmatical Puritan in his Boſom.* This Man's Memory ſerves him long for Words: this is many Years ſince; and if I did ſpeak any thing ſounding this way, 'tis more like I ſhould ſay *Schiſmatical*, than *Stigmatical Puritan.* But let him look to his Oath; and which word ſoever I uſed, if Sir *Henry* uſed the one, he might well hear the other. For a profane Speech it was, and little becoming a Dean of the Arches. He ſays, That ſoon after this, Sir *Henry* was put out of his Place. Not very ſoon after this; for I was at the time of this Buſineſs (as far as I remember) Biſhop of *London*, and had nothing to do with the diſpoſing of his Place. After, when I came to be Archbiſhop, I found his Patent was void, neither could Sir *Henry* himſelf deny it. And being void, and in my Gift, I gave it to another.

He ſays farther, That it was urged that this way of placing the Communion-Table was againſt the Word of God, in Biſhop *Jewel*'s and Mr. *Fox*'s Judgment; and that I replied, *It were better they ſhould not have theſe Books in Churches, than ſo to abuſe them.* Firſt, For ought I yet know, (and in theſe Straits of Time the Books I cannot come at) their Judgment, rightly underſtood, is not ſo. Secondly, Though theſe two were very worthy Men in their Time, yet every thing which they ſay is not by and by the Doctrine of the Church of *England.* And I may upon good reaſon depart from their Judgment in ſome Particulars, and yet not differ from the Church of *England.* As in this very Particular, the Injunction for placing the Table ſo, is the Act of the Queen and the Church of *England.* And I conceive the Queen, then upon the Act of Reformation, would not have enjoined it, nor the Church obeyed it, had it been againſt the Word of God. Thirdly, If I did ſay, *That if they could make no better uſe of* Jewel *and the* Book of Martyrs, *it were better they had them not in the Churches*; they gave too great occaſion for the Speech: For they had picked divers Things out of thoſe Books which they could not maſter, and with them diſtemper'd both themſelves and their Neighbours. And yet, in hope other more modeſt Men might make better uſe of them, I never gave Counſel to have thoſe Books removed, (nor is that ſo much as charged) but ſaid only thus, That if no better uſe would be made of them, then that laſt Remedy; but never till then. 'This laſt Paſſage Mr. *Brown* inſiſted 'upon; The taking of good Books from the Peo-'ple. But as I have anſwered, there was no ſuch 'thing done, or intended; only a Word ſpoken to 'make buſy Men ſee how they abuſed themſelves 'and the Church, by miſunderſtanding and miſap-'plying that which was written for the good of 'both.' Laſtly, It was urged, he ſaid, that the Communion-Table muſt ſtand Altar-wiſe, that Strangers which come and look into theſe Churches, might not ſee ſuch a diſproportion; the holy Table ſtanding one way in the Mother-Church, and quite otherwiſe in the Parochial annexed. And truly, to ſee this, could be no Commendation of the Diſcipline of the Church of *England.* But howſoever, Mr. *Clarke* (the other Witneſs with *Wyan*, and agreeing with him in the moſt) ſays plainly that it was the Lord of *Arundel* that ſpake this, not I; and that he was ſeconded in it by the Lord *Weſton*, then Lord Treaſurer, not by me.

VIII. The laſt Charge of this Day was a Paſſage out of one Mr. *Shelford*'s Book, *p.* 20, 21. *That they muſt take the Reverend Prelates for their Examples*, &c. And Mr. *Pryn* witneſſed, the like was in the Miſſal, *p.* 256. Mr. *Shelford* is a mere Stranger to me, his Book I never read; if he have ſaid any thing unjuſt or untrue, let him anſwer for himſelf. As for the like to that, which he ſays, being in the Miſſal, though that be but a weak Argument, yet let him ſalve it.

Here this Day ending, I was put off to Saturday, *June* 1. And then again put off to Thurſday, *June* 6. which held.

My Twelfth Day of Hearing.

THurſday, *June* 6. 1644. This Day Serjeant *Wilde*, inſtead of beginning with a new Charge, made another long Reply to my Anſwers of the former Day. Whether he found that his former Reply, made at the time, was weak, and ſo reputed, I cannot tell. 'But ano-'ther he made, as full of premeditated Weakneſs, 'as the former was of ſudden. Mr. *Pryn* I think 'perceived it, and was often at his Ear; but 'Mr. Serjeant was little leſs than angry, and 'would on.' I knew I was to make no Anſwer to any Reply, and ſo took no Notes; indeed holding it all as it was, that is, either nothing, or nothing to the purpoſe. This tedious Reply ended;

I. Then came on the Firſt Charge about the Window of coloured Glaſs ſet up in the new Chappel at *Weſtminſter.* It was the Hiſtory of the coming down of the Holy Ghoſt upon the Apoſtles. This was charged to be done by me, and at my Coſt: the Witneſſes, Mr. *Brown*, employ'd in ſetting up the Window, and Mr. *Sutton* the Glaſier.

Theſe Men ſay, That Dr. *Newell*, Sub-Dean of *Weſtminſter*, gave order for the Window, and the ſetting of it up; but they know not at whoſe Coſt, nor was any Order given from me. So here's nothing charged upon me. And if it were, I know nothing amiſs in the Window. As for the King's Arms being taken down (as they ſay) let them anſwer that did it. Though, I believe, that the King's Arms ſtanding alone in a white Window, was not taken down out of any ill meaning, but only out of neceſſity to make way for the Hiſtory.

II. The Second Charge was the Picture of the Bleſſed Virgin ſet upon a new-built Door at *St. Mary's* in *Oxford.* Here Alderman *Nixon* ſays, That ſome Paſſengers put off their Hats, and, as he ſuppoſes, to that Picture. But, my Lords, his Suppoſal is no Proof. He ſays, That the next day he ſaw it. But what did he ſee? Nothing, but the putting off the Hat; for he could not ſee why, or to what, unleſs they which put off, told it. They might put off to ſome Acquaintance that paſſed by. He farther ſays, He ſaw a Man in that Porch upon his knees, and he thinks praying; but he cannot ſay to that. 'But then (if the Malice 'he hath long born me, would have ſuffer'd him) 'he might have ſtaid till he knew to whom he was 'praying, for till then 'tis no Evidence.' He ſays, he thinks that I countenanced the ſetting of it up, becauſe it was done by Biſhop *Owen.* But Mr. *Bromfeeld*, who did that Work, gave Teſtimony to the Lords, that I had nothing to do in it. He ſays, There was an Image ſet up at *Carfax* Church, but pulled down again by Mr. *Widdows*, Vicar there. But this hath no relation at all to me. 'This Picture of the Bleſſed Virgin was twice

'men-

'mentioned before: and Sir *Nath. Brent* could ſay 'nothing to it but Hearſay. And Mr. *Corbet* did 'not ſo much as hear of any Abuſe. And now 'Alderman *Nixon* ſays, he ſaw Hats put off; but 'the wiſe Man knows not to what. Nor is there 'any ſhew of Proof offer'd, that I had any hand 'or approbation in the ſetting of it up; or that 'ever any Complaint was made to me of any 'Abuſe to it, or Diſlike of it. And yet Mr. *Brown*, 'when he gave the Sum of the Charge againſt me, 'inſiſted upon this alſo, as ſome great Fault of 'mine, which I cannot yet ſee.'

III. In the next Charge, Mr. Serjeant is gone back again to *Whitehall*, as in the former to *Oxford*. The Witneſſes are Mrs. *Charnock*, and her Daughter. They ſay, they went (being at Court) into the Chappel, and it ſeems a Woman with them, that was a Papiſt; and that while they were there, Dr. *Brown*, one of the King's Chaplains, came in, bowed toward the Communion-Table, and then at the Altar kneeled down to his Prayers. I do not know of any Fault Dr. *Brown* committed, either in doing Reverence to God, or Praying there. And yet if he had committed any Fault, I hope I ſhall not anſwer for him. I was not then Dean of the Chappel, nor did any ever complain to me. They ſay, That two Strangers came into the Chappel at the ſame time, and ſaw what Dr. *Brown* did, and ſaid thereupon, *That ſure we did not differ much, and ſhould be of one Religion ſhortly:* And that the Woman which was with theſe Witneſſes, told them they were Prieſts. Firſt, This can no way relate to me; for neither did theſe Women complain to me of it, nor any from them. Secondly, If theſe two Men were Prieſts, and did ſay as is teſtified, are we ever a whit the nearer them in Religion? Indeed, if all the Difference between *Rome* and us conſiſted in outward Reverence, and no Points of Doctrine, ſome Argument might hence be drawn; but the Points of Doctrine being ſo many and great, put ſtop enough to that. Thirdly, If Recuſants, Prieſts eſpecially, did ſo ſpeak, might it not be ſaid in Cunning, to diſcountenance all external Worſhip in the Service of God, that ſo they may have opportunity to make more Proſelytes? And 'tis no ſmall advantage, to my knowledge, which they have this way made. 'And this was the Anſwer which I gave Mr. *Brown*, 'when he charged this upon me in the Houſe of 'Commons.'

Here, before they went any farther, Mr. Serjeant *Wilde* told the Lords, That when Sir *Nathaniel Brent* was employed in my Viſitation, he had Inſtructions for particular Churches, of which ſome were tacit Intimations, and ſome expreſs. I know not to what end this was ſpoken; for no coherent Charge followed upon it. But ſure he thinks Sir *Nathaniel Brent* very skilful in me, that he can underſtand my tacit Intimations, and know to what particular Church to apply them. 'And as 'I ſaid no more at the Bar, ſo neither did I think 'to ſay any more after; yet now I cannot but a 'little bemoan myſelf. For ever ſince Mr. *Maynard* left off, who pleaded, though ſtrongly, yet 'fairly, againſt me; I have been in very ill condition between the other two. For from Mr. *Nicolas* I had ſome Senſe, but extreme virulent and 'foul Language: And from Serjeant *Wilde* Language good enough ſometimes, but little or no 'Senſe. For let me anſwer what I would, when 'he came to reply, he repeated the Charge again, 'as if I had made no Anſwer at all: or as if all 'that I expreſſed never ſo plainly, had been but 'tacit Intimations; which I think he underſtood 'as much as Sir *Nathaniel Brent*.'

IV. In the Fourth Charge he told the Lords he would not trouble them with repeating the Evidence, but only put them in mind of ſome things in the Caſe of *Ferdinando Adams* of *Ipſwich*; of the Men of *Lewes* ſuffering in the High-Commiſſion; of the Pariſhioners of *Beckington*, and ſome others heard before, but would leave the Lords to their Memory and their Notes: Yet read over the Sentences given in the High-Commiſſion, and made a Repetition of whatſoever might but make a ſhew to render me odious to the People. 'And 'this hath been their Art all along, to run over 'the ſame thing twice and again, (as they did 'here in the ſecond Charge about the Picture of 'the Bleſſed Virgin:) to the end, that as the Auditors changed, the more of them might hear it; 'and that which wrought not upon ſome, might 'upon others. In all which I patiently referred 'myſelf to my former Anſwers, having no other 'way to help myſelf; in regard they pretended 'that they renew'd the ſame Inſtances, but not 'the ſame way; but in one place, as againſt 'Law; and in another, as againſt Religion. But 'why then did they in both places run over all 'Circumſtances appliable to both?' And on they went too with the Men of *Lewes*; where,

1. One Mr. *Parnlye* (they ſay) was cenſured cruelly in the High-Commiſſion, for not removing the Communion-Table. The Buſineſs was but this: Sir *Nathaniel Brent*, and his own Ordinary Dr. *Nevill*, ordered the Remove of the Table; he would not. For this Contumacy he was cenſured, but enjoined only to make his Submiſſion to Dr. *Nevill*. Which I think was a Sentence far from any barbarous Cruelty, as 'tis called.

2. Another Inſtance, and the next, was Mr. *Burket*. He ſays, he was cenſured alſo about removing the Communion-Table, and for that only. But firſt, this was not ſimply for removing the Holy Table; but it was for abetting the Church-Wardens to remove it back again from the place, where lawful Authority had ſet it. And ſecondly, whereas he ſays, he was cenſured for this only, the very Charge itſelf confutes him. For there 'tis ſaid, That this, about removing the Communion-Table, appears in the ſixth Article that was againſt him. Therefore there were five other Articles at leaſt more againſt him: and therefore not this only.

3. The third Inſtance was Mr. *Chancye*: And he likewiſe is ſaid to have ſuffered very much only about railing in of the Communion-Table. But this is not ſo neither: For he confeſſes that he ſpake reproachful Words againſt Authority, and in contempt of his Ordinary; that he ſaid the Rails were fit to be ſet up in his Garden; that he came fifty Miles from his own Church, on purpoſe to countenance this Buſineſs: And all this he acknowledges upon his Oath in his Submiſſion. And yet nothing laid upon him but Suſpenſion; and that no longer than till he ſubmitted. And all this the Act of the High-Commiſſion, not mine. 'And ſo I an-'ſwered Mr. *Brown*, who urged this againſt me alſo.' And the Truth of all this appears *apud Acta*; tho they were taken away, and kept ever ſince from my uſe, yet many things done in that Court have been charged againſt me. And here ſtepped in a Teſtimony of Mr. *Genebrard*'s, That I threaten'd openly in the High-Commiſſion to ſuſpend Dr. *Merrick*. And why might I not do it, if he will be overbold with the Proceeding of the whole Court? I have

have known, e'er now, a very good Lawyer committed from the *Chancery-Bar* to the *Fleet*. Tho I ſhall ſpare Names.

4. The fourth Inſtance was in Mr. *Workman*'s Caſe; charged as if he were ſentenced only for preaching a Sermon to the Judges againſt Images in Churches. (1.) The firſt Witneſs in the Cauſe was Mr. *Langly*. He ſays Mr. *Workman* was cenſured for this Sermon, and other Things. Therefore not for this Sermon only: The High-Commiſſioners were no ſuch Patrons of Images. He ſays, That when I was Dean of *Glouceſter*, I told them in the Chappel, that King *James* had heard of many Things amiſs in that Church, and required me to take care of them. 'Tis true, he did ſo. He ſays farther, That hereupon I placed the Communion-Table altar-wiſe, and commanded due Reverence at the coming into the Church. This I did, and I have given my Reaſon often already for it out of the Injunctions of Queen *Elizabeth*. He ſays, That Biſhop *Smith* took offence at this, and would come no more to the Cathedral. Firſt, My Lords, this Gentleman was then School-Maſter there, and had free Acceſs unto me: He never diſcovered this. Secondly, The Biſhop himſelf never ſaid a Word to me about it. If he had, I would either have ſatisfied his Lordſhip in that, or any thing elſe that I did; or if he had ſatisfied me, I would have forborn it. He ſays, That Mr. *Workman*, after he was put from his Lecture, was not ſuffered to teach Children. Firſt, If he had been ſuffered, this Man had been like to make the firſt Complaint for decay of his own School. But, Secondly, the Commiſſion thought it no way fit to truſt him with the Education of Children, who had been factious among Men; eſpecially not in that Place, where he had ſo ſhewed himſelf. 'And 'this Anſwer I gave to Mr. *Brown*; who, in ſumming the Evidence, ſtood as much, and inveigh-'ed as earneſtly againſt this cruel Proceeding with 'Mr. *Workman*, as upon any one Thing in the 'Charge. At which time he added alſo, That he 'would not be ſuffered to practiſe Phyſick, to get 'his Living. But, Firſt, no Witneſs evidenceth this, 'that he was denied to practiſe Phyſick. And, 'Secondly, he might have taught a School, or 'practiſed Phyſick, any where elſe. But he had 'done ſo much harm, and made ſuch a Faction in '*Glouceſter*, as that the High-Commiſſion thought 'it not fit to continue him there: And he was not 'willing to go from thence, where he had made his 'Party.' He ſays farther, That ſome few of the Citizens of *Glouceſter* were called into the High-Commiſſion, for an Annuity of twenty Pound a Year allowed Mr. *Workman* out of the Town-Stock. For the Thing it ſelf, it was a groſs Abuſe and Scorn put upon that Court; that when they had cenſured a Schiſmatical Lecturer, (for ſuch he was there proved) the Townſmen ſhould make him an Allowance of twenty Pound a Year: A Thing (as I humbly conceive) not fit to be endured in any ſettled Government. And whereas Clamour is made, that ſome few of the Citizens were called to an Account for it, that's as ſtrange on the other ſide: For where there are many Offenders, the Noiſe would be too great to call all. And yet here's Noiſe enough made for calling a few. Here it was replied by Mr. *Maynard*, That this was done by that Corporation, and yet a few ſingled out to anſwer; and that therefore I might be ſingled out to anſwer for Things done in the High-Commiſſion. 'But, under favour, this learned and worthy Gen-'tleman is miſtaken: For here the Mayor and 'Magiſtrates of *Glouceſter* did that which was no 'way warrantable by their Charter, in which 'Caſe they may be accountable, all or ſome. But 'in the High-Commiſſion we meddled with no 'Cauſe not cognoſcible there; or if by Miſin-'formation we did, we were ſure of a Prohibition 'to ſtop us. And meddling with nothing but 'Things proper to them, I conceive ſtill no one 'Man can be ſingled out to ſuffer for that which 'was done by all. And this may ſerve to anſwer 'Mr. *Brown* alſo, who in his laſt Reply upon me, 'when I might not anſwer, made uſe of it.'

(2.) The ſecond Witneſs was Mr. *Purye* of *Glouceſter*. He ſays, That Mr. *Brewſter*, and Mr. *Guies* the Town-Clerk, were called to the Council-Table about this Annuity; and that I deſired it might be farther examined at the High-Commiſſion. If this were true, I know no offence in it, to deſire that ſuch an Affront to Government might be more thoroughly examined, than the Lords had leiſure to do. But the Witneſs doth not give this in Evidence: For he ſays no more than that he heard ſo from Mr. *Brewſter*. And his Hear-ſay is no Conviction. He ſays farther, That the High-Commiſſion called upon this Buſineſs of the Annuity, as informed that the twenty Pound given to Mr. *Workman*, was taken out of the Moneys for the Poor. And this I muſt ſtill think was a good and a ſufficient ground, juſtly to call them in queſtion. He ſays alſo, That theſe Men were fined, becauſe that which they did was againſt Authority. So by their own Witneſs it appears, that they were not fined ſimply for allowing Means to Mr. *Workman*, but for doing it in oppoſition to Authority. Laſtly, he ſays, They were fined ten Pound a-piece; and that preſently taken off again. So here was no ſuch great Perſecution, as is made in the Cauſe. And for the cancelling of this Deed of Annuity, it was done by themſelves, as Mr. *Langly* witneſſes.

After theſe two Witneſſes heard, the Sentence of the High-Commiſſion Court was read, which I could not have come at, had not they produced it. And by that it appeared evidently, that Mr. *Workman* was cenſured as well for other Things, as for his Sermon about Images in Churches. As firſt he ſaid, So many Paces in Dancing, were ſo many to Hell. This was hard, if he meant the Meaſures in the Inns of Court at *Chriſtmas*; and he excepted none. Then he ſaid, and was no way able to prove it, That Drunkards, ſo they were conformable, were preferred. Which was a great and a notorious Slander upon the Governours of the Church, and upon orderly and conformable Men. Then he ſaid, That Election of Miniſters was in the People. And this is directly againſt the Laws of *England*, in the Right of all Patrons. Then conſtantly, in his Prayer before his Sermon, he prayed for the *States* and the King of *Sweden* before his Majeſty, which was the Garb of that Time among that Party of Men. Then, That one of his common Themes of preaching to the People, was againſt the Government of the Church. And then, That Images in Churches, were no better than Stews in the Commonwealth; which at the beſt is a very unſavoury Compariſon. But here it was replied, That Images were Idols, and ſo called in the Homilies; and that therefore the Compariſon might hold. Yea, but in the ſecond Homily againſt the Peril of Idolatry, Images or Pictures in Glaſs or Hangings are expreſly and truly ſaid not to be Idols, till they be worſhipped. And therefore Mr. *Workman* ſhould not have compared their ſet-

Hom. againſt the Peril of Idolat. p. 3. p. 92.

ting up, to Stews, till he could have proved them worſhipped. And in all this, were the Act good or bad in the cenſuring of him, it was the Act of the High-Commiſſion, not mine.

V. After this followed the fifth Charge; which was Mr. *Sherfeild*'s Caſe, his Sentence in the *Star-Chamber* for defacing of a Church-Window in or near *Salisbury*. The Witneſſes produced were two.

1. The firſt was Mr. *Carill*. He ſaid that Mr. *Sherfeild* defaced this Window becauſe there was an Image in it, conceived to be the Picture of God the Father. But firſt, this comes not home: For many a Picture may be conceived to be of God the Father, which yet is not, nor was ever made for it. And then ſuppoſe it were ſo, yet Mr. *Sherfeild* in a ſettled Government of a State, ought not to have done it but by command of Authority. He ſays, That in my Speech there in the Court, I juſtified the having of the Picture of God the Father, as he remembers, out of *Dan.* 7. 22. This (as he remembers) came well in: For I never juſtified the making or having that Picture. 'For [a] *Calv.* 1 Inſt. c. 11. §. 12. '*Calvin*'s Rule, that we picture that 'which may be ſeen, is grounded 'upon the Negative, that no Pic-'ture may be made of that which was never, 'never can be ſeen. And to ground this Nega-'tive, is the Command given by *Moſes*, Deut. 4. '15, & 16. *Take good heed to your ſelves.* For what? 'That you make not to your ſelves this Picture. 'Why? *For that you ſaw no manner of Similitude in 'the Day that the Lord ſpake unto you out of the midſt 'of the Fire.* Out of the midſt of the Fire; *and 'yet he ſtill reſerved himſelf in thick Darkneſs*, Exod. '20. 21. So no Picture of him, becauſe no Si-'militude ever ſeen. And this Rule having ever 'poſſeſſed me wholly, I could not juſtify the ha-'ving of it.' I ſaid, indeed, that ſome Men in later ſuperſtitious Times were ſo fooliſh as to picture God the Father, by occaſion of that Place in *Daniel*: But for my ſelf, I ever rejected it. Nor can that Place bear any ſhew of it: For *Daniel* ſays there, *That the Antient of Days came.* But in what Shape or Similitude he came, no Man living can tell. And he is called the *Antient of Days*, from his Eternity, not as if he appeared like an old Man. The Text hath no Warrant at all for that.

2. Yet the ſecond Witneſs, Mr. *Tomlyns*, ſays alſo, That I did juſtify this Picture. 'God forgive 'him the Malice or Ignorance of this Oath, be it 'which it will.' He might have been as wary as Mr. *Carill*, and added (*as he remembers*:) For ſo many Years ſince, as this Hearing was, he may eaſily miſtake. But if I did ſay any ſuch thing, why are not my own Papers here produced againſt me? I had that written which I then ſpake, and the Paper was in my Study with the reſt, and came (for ought I know) into their Hands which follow the Charge againſt me. I ask again, why is not this Paper produced? Out of all doubt it would, had there appeared any ſuch thing in it. He ſays alſo, That I ſaid then, that if the Idol of *Jupiter* were ſet up, yet it were not lawful to pull it down in a popular Tumult, but by Order and Authority. I did ſay ſo, or to that effect, indeed; and muſt ſay it ſtill. For I find in St. *Auguſtin* almoſt the very Words. And Biſhop *Davenant*, a Man very learned, cites this Place of St. *Auguſtin*, and approves it. And they both prove this Doctrine from *Deut.* 7. 5. & 12. 2. Where the Command given for deſtroying of the Idols, when they came into the Land of *Canaan*, was not left at large to the People, but ſettled in *Moſes* the chief Magiſtrate, and his Power. And according to this Rule, the Temple of *Æſculapius*, though then grown very ſcandalous, was not pulled down but by [a] *Conſtantine*'s Command. Which Place I then ſhewed the Lords. But this Witneſs added, That Mr. *Sherfeild* had Authority to do this from the Veſtry. If he had, that's as good as none; for by the Laws of *England* there is yet no Power given them for that, or any thing elſe. And all that Veſtries do, is by Uſurpation, or Conſent of the Pariſh, but reaches not this. The *Biſhop* of the Dioceſs had been fitter to be conſulted herein than the Veſtry.

[a] Euſeb. 3. de vita Conſtan. c. 54.

Here, as if theſe Witneſſes had not ſaid enough, Mr. *Nicolas* offered himſelf to be a Witneſs; and told the Lords he was preſent at the Hearing of this Cauſe; and that four Witneſſes came in clear, that the Picture broken down, was the Picture of God the Father; and that yet the Sentence of the Court paſſed againſt Mr. *Sherfeild*. Firſt, if this be ſo, it concludes againſt the Sentence given in the *Star-Chamber*, not againſt me: And he calls it here the *Sentence of the Court*. Secondly, be it that it were undoubtedly the Picture of God the Father; yet he ought to have taken Authority along with him, and not to go about it with violence; which he did, and fell, and brake his Leg in the Buſineſs. Thirdly, By his own Deſcription of the Picture, it ſeems to me to be ſome old fabulous Picture out of a Legend, and not one of God the Father: For he then told the Lords, it was the Picture of an old Man with a Budget by his Side, out of which he was plucking *Adam* and *Eve*. 'And I believe no 'Man ever ſaw God the Father ſo pictured any 'where. Laſtly, Let me obſerve how Mr. *Nico-'las* takes all parts upon him wherein he may hope 'to do me miſchief.'

VI. The ſixth Charge was concerning a Bible that was printed with Pictures, and ſold. The Witneſs was Mr. *Walſal* a Stationer; who ſays, That this Bible was licenſed by Dr. *Weeks*, my Lord of *London*'s Chaplain, not mine: ſo thus far it concerns not me. 'Yes, ſays Mr. *Brown* in his 'laſt Reply; for it appears in a Liſt of my Chap-'lains, under my own Hand, that Dr. *Weeks* was 'one. 'Tis true, when I was Biſhop of *Bath* and '*Wells*, he was mine; but my Lord of *London* had 'him from me, ſo ſoon as ever he was Biſhop: 'And was his, not mine, when he licenſed that 'Book. And Mr. *Brown* knew that I anſwered it 'thus to the Lords.' He ſays, That I gave him direction that they ſhould not be ſold openly upon the Stalls, but only to diſcreet Men that knew how to uſe them. The Caſe was this: As I was at Prayers in the King's Chappel, I there ſaw one of them in Mrs. *Kirk*'s Hand. She was far enough from any Affection to *Rome*. And this being the firſt knowledge I had of it, many were vended and ſold before I could prevent it. Upon this I ſent for one, (whether to this Witneſs or another, I cannot ſay) and acquainted the Lords of the Council with it, and craved their Direction what ſhould be done. It was there ordered, that I ſhould forbid the open Sale of them upon their Stalls, but not otherwiſe to learned and diſcreet Men. And when I would have had this Order ſtricter, no Man ſtuck to me but Mr. Secretary *Cook*. So according to this Order I gave direction to Mr. *Walſal*, as he witneſſes.

Here Mr. *Maynard* replied, That I ought to have withſtood this Order, in regard it was every way faulty.

faulty. For, said he, either these Pictures were good or bad. And if they were good, why should they not be sold openly upon the Stalls to all that would buy? And if they were bad, why should they be sold privately to any? 'To this Reply 'I was not suffered to answer. But when I heard 'Mr. *Brown* charge this Bible with Pictures a- 'gainst me, then I answered the thing as before, 'and took occasion thereby to answer this *Dilem-* 'ma thus: Namely, That this kind of Argument 'concludes not, but in things necessary, and where 'no *Medium* can be given. For where a *Medium* 'can be given, the Horns of this Argument are 'too weak to hurt; and so 'tis here. For Pictures 'in themselves are things indifferent; not simply 'good, nor simply bad, but as they are used. 'And therefore they were not to be sold to all 'Comers, because they may be abused, and be- 'come evil; and yet might be sold to learned and 'discreet Men, who might turn them to good. 'And that Images are things indifferent of them- 'selves, is granted in the Homi- 'lies, which are against the very 'Peril of Idolatry.' He said, There were some inconvenient Pictures a- mong them; as the Assumption and the Dove. Be it so, the Book was not licensed by me nor mine: And yet, as I then shewed the Lords, they were not so strict at *Amsterdam* against these Pictures; for the Book which Mr. *Walsal* shewed me, was printed and sent thence, before it was print- ed here. Besides, our old *English* Bibles in the be- ginning of the Queen were full of Pictures, and no fault found. As for that which is added at the Bar, That one of these Bibles was found in Secretary *Windebank*'s Trunk, and another in Sir *John Lambe*'s; that's nothing to me.

Hom. par. 1. *p.* 11.

VII. The last Charge of this Day was, That something about Images was expunged out of Dr. *Featly*'s Sermons by my Chaplain, Dr. *Bray*, before they could be suffered to be printed. But, First, he himself confesses, That I told him he might print them, so nothing were in them contrary to the Doctrine and Discipline of the Church of *Eng- land*. Secondly, He confesses, That when Dr. *Bray* made stay of them, he never complained to me; and I cannot remedy that which I do not know. Thirdly, He confesses, That all the time he was in *Lambeth-House*, my Predecessor ever left that Care of the Press upon his Chaplains; and why I might not do it as well as my Predecessor, I do not yet know. But he said, That he complained to Sir *Edmund Scott*, and desired to be advised by him what he should do; and that he answer'd, He thought I would not meddle with that trouble- some business, more than my Predecessors had done. 'Be this so, yet Sir *Edmund Scott* never told me 'this; nor is there any the least Proof offer'd that 'he did. But because this and the like Passages 'about expunging some things out of Books, makes 'such a great noise, as if nothing concerning Po- 'pery might be printed; and because Mr. *Brown*, 'in summing up of the Charge in the House of 'Commons, warmly insisted upon this Particular; 'I thought it necessary to answer as follows: That 'what moved my Chaplain to expunge that large 'Passage against Images, I knew not; nor could I 'now know, my Chaplain being dead. But that 'this I was sure of, that else-where 'in those very Sermons there was as 'plain a Passage, and full against 'I- 'mages left in. And in another place 'a whole Leaf together spent to prove 'them 'Idolaters; and that as gross 'as the *Baalists*, and so he terms 'them. Yea, and that the 'Pope is 'Antichrist too; and not only called 'so, but proved by divers Arguments: And not so 'only, but in plain Terms, that he 'is '*the Whore of Babylon*. And these 'Passages I then read out of the 'Book it self in the House of Commons: and 'many other like to these there are. So my Chap- 'lain might see good cause to leave out some Pas- 'sages, where so many upon as good cause were 'left in.'

'Dr. Featly's *Sermons*, *p.* 447.

'*p.* 791.

'*p.* 808.

'*p.* 810.

But to the Business of leaving the Care of these Books, and the Over-view of them to my Chaplains, it was then urged, 'That the Commissary of *John* Lord 'Archbishop of *York*, had excom- 'municated the Lord Bishop of *Dur- 'ham*, being then in the King's Ser- 'vice; and that the Archbishop 'himself was deeply fined for this 'Act of his Commissary; and that 'therefore I ought much more to be 'answerable for my Chaplain's Act, 'whom I might put away when I would, than he 'for his Commissary, who had a Patent, and could 'not be put out at pleasure.' Mr. *Brown* also fol- lowed this Precedent close upon me. But first there is a great deal of difference in the thing it self: My Chaplain's Case being but the leaving out of a Passage in a Book to be printed; but his Com- missary's Case being the Excommunicating of a great Bishop, and he in the King's Service, of whose Honour the Laws of this Realm are very tender. And, Secondly, the Bishop and his Offi- cial, (call him Chancellor or Commissary, or what you will) make but one Person in Law; and therefore the Act of the Commissary, to the full ex- tent of his Patent, is the Act of the Bishop in le- gal Construction, and the Bishop may be answer- able for it. But the Bishop and his Chaplain are not one Person in any Construction of Law. 'And 'say he may put away his Chaplain when he will, 'yet that cannot help what is past, if ought have 'been done amiss by him. And this was the An- 'swer I insisted on to Mr. *Brown*.'

This was done long before the Reformation; when the Pa- tents of Chan- cellors and Commissaries were revoca- ble at the plea- sure of the Bishop. H. W.

Upon my entrance on this Day's Defence, I found my self aggrieved at the *Diurnal*, and another Pam- phlet of the Week, wherein they print whatsoever is charged against me, as if it were fully proved; never so much as mentioning what or how I an- swer'd. And that it troubled me the more, because (as I conceived) the Passages, as there expressed, trenched deep upon the Justice and Proceedings of that Honourable House; and could have no aim but to incense the Multitude against me. With some difficulty I got these Pamphlets received, but there they died, and the weekly Abuse of me con- tinued to keep my Patience in breath.

The Thirteenth Day of my Hearing.

I. WHitson-Tuesday, *June* 11. 1644. The first Charge of this Day, was the Opinion which was held of me beyond the Seas. The first Witness was Sir *Henry Mildmay*, who (as is before related) told me without asking, That I was the most hateful Man at *Rome*, that ever sat in my See since the Reformation. Now he denied not this, 'but being helped on by good Preparation, a flexi- 'ble Conscience, and a fair leading Interrogatory 'by Mr. *Nicolas*,' (Mr. Serjeant *Wilde* was sick,

and came no more till the laſt Day, when I made my Recapitulation) he minced it. And now he ſays, That there were two Factions at *Rome*, and that one of them did indeed ſpeak very ill of me, becauſe they thought I aimed at too great a Power here in *England*; but the other Faction ſpake as well of me, becauſe they thought I endeavoured to bring us in *England* nearer to the Church of *Rome*. But, Firſt, my Lords, this Gentleman's Words to me were round and general; That I was hated at *Rome*, not of a Party or Faction there; and my Servants heard him at the ſame time, and are here ready to witneſs it, That he then ſaid the Pope was a goodly Gentleman, and did uſe to ride two or three great Horſes in a Morning; and, but that he was ſomething taller, he was as like Auditor *Philips* (who was then at Dinner with me) as could be. But I pray mark what wiſe Men he makes them at *Rome*. One Faction hates me, becauſe I aim at too much Power; and the other loves me, becauſe I would draw *England* nearer *Rome*. Why, if I went about to draw *England* nearer *Rome*, can any among them be ſuch Fools as to think my Power too great? For if I uſed my Power for them, why ſhould any there condemn me? And if I uſed it againſt them, why ſhould any here accuſe me? '*Non ſunt hæc bene diviſa temporibus*; theſe things ſuit not with the Times, or 'the Diſpoſitions of *Rome*: But the plain Truth is, 'I do not think that ever he was at *Rome*; I after 'heard a Whiſper, that he only ſtepped into *France* 'for another Cure, not to *Rome* for Curioſity, 'which was the only Cauſe he gave the Lords of 'his going thither.'

2. The ſecond Witneſs was Mr. *Challoner*. He ſays not much of his own Knowledge, but of Fame, that tatling Goſſip; yet he told the Lords, I was a very obſcure Man, till within theſe fifteen Years. Be it ſo, if he pleaſe; yet I have been a Biſhop above Three and Twenty Years: and 'tis Eighteen Years ſince I was firſt Dean of his Majeſty's Chappel-Royal. He ſays, That after this time there was a ſtrong Opinion of Reconciliation to *Rome*. A ſtrong Opinion, but a weak Proof. For it was an Opinion of Enemies, and ſuch as could eaſily believe, what they over-much deſired. He farther ſaid, That ſome of them were of Opinion, that I was a good *Roman Catholick*, and that I wrought cunningly to introduce that Religion by Inches; and that they prayed for me. Firſt, My Lords, the Opinion of Enemies is no Proof at all, that I am ſuch as they think me. And ſecondly, this is a notable, and no unuſual piece of Cunning, for an Enemy to deſtroy by commending; for this was the ready way, and I doubt not but it hath been practiſed, to raiſe a Jealouſy againſt me at home, thereby either to work the Ruin of my Perſon, or utterly to weaken and diſable me from doing harm to them, or good for the Church of *England*. Beſides, if the Commendation of Enemies may in this kind go for Proof, it ſhall be in the power of two or three practiſing Jeſuits, to deſtroy any Biſhop or other Church-man of *England* when they pleaſe. At laſt he told a Story of one Father *John*, a Benedictine; that he asked him how Church-Livings were diſpoſed in *England*, and whether I had not the diſpoſing of thoſe which were in the King's Gift? And concluded, That he was not out of hope to ſee *England* reduced to *Rome*. Why, my Lords, this is not Father *John*'s Hope alone; for there is no (a) *Roman Catholick* but hath ſome Hope alive in him to ſee this Day. And were it not for that Hope, there would not have been ſo many, ſome deſperate, all dangerous Practices upon this Kingdom to effect it, both in Queen *Elizabeth*'s time, and ſince. But if this I know not what Father *John* hope ſo, what is that to me?

3. The third Witneſs was Mr. *Anthony Mildmay*; a Man not thought on for a Witneſs, till I called for his Brother Sir *Henry*. But now he comes laden with his Brother's Language. He ſays juſt as Sir *Henry* did before, That there were two Factions at *Rome*, the Jeſuits, and they abhorred me; but the other, the Secular Prieſts, they wiſhed me well, as he was informed. Firſt, this is ſo one and the ſame Teſtimony, that any Man that will, may ſee, that either he informed his Brother, or his Brother him. Secondly, here's nothing affirmed, for it is but as he was informed: And he doth not tell you by whom. It may be, my Lords, it was by his Brother. Then he ſays, This was to make my ſelf great, and tells a Tale of Father *Fitton*, as much to the purpoſe as that which Mr. *Challoner* told of Father *John*. But whatſoever either of theſe Fathers ſaid, it was but their own Opinion of me, or Hearſay; neither of which can prove me guilty of any thing. 'Thus much 'Mr. *Anthony* made a ſhift to ſay by Five of the 'Clock at Afternoon, when I came to make my 'Anſwer. And this (as I have ſufficient Cauſe to 'think) only to help to ſhoar up his Brother's 'Teſtimony. But in the Morning, when he 'ſhould have come, as his Brother did, he was 'by Nine in the Morning ſo drunk, that he 'was not able to come to the Bar, nor to ſpeak 'common Senſe, had he been brought thither: '*Nobile Par Fratrum.*'

II. The Second Charge was the Conſecration of two Churches in *London*; *St. Catherine Cree-Church*, and *St. Giles in the Fields*. The Witneſſes two.

1. The firſt Witneſs was one Mr. *Willingham*. And he ſays, That I came to theſe Churches in a pompous manner: But all the Pomp that he mentions, is, that Sir *Henry Martin*, Dr. *Duck*, and ſome other of the Arches, attended me, as they uſually do their Dioceſans in ſuch Solemnities. He ſays, he did curiouſly obſerve what was done, thinking it would one day be called to an account, as now it is. So this Man (himſelf being Judge) looked upon that Work with a malevolent Eye, and God preſerve him from being a malicious Witneſs. He ſays, That at my approach to the Church-Door, was read, *Lift up your Heads, O ye Gates, and be ye lift up, ye everlaſting Doors, and the King of Glory ſhall come in*; Pſal. 24. 7. And this was urged over and over, as a Jeer upon my Perſon. But this Place of Scripture hath been antiently uſed in Conſecrations: And it relates not to the Biſhop, but to God Almighty, the true King of Glory, who at the Dedication enters by his Servant to take poſſeſſion of the Houſe, then to be made his. He ſays, That I kneeled down at my coming in, and after uſed many Bowings and Cringings. For my kneeling down at my entrance, to begin with Prayer, and after to proceed with Reverence, I did but my Duty in that; let him ſcoffingly call it *Cringing*, or *Ducking*, or what he pleaſe.

(a) *The Archbiſhop calls the* Engliſh *Papiſts* Roman Catholicks; *not as allowing them to be ſuch, but referring to that Name, which ſome of them were before ſaid to have affixed to him.* H. W.

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He says farther, That at the beginning I took up Dust, and threw it in the Air, and after used divers Curses. And here Mr. *Pryn* put Mr. *Nicolas* in mind to add, That *spargere Cinerem* is in the Form of Consecration used in the *Pontifical*. 'And 'Mr. *Brown*, in his summary Account of my 'Charge, laid the very Consecration of these 'Churches as a Crime upon me, and insisted on 'this Particular.' But here my Answer to all was the same; That this Witness had need look well to his Oath, for there was no throwing up of Dust, no Curses used throughout the whole Action: Nor did I follow the *Pontifical*, but a Copy of Learned and Reverend Bishop *Andrews*, by which he consecrated divers Churches in his time; and that this is so, I have the Copy by me to witness, and offered them to shew it. Nor can this howsoever savour any way of Treason. No, said Mr. *Brown*, but the Treason is, To seek, by these Ceremonies, to overthrow the Religion established. Nor was that ever sought by me: And God of his Mercy preserve the true Protestant Religion amongst us, till the Consecration of Churches, and Reverence in the Church, can overthrow it; and then I doubt not, but by God's Blessing it shall continue safe to the World's end.

He says also, That I did pronounce the Place Holy. I did so: And that was in the solemn Act itself of the Consecration, according to the usual Form in that behalf. And no Man will deny, but that there is a Derivative and a [1] Relative Holiness in Places, as well as in Vessels, and other things dedicated to the Honour and Service of God. Nor is any thing more common in the Old Testament; and 'tis express in the New, both for Place and Things: 1 *Cor.* 9. 13.

[1] Objectiva & adhærens, Jo. Prideaux, Concio in S. Luc. 19. 46.

Then it was urged at the Bar, That a Prayer which I used, was like one that is in the *Pontifical*. So in the *Missal* are many Prayers like to the Collects used in our *English* Liturgy, so like, that some are the very same, translated only into *English*; and yet these confirmed by Law. And for that of *Psal.* 95. 6. *Venite procidamus*, &c. then also excepted against, that hath been of very antient use in the Liturgies of the Church. From which *rejecimus Paleam, numquid & Grana?* We have separated the Chaff, shall we cast away the Corn too? If it come to that, let us take heed we fall not upon the Devil's Winnowing, who labours to beat down the Corn; 'tis not the Chaff that troubles him, St. *Luke* 22. 31. Then they urged my Predecessor Archbishop *Parker*, That he found fault with the Consecration of new Churches. I answered then upon Memory, that he did not find fault simply with Consecrations of Churches, but only with the superstitious Ceremonies used therein. 'And this since, upon perusal of the place, 'I find to be true. For after he had in some sort 'commended the Popes for taking away some 'gross and superstitious Purgations, he adds, That 'yet for want of Piety or Prudence, their later '*Pontifical* and *Missal-Books* did outgo the antient *in* 'multitudine Ceremoniarum, & peragendi Difficultate, '& Tædio, & Exorcisationis Amentiâ. So these were 'the things he found fault with, not the Consecration itself; which he could not well do, himself being then a consecrated Bishop.'

In Antiq. Britannicis, p. 85.

2. The second Witness was Mr. *Hope*. He says, That he agrees with the former Witness, and saw all, and the throwing up of the Dust, *&c.* Since he agrees with the former Witness, I give him the same Answer. Yet with this Observation upon him and his Oath: The former Witness says, That at the beginning of this Action, I took Dust and threw it up; this Man agrees with him, and saw all; and almost in the very next words confesses, he was not there at the beginning. Not there; yet he saw it. My Lords, if you mark it, this is a wholesome Oath. He says, That then the Churchyard was consecrated by itself. It was ever so; the one Act must follow the other, though both done the same day: for the Places being different, the Act could not pass upon them at the same time. Then he said, there were Fees required, and a good eye had to the Money. This is a poor Objection against me: if the Officers did exact any Money without rule or beyond precedent, let them answer for it. But for that which was said to belong to me, I presently gave it to the Poor of the Parish: and this Mr. *Dell* my Secretary then present attested to the Lords. Lastly, he said, They were not new Churches. Let him look to his Oath again; for 'tis notoriously known, they were both new built from the ground, and *St. Giles* not wholly upon the old Foundation.

III. The Third Charge was laid on me only by Mr. *Nicolas*, and without any Witness. It was, That I out-went Popery itself; for the Papists consecrated Churches only, but I had been so ceremonious, that I had consecrated (*a*) Chappels too. My Lords, the Use of Chappels and of Churches in regard of God's Service is the same. Therefore if Consecration be fit for the one, it must needs be for the other. And the Consecrations of Chappels was long before Popery came into the World. For even Oratories newly built were consecrated in or before *Eusebius*'s time: and he flourished about the Year of Christ 310. So antient they are in the Course of Christianity; and for any Prohibition of them, there is neither Law nor Canon in the State or Church of *England* that doth it.

Euseb. l. 10. Hist. c. 3.

The Chappels they instance in are three. First, they say, I consecrated a Chappel of the Right Honourable the Lord Treasurer *Weston*'s. I did so, and did no harm therein. As for the Touch given by the way upon that Honourable Person, he is gone to God, I have nothing to do with it. Secondly, they instanced in a Chappel of Sir *John Worstenham*'s building. 'Tis true, I consecrated that too, but that was a Parish-Church, built in the place where he was born, and it was in my Diocese, and so the Work proper for me. The third Instance was in my own Chappel, in my House at *Aberguilly*, when I was Bishop of *St. Davids*; the Room lay waste and out of repair, and I fitted it at my own cost, and consecrated it into a Chappel, that House having no Oratory before. Here they farther aggravated many Circumstances: as First, That I named it at the Dedication, *The Chappel of St.* John *the Baptist*. I did so name that Chappel, in memory of the College where I was bred, which bears the same Name; but I dedicated it to God and his Service. And to give the Names of Angels and Saints to Churches, for distinction-sake, and for the honour of their Memory,

(*a*) *Here in* England, *both before and since the Reformation, Chappels newly erected were always solemnly consecrated, as well as Churches. I could produce innumerable Instances of the Time preceding, many of the Time succeeding the Reformation.* H. W.

mory, is very antient and uſual in the Church, as appears in St. *Auguſtine*, and divers others of the Fathers; but dedicated only to God: 'Which 'in the midſt of ſuperſtitious Times, the School 'itſelf confeſſes.' So yet no Offence. Secondly, That I did it upon the 29th of *Auguſt*. And why might I not do it that Day, as well as upon any other? But reſolving to name the Chappel as I did, I the rather made choice of that Day, both becauſe it was the Day of the Decollation of St. *John* the Baptiſt, and becauſe as upon that Day God had wonderfully bleſſed me, in the Hearing of my Cauſe concerning the Preſidentſhip of *St. John's College* in *Oxford*, by King *James* of ever-bleſſed Memory: So yet no Offence. Thirdly, There was a Paper read, and avowed to be mine, in which was a fair Deſcription of Chappel-Furniture and rich Plate, and the Ceremonies in uſe in that Chappel, and Wafers for the Communion. At the reading of this Paper, I was a little troubled. I knew I was not then ſo rich, as to have ſuch Plate or Furniture; and therefore I humbly deſired ſight of the Paper. So ſoon as I ſaw it, I found there was nothing in it in my hand, but the Indorſement, which told the Reader plainly, that it was the Model of Reverend Biſhop *Andrews*'s Chappel, with the Furniture, Plate, Ceremonies therein uſed, and all things elſe. And this Copy was ſent me by the Houſhold Chaplain to that famous Biſhop. 'This I laid open to the Lords, and it 'would have made any Man aſhamed, but Mr. 'Pryn, who had delivered upon Oath, that it was 'a Paper of my Chappel-Furniture at *Aberguilly*, 'contrary to his Conſcience, and his own Eye-'ſight of the Paper.' And for Wafers, I never either gave or received the Communion, but in ordinary Bread. At *Weſtminſter* I knew it was ſometimes uſed, but as a thing indifferent. As for the Slur here given to that Reverend dead Biſhop of *Winchester*, it might well have been ſpared; he deſerved far better Uſage for his Service to the Church of *England*, and the Proteſtant Cauſe.

Tho. 2. 2æ q. 85. A. 2. ad 3.

IV. The Fourth Charge was the publiſhing the Book of Recreations: and it was uſhered in with this Scorn upon me, That I laboured to put a Badge of Holineſs, by my Breath, upon Places; and to take it away from Days. But I did neither; the King commanded the printing of it, as is therein atteſted, and the Warrant which the King gave me, they have. And though at Conſecrations I read the Prayers, yet it was God's Bleſſing, not my Breath, that gave the Holineſs. And for the Day, I ever laboured it might be kept holy, but yet free from a ſuperſtitious Holineſs. And firſt it was ſaid, That this was done of purpoſe to take away Preaching. But Firſt, there is no Proof offered for this. And Secondly, 'tis impoſſible; for till the Afternoon-Service and Sermon were done, no Recreation is allowed by that Book, nor then to any but ſuch as have been at both: therefore it could not be done to take it away. Thirdly, the Book names none but *Lawful Recreations*; therefore if any unlawful be uſed, the Book gives them no warrant. And that ſome are lawful (after the publick Service of God is ended) appears by the Practice of *Geneva*, where after Evening-Prayer the elder Men bowl, and the younger train. And *Calvin* ſays in expreſs Terms, That one Cauſe of the Inſtitution of the Sabbath, was, (a) *That Servants might have a Day of Reſt and Remiſſion from their Labour.* And what time of the Day fit, if not after Evening-Prayer? And what Reſt is there for able young Men, if they may uſe no Recreation? Then it was urged, That there was great Riot and Diſorder at Wakes kept on the Lord's-Day. That is a very ſufficient Cauſe to regulate and order thoſe Feaſts, but not quite to take them away. I make no doubt for my part, but that the Feaſt of the *Dedication* was abuſed by ſome among the *Jews*; and yet Chriſt was ſo far from taking it away for that, as that he honoured it with his own Preſence, St. *John* 10. 22. As for the Paper which was read containing three Cauſes why that Book was publiſhed, that was a Note taken for my own private Uſe and Memory.

Then came in Mr. *Pryn*, who ſaid, That the Lord Chief Juſtice *Richardſon* had made an Order in his Circuit againſt theſe Wakes, and was forced to revoke it. This was done by Authority, as is before anſwered; to which I refer myſelf. Here 'tis added, to help fill up the Noiſe. But Mr. *Pryn* ſays, That all the Gentlemen in the Country petitioned on the Judge's behalf. No; there was a great Faction in *Somerſetſhire* at that time, and Sir *Robert Philips* and all his Party writ up againſt the Judge and the Order he made, as was apparent by the Certificates which he returned. And Sir *Robert* was well known in his time to be neither Popiſh nor Profane. He ſays farther, That *William* then Earl of *Pembroke* was out of Town, and the Book printed in the interim by my procurement. But for this laſt, here's not one word of Proof offered, and ſo I leave it.

V. The Fifth Charge was, That ſome Miniſters were puniſhed for not reading this Book. Witneſſes for this were produced.

1. The firſt was Sir *Nathaniel Brent*; who ſays, He had charge from me to call for an account of not reading this Book, both in my Province at my Viſitation, and in my Dioceſs. His Majeſty having commanded this, I could do little, if I had not ſo much as inquired what was done. And he confeſſes, That for my Province he gave time to them which had not read it, and then never asked more after it. So here was no eager Proſecution. But then he ſays, That three in my Dioceſs ſtood out, and asked time: and confeſſes that I granted it; but adds, That when he asked more time for them, I denied; and that they were then ſuſpended *ab Officio* only. I thought I had reaſon to deny, when I ſaw they did but dally by asking time. And it was then evident, that in the Dioceſs of other Biſhops far more than three were puniſhed, and their Puniſhment greater. 'How-'ever, this my Proceeding was far from Rigour. 'And this was the Anſwer that I gave Mr. *Brown*, 'who in the Sum of his Charge inſtanced in this 'Particular againſt me.'

2. The ſecond Witneſs was Mr. *Culmer*, one of the three Miniſters that were ſuſpended. He ſays, That he was ſuſpended by Sir *Nathaniel Brent*, and that when he came to me about it, I ſaid, *If you know not how to obey, I know not how to grant your Petition.* Truly, my Lords, finding him both wilful and ignorant, I cannot tell what I could ſay leſs. He ſays, That his Patron took away his Benefice. Why, my Lords, he had none; he was only a Curate, and God knows, unfit for that. So being ſuſpended from his Office, this muſt needs be

(a) Tertio, Servis & iis qui ſub aliorum degerent imperio, quietis Diem indulgendum cenſuit, quo aliquam haberent à labore remiſſionem. *Calv. L. 2. Inſt. c. 8. §. 28.*

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done. He ſays, He was not abſolved till the *Scots* came in, and that he was conformable in all things elſe. For the time of his Abſolution, I leave that to the Record: but for his Conformity in other things, 'tis more than ever I heard of any (*a*). 'This I can ſay for him, he is good at purchaſing 'a Benefice; for he offered a Servant of mine One 'Hundred and Fifty Pound, ſo he could procure 'me but to name him to the Parliament for *Char-* 'tham in *Kent*. Since, I have heard he is as good 'at doing Reverence in the Church: 'for he piſſed in the Body of the 'Cathedral at *Canterbury* at Noon-'day, as will be juſtified by Oath. 'And for this very Particular, the 'Book of Recreations, he informed 'at the Council-Table againſt a Gentleman of 'Quality, for ſaying, *It was unfit ſuch Books ſhould* 'be ſent, *for Miniſters to read in the Church*. And 'was himſelf laid by the heels, for the Falſhood 'of this Information. So he is very good at the 'point of Conſcience too, that can refuſe to read 'the Book, as being unfit, and complain to have 'another puniſhed for ſaying 'tis ſo.'

Antidotum Culmerianum, *p.* 11.

Ibid. *p.* 35.

3. The third Witneſs is Mr. *Wilſon*. He ſays, That I ſent to Sir *Nath. Brent* to ſuſpend him. That is true, but it was when he would neither obey, nor keep in his Tongue. He ſays, his Living was ſequeſtred for almoſt four Years. But it was not for not reading this Book. For himſelf confeſſes it was done in the High-Commiſſion; and that for Dilapidations, in not repairing his Houſe.

4. The fourth Witneſs was one Mr. *Sæling*, a Miniſter in the Dioceſs of *Rocheſter*. All that was done againſt this Man, was openly in the High-Commiſſion Court: and there he was cenſured for other things, as well as for this. Himſelf confeſſes his open refuſing to bow at the Name of Jeſus, though the Canon of the Church command it. I kept him off from being ſentenced a long time, and when he was ſentenced he confeſſes I was not preſent. He ſays, Somewhat was expunged out of his Brief. If it were, it was with the conſent of his Counſel; which in that Court was ordinary. Howſoever it cannot touch me: for thoſe things were done at Informations, where I was not preſent. He ſays, that when I heard of the Nature of his Defence, I ſaid, *If any ſuch Defence were put in, it ſhould be burnt*. This was upon juſt Complaint of the Judge then preſent at Informations, affirming it was againſt all the Courſe of that Court. He ſays, There is no Penalty mentioned in that Declaration. And I ſay, his Obedience and other Mens ſhould have been the more free and cheerful. Well I pray God keep us in the Mean, in this Buſineſs of the Sabbath, as well as in other things; that we run not into a Jewiſh Superſtition, while we ſeek to ſhun Profaneneſs. This, *Calvin* hath in the mean time aſſured me, *That thoſe Men who ſtand ſo ſtrictly upon the Morality of the Sabbath, do by a groſs and carnal Sabbatization, three times out-go the Superſtition of the Jews*.

Craſſâ carnalique Sabbatiſmi Superſtitione ter Judæos ſuperant. *Calv.* 2. *Inſt.* c. 8. §. 34.

Here it was inferred, That there was a Combination for the doing of this in other Dioceſes. But no Proof at all was offered. Then Biſhop *Mountague*'s Articles, and Biſhop *Wren*'s, were read, to ſhew that Inquiry was made about the reading of this Book; and the Biſhop of *London*'s Articles named, but not read. But if I were in this Combination, why were not my Articles read? Becauſe no ſuch thing appears in them; and becauſe my Articles gave ſo good Content, that while the Convocation was ſitting, Dr. *Brown* and Dr. *Holdſworth* came to me, and deſired me to have my Book confirmed in Convocation, to be general for all Biſhops in future, it was ſo moderate, and according to Law. But why then (ſay they) were other Articles thought on, and a Clauſe that none ſhould paſs without the Approbation of the Archbiſhop? Why; other were thought on, becauſe I could not in Modeſty preſs the Confirmation of my own, though ſollicited to it. And that Clauſe was added, till a ſtanding Book for all Dioceſes might be perfected, that no *Quære* in the interim might be put to any, but ſuch as were according to Law.

VI. The ſixth Charge was about reverſing of a Decree in *Chancery* (as 'tis ſaid) about Houſes in Dr. *Walton*'s Pariſh, given (as was ſaid) to ſuperſtitious Uſes.

1. The firſt Witneſs was Serjeant *Turner*. He ſays, He had a Rule in the *King's-Bench* for a Prohibition in this Cauſe. But by reaſon of ſome Defect (what, is not mentioned) he confeſſes he could not get his Prohibition. Here's nothing that reflects upon me. And if a Prohibition were moved for, that could not be perſonally to me, but to my Judge in ſome Spiritual Court, where it ſeems this Cauſe depended, to which the Decree in *Chancery* was directed. And indeed this Act, which they call a Reverſing, was the Act and Seal of Sir *Nath. Brent*, my Vicar-General: And if he violated the Lord Keeper's Decree, he muſt anſwer it. But the Inſtrument being then produced, it appeared concurrent in all things with the Decree. The Words are, *Juxta ſcopum Decreti hac in parte in Curiâ Cancellariæ factum, &c.*

2. The ſecond Witneſs was Mr. *Edwards*. And wherein he concurs with Serjeant *Turner*, I gave him the ſame Anſwer. For that which he adds, That Dr. *Walton* did let Leaſes of theſe Houſes at an under Value, and called none of the Pariſhioners to it: If he did in this any thing contrary to Juſtice, or the Will of the Donor, or the Decree, he is living to anſwer for himſelf; me it concerns not. For his Exception taken to my Grant (of Confirmation, I think he means) and to the Words therein, *Omnis & Omnimoda, &c.* 'tis the antient Stile of ſuch Grants for I know not how many hundred Years; no Syllable innovated or altered by me.

VII. Then followed the Charge of Mr. *Burton* and Mr. *Pryn*, about their Anſwer, and their not being ſuffered to put it into the *Star-Chamber*. Which though Mr. *Pryn* preſſed at large before, yet here it muſt come again, to help fill the World with Clamour. Yet to that which ſhall but ſeem new I ſhall anſwer. Two Things are ſaid: (1.) The one, That they were not ſuffered to put in their Defence *modo & forma*, as it was laid. There was an Order made openly in Court to the Judges, to expunge ſcandalous Matter. And the two Chief Juſtices did order the expunging of all that which

(*a*) *This Mr.* Culmer *not only piſſed in the Church of* Canterbury, *but alſo demoliſhed the noble Glaſs-Windows of it with his own hands. The like he did in the Pariſh-Church of* Minſter *in* Thanet; *which Benefice he uſurped during the Rebellion. I have had more particular Opportunities to be informed concerning him from many yet alive, who knew him well; and upon the whole, think him to have been one of the greateſt Villains in the three Kingdoms.* H. W.

was

was expunged, be it more or leſs; as appears in the Acts of that Court. (2.) The other is, That I procured this Expunging. The Proofs that I procured it, were theſe: Firſt, Becauſe Mr. *Cockſhot* gave me account of the Buſineſs from Mr. Attorney. I had reaſon to look after the Buſineſs, the whole Church of *England* being ſcandalized in that Bill, as well as my ſelf. But this is no proof that I either gave Direction, or uſed any Sollicitation to the reverend Judges, to whom it was referred. Secondly, Becauſe I gave the Lords Thanks for it. It was openly in Court: It was after the Expunging was agreed unto. And what could I do leſs in ſuch a Cauſe of the Church, tho I had not been perſonally concerned in it? Thirdly, Becauſe I had a Copy of their Anſwer found in my Study. I conceive it was not only fit, but neceſſary for me to have one, the Nature of the Cauſe conſidered. But who interlined any Paſſages in it with Black-lead, I know not: For I ever uſed Ink, and no Black-lead all my Life. Theſe be ſtrange Proofs that I procured any thing.

Then Mr. *Pryn* added, That the Juſtice and Favour which was afforded Dr. *Leighton* was denied unto him. As far as I remember, it was for the putting in of his Anſwer under his own Hand. This, if ſo, was done by Order of the Court; it was not my Act.

VIII. The laſt Charge followed: And that was taken out of the Preface to my Speech in the *Star-Chamber*. The Words are, '*That one Way of Government is not always either fit or ſafe, when the Humours of the People are in a continual Change*, &c. From whence they inferred I laboured to reduce all to an arbitrary Government. But I do humbly conceive no Conſtruction can force theſe Words againſt me for an arbitrary Government: For the meaning is, and can be no other, for ſometimes a ſtricter, and ſometimes a remiſſer holding and ordering the Reins of Government; yet both according to the ſame Laws, by a different uſe and application of Mercy and Juſtice to Offenders. 'And ſo I anſwer'd to Mr. *Brown*, who charged 'this againſt me as one of my ill Counſels to his 'Majeſty. But my Anſwer given is Truth: For 'it is not ſaid, That there ſhould not be one Law 'for Government, but not one Way in the order-'ing and execution of that Law. 'And the [1] Obſervator upon my 'Speech, (an *Engliſh* Author, and 'well enough known, though he 'pretend 'tis a Tranſlation out of '*Dutch*) though he ſpares nothing 'that may be but carped at; yet to this Paſ-'ſage he ſays, 'Tis a good Maxim, and wiſhes 'the King would follow it. And truly, for my 'part, I learned it of a very wiſe and an able Go-'vernor, and he a King of *England* too; it was of '*Henry* VII. of whom the Story ſays, [2] 'That in the Difficulties of his 'Time and Cauſe he uſed both ways 'of Government, Severity and Cle-'mency; yet both theſe were ſtill within the 'Compaſs of the Law. He far too wiſe, and I 'never yet ſuch a Fool, as to imbrace arbitrary 'Government.'

[1] *My Speech in the* Star-Chamber, Præfat. verſus finem.

[1] *Divine and Politick Obſervations upon my Speech*, p. 78.

[2] Speed *in Hen.* 7. §. 16.

June 14. 1644. This Day I received a Note from the Committee, that they intended to proceed next upon the remainder of the Seventh, and upon the Eighth and Ninth Original Articles: Which follow *in hæc verba*.

VIII. That for the better advancing of his Traytorous Purpoſe and Deſign, he did abuſe the great Power and Truſt his Majeſty repoſed in him; and did intrude upon the Places of divers great Officers, and upon the Right of other of his Majeſty's Subjects: whereby he did procure to himſelf the Nomination of ſundry Perſons to Eccleſiaſtical Dignities, Promotions and Benefices, belonging to his Majeſty, and divers of the Nobility, Clergy, and others; and hath taken upon him the Commendation of Chaplains to the King; by which means he hath preferred to his Majeſty's Service, and to other great Promotions in the Church, ſuch as have been popiſhly affected, or otherwiſe unſound and corrupt both in Doctrine and Manners.

IX. He hath for the ſame traytorous and wicked Intent, choſen and employed ſuch Men to be his Chaplains, whom he knew to be notoriouſly diſaffected to the Reformed Religion, groſly addicted to Popiſh Superſtition, and erroneous and unſound both in Judgment and Practice. And to them, or ſome of them, he hath committed the Licenſing of Books to be printed; by which means divers falſe and ſuperſtitious Books have been publiſhed, to the great Scandal of Religion, and to the ſeducing of many of his Majeſty's Subjects.

The Fourteenth Day of my Hearing.

MOnday, *June* 17. 1644. At the ending of the former Day's Charge, I was put off to this Day, which held.

I. The Firſt Charge was concerning Mr. *Damport's* leaving his Benefice in *London*, and going into *Holland*.

1. The firſt Witneſs for this was *Quaterman*, a bitter Enemy of mine; God forgive him. He ſpeaks as if he had fled from his Miniſtry here for fear of me. But the ſecond Witneſs, Mr. *Dukeſwell*, ſays, That he went away upon a Warrant that came to ſummon him into the High-Commiſſion. The truth is, my Lords, and 'tis well known, and to ſome of his beſt Friends, that I preſerved him once before, and my Lord *Vere* came and gave me thanks for it. If after this he fell into danger again, *majus Peccatum habet*; I cannot preſerve Men that will continue in dangerous Courſes. He ſays farther, (and in this the other Witneſs agrees with him) That when I heard he was gone into *New England*, I ſhould ſay my Arm ſhould reach him there. The Words I remember not. But for the Thing, I cannot think it fit that any Plantation ſhould ſecure any Offender againſt the Church of *England*. And therefore if I did ſay my Arm ſhould reach him, or them ſo offending, I know no Crime in it; ſo long as my Arm reached no Man but by the Law.

2. The ſecond Witneſs, Mr. *Dukeſwell*, adds nothing to this, but that he ſays, Sir *Maurice Abbot* kept him in before. For which Teſtimony I thank him. For by this it appears, that Mr. *Damport* was a dangerous factious Man, and ſo accounted in my Predeceſſor's time, and it ſeems proſecuted then too, that his Brother Sir *Maurice Abbot* was fain (being then a Pariſhioner of his) to labour hard to keep him in.

II. The Second Charge was concerning *Nathaniel Wickens*, a Servant of Mr. *Pryn*.

1. The

1. The first Witness in this Cause was *William Wickens*, Father to *Nathaniel*. He says, his Son was nine Weeks in divers Prisons, and for no cause but for that he was Mr. *Pryn*'s Servant. But it appears *apud Acta*, that there were many Articles of great Misdemeanour against him. And afterwards himself adds, That he knew no cause, but his refusing to take the Oath *ex Officio*. Why, but if he knew that, then he knew another cause, beside his being Mr. *Pryn*'s Servant: unless he will say all Mr. *Pryn*'s Servants refuse that Oath, and all that refuse that Oath are Mr. *Pryn*'s Servants. As for the Sentence which was laid upon him, and the Imprisonment, that was the Act of the High-Commission, not mine. Then he says, That my Hand was first in the Warrant for his Commitment. And so it was to be of course.

2. The second Witness was *Sarah Wayman*. She says, That he refused to take the Oath. Therefore he was not committed for being Mr. *Pryn*'s Servant. She says, That for refusing the Oath, he was threatned he should be taken *pro Confesso*: And that when one of the Doctors replyed, *That could not be done by the Order of the Court*, I should say, *I would have an Order by the next Court-Day*. 'Tis manifest in the Course of that Court, that any Man may be taken *pro Confesso*, that will not take the Oath, and answer. Yet seeing how that Party of Men prevailed, and that one Doctor's doubting might breed more difference, to the great scandal and weakning of that Court; I publickly acquainted his Majesty and the Lords with it: who were all of opinion, that if such Refusers might not be taken *pro Confesso*, the whole Power of the Court was shaken. And hereupon his Majesty sent his Letter under his Signet, to command us to uphold the Power of the Court, and to proceed. She says farther, That he desired the sight of his Articles, which was denied him. It was the constant and known Course of that Court, that he might not see the Articles till he had taken the Oath, which he refused to do.

3. The third Witness was one *Flower*. He agrees about the business of taking him *pro Confesso*: But that's answered. He adds, That there was nothing laid to his charge; and yet confesses, that *Wickens* desired to see the Articles that were against him. This is a pretty Oath: There were Articles against him, which he desired to see, and yet there was nothing laid to his charge.

4. Then was produced his Majesty's Letter sent unto us. And herein the King requires us by his Supreme Power Ecclesiastical to proceed, &c. We had been in a fine case, had we disobeyed this Command. Besides, my Lords, I pray mark it, we are enjoined to proceed by the King's Supreme Power Ecclesiastical; and yet it is here urged against me, that this was done to bring in Popery. An excellent new way of bringing in Popery by the King's Supremacy. Yea, but they say, I should not have procured this Letter. Why? I hope I may by all lawful ways preserve the Honour and just Power of the Court in which I sat. And 'tis expressed in the Letter, that no more was done, than was agreeable to the Laws and Customs of the Realm. And 'tis known that both an Oath, and a taking *pro Confesso* in point of refusal, are used both in the *Star-Chamber* and in the *Chancery*.

5. The last Witness was Mr. *Pryn*; who says, That his Man was not suffered to come to him, during his Soreness, when his Ears were cropt. This Favour should have been asked of the Court of *Star-Chamber*, not of me. And yet here is no Proof that I denied him this, but the bare Report of him, whom he says he employed. Nor do I remember any Man's coming to me about it.

III. The Third Charge followed; it was concerning stopping of Books from the Press, both old and new, and expunging some things out of them.

1. The first Instance was about the *English* Bibles with the *Geneva* Notes. The Bibles with those Notes were tolerated indeed both in Queen *Elizabeth*'s and King *James*'s time; but allowed by Authority in neither. And King *James* said plainly, *That he thought the Geneva Translation was the worst, and many of the Notes very partial, untrue, seditious, and savouring too much of dangerous and traitorous Conceits*; and gave Instance. This Passage I then read to the Lords; and withal told them, That now of late these Notes were more commonly used to ill Purposes than formerly, and that that was the cause why the High-Commission was more careful and strict against them than before.

Conference at Hampton-Court, p. 47.

Here *Michael Sparks* the elder came in as Witness, and said, He was called into the High-Commission about these Books: but he confesses, it was not only for them. He says, *The Restraint of those Bibles was for the Notes*: but he adds, *as he supposes*. And his Supposal is no Proof. Besides, he might have added here also, that the Restraint was not for the Notes only: for by the numerous coming over of Bibles, both with and without Notes, from *Amsterdam*, there was a great and a just Fear conceived, that by little and little Printing would quite be carried out of the Kingdom. For the Books which came thence, were better Print, better bound, better Paper, and, for all the Charges of bringing, sold better cheap. And would any Man buy a worse Bible dearer, that might have a better more cheap? And to preserve Printing here at home, as well as the Notes, was the cause of stricter looking to those Bibles. And this appears by a Letter of Sir *William Boswell*'s, his Majesty's Agent in the *Low Countries*; the Letter written to me, and now produced against me: but makes for me, as I conceive. For therein he sends me word of two Impressions of the Bible in *English*, one with Notes, and the other without; and desires me to take care to regulate this business at home. What should I do? Should I sleep upon such Advertisements as these, and from such a hand? Especially since he sends word also, that Dr. *Amyes* was then printing of a Book wholly against the Church of *England*. So my Care was against all Underminings, both at home and abroad, of the established Doctrine and Discipline of the Church of *England*, for which I am now like to suffer. And I pray God that point of *Arminianism*, *Libertas Prophetandi*, do not more mischief in short time, than is expressible by me.

2. The second Instance was about the new Decree of the *Star-Chamber*, concerning Printing. Four Articles of this Decree were read, namely, the 1st, 2d, 18th, 24th. What these are, may be seen in the Decree: And as I think that whole Decree made *Anno* 1637, useful and necessary; so, under your Lordship's favour, I think those four Articles as necessary as any.

Mr. *Waly* and Mr. *Downes*, two Stationers, Witnesses in this Particular, say, That they desired some Mitigation of the Decree, and that Judge *Bramston* said, he could not do it without me. I saw my Lord Chief Justice *Bramston* here in the

Court but the other day; why was not he examined, but these Men only, who oppose all regulating of the Press, that opposes their Profit? And sure that grave Judge meant, he could not do it alone without the consent of the Court. Or if he would have me consulted, it was out of his judicious Care for the Peace of this Church, almost pressed to death by the Liberty of Printing.

Frigidè dictum. W. S. A. C.

The chief Grievance they expressed against the new censing of Books, was only for matter of Charges; but that is provided for in the Eighteenth Article. And Mr. *Downes* takes a fine Oath, which was, That he makes no doubt, but that all was done by my Direction; and yet adds, that he cannot say it. So he swears that, which himself confesses he cannot say. And manifest it is in the Preface, that this Decree was printed by Order of the Court, and so by their Command sent to the *Stationers-Hall*: And the end of it was to suppress seditious, schismatical and mutinous Books, as appears in the first Article.

3. The third Instance was, That I used my Power to suppress Books in *Holland*. This was drawn out of a Letter which *John le Mare*, one of the prime Preachers in *Amsterdam*, writ to me; expressing therein, That since the Proclamation made by the States, no Man durst meddle with printing any seditious Libels against either the State or Church of *England*. Where's the Fault? For this Gentleman did a very good Office to this Kingdom and Church, in procuring that Proclamation: For till this was done, every discontented Spirit could print what he pleased at *Amsterdam*, against either. And if he had any Direction from me about it (which is not proved) I neither am, nor can be sorry for it. And the Fear which kept Men in from printing, proceeded from the Proclamation of the States, not from any Power of mine.

4. The fourth Instance was in the *Book of Martyrs*. But that was but named, to credit a base Business, an Almanack made by one Mr. * *Genebrand*; in which he had left out all the Saints, Apostles and all, and put in those which are named in Mr. *Fox*, and yet not all them neither; for he had left out the solemn Days, which are in *Fox*, as *Feb.* 2. *Feb.* 25. *Mar.* 25. And *Cranmer* translated to *Mar.* 23.

* *His Name was* Gellibrand. W. S. A. C.

In this Particular Mr. *Genebrand*, Brother to this Almanack-Maker, witnesseth, That the Queen sent to me about this new Almanack. If her Majesty did send to me about it (as 'tis probable she would disdain the Book) is that any Crime in me? Could I prevent her Majesty's sending, who could not know so much as that she would send? He says, His Brother was acquitted in the High-Commission, but charged by me, that he made a Faction in the Court. If I did say so, surely, my Lords, I saw some practising by him in this new-found Way. He says, The Papists bought up a great Number of these Almanacks, and burnt them. It seems he could not hinder that, nor I neither; unless it shall not be lawful for a Papist to buy an Almanack: for when he hath bought him, he may burn him if he please.

But since the *Book of Martyrs* was named, I shall tell your Lordships how careful I was of it. It is well known how easily Abridgments, by their Brevity and their Cheapness, in short time work out the Authors themselves. Mr. *Young* the Printer laboured me earnestly and often for an *Abridgment of the Book of Martyrs*; but I still withstood it (as my Secretary here present can testify) upon these two Grounds: The one, lest it should bring the large Book it self into disuse; and the other, lest if any material Thing should be left out, that should have been charged as done of purpose by me, as now I see it is in other Books. And I humbly pray your Lordships cast your Eyes upon the Frontispiece of the *Book of Martyrs*, printed *Anno* 1642. since this Parliament began, and when I was safe enough from having any hand in the Business, and there you shall see as dangerous Pictures as have been charged upon me, or any my Chappel-Windows.

Upon occasion of Mr. *Genebrand*'s Calendar, Mr. *Pryn* took occasion to tell the Lords, That I had made Notes upon the Calendar in the *Missal*. I desired they might be read: it was thought too tedious. They were nothing but some Additions of my own reading to the Occurrences on some Days. And because the Calendar in the *Missal* was open and large, I thought fit to write them there.

5. The fifth Instance is in Dr. *Pocklinton*'s Censure of * ..... and of *Flaccius Illyricus*; and that this Book was licensed by my Chaplain Dr. *Bray*; and he was censured in this Honourable House for that and like Slips of his. Then it was inferred at the Bar, That it must be taken as my Act, if it were done by my Chaplain: But Inferences are no sworn Proof. And, I conceive, no Man can by Law be punished criminally for his Servant's Fact, unless there be Proof that he had a hand in it. Then it was urged, but without any Proof too, that Dr. *Pocklinton* was preferred by me. To which I shall answer when Proof is made; and if I had, 'tis far enough from Treason.

* *I believe the Name here wanting is Mr.* Fox *the Martyrologist.* W. S. A. C.

6. The next Instance was about the calling in of *Thomas Beacon*'s Disputation of the Mass. The Witness Mr. *Pryn*. He says, The Book was licensed, and that a Papist thereupon said, Doth my Lord of *Canterbury* license such Books? That I was informed of these Words, and the Book called in the next Day. First, Mr. *Pryn* is single in this part of the Testimony for the Words. Secondly, If any Papist did say so, it was not in my power to stop his Mouth; and they which license Books, must endure many and various Censures, as the Readers of them stand affected. Thirdly, If any Papist did so speak, I have reason to think it was to do me a mischief, as much as in him lay. Fourthly, This is a very bold Oath; for he swears, that I was informed of these Words. He was not present to hear it, and then he can have it but by Hearsay; and no Religion teaches him to swear that for Truth, which he doth but hear. Lastly, The Book was called in, because it was slipt out contrary to the late Decree for Printing. Yea, but Mr. *Pryn* swears, and so doth *Michael Sparks* the other Witness, That the Book was sent to the Printer before the Decree. But first, *Sparks*'s Oath is uncertain; for he says, Mr. *Pryn* sent him the Book before the Decree; and then by and by after says, it was about that time. Now the Book is somewhat large, so that it might be sent him before the Decree, and yet not be printed till after, and that a good space too. And, Secondly, Mr. *Pryn* himself confesses, the Book was sent when the Decree was in agitation.

7. The seventh Instance was about *Arminianism*, as maintained by me against the Declarations of both Houses of Parliament, and of King *James*, concerning *Vorstius* and *Bertius*. First, I have nothing

thing to do to defend *Arminianiſm*, no Man having yet charged me with the abetting any Point of it. Secondly, King *James*'s Declaration is very learned: But under favour, he puts a great deal of difference between *Vorſtius* and *Bertius*; and his Majeſty's Opinion is clear with the Article of the Church of *England*, and ſo expreſſed by himſelf; and to which I ever conſented. And the Paſſage in the Conference at *Hampton-Court* was then read to the Lords: and yet for the Peace of Chriſtendom, and the ſtrengthning of the Reformed Religion, I do heartily wiſh theſe Differences were not purſued with ſuch Heat and Animoſity, in regard that all the *Lutheran Proteſtants* are of the ſame Opinions, or with very little difference from thoſe which are now called *Arminianiſm*.

Confer. at Ham. Court, p. 29, 30.

And here comes in *Michael Sparks*, who ſays, He was called into the High-Commiſſion about a Book of Biſhop *Carleton*'s. I cannot punctually remember all Particulars ſo long ſince; but he confeſſes the Buſineſs was in the High-Commiſſion, and ſo not ſingly chargeable againſt me. Beſides, he is ſingle in this Buſineſs. He ſays, He was Eleven Years in the High-Commiſſion, and never ſentenced. 'This is more than I know: But if it 'be ſo, he had better luck than ſome honeſter 'Men; for a bitterer Enemy, to his power, the 'Church-Government never had.' He was Mr. *Pryn*'s Printer. He ſays, I was a Dean then, and he thinks of *Hereford*. I was never Dean of *Hereford*: But howſoever, this is a dangerous Oath; let him think of it. He ſwears that I was a Dean then, and a High-Commiſſioner, or elſe what had I to do in the Buſineſs? Now it is well known I was never a High-Commiſſioner, till I had been a Biſhop ſome Years. For the Book it ſelf, *Sparks* ſays nothing what was the Argument of it; but (ſo far as I remember) it was expreſly againſt the King's Declaration. 'And ſo I anſwered Mr. '*Brown*, when he ſummed up the Evidence againſt 'me in the Houſe of Commons. And though in 'his Reply he ſeemed to deny this, yet I remem-'ber no Proof he brought for it.'

8. The laſt Inſtance was pregnant, and brought forth many Particulars. 1. As firſt, Dr. *Featly*'s Parallels againſt Biſhop *Mountague*: but this was ſtill-born; at leaſt it ſays nothing of me. 2. Secondly, Mr. *Pryn*'s Perpetuity, and againſt Dr. *Coſens*, both burnt. But he doth not ſay abſolutely burnt, but as he is informed; and he may be informed amiſs. And howſoever he ſays, it was done by the High-Commiſſion, not by me. 3. Thirdly, Some Sheets of Dr. *Succliff*'s Book prohibited the Preſs at *Oxford*. I hope *Oxford* is able to give an Account for it ſelf. And whereas it was here ſaid at the Bar, They hoped I would ſhew ſome repreſſing of the contrary part: I would ſatisfy their Hopes abundantly, could I bring Witneſſes from *Oxford*, how even and ſteddy a Hand I carried to both Parts. 4. Fourthly, Mr. *Burton* queſtioned about his Book called, *The Seven Vials*: But himſelf confeſſes, That upon Sir *Henry Martin*'s Information, that, as that Cauſe was laid, the High-Commiſſion had no Power in it, he was diſmiſſed. 5. Fifthly, That about his Book, intituled, *Babel* no *Bethel*, he was queſtioned at a Court out of Term. This was very uſual, whenſoever the Court was full of buſineſs, to hold one Court-day out of Term. This is warranted by the Commiſſion; and Warning of it was always publickly given the Court-day before, that all, whom it concerned, might take notice of it, and provide themſelves. 6. Sixthly, He ſays he was there railed at by Biſhop *Harſnet*. 'Tis more than I know that Biſhop *Harſnet* railed at him; but if he did, I hope I am not brought hither to anſwer all Mens Faults. 7. Seventhly, He ſays, He claimed the Petition of Right, yet was committed. This is more than I know or believe; yet if it were ſo, it was done by the High-Commiſſion Court, not by me. 8. He ſays next, That he could never be quiet. But I am ſure, my Lords, the Church for divers Years could never be in quiet for him and his Aſſociates. 9. Laſtly, They ſay, Some Paſſages againſt *Arminianiſm*, were left out of two Letters; one of Biſhop *Davenant*'s, and the other of Biſhop *Hall*'s, ſent to be printed. Firſt, Here is no Proof at all offer'd, that I differ'd in any thing from the Doctrine expreſſed in thoſe Letters. And, Secondly, for the leaving out of thoſe Paſſages, it was (it ſeems) done to avoid kindling of new Flames in the Church of *England*. And it appeared on the other ſide of the Paper, which was produced againſt me, and ſo read to the Lords, that theſe Paſſages were left out by the expreſs Order from thoſe Biſhops themſelves, under Biſhop *Hall*'s own Hand, and with Thanks to Dr. *Turner*, then my Chaplain, for his Letter to them. And here this Day's Buſineſs ended; and I received Command to attend again the Twentieth of the ſame Month.

The Fifteenth Day of my Hearing.

THurſday, *June* 20. 1644. This Day I came again to the Houſe. A Day or two before, as now alſo, the Landing-Place at *Weſtminſter* was not ſo full of People; and they which were there, much more civil towards me than formerly. My Friends were willing to perſuade me, that my Anſwer had much abated the edge of the People, ſaving from the violent and factious Leaders of the Multitude, whom it ſeems nothing would ſatisfy but my Life, (for ſo I was after told in plain terms by a Man deeply intereſted in them;) when I preſently ſaw *Quaterman* coming towards me; who, ſo ſoon as he came, fell to his wonted railing, and asked aloud, *What the Lords meant, to be troubled ſo long and ſo often, with ſuch a baſe Fellow as I was? they ſhould do well to hang me out of the way.* I heard the Words with Grief enough, and ſo left them and him in the hands of God. My Servants were earneſt to have me complain to the Lords. I remembred my late Complaint about the Pamphlets had no redreſs, and ſo forbare it. They notwithſtanding, out of their Zeal, complained to Mr. Lieutenant of the *Tower*, who preſently went forth, and ſaid he would ſchool him; but I hearkned no more after it.

When I came to the Bar, Mr. *Nicolas* began with great violence, and told the Lords, the Buſineſs grew higher and higher againſt me. What the Buſineſs did, will after appear; but I am ſure he grew higher and higher: and from this time forward, beſides the Violence of Expreſſion, gave me ſuch Language, as no Chriſtian would give a Jew. But God, I humbly thank him, bleſſed me with Patience; and ſo I made my Ears obedient. That which made him ſay *the Buſineſs grew higher and higher*, was this: Upon my often calling to have the Oaths at the Coronation of King *James* and King *Charles* compared, ſome of them repaired again to my Study at *Lambeth*, to ſearch for all ſuch Copies of Coronation-Books as could there be found. In this diligent and curious Search ('for

'Mr. *Pryn*'s Malice made it,) they found ſome Papers concerning Parliaments, no other (I praiſe God for it) than ſuch as with indifferent Conſtruction might (I hope) well paſs; eſpecially conſidering what Occaſion led me, and what Command was upon me. And, as I have been told by able and experienced Men, they would have been nothing, had they been found in any, but this troubleſome and diſtracted time about the Rights of Parliaments (as 'tis ſaid.) Howſoever, I was moſt unfortunate they ſhould be now found; and I had not left them a Being, but that I verily thought I had deſtroyed them long ſince: But they were unhappily found among the Heaps of my Papers. And ſo,

I. An Anſwer to the Remonſtrance made *June* 17. 1628. (which is ſixteen Years ſince) was made the firſt Charge againſt me.

II. And the ſecond Charge was, a Paper concerning a *Declaration*, *Jan.* 28. 1628. To both which I then anſwered; but becauſe theſe are urged more than once, to help fill the People with new Clamour, and becauſe they are more cloſely preſſed againſt me at the laſt Day of my Hearing, and becauſe Mr. *Brown*, in his ſummary Charge, laid and charged all theſe Papers together; to avoid tedious Repetition, I will alſo make my whole and entire Anſwer together, when that time comes.

III. The third Charge of this Day was, A Letter of a Jeſuit to his Superiour, found in my Study, dated *March* 1628. Let the Letter be dated when it will, I hope the Archbiſhop may get and keep the Letters of any Jeſuits or others. How ſhall I be able to know or prevent their Plots upon the Religion by Law eſtabliſhed, if this may not be done? Yet this I deſire all Men to take notice of, that this Letter was not directed to me. I was then Biſhop of *London*: The Letter was found in a Search. But when by all poſſible Care taken by the High-Commiſſion, the Author could not be found, I had (as I humbly conceive) great reaſon to keep it. And I then humbly deſired the whole Letter might be read. There was in it, That *Arminianiſm* (as 'twas urged) was their Drug, and their Plot againſt us, *&c.* The Jeſuit ſeeing a Fire kindling about theſe Opinions, might write what he pleaſed to help on his Cauſe: Yet this Drug, which he ſays is theirs, is the received Opinion of all the *Lutherans*, and they too Learned Proteſtants to uſe their Drugs. And if it be their Drug, why do the *Dominicans* ſo condemn it? Nay, why doth the *Maſter of the Sentences*, and the School after him, for the moſt, determine rigidly againſt it? And whereas 'tis ſaid, That theſe Men had Inſtruments at the Duke's Chamber-Door; that belongs not to me, I was not Porter there. As for that Power which I had (called by Mr. *Nicolas* the Command of his Ear) I uſed it as much as I could to ſhut ſuch Inſtruments thence. Beſide, 'tis barely ſaid, no Proof at all offer'd, that ſuch Inſtruments were about the Duke's Chamber-Door. Other Papers were found in my Study, above ſixty at leaſt, expreſſing my continued Labours for ſome Years together, to reconcile the divided *Proteſtants* in *Germany*, that ſo they might go with united Forces againſt the *Romaniſts*. 'Why are 'not theſe produced too? Would not Chriſtianity 'and Juſtice have my Innocence cleared, as well 'as my Faults accuſed?'

IV. The fourth Charge was Biſhop *Mountague*'s Preferment. The Parliament (they ſay) called him in queſtion, and the King called in his Book; yet, in affront to the Parliament, that he was preferred by me. No, it was then publickly known in Court (whether now remembred or no, I cannot tell) that he was preferred by my Lord Duke; but being a Church-Buſineſs, the King commanded me to ſignify his Pleaſure to the Signet-Office: And the Docket (which is all the Proof here made) mentions him only by whom the King's Pleaſure is ſignified, not him that procures the Preferment: So the Docket in this Caſe no Proof at all.

V. The fifth Charge was a Paper, intitled, *Conſiderations for the Church*. Three Exceptions againſt them. *The Obſervation of the King's Declaration*, Art. 3. *The Lecturers*, Art. 5. *And the High-Commiſſion and Prohibitions*, Art. 10, 11. The Paper I deſired might be all read: nothing in them againſt either Law or Religion. And for Lecturers a better Care taken, and with more Eaſe to the People, and more Peace to the Church, by a Combination of conformable neighbouring Miniſters, in their turns, and not by ſome one humorous Man, who too often miſ-leads the People. Secondly, my Copy of *Conſiderations* came from Archbiſhop *Harſnet*, in which was ſome four Expreſſion concerning *Emanuel* and *Sidney* Colleges in *Cambridge*, which the King in his Wiſdom thought fit to leave out. The King's Inſtructions upon theſe *Conſiderations*, are under Mr. *Baker*'s Hand, who was Secretary to my Predeceſſor; and they were ſent to me to make Exceptions to them, if I knew any, in regard of the Miniſters of *London*, whereof I was then Biſhop. And by this, that they were thus ſent unto me by my Predeceſſor, 'tis manifeſt, that this Account from the ſeveral Dioceſes to the Archbiſhop, and from him to his Majeſty once a Year, was begun before my time. Howſoever, if it had not, I ſhould have been glad of the Honour of it, had it begun in mine. For, I humbly conceive, there cannot be a better or a ſafer way to preſerve Truth and Peace in the Church, than that once a Year every Biſhop ſhould give an Account of all greater Occurrences in the Church to his Metropolitan, and he to the King: Without which, the King, who is the Supreme, is like to be a great Stranger to all Church-Proceedings.

I ſuppoſe theſe Conſiderations *are theſe publiſhed in* Pryn's *Compl. Hiſt. p.* 287. W. & A. C.

VI. The ſixth Charge was about Dr. *Sibthorp*'s Sermon, That my Predeceſſor oppoſed the printing of it, and that I oppoſed him, to affront the Parliament. Nothing ſo, my Lords: Nothing done by me to oppoſe, or affront the one or the other. This Sermon came forth when the Loan was not yet ſettled in Parliament. The Lords, and the Judges, and the Biſhops, were ſome for, ſome againſt it. And if my Judgment were erroneous in that Point, it was miſ-led by Lords of great Honour and Experience, and by Judges of great Knowledge in the Law. But I did nothing to affront any. 'Tis ſaid, That I inſerted into the Sermon, *That the People may not refuſe any Tax that is not unjuſtly laid.* I conceive nothing is juſtly laid in that kind but according to Law, God's and Man's: And I dare not ſay, the People may refuſe any thing ſo laid. For *Jus Regis*, the Right of a King, (which is urged againſt me too) I never went farther than the Scriptures lead me; nor did I ever think, that *Jus Regis*, mentioned 1 *Sam.* 8. is meant of the ordinary and juſt Right of Kings, but of that Power which ſuch as *Saul* would be, would aſſume unto themſelves, and make it Right by Power, 1 *Sam.* 8. 12.

Then

Then they ſay I expunged ſome Things out of it: As, Firſt, The *Sabbath*, and put inſtead of it the *Lord's-Day*. What's my Offence? *Sabbath* is the Jews Word, and the *Lord's-Day* the Chriſtians. Secondly, About evil Counſellors to be uſed as *Haman*. The Paſſage (as there expreſſed) was very ſcandalous, and without juſt Cauſe, upon the Lords of the Council. And they might juſtly have thought I had wanted Diſcretion, ſhould I have left it in. Thirdly, That I expunged this, *That Popery is againſt the firſt and the ſecond Commandment*. If I did it, it was becauſe it is much doubted by Learned Men, whether any thing in Popery is againſt the firſt Commandment, or denies the Unity of the Godhead. And Mr. *Perkins* (who charges very home againſt Popery) lays not the Breach of the firſt Commandment upon them. 'And when I gave 'Mr. *Brown* this Anſwer; in his laſt Reply he 'asked why I left out both? Why, I did it becauſe 'its being againſt the ſecond is common and ob-'vious, and I did not think it worthy the ſtanding 'in ſuch a Sermon, when it could not be made 'good againſt the firſt.'

But they demanded, Why I ſhould make any Animadverſions at all upon the Sermon? It was thus: The Sermon being preſented to his Majeſty, and the Argument not common, he committed the Care of printing it to Biſhop *Mountain*, the Biſhop of *London*, and four other; of which I was one. And this was the Reaſon of the Animadverſions now called mine; as alſo of the Anſwer to my Predeceſſor's Exceptions (now charged alſo) and called mine. But it was the Joint-Anſwer of the Committee. And ſo is that other Particular alſo, in which the whole Buſineſs is left to the Learned in the Laws: For tho the Animadverſions be in my Hand, yet they were done at and by the Committee, only I being puny Biſhop, was put to write them in my Hand.

VII. The ſeventh Charge was Dr. *Manwaring*'s Buſineſs and Preferment. It was handled before, only reſumed here to make a noiſe, and ſo paſſed it over.

VIII. The eighth Charge was concerning ſome Alterations in the Prayers made for the Fifth of *November*, and in the Book for the Faſt, which was publiſhed *Ann.* 1636. and the Prayers on the *Coronation-Day*.

1. Firſt, For the Faſt-Book: The Prayer mentioned was altered, as is expreſſed; but it was by him that had the ordering of that Book to the Preſs, not by me. Yet I cannot but approve the Reaſon given for it, and that without any the leaſt Approbation of Merit: For the Abuſe of Faſting, by thinking it meritorious, is the Thing left out; whereas in this Age and Kingdom, when and where ſet Faſtings of the Church are cried down, there can be little fear of that erroneous Opinion of placing any Merit in Faſting.

2. Secondly, For the Prayers publiſhed for the Fifth of *November* and *Coronation-Day*; the Alterations were made either by the King himſelf, or ſome about him when I was not in Court: And the Book ſent me, with a Command for the printing, as there altered. I made ſtay till I might wait upon his Majeſty. I found him reſolved upon the Alterations; nor in my Judgment could I juſtly except againſt them. His Majeſty then gave Warrant to the Books themſelves, with the Alterations in them; and ſo by his Warrant I commanded the printing. And I then ſhewed both the Books to the Lords, who viewed them, and acknowledged his Majeſty's Hand, with which, not his Name only, but the whole Warrant was written.

And here I humbly deſired three Things might be obſerved, and I ſtill deſire it. Firſt, With what Conſcience this Paſſage out of my Speech in the *Star-Chamber* was urged againſt me, (for ſo it was, and fiercely by Mr. *Nicolas*) to prove that I had alter'd the Oath at the King's Coronation, becauſe the Prayers appointed for the Anniverſary of the Coronation were altered. 'Which is abſolute Non-'ſenſe.' Secondly, He charged me that the Word *Antichriſtian* was left out. But that is viſibly untrue; for it is left in. Thirdly, That though it be in, yet that the Alteration takes it off from the Papiſt, as alſo their Rebellion. Neither: For the Change is this; *That Antichriſtian Sect*, alter'd into *The Antichriſtian Sect of them which*, &c. and, *whoſe Religion is Rebellion*, alter'd into *who turn Religion into Rebellion*. By which it is manifeſt that the Alteration takes off neither Imputation from the Papiſt, but moderates both. And for ought I yet know, 'tis neceſſary it ſhould: For if their Religion be Rebellion, ſee what it will produce. Is not this the Syllogiſm? The Religion of the Papiſt is Rebellion; but Chriſtianity is the Religion of the Papiſt: Therefore Chriſtianity is Rebellion. I may not inlarge; but you may ſee more, if you pleaſe, in my Speech in the *Star-Chamber*. 'And when Mr. *Brown* in 'the Sum of his Charge preſſed theſe 'Alterations hard againſt me, he did not ſo much 'as mention that I had the King's both Warrant 'and Command to all that I did in that Particular. 'And beſides, urged this as a great Innovation; 'becauſe the Prayers mentioned had continued un-'altered for the ſpace of above thirty Years; not 'remembring therewhile, that the Liturgy of the 'Church, eſtabliſhed by Act of Parliament, muſt 'be taken away, or altered, tho' it hath continued 'above fourſcore. Nay, and Epiſcopacy muſt be 'quite aboliſhed, though it have continued in the 'Church of Chriſt above ſixteen hundred.'

P. 32.

P. 36.

IX. The ninth Charge was from Sir *Edward Hungerford*, who came to *Lambeth* to have a little Book licenſed at the Preſs. The Author was Sir *Anthony Hungerford*, whether Sir *Edward*'s Grandfather or his Uncle, I remember not the Relation. He ſays he came to my Chaplain Dr. *Bray* to licenſe it; and that Dr. *Bray* told him there were ſome harſh Phraſes in it, which were better left out, becauſe we were upon a way of winning the Papiſts. Firſt, I hope I ſhall not be made anſwerable for my Chaplain's Words too. And Secondly, I hope there is no harm in winning the Papiſts to the Church of *England*; eſpecially, if ſo eaſy a Cure as avoiding harſh Language would do it. He ſays my Chaplain expreſſed a diſlike of *Guicciardin*'s Cenſure of Pope *Alexander* the Sixth. Sure, if the Cenſure be falſe, he had reaſon to except againſt it: If true, yet to publiſh ſuch an unſavoury Buſineſs to the common People ------. He ſays he came and complained to me; and that I told him I was not at leiſure, but left it to my Chaplain. So the Charge upon me was, That my Chaplain was in an Error concerning this Book, and I would not redreſs it. To this I anſwered, Firſt, That my Chaplain was dead; and I not knowing the Reaſons which moved him to refuſe licenſing this Book, can neither confeſs him to be in an Error, nor yet juſtify him. Secondly, For my own refuſing to meddle with it, Sir *Edward* took me in a time of Buſineſs, when I could not attend it.

Thirdly,

Thirdly, If I had abſolutely refuſed it, and left it to my Chaplain, I had done no more than all my Predeceſſors did before me. And Dr. *Featly* then witneſſed to the Lords, that Archbiſhop *Abbot*, my immediate Predeceſſor, and to whom the Doctor was Houſhold Chaplain, would never meddle with licenſing Books, but ever referred them to his Chaplains. And Dr. *Mocket*, another of his Chaplains, (well known to Dr. *Featly*) ſuffered for a Book ſharply; yet not one Word ſaid to my Predeceſſor about it. Fourthly, As the Liberty of the Preſs is in *England*, and of the Books which are tendred to the Preſs, the Archbiſhop had better grind than take that Work to his own hands, eſpecially conſidering his many and neceſſary Avocations. Laſtly, No Man ever complained to me in this kind, but this Gentleman only. So it is one only ſingle Offence, if it be any. 'But how this, or the reſt, 'ſhould be Treaſon againſt Sir *Edward Hungerford*, 'I cannot yet ſee. And ſo I anſwered Mr. *Brown*, 'who in his ſummary Charge forgot not this. But 'Mr. *Nicolas* laid load upon me in his Reply, in ſuch 'Language as I am willing to forget.'

X. The tenth Charge was out of a Paper of Conſiderations to Dr. *Potter*, about ſome few Paſſages in his Anſwer to a Book intitled *Charity miſtaken*. The Buſineſs this: Dr. *Potter* writ to me for my Advice. I uſed not to be peremptory; but put ſome few Things back to his farther Conſideration: Of which three were now charged upon me. The firſt was, He uſed this Phraſe, *Believe in the Pope*. I deſired him to conſider of (*In.*) And in this I yet know not wherein I offend. The ſecond was this Phraſe, *The Idol of Rome*. I adviſed him to conſider this Phraſe too, that Men might not be to ſeek what that Idol was. 'And here Mr. *Nicolas* 'cried out with Vehemency, That every Boy in 'the Street could tell the Pope was the Idol. I 'had not Dr. *Potter*'s Book now at hand, and ſo 'could not be certain in what Senſe the Doctor 'uſed it; but elſe, as many at leaſt think the Maſs 'the Idol of *Rome*, as the Pope; unleſs Mr. *Nicolas*'s 'Boys in the Streets think otherwiſe, and then 'I cannot blame him for following ſuch mature 'Judgments.' The third was, That I bid him conſider whether the Paſſage, *p.* 27. (as I remember) did not give as much Power to the Parliament in matter of Doctrine, as the Church. 'But my 'Anſwer to this I ſhall put off to the Charge 'againſt me concerning Parliaments, becauſe there 'Mr. *Brown* began with this. The two former he 'charged alſo, and I anſwered them as before. 'But he omitted that I obtained of the Lords the 'reading of Dr. *Potter*'s Letter to me; by which 'he drew from me thoſe Things which I deter-'mined not, but only put to his ſecond Thoughts 'and Conſideration. In which way (I humbly 'conceive) I cannot be in Crime, though I were 'in Error. Here ended the Buſineſs of this Day, 'and I was ordered to attend again *June* 27.

The Sixteenth Day of my Hearing.

I. THurſday, *June* 27. 1644. I appeared this Day again: And the firſt Charge laid againſt me, was my Chaplain Dr. *Bray*'s Expungings out of Dr. *Featly*'s Sermons. The ſame Charge *ad verbum* which was before; and I give it the ſame Anſwer. Theſe Repetitions of the ſame Things being only to increaſe Clamour, and to fill more Mens Ears with it.

II. The ſecond Charge was certain Expunctions of ſome Things againſt the Papiſts in Dr. *Clark*'s Sermons. The Witneſs which ſwore to the Paſſages left out was one Mr. *White*, a Miniſter, and it ſeems ſome near Acquaintance of Dr. *Clark*'s. But, Firſt, this Witneſs is ſingle. Secondly, He brought only a Paper, in which he had written down what was expunged; but Dr. *Clark*'s Sermons he brought not with it: So 'tis not impoſſible he might be miſtaken. Howſoever, I not having the Book, could not poſſibly make an abſolute and a perfect Anſwer. Thirdly, This Witneſs confeſſes that Dr. *Weeks*, then Chaplain to my Lord of *London*, had the view of Dr. *Clark*'s Sermons, and took Exceptions againſt ſome Paſſages, as well as my Chaplain Dr. *Haywood* did. So it ſeems there was cauſe for it. Fourthly, I anſwer, That for this, and for all other of like nature, my Chaplain muſt anſwer for his own Act, and not I. He is living, and an able Man: I humbly deſire he may be called to his Account. For 'tis not poſſible for me to tell your Lordſhips upon what Grounds he did expunge theſe many and different Paſſages, which are inſtanced againſt me. Laſtly, In all the Paſſages of Dr. *Clark*'s Sermons, it is not any where diſtinguiſhed which were expunged by my Chaplain, and which by Dr. *Weeks*. So that the Charge in that behalf is left very uncertain.

For the Paſſages themſelves, as they are many, ſo they are ſuch as may eaſily be miſtaken, the moſt of them. And whether Dr. *Clark* handled them in ſuch manner as was not juſtifiable, either againſt *Arminius*, or the Papiſts, cannot poſſibly be known, till each Place in the Book be examined for the Thing, and my Chaplain Dr. *Haywood* for the Meaning. 'This made a great noiſe in 'Mr. *Brown*'s ſummary Charge againſt me; he 'alledging that two and twenty Paſſages about 'Points of Popery were daſhed out of Dr. *Clark*'s 'Sermons. To which I anſwered, That I con-'ceived my Chaplain would be able to make it 'good, there were two hundred left in for two 'and twenty left out; and that they which were left 'out, were not ſome way or other juſtifiable againſt 'the Papiſts, as ſet down and expreſſed by him. 'And if ſo, they are better out than in: For we 'gain nothing by urging that againſt the Papiſts, 'which, when it comes to the touch, cannot be 'made good againſt them.'

One Paſſage is here added out of Dr. *Featly*'s Sermons, *Pag.* 225. where he inveighs againſt too much imbelliſhing and beautifying the Church, and not the Souls of Men, *&c.* Firſt, If there be not a care to beautify the Soul, let Men profeſs what Religion they will, 'tis a juſt Exception; and I believe no fault found with that. But, Secondly, for the over-much beautifying of the Church, 'tis a Point that might be well left out. Little Neceſſity, God knows, to preach or print againſt too much adorning of Churches among us, where yet ſo many Churches lie very naſtily in many Places of the Kingdom, and no one too much adorned to be found. Nay, the very Conſecration of Churches cried down, (as is before expreſſed.) And this Opinion, That no Place is holy but during the Service in it, made Mr. *Culmer*, though a Miniſter, to piſs in the Cathedral Church of *Canterbury*; and divers others to do ſo, and more, againſt the Pillars of *St. Paul's*, nearer hand, as may daily be both ſeen and ſmelt, to the ſhame of that which is called Religion. 'Here Mr. *Ni-'colas* would fain have ſhovell'd it to the Out-ſide 'of the Church, (which had been bad enough;)

'but

'but it was the inside I spake of, and the thing is 'known.'

Then an Instance was made in a Book of Dr. *Jones*. The Witness that any thing was expunged out of this, was only Mr. *Chetwin*. And he confesses, that this Book was licensed by Dr. *Baker*, and he my Lord of *London*'s Chaplain, not mine. Here my Friends at the Bar infer, that Dr. *Baker* was preferred by me. First, That's not so, he was preferred by his own Lord. Secondly, If he had been preferred by me, it could have made no Charge, unless proof had been made that I preferred him for abusing Dr. *Jones*'s Book. And for the Docket, which is the only Proof offered that I preferred him, I have already shewed, that that is no Proof. Yea, but they say, Dr. *Baker* was employed by me as one of my Visitors. And what then? Must I be answerable for every Fault that is committed by every Man that I employ in my Visitation, though it be a Fault committed at another time and place? though I humbly desire Dr. *Baker* may answer for himself, before I acknowledge any Fault committed by him. 'And 'though I conceive this Answer abundantly sa-'tisfactory for any thing that may concern me, 'yet Mr. *Brown* omitted not this Instance against 'me.'

III. The Third Charge was personally against myself, and taken out of my [1] Speech in the *Star-Chamber*. The Words these: *The Altar is the greatest place of God's Residence upon Earth, greater than the Pulpit; for there 'tis* Hoc est Corpus meum, *This is my Body; but in the other it is at most but* Hoc est Verbum meum, *This is my Word: And a greater Reverence is due to the Body, than the Word of the Lord.* Out of this place, Mr. *Nicolas* would needs inforce, that I maintained Transubstantiation; because I say, there 'tis *Hoc est Corpus meum.* First, I perceive by him, he confounds (as too many else do) Transubstantiation with the Real Presence, whereas these have a wide difference. And *Calvin* grants a Real and True Presence, yea, and he grants *realiter* too; and yet no Man a greater Enemy to Transubstantiation than he: as I have proved at large in my Book against *Fisher*, and had leave to read the Passage therein to the Lords. And Mr. *Perkins* avows as much. And Secondly, the word *there* makes nothing against this. For after the Words of Consecration are past, be the Minister never so unworthy, yet 'tis infallibly *Hoc est Corpus meum* to every worthy Receiver. So is it not *Hoc est Verbum meum*, from the Pulpit to the best of Hearers, nor by the best of Preachers since the Apostles time. 'And as Preaching goes now, scarce is any 'thing heard from many in two long Hours, that 'savours of the Word of God.' And St. *Paul* tells us, 1 *Cor.* 11. 29. of a great Sin committed in his time, of *not discerning the Lord's Body*, when unworthy Communicants received it. Where was this? Why it was *there*, at the Holy Table or Altar where they received, yet did not *discern*. I hope, for all this, St. *Paul* did not maintain Transubstantiation. 'Mr. *Brown* in his summary 'Charge pressed this also upon me. I answer'd as 'before, and added, That in all Ages of the 'Church, the Touch-stone of Religion was not 'to hear the Word preached, but to communicate. 'And at this day, many will come and hear Ser-'mons, who yet will not receive the Communion 'together. And as I call the Holy Table the 'greatest Place of God's Residence 'upon Earth, so doth a late Learned 'Divine of this Church call the Ce-'lebration of the Eucharist, *the Crown 'of Publick Service, and the most solemn and chief 'Work of Christian Assemblies*: and he a Man 'known to be far from affecting Popery in the 'least. And all Divines agree in this, which our 'Saviour himself teaches, St. *Mat.* '26. 26. *That there is the same Effect 'of the Passion of Christ, and of this 'Blessed Sacrament worthily received.*'

Thorndike *of Assemblies*, c. 8. p. 260.

Idem est Effectus Passionis Christi & Eucharistiæ. *Thorn. p.* 3. *q.* 79. *A.* 1. *c.*

Another Passage taken out of my [1] Speech, was, *That due Reverence be given to God, and to his Altar.* Hence Mr. *Nicolas* infers again, This Reverence is one joint Act, therefore 'tis Divine to the Altar, as well as to God, and so Idolatry. First, The very next Words in my Speech are, that this Reverence to the Altar comes *far short of Divine Worship.* What can prevent an Objection, if such plain Words cannot? Secondly, Having thus plainly expressed it, he may infer too if he will, that I do not then worship God. For this Reverence is one joint Act; but 'tis confessed, that 'tis not Divine Worship to the Altar, and therefore not to God. 'But Thirdly, This Gentleman, by 'his favour, understands not the Mysteries which 'lie hid in many parts of Divinity. In this for 'one.' For when this Reverence is performed, 'tis to God as to the Creator, and so Divine: but 'tis only *toward*, not *to* the Altar, and so far short. And though in outward Performance it be one joint Act, yet that which is not separated, is, and must be distinguished one from the other. 'To make a good Work ac-'ceptable to God, there must be 'both Faith and Charity; they can-'not be separated one from the o-'ther: what, shall they not there-'fore be distinguished? He that 'speaks (saith St. *Augustine*) by one 'joint Act sends out his Voice and 'his Word; separated they cannot 'be, shall not they be distinguished 'therefore? But I have lived long 'enough, and taken pains to small purpose, if 'Mr. *Nicolas*, or any Lay-Man else, at his by 'and leisure Hours from a busy Profession, shall 'be able to teach me in that which I have la-'boured all my Life. And God bless the poor 'Bishops and Clergy of *England*, if falling into a 'Storm (as I now am) they must have such Judges 'as Mr. *Nicolas*.'

[1] P. 49.

In bono opere Deo acceptabili, Fides & Charitas distinguuntur, non separantur. Qui loquitur, simul facit vocem & verbum. *St. Aug. l.* 1. *de Gen. ad Lit. c.* 15.

IV. The Fourth Charge is the licensing of *Sales*, and other Books which had Popery in them, by my Chaplain Dr. *Haywood*.

1. To this Mr. *Pryn* (who is the single Witness) says, That he tender'd a Bill to the then Lord Keeper against my Chaplain for licensing this Book, and that his Lordship refused it. If the Lord Keeper *Coventry* refused his Bill, I believe, were he living, he would assign just Cause why he did it. But whatever Cause he had, it concerns not me, that he rejected the Bill. Mr. *Pryn* says farther, That this Book of *Sales* was printed heretofore, but purged first by Dr. *James*; but licensed now by Dr. *Haywood*, not according to that Purgation, but with all the Points of Popery in. For this he produces Mr. *Oakes*, whose Son printed it. And says farther, That his Corrector at the Press found fault with some Passages, and thereupon he was sent to Dr. *Haywood*, who returned answer (as they

Contr. Fisher, *p.* 202. Perkins's Opera *in fol. p.* 590.

they say) *That if he licensed it, he would justify it;* and that his Son told him this. First, My Lords, this Under-Testimony of Mr. *Oakes*, produced by Mr. *Pryn*, is nothing but a Hearsay from his Son, who is now dead, and cannot be examined; and while he was living, ran away, and would not be examined. Secondly, This was a most notable piece of Villany practised against my Chaplain, and thorow his sides against me. It was thus, my Lords: Whether the Bill were rejected or no, I cannot tell; but the Complaint of printing this Book came publickly into the *Star-Chamber*. And then was the first time that ever I heard of it. I then humbly desired their Lordships that Dr. *Haywood* might answer whatever he had done amiss, either there or where they pleased. The Court presently commanded Mr. Attorney *Bankes* to call all Parties before him, examine them thorowly, and then give his account what he found; that the Court might proceed farther, according to Justice. Dr. *Haywood* appeared, and shewed Mr. Attorney how he had corrected *Sales* in all Popish Points before he licensed it. But young *Oakes*, and he which brought *Sales* to be licensed, (who was then thought to be some Jesuited Recusant, and, as I remember, lodged for that time of printing in *Oakes*'s House) ran both away, or hid their heads, and would not be found. And this was a mere Plot of this Recusant, if not Priest, to have *Sales* printed, with all his Points of Popery in him, to work mischief to my Chaplain and myself: And young *Oakes* was in all likelihood well paid for his pains. This Account Mr. Attorney brought into that Court, and this Relation Dr. *Haywood* (who I obtained might be after sent for) attested at this Bar.

One Circumstance my old decayed Memory mistook. For I thought, and so at first told the Lords, that for this Clamour raised upon him in this way, I did soon after dismiss him my House. But after, I found that he was gone out of my House before. Howsoever I left him, without any Mediation, to the Justice of the Court. And here I may not forget that which I then observed to the Lords, That whereas 'tis urged, that many Points of Popery have passed the Press; 'tis no wonder, if such Art be used as was here to get out *Sales*. And this farther is observable, that all these Quotations of Popish Opinions, mentioned here to fill up the noise, are out of four or five Books at the most, of which more are out of this *Sales* than all the rest. 'And called in he was, as 'soon as known. Which Mr. *Brown* in the Sum of 'his Charge acknowledges.'

2. After *Sales*, the next Instance was in a Book intitled, *Christ's Epistle to the devout Reader*. Four particular Points were urged out of this: but neither I nor my Chaplains had ought to do with it. For it was licensed at *London-House* by Dr. *Weeks*. Nor was there ever any Complaint brought to me to have it called in: nor was any such Proof so much as offer'd.

3. The third Instance was of a Book called *The Female Glory*, where Mr. *Pryn* (who is single again) said, that Dr. *Heylin* answered Mr. *Burton*, and justified all the Passages in this Book: And added, That this was by my direction. But upon my Motion at the Bar concerning the Boldness of this Oath, Mr. *Pryn* recalled himself, and said that I appointed him to answer Mr. *Burton*. But it is one thing to appoint him to answer Mr. *Burton*, and another to direct him to justify all Passages in *The Female Glory*.

4. The fourth Instance was in a Letter sent to me from one *Croxton*, a young Divine in *Ireland*. He was bred in *St. John's-College* in *Oxford*. At the Lord *Mountworris*'s Intreaty, I sent *Croxton* into *Ireland* to be his Chaplain. If he miscarried there, I could not help it, nor hinder his writing of a Letter to me, nor prescribe what he should write in it. But, to my remembrance, I never heard of any Miscarriage of his in Matter of Religion: And whether he be living or dead, I know not. That Letter indeed hath a Cross at the top of it. But then was another Letter of his shewed without a Cross, in which he calls *Rome Monstrum Abominandum*. Howsoever, I conceive all this is nothing to me.

5. The fifth Instance was a Book, which they said was licensed by Dr. *Weeks*. And if so, then not by my Chaplain. But upon perusal, I find no Licence printed to it, nor to any of the other, but only to *Sales*, which is answered.

6. The sixth Instance was in Bishop *Mountague*'s Books, the *Gagg* and the *Appeal*. Here they said, that Dr. *White* told Dr. *Featly*, *That five or six Bishops did allow these Books*. But he did not name me to be one of them. Then Mr. *Pryn* urged upon his Oath, That these Books were found in my Study. And I cannot but bless myself at this Argument. For I have *Bellarmine* in my Study, therefore I am a *Papist*; or I have the *Alcoran* in my Study, therefore I am a *Turk*; is as good an Argument as this: I have Bishop *Mountague*'s Books in my Study, therefore I am an *Arminian*. May Mr. *Pryn* have Books in all kinds in his Study, and may not the Archbishop of *Canterbury* have them in his? Yea, but he says, There is a Letter of the Bishop's to me, submitting his Books to my Censure. This Letter hath no date, and so belike Mr. *Pryn* thought he might be bold both with it and his Oath, and apply it to what Books he pleased. But as God would have it, there are Circumstances in it as good as a Date. For 'tis therein expressed, that he was now ready to remove from *Chichester* to *Norwich*. Therefore he must needs speak of submitting those his Books to me, which were then ready to be set out, which were his *Origines Ecclesiasticæ*; not the *Gagg*, nor the *Appeal*, which are the Books charged, and which were printed divers Years before he was made a Bishop: and my Receit indorsed upon it, is *Mar.* 29. 1638. And I hope Mr. *Nicolas* will not call this the Colour of an Answer, as he hath called many of the rest given by me.

7. The seventh Instance was in a Book licensed by Dr. *Martin*, then my Chaplain in *London-House*. This Book, Mr. *Pryn* says, was purposely set out to countenance *Arminianism*, as if it had been some Work of moment, whereas it was answered twice in the Queen's time. If Dr. *Martin* did this, 'tis more than I remember; nor can I so long after give any account of it. But Dr. *Martin* is living, and in Town, and I humbly desired he might be called to answer. He was called the next day, and gave this Account.

[*The Account is wanting; a Space left for it, but not filled up.*]

Mr. *Pryn* says farther, That after this he preached *Arminianism* at *St. Paul's Cross*. Why did not Mr. *Pryn* come then to me, and acquaint me with it? Which neither he nor any Man else did. And I was in Attendance at Court, whither I could not hear him. And the Charge which came

against

againſt him upon the next Day's Hearing, was this and no more, That one then preached at the *Croſs* Univerſal Redemption; but he that gave teſtimony, knew him not: only he ſays, one told him 'twas Dr. *Martin*.

8. The laſt Inſtance was of a Bible commonly ſold, with a Popiſh Table at the end of it. This is more than I know, or ever heard till now; nor was any Complaint ever brought to me of it. And I cannot know all things that are done abroad for Gain; for that will teach them to conceal, as well as move them to act. Yet one of the Popiſh Heads mentioned in that Table, was *Confirmation*, which is commanded in our Church-Liturgy, and ratified by Law.

Here this Day ended, and I was ordered to appear again *July* 4. That Day I received a Note, under Mr. *Nicolas*'s hand, that they meant to proceed upon the Eighth, Ninth, Tenth, Eleventh, Twelfth, and Fourteenth Original Articles, and the Sixth and Seventh Additionals. The laſt Warrant for other Articles, came under Serjeant *Wilde*'s Hand, and Mr. *Nicolas* ſigning this, it ſeems, miſtook: for the Eighth and Ninth Original Articles are in part proceeded on before. Now they go forward with theſe, and then on to the reſt; which I will write down ſeverally, as they come to them.

The ſame Day, being Thurſday, all my Books at *Lambeth* were by Order of the Houſe of Commons taken away by Mr. . . . . Secretary to the Right Honourable the Earl of *Warwick*, and carried I know not whither, but are (as 'tis commonly ſaid) for the uſe of Mr. *Peters*. Before this time, ſome good number of my Books were delivered to the uſe of the Synod; the Miniſters which had them giving no Catalogue under their hands, which or how many they had. And all this was done contrary to an Order of the Lords, bearing date *Novemb.* 9. 1642. for the ſafe keeping of my Books there; and before I was convicted of any Crime. This day alſo I received an Order, which put off my Hearing to the next day.

The Seventeenth Day of my Hearing.

1. FRiday, *July* 5. 1644. This Day I appeared again: And the Firſt Charge againſt me was, That I had preferred none to Biſhopricks, Deaneries, Prebends, and Benefices, but Men popiſhly affected, or otherwiſe unworthy. And ſome they named:

1. As Firſt, Dr. *Manwaring*, diſabled by the Parliament.

2. Secondly, Mr. *Mountague*, excepted againſt by Parliament. But for theſe, no Proof was now brought: They referred themſelves to what was ſaid before, and ſo do I. And where they go to prove only by Dockets, I deſire it may ſtill be remembred that the Docket is a full Proof who gave Order for drawing the Bill at the Signet-Office, but no Proof at all who procured the Preferment.

3. Thirdly, Biſhop *Corbet*. But the Earl of *Dorſet* got my Lord Duke of *Buckingham* to prefer him, to make way for Dr. *Duppa*, his deſerving Chaplain, into *Chriſt-Church*. Nor was any thing charged againſt Dr. *Corbet*, but that he was preferred by me.

4. Fourthly, Biſhop *Pierce*: againſt whom there was no Proof offered neither. And he is living to anſwer it, if any be.

5. Nor was there now any Proof offered againſt Biſhop *Wren*, who was named alſo; at the leaſt not till he was made a Biſhop. So if I did prefer him, it ſeems I did it when nothing was laid againſt him. And if after he had his Preferment, he did any thing unworthily, that could not I foreſee; and he is living to anſwer it.

6. The Sixth was Biſhop *Lindſey*, a Man known to be of great and univerſal Learning, but preferred by the then Lord Treaſurer *Portland*, not by me. Him they charged with *Armintaniſm*. The Witneſſes two: The firſt, Mr. *Smart*; he is poſitive: he was his Fellow-Prebendary at *Durham*. There was Animoſity between them. 'And '*Smart*, not able to judge of *Armintaniſm*.' Secondly, Mr. *Walker*, who could ſay nothing, but that he heard ſo much from ſome Miniſters, and Dr. *Baſtwick*. 'So here is as learned a Man as '*Chriſtendom* had any of his time, debaſed in this 'great and honourable Court, by Ignorance, and 'a Hearſay: and that, when the Man is gone to 'that which ſhould be his Quiet, the Grave.'

7. The Seventh was Archbiſhop *Neile*, a Man well known to be as true to, and as ſtout for, the Church of *England* eſtabliſhed by Law, as any Man that came to Preferment in it. Nor could his great Enemy Mr. *Smart* ſay any thing now againſt him, but a Hearſay from one Dr. *Moor* of *Wincheſter*. And I cannot but profeſs, it grieves me much, to hear ſo many honeſt and worthy Men ſo uſed, when the Grave hath ſhut up their Mouths from anſwering for themſelves.

8. The next was Dr. *Coſens*, to be Dean of *Peterborough*. I named four of his Majeſty's Chaplains to him, as he had commanded me: and the King pitched upon Dr. *Coſens*, in regard all the Means he then had, lay in and about *Dureſm*, and was then in the *Scots* hands; ſo that he had nothing but Forty Pound a Year by his Headſhip in *Peter-Houſe*, to maintain himſelf, his Wife and Children.

9. The Ninth was Dr. *Potter*, a known *Arminian*, to the Deanery of *Worceſter*. What Proof of this? Nothing but the Docket. And what of the Crime? Nothing but Dr. *Featly*'s Teſtimony; who ſays no more but this, That Dr. *Potter* was at firſt againſt *Arminianiſm*; (that's abſolute:) But afterwards he defended it, as he hath heard; (there's a Hearſay.)

10. The Tenth was Dr. *Baker*.

11. The Eleventh Dr. *Weeks*. Both very honeſt and able Men; but preferred by their own Lord, the Lord Biſhop of *London*.

12. The Twelfth was Dr. *Bray*. He had been my Chaplain above ten Years in my Houſe; I found him a very able and an honeſt Man, and had reaſon to prefer him to be able to live well; and I did ſo. Here is nothing objected againſt him, but his Expungings, and not Expungings of ſome Books; which if he were living, I well hope he would be able to give a good account for.

13. The Thirteenth Dr. *Heylin*. He is known to be a learned and an able Man; but for his Preferment, both to be his Majeſty's Chaplain, and for that which he got in that Service, he owes it under God to the Memory of the Earl of *Danby*, who took care of him in the Univerſity.

14. After theſe, they named ſome, whom they ſaid I preferred to be the King's Chaplains. The Witneſs here Mr. *Oldſworth*, the Lord Chamberlain's Secretary. He ſays, The Power and Practice of naming Chaplains was in the Lord Chamberlain for theſe 25 Years. And I ſay, 'tis ſo ſtill,

for ought I know. He ſays, That in all things concerning which the Lord Chamberlain's Warrant went in this Form, *Theſe are to will and require you, &c.* that there his Lordſhip did it without conſulting the King; and that the Warrants for Chaplains run all in this Form. Firſt, This is more than I know, or ever heard of till now. Secondly, Be it ſo; yet 'tis hard to deny the King to hear Men preach, before they be ſworn his Chaplains, 'if his Majeſty deſire it, ſince it argues a 'great Care in the King, eſpecially in ſuch a fac-'tious time, as began to overlay this Church.' Thirdly, He confeſſes, that he knows not who put the King upon this way, but believes that I did it. He is ſingle, and his Belief only is no Evidence. 'And whoſoever gave the King that Ad-'vice, deſerved very well both of his Majeſty and 'the Church of *England*; That none might be put 'about him in that Service, but ſuch as himſelf 'ſhould approve of. But that which troubled this 'Witneſs, was another thing. He had not Mo-'ney for every one that was made Chaplain; nor 'Money to get them a Month to wait in; nor 'Money to change their Month, if it were in-'convenient for their other Occaſions; nor Money 'for ſparing their Attendance, when they pleaſed. 'In which, and other things, I would he had 'been as careful of his Lord's Honour, as I have 'been in all things. For 'tis well known in 'Court, I obſerved his Lordſhip as much as any 'Man.'

The Men which are inſtanced in, are Dr. *Heylin*. But he was preferred to that Service by my Lord the Earl of *Danby*. Then Dr. *Potter*. But the Lord Keeper *Coventry* was his means. Dr. *Coſens* was preferred by Biſhop *Neile*, whoſe Chaplain he had been many Years, and he moved the Lord Chamberlain for it. Dr. *Lawrence* was my Lord Chamberlain's own Chaplain, and preferred by himſelf; and in all likelihood, by Mr. *Oldſworth*'s means: for he was Fellow of *Magdalen-College* in *Oxford*, as Mr. *Oldſworth* himſelf was, and he once (to my knowledge) had a great opinion of him. Dr. *Haywood* indeed was my Chaplain; but I preferred him not to his Majeſty, till he had preached divers times in Court with great Approbation; nor then, but with my Lord Chamberlain's Love and Liking. As for Dr. *Pocklington*, I know not who recommended him; nor is there any Proof offered that I did it.

15. Then they proceeded to my own Chaplains. They name four of them: Firſt, Dr. *Weeks*. But he was never in my Houſe, never meddled with the licenſing of any Books, till he was gone from me to the Biſhop of *London*: So he is charged with no Fault, ſo long as he was mine. The Second, Dr. *Haywood*. But he is charged with nothing but *Sales*, which was a moſt deſperate Plot againſt him, as is before ſhewed. The Third was Dr. *Martin*. Againſt him came Mr. *Pryn*, for his *Arminian* Sermon at *St. Paul's-Croſs*. But that's anſwered before. And Mr. *Walker*, who ſaid, He propoſed *Arminian* Queſtions to divers Miniſters. Belike, ſuch as were to be examined by him. But he adds, *As theſe Miniſters told him*. So 'tis but a Hearſay. And ſay he did propoſe ſuch Queſtions, may it not be fit enough to try how able they were to anſwer them? The Fourth was Dr. *Bray*. Againſt him Dr. *Featly* was again produced, for that which he had expunged out of his Sermons. But when I ſaw this ſo often inculcated to make a noiſe, I humbly deſired of the Lords, that I might ask Dr. *Featly* one Queſtion. Upon leave granted, I asked him, Whether nothing were of late expunged out of a Book of his written againſt a Prieſt? and deſired him to ſpeak upon the Oath he had taken. He anſwered roundly, That divers Paſſages againſt the Anabaptiſts, and ſome in defence of the Liturgy of the Church of *England*, were expunged. I asked, by whom? He ſaid, by Mr. *Rouſe* and the Committee, or, by Mr. *Rouſe* or the Committee. Be it which it will, I obſerved to the Lords, that Mr. *Rouſe* and the Committee might expunge Paſſages againſt the Anabaptiſts, nay, for the Liturgy eſtabliſhed by Law; but my Chaplains may not expunge any thing againſt the Papiſts, though perhaps miſtaken.

From thence, they fell upon Men whom they ſaid I had preferred to Benefices. They named but two. Dr. *Heylin* was one again, whom I preferred not. The other was Dr. *Jackſon*, the late Preſident of *Corpus-Chriſti-College* in *Oxford*. Dr. *Featly* being produced, ſaid, Dr. *Jackſon* was a known *Arminian*. If ſo to him, 'tis well; the Man is dead, and cannot anſwer for himſelf. Thus far I can for him, without meddling with any his Opinions: He was very honeſt and very learned, and at thoſe Years he was of, might deſerve more than a poor Benefice.

16. Here Mr. *Pryn* came in again, and teſtified very boldly, That I gave many Benefices, which were in the Gift of the Maſter of the Wards: and all Preferments only to ſuch Men as were for Ceremonies, Popery, and Arminianiſm. For the firſt of theſe two, the buſineſs was thus: There aroſe a difference between the then Lord Keeper *Coventry* and the Lord *Cottington*, then Maſter of the Wards, about the diſpoſing of thoſe Benefices. It grew ſomewhat high, and came to Hearing by the King himſelf: His Majeſty, upon Hearing, gave the Right of Sealing to the Lord Keeper; but for the time, till more might appear, reſerved the Giving to himſelf, that he might have ſome of thoſe leſſer Preferments to beſtow on ſuch Miniſters as attended upon his Navy then at Sea. I never gave any one of theſe Benefices in my Life. And that this Story is of truth, the Lord *Cottington* is yet living, and can witneſs it. 'And this very 'Anſwer I gave to Mr. *Brown*, who in ſumming 'up the Charge laid this alſo upon me, and with-'out mentioning what Anſwer I gave to it.' For the ſecond, That I preferred none but ſuch Men; 'tis known I preferred Biſhop *Hall* to *Exeter*, Dr. *Potter* to *Carliſle*, Dr. *Cook* to *Briſtol* firſt, and then to *Hereford*; that I gave Dr. *Weſtfield* the Archdeaconry of *St. Albans*; that I was Dr. *Fell*'s means for *Chriſt-Church*, and Dr. *Higgs*'s for the Deanery of *Litchfield*; that I ſettled Dr. *Downing* at *Hackney*, and Mr. *Herrick* at *Manchester*, when the Broad Seal formerly given him was queſtioned; That I gave two of my own Benefices to Mr. *Palmer* and Mr. *Taylor*, two of the now Synod; an Hoſpital to Dr. *Jackſon* of *Canterbury*, and a Benefice to his Son-in-Law, at his Suit. I could not name all theſe upon the ſudden, yet ſome I did; and no one of them guilty of this Charge in the leaſt. 'Mr. *Brown* in his Summary ſaid, I could name 'but one or two. And when in my Anſwer made 'in the Houſe of Commons, I ſpecified more, a-'mong which Mr. *Palmer* was one; Mr. *Brown* ſaid 'in his Reply, That Mr. *Palmer* had indeed his 'Benefice of my giving, ſo himſelf told him, but 'it was at the intreaty of a great Nobleman. Say 'it were; Mr. *Palmer* was then a ſtranger to me: 'ſomebody muſt ſpeak, and aſſure me of his 'Wants and Worth, or I cannot give. But if

'upon

'upon this I give it freely, is it worth no thanks 'from him, becauſe a Nobleman ſpake to me? 'Let Mr. *Palmer* rank this Gratitude among his 'other Vertues.'

17. From hence they ſtepped over into *Ireland*, and objected my preferring of Dr. *Chappel* to be Maſter of the College at *Dublin*. Here the firſt Witneſs is Mr. *Walker*. He ſays, That all his Scholars were *Arminians*. This is a great Sign, but not full Proof. He ſays, That Dr. *Chappel* was at firſt fierce againſt them, but afterward changed his mind. Dr. *Featly* ſaid the like of Dr. *Potter*. Some ſay *Arminius* himſelf was at firſt zealous againſt thoſe Opinions, but ſtudying hard to confute them, changed his own Mind. 'Take 'heed, Mr. *Walker*, do not ſtudy theſe Points too 'hard.' For my own part, Dr. *Chappel* was a *Cambridge* Man, altogether unknown to me, ſave that I received from thence great Teſtimony of his Abilities and Fitneſs for Government, which that College then extremely wanted; and no Man ever complained to me, that he favoured *Arminianiſm*.

The other Witneſs was Dr. *Hoyle*, a Fellow of the College in *Dublin*. He ſays, That the Doctor did maintain, in that College, *Juſtification by Works*; and in Chriſt-Church, *Arminianiſm*. In this he is ſingle: But if it be true, why did not the Lord Primate of *Armagh* puniſh him? For he ſays, he knew it. That he oppoſed ſome things in the Synod: And it may be there was juſt Cauſe for it. Laſtly, he ſays, The late Lord Deputy liked not the *Iriſh* Articles, but gave them an honourable Burial, as (he ſays) the Lord Primate himſelf confeſſed. I am a Stranger to all this; nor doth Dr. *Hoyle* charge any thing againſt me; but ſays, That they which did this, were ſuppoſed to have ſome Friend in *England*. And ſurely their Carriage was very ill, if they had none.

18. Then were Letters read of my Lord Primate's to me, in which is teſtified my Care of the Patrimony of that Church. And then a Paper of Inſtructions given by me to the Lord Deputy at his firſt going into that Kingdom. For the firſt, though it be thruſt in here, among Matters of Religion, yet I pray your Lordſhips to conſider, 'tis about the Patrimony of that Church only; and I thank them heartily for producing it. For in this Letter is a full Confeſſion of my Lord Primate's, That the Motion of getting the Impropriations from his Majeſty, (formerly objected againſt me) proceeded from him, as I then pleaded: And the Letter was read. For the ſecond; my Lord Deputy, a little before his firſt going into *Ireland*, asked me what Service I would command him for the Church there? I humbly thanked him, as I had reaſon, and told him I would bethink my ſelf, and give him my Thoughts in Writing: Theſe are they which are called *Inſtructions*. They are only for the good of that poor Church, as your Lordſhips have heard them. This was all; and herein my Lord ſhewed his Honour, and I did but my Duty. 'Though I very well underſtand why 'this Paper is produced againſt me.'

After this, they proceeded to the Eleventh Original Article, which follows *in hæc verba*.

XI. He in his own Perſon, and his Suffragans, Viſitors, Surrogats, Chancellors, or other Officers, by his Command, have cauſed divers Learned, Pious, and Orthodox Preachers of God's Word to be ſilenced, ſuſpended, deprived, degraded, excommunicated, or otherwiſe grieved and vexed, without any juſt and lawful Cauſe; whereby, and by divers other Means, he hath hindred the preaching of God's Word, cauſed divers of his Majeſty's Loyal Subjects to forſake the Kingdom, and increaſed and cheriſhed Ignorance and Prophaneneſs amongſt the People; that ſo he might the better facilitate the way to the effecting of his own wicked and traitorous Deſign of altering and corrupting the true Religion here eſtabliſhed.

1. The firſt Inſtance to make good this Article, was a Repetition of ſome Lecturers before-named. But when they thought they had made noiſe enough, they referred the Lords to their Notes; and ſo did I to my former Anſwers.

2. The ſecond Inſtance was out of ſome Articles of Biſhop *Mountague* and Biſhop *Wren*, and their Account given to me. Biſhop *Wren*, *Art.* 16. ſpeaks of the Afternoon-Sermons being turned into Catechiſing: And *Art.* 5. (of his Account, I take it) That no Lecture in his Dioceſs after, *&c.* It was made plain to the Lords, that this was ſpoken of ſome ſingle and factious Lecturers; and that they had their Lectures read by a Company of Learned and Orthodox Miniſters by turns; as appeared by the Monday-Sermon at *Bury*, during that Learned Biſhop's time. Nor were any forbid to preach in the Afternoon, ſo the Catechiſing were not omitted, before it, or with it: And the Biſhop is living to anſwer it, if ought were then done amiſs by him. In all which he did nothing as any Deputy or Surrogat of mine, but as Diocеſan of the Place. As for the yearly Account to the King, according to his Royal Inſtructions in that behalf, though it were preſſed here again to multiply noiſe, yet nothing being new, I gave my Anſwer as before, and to that I refer my ſelf.

3. The third Anſwer was concerning Mr. *Lee* of *Wolverhampton*. The Evidence was a Letter of my Secretary Mr. *Dell*, written by my Command, to my Viſitors there, to this effect; That whether there were Cauſe or no, they ſhould either puniſh Mr. *Lee*, or bring him into the High-Commiſſion. Had the Words or the Senſe been thus, they might well ſay, It was hard for the Judge before whom the Party was to anſwer, to write thus. But I called to have the Letter read again, and the Words were theſe; If there were found againſt him that which might juſtly be cenſured, then they ſhould puniſh, *&c.* And the Reaſon why this ſtrict Care was taken, was becauſe the Dean of *Windſor* his Ordinary complained unto me, That Mr. *Lee*'s Carriage was ſo factious there, that he could contain him in no Order. If he were a Man after this approved at *Shrewsbury* (as Mr. *Walker* witneſſes) I hope the Proceedings at *Wolverhampton* did him good. But, my Lords, had it ſo fallen out, that my Secretary had forgotten my Inſtructions, and himſelf too, and expreſſed himſelf amiſs, ſhall that Slip of his (had it been ſuch) be imputed to me? I believe your Lordſhips would not willingly anſwer for every Phraſe of your Secretaries Letters, which yet you command them to write.

4. The laſt Inſtance was the Sentence in the High-Commiſſion againſt Mr. *Barnard*, for Words about *Pelagian* Errors and Popery. Firſt, if he were ſentenced in the High-Commiſſion, it was the Act of the Court, and not mine; as has been often ſaid. Secondly, No Proof is offer'd that he was ſentenced for thoſe Words only. Thirdly, The Recantation (howſoever refuſed by him, as Mr. *Pryn* ſays it was) makes mention of four Points for which he was cenſured, of which theſe Words

are one: But not the Words themſelves, but his unjuſt and ſcandalous Application of them to me, which deſerve them not. And laſtly, Dr. *Cumber*, Maſter of *Trinity-College* in *Cambridge*, was Proſecutor againſt him; which Office, ſo grave and worthy a Man would not (I ſuppoſe) have undertaken, had there not been great and juſt Cauſe for it.

Hence they proceeded to the Sixth Additional Article, which follows in theſe Words:

VI. That whereas divers Gifts and Diſpoſitions of divers Sums of Money were heretofore made by divers charitable and well-diſpoſed Perſons, for the buying in of divers *Impropriations* for the Maintenance of Preaching the Word of God in ſeveral Churches; the ſaid Archbiſhop about Eight Years laſt paſt, wilfully and maliciouſly cauſed the ſaid Gifts, Feoffments and Conveyances, made to the Uſes aforeſaid, to be overthrown in his Majeſty's Court of *Exchequer*, contrary to Law, as things dangerous to the Church and State, under the ſpecious Pretence of buying in *Impropriations*; whereby that pious Work was ſuppreſſed and trodden down, to the great Diſhonour of God, and Scandal of Religion.

This Article is only about the *Feoffments*. That which I did, was this. I was (as then adviſed, upon ſuch Information as was given me) clearly of Opinion, that this was a cunning way, under a glorious Pretence, to overthrow the Church-Government, by getting into their Power more Dependency of the Clergy, than the King, and all the Peers, and all the Biſhops in all the Kingdom had. And I did conceive the Plot the more dangerous for the fairneſs of the Pretence, and that to the State as well as the Church. Hereupon, not maliciouſly (as 'tis charged in the Article) but conſcientiouſly I reſolved to ſuppreſs it, if by Law it might be done. Upon this, I acquainted his Majeſty with the thing, and the Danger which I conceived would, in few Years, ſpring out of it. The King referred me to his Attorney and the Law. Mr. Attorney *Noy*, after ſome pauſe upon it, proceeded in the *Exchequer*, and there it was by judicial Proceeding and Sentence overthrown. If this Sentence were according to Law and Juſtice, then there's no Fault at all committed: if it were againſt Law, the Fault, whate'er it be, was the Judges, not mine; for I ſollicited none of them. And here I humbly deſired, that the Lords would at their leiſure read over the Sentence given in the *Exchequer*, which I then delivered in; but by reaſon of the length, it was not then read: whether after it were, I cannot tell. I deſired likewiſe that my Counſel might be heard in this, and all other Points in Law.

Sir Leolin Jenkins *hath a Copy of it, out of the Records of the* Exchequer. W. S. A. C.

1. The firſt Witneſs was Mr. *Kendall*. He ſays, That ſpeaking with me about *Preſteen*, I thanked God that I had overthrown this *Feoffment*.

2. The ſecond Witneſs Mr. *Miller* ſays, he heard me ſay, They would have undone the Church, but I have overthrown their *Feoffment*. Theſe two Witneſſes prove no more than I confeſs: For in the manner aforeſaid, I deny not but I did my beſt in a legal way to overthrow it. And if I did thank God for it, it was my Duty to do ſo, the thing being in my Judgment ſo pernicious as it was.

3. The third Witneſs was Mr. *White*, one of the *Feoffees*. He ſays, That coming as Counſel in a Cauſe before me, when that Buſineſs was done, I fell bitterly on him as an Underminer of the Church. I remember well his coming to me as Counſel about a Benefice; and 'tis very likely I ſpake my Conſcience to him, as freely as he did his to me, but the Particulars I remember not; nor do I remember his coming afterwards to me to *Fulham*, nor his Offer to change the Men or the Courſe, ſo the thing might ſtand. For to this I ſhould have been as willing as he was: and if I remember right, there was order taken for this in the Decree of the *Exchequer*; and his Majeſty's Pleaſure declared, That no Penny ſo given ſhould be turned to other uſe. And I have been, and ſhall ever be as ready to get in *Impropriations*, by any good and legal way, as any Man, (as may appear by my Labours about the *Impropriations* in *Ireland*.) But this way did not ſtand either with my Judgment or Conſcience.

1. Firſt, Becauſe little or nothing was given by them to the preſent Incumbent, to whom the Tythes were due, if to any; that the Pariſhioners which paid them, might have the more cheerful Inſtruction, the better Hoſpitality, and more full Relief for their Poor.

'2. Secondly, Becauſe moſt of the Men they 'put in, were Perſons diſaffected to the Diſcipline, 'if not the Doctrine too, of the Church of *England*.

'3. Thirdly, Becauſe no ſmall part was given to 'School-Maſters, to ſeaſon Youth *ab Ovo*, for their 'Party; and to young Students in the Univerſities, 'to purchaſe them and their Judgments to their 'ſide, againſt their coming abroad into the Church.'

'4. Fourthly, Becauſe all this Power to breed 'and maintain a Faction, was in the hands of 'Twelve Men, who were they never ſo honeſt, 'and free from Thoughts of abuſing this Power, 'to fill the Church with Schiſm; yet who ſhould 'be Succeſſors, and what Uſe ſhould be made of 'this Power, was out of human Reach to know.'

5. Fifthly, Becauſe this Power was aſſumed by, and to themſelves, without any legal Authority, as Mr. Attorney aſſured me.

He farther ſaid, That the *Impropriation* of *Preſteen* in *Radnorſhire*, was ſpecially given to *St. Antolins* in *London*. I ſay, the more the pity, conſidering the Poorneſs of that Country, and the little Preaching that was among that poor People, and the Plenty which is in *London*: Yet becauſe it was ſo given, there was care taken after the Decree, that they of *St. Antolins* had Conſideration, and I think to the full. He ſays, That indeed they did not give any thing to the preſent Incumbents, till good Men came to be in their Places. Scarce one Incumbent was better'd by them. And what then? In ſo many Places not one good Man found? 'Not one factious enough againſt the 'Church, for Mr. *White* to account him good?' Yet he thinks I diſpoſed theſe things afterwards to unworthy Men. 'Truly, had they been at my diſpo-'ſal, I ſhould not wittingly have given them to Mr. '*White*'s Worthies.' But his Majeſty laid his Command upon his Attorney, and nothing was done or to be done in theſe things, but by his Direction. For Dr. *Heylin*, if he ſpake any thing amiſs concerning this *Feoffment*, in any Sermon of his, he is living to anſwer it; me it concerns not. 'Mr. '*Brown*, in the Sum of the Charge, omitted not 'this; and I anſwered as before: And in his Re-'ply he turned again upon it, That it muſt be a 'Crime in me, becauſe I projected to overthrow 'it. But, under favour, this follows not: for to 'project (though the word *Projector* found ill in '*England*) is no more than to forecaſt and forelay

'any

'any Business. Now as 'tis lawful for me, by all 'good and fit means, to project the Settlement of 'any thing that is good; so is it lawful, by good 'and legal means, to project the Overthrow of 'any thing that is cunningly or apparently evil. 'And such did this Feoffment appear to my Un- 'derstanding, and doth still.' As for reducing of Impropriations to their proper Use, they may see (if they please) in my Diary (whence they had this) another Project to buy them into the Church's Use; for given they will not be. But Mr. *Pryn* would shew nothing, nor Mr. *Nicolas* see any thing, but what they thought would make against me.

Here this Day ended, and I was commanded to attend again *July* 15. But was then put off to *July* 17. which Day held.

The Eighteenth Day of my Hearing.

WEdnesday, *June* 17. 1644. This Day they charged upon me the Twelfth Original Article; which follows in these Words:

XII. He hath traitorously endeavoured to cause Division and Discord between the Church of *England* and other Reformed Churches; and to that end hath suppressed and abrogated the Privileges and Immunities, which have been by his Majesty and his Royal Ancestors granted to the *French* and *Dutch* Churches in this Kingdom: And divers other ways hath expressed his Malice and Disaffection to those Churches, that so by such Disunion the Papists might have more Advantage for the Overthrow and Extirpation of both.

1. The first Charge is, That I deny them to be a Church: For they say that I say plainly in my Book against *Fisher*, that [1] *No Bishop, no Church.* Now 'tis well known they have no Bishops, and therefore no Church. The Passage in my Book is an Inference of St. *Jerom*'s Opinion, no Declaration of my own. And if they, or any other, be aggrieved at St. *Jerom* for writing so, they may answer him. Mr. *Nicolas* added, That this was seconded by Bishop *Mountague*'s Book, which Mr. *Pryn* (carefully) witnessed was found in my Study, and licensed by Dr. *Bray*. Is this Argument come again, that Bishop *Mountague*'s Book was in my Study? 'Leave it for shame.' But they have now left me never a Book in my Study; so I cannot make them any fuller Answer, without viewing the Place, than themselves help me to by their own Confession: which is, that he adds this Exception, That none but a Bishop can ordain, but *in casu necessitatis*, which is the Opinion of many learned and moderate Divines. 'Yet this is very considerable in 'the Business, whether an inevitable Necessity be 'cast upon them, or they pluck a kind of Necessity 'upon themselves.'

[1] *Cont.* Fisher, §. 25. *p.* 176.

Mount. Orig. Eccles. p. 464.

II. The second Charge is out of a Letter of mine to Bishop *Hall*, upon a Letter which he had formerly sent me. In which, it seems, is something about the Case of Necessity in point of Ordination, which (they say) I disliked. And it seems I disliked upon good ground: For he had given me power, under his Hand, to alter what I would in that which he sent unto me. I would not take that Power; but writ back to him what Passages I thought might be better expressed, if it could agree with his Judgment also. Hereupon he sent me another Letter of *Jan.* 18. 1639. In which he alter'd those Things which I put to his farther Consideration. Could any thing be more fairly carried? And this Letter was read to the Lords. Yea, but they say, I disliked the giving of this Title *Antichrist* to the Pope. No, I did not simply dislike it; but I advised Bishop *Hall*, if he thought it good, not to affirm it so positively. And the Reason I gave was this; That King *James* being pressed upon a great occasion that he had maintained that the Pope was *Antichrist*, which might much trouble, if not quite cross some Proceedings much desired by that prudent King, his Majesty made answer, *I maintain it not as a Point of Faith, but as a probable Opinion: And for which I have more grounds than the Pope hath for his Challenge of Temporal Power over Princes. Let him recall this Opinion, and I'll recall that.* This I writ to the Bishop, but left him free to do what he pleased.

Here Mr. *Nicolas* fell extremely foul upon me, insomuch that I could not but wonder at their Patience which heard him. Among other Titles bestowed upon me, many and gross, he called me, over and over again, *Pander to the Whore of* Babylon. I was much moved; and humbly desired the Lords, that if my Crimes were such as that I might not be used like an Archbishop, yet I might be used like a Christian; and that were it not for the Duty which I owe to God and my own Innocency, I would desert my Defence before I would endure such Language in such an Honourable Presence. Hereupon some Lords shewed their Dislike, and wished him to leave, and pursue the Evidence.

'Mr. *Brown* in summing up the Charge made 'this a great matter, the Denial of the Pope to 'be Antichrist. But I did not deny it, nor de- 'clare any Opinion of my own: And many Pro- 'testants, and those very learned, are of opinion 'that he is not. 'Tis true, I did not, I cannot 'approve foul Language in Controversies. Nor 'do I think that the calling of the Pope *Antichrist*, 'did ever yet convert an understanding Papist. 'And sure I am, *Gabriel Powel*'s Peremptoriness '(to say no worse) in this Point, did the Church 'of *England* no good, no honour in foreign Parts: 'For there he affirms, (*a*) *That he is as certain that 'the Pope is Antichrist, as that Jesus Christ is the Son 'of God, and Redeemer of the World.* As for the 'thing it self, I left it free to all Men to think as 'their Judgment guided them; as appears by the 'licensing of Dr. *Featly*'s Sermons, where he proves 'the Pope, in his Opinion, to be

[2] *Antichrist*; where he calls him also 'the [3] *Whore of Babylon.* Which 'surely I should never have suffered 'to be printed, had I been her Pan- 'der. And for Bishop *Hall*, I on- 'ly told him what King *James* had said, and left 'him to make what use he pleased of it.'

[2] *Dr. Featly's Sermons*, 808.

[3] *P.* 810.

III. The third Charge was out of a Paper, which Bishop *Hall*, about the time when he wrote his Book in Defence of Episcopacy, sent unto me, containing divers Propositions concerning Episcopal Government. In which either he or I, or both,

(*a*) Tam certo scio Papam esse magnum illum Antichristum, quam Deum ipsum esse in Cœlis Creatorem, & Jesum Christum verum Messiam. *Gab. Pow. de Antichristo. Epist. ad Lectorem.*

say,

ſay, (for that Circumſtance I remember not) *That Church-Government by Biſhops is not alterable by human Law.* To this I anſwer'd, That Biſhops might be regulated and limited by human Laws, in thoſe Things which are but Incidents to their Calling: But their Calling, ſo far as it is *Jure Divino*, by Divine Right, cannot be taken away. They charge farther, That I ſay this is the Doctrine of the Church of *England*. And ſo I think it is: For Biſhop *Bilſon* ſet out a Book in the Queen's time, entitled, *The Perpetual Government*. And if the Government by Biſhops be perpetual, as he there very learnedly proves thorough the whole Book, it will be hard for any Chriſtian Nation to out it. Nor is this his Judgment alone, but of the whole Church of *England*. For in the *Preface* to the *Book of Ordination* are theſe Words; *From the Apoſtles time there have been three Orders of Miniſters in the Church of Chriſt, Biſhops, Prieſts, and Deacons.* Where 'tis evident, that in the Judgment of the Church of *England*, Epiſcopacy is a different, not *Degree* only, but *Order* from Prieſthood, and ſo hath been reputed from the Apoſtles times. And this was then read to the Lords. And the Law of *England* is as full for it, as the Church: For the Statute of 8 *Eliz. cap.* 1. abſolutely confirms all and every part of this *Book of Ordination*: Where alſo the Law calls it, *The high Eſtate of Prelacy*. And *Calvin*, (if my old Memory do not fail me) upon thoſe Words of St. *John*, *ver.* 20, 21. *As my Father ſent me, ſo ſend I you*, &c. ſays thus upon that Place, *Eandem illis imponit Perſonam ac idem Juris aſſignat*. And if our Saviour Chriſt put the ſame Perſon upon the Apoſtles, and aſſigned to them the ſame Right which his Father gave him, it will prove a ſour Work to throw their Succeſſors the Biſhops out of the Church, after ſixteen hundred Years continuance; 'and in the mean time cry out againſt 'Innovation.' For either Chriſt gave this Power to his Apoſtles only, and that will make the Goſpel a Thing temporary, and confined to the Apoſtles times; or elſe he gave the ſame Power, tho not with ſuch eminent Gifts, to their Succeſſors alſo, to propagate the ſame Goſpel to the end of the World, as St. *Paul* tells us he did, *Epheſ.* 4. 11. Now all the Primitive Church all along gives Biſhops to be the Apoſtles Succeſſors; and then it would be well thought on, what Right any Chriſtian State hath (be their abſolute Power what it will) to turn Biſhops out of that Right in the Church which Chriſt hath given them.

IV. The fourth Charge was an Alteration made in a Brief for a third Collection for the diſtreſſed Miniſters and others in the *Palatinate*. The Queen of *Bohemia* was pleaſed to do me the Honour to write to me about this: And becauſe two Collections had been before, her Majeſty deſired that this third might be only in *London*, and ſome few Shires about it. I out of my Deſire to relieve thoſe diſtreſſed Proteſtants, and to expreſs my Duty to the Queen, became an humble Suitor to his Majeſty that this Collection alſo might go thorough *England*, as the reſt had done. And 'tis acknowledged by all, that this I did. Now the Witneſſes which accuſe me for ſome Circumſtances in this Buſineſs, are two.

1. The firſt is Mr. *Wakerly*. He ſays, That Mr. *Ruly* (who was employed by the Queen of *Bohemia* about this Collection) was roughly uſed by me upon occaſion of this Clauſe put into the Brief, and which, he ſays, I cauſed to be altered. This, Firſt, is a bold Oath; for Mr. *Wakerly* was not preſent, but ſwears upon Hearſay. Secondly, What Kindneſs I ſhewed him and the Buſineſs, is mentioned before; and if for this Kindneſs he had been practiſing with Mr. *Wakerly* about the Brief, (as I had probable Reaſon to ſuſpect) I cannot much be blamed, if I altered my Countenance towards him, and my Speech too; which yet theſe Witneſſes (for the other agrees in this) have no reaſon to call rough Carriage, only upon Mr. *Ruly*'s unthankful Report.

He ſays, That theſe Words, *the Antichriſtian Yoke*, were left out. Firſt, This is more than I remember; and the Briefs I had not to compare: Nor is there any Neceſſity that two Briefs, coming for the ſame Thing, with ſome Years diſtance between, ſhould agree in every Phraſe or Circumſtance. Secondly, If I did except againſt this Paſſage, it was partly becauſe of the fore-recited Judgment of King *James*, of which I thought his Son King *Charles* ought to be tender; and partly becauſe it could move nothing but Scorn in the common Adverſary, that we ſhould offer to determine ſuch a Controverſy by a Broad-Seal. I remember well, ſince I had the Honour to ſit in this Houſe, the naming of Tythes to be due *Jure Divino* caſt out the Bill; a prudent Lord asking the Peers, whether they meant to determine that Queſtion by an Act of Parliament. The other part of the Clauſe, which they ſay was altered, was, *The Religion which we with them profeſs*. Whence they infer, becauſe (*with them*) was left out, that I would not acknowledge them of the ſame Religion; which follows not: For we may be and are of the ſame Religion, and yet (*agree*) not with them in thoſe Opinions, in which we differ from them. And Mr. *Wakerly* confeſſes that the Words as altered are, *That they are perſecuted for their Religion*; and their Religion is the Proteſtant Religion, and ſo is ours. And therefore I could have no Intention to make the Religions different, but the Opinions under the ſame Religion.

'For Mr. *Wakerly*, he is a *Dutchman* born; and 'how far the Teſtimony of an Alien may be of 'force by the Law, I know not: And a bitter 'Enemy to me he hath ever ſhewed himſelf, ſince 'I complained to the King and the Lords that a 'Stranger born and bred ſhould be ſo near a Secre-'tary of State, and all his Papers and Cyphers, as he 'was known to be to Mr. Secretary *Coke*. A thing 'which few States would endure. And how far the 'Teſtimony of ſuch a canker'd Enemy ſhould be ad-'mitted, let the World judge. Admitted he was.'

2. The ſecond Witneſs was Mr. *Hartlip*. He acknowledges my Improvement of the Collection, and my great Readineſs therein; which doubtleſs I ſhould not have ſhewed, had I accounted them of another Religion. He ſays, There was no Alteration but in that Clauſe; and that implies a manifeſt Difference. But that is but in his Judgment; in which I have already ſhewed that *Wakerly* is miſtaken, and ſo is he. Beſide, he comes here as a Witneſs of the Fact, not as a Judge of my Intentions or Thoughts. He adds, That, if he remember well, the Alteration was drawn by me. But if he do not remember well, what then? Surely here's no Evidence to be grounded upon *Ifs*. Here, upon the Point of Antichriſt, Mr. *Nicolas* ſtiled me as before, and was furious till he foamed again. But I ſaw a Neceſſity of Patience. 'Mr. *Brown* alſo in his 'ſummary Charge followed this Buſineſs cloſe: 'But I gave it the ſame Anſwer.'

V. The fifth Charge, and the laſt under this Article, was the calling in of a Book, *Anno* 1637. ſhewing the Doctrine and Diſcipline of the Church in the *Palatinate*; but called in only becauſe againſt Arminianiſm.

Arminianiſm. The ſingle Witneſs *Michael Sparks*. He ſays this Book was called in; but he knows not by whom, nor mentions he for what. But he ſays the Purſevants which ſearched for it were mine. He means ſuch as belonged to the High-Commiſſion; for other than ſuch I had none. And there was cauſe enough for calling in the Book, without thinking of Arminianiſm.

'But what is the reaſon why here's nothing urged againſt me about abrogating the Immunities and Privileges of the *French* and *Dutch* Churches, which fill the Body of this Article? Why, I conceive there may be two Reaſons of it. One, becauſe there was taken by Mr. *Pryn*, among other Papers for my Defence, a Letter under Queen *Elizabeth*'s own Hand to the Lord *Pawlet*, Marquiſs of *Winchester*, then Lord Treaſurer; in which ſhe expreſſes her Willingneſs that thoſe Strangers, diſtreſſed in and for point of Conſcience, ſhould have Succour and free Entertainment; but ſhould conform themſelves to the *Engliſh* Liturgy, and have that tranſlated into their own Language. And they knew I would call to have this Letter produced, proved, and read. And had this Letter been ſtood unto, they had never been able to do the Church of *England* half the harm they have ſince. The other was, becauſe they found by their own Search againſt me, that all which I did concerning thoſe Churches was with this Moderation; That all thoſe of their ſeveral Congregations in *London*, *Canterbury*, *Sandwich*, *Norwich*, or elſe-where, which were of the ſecond Deſcent, and born in *England*, ſhould repair to their ſeveral Pariſh-Churches, and conform themſelves to the Doctrine, Diſcipline, and Liturgy of the Church of *England*; and not live continually in an open Separation, as if they were an *Iſrael* in *Ægypt*, to the great Diſtraction of the Natives of this Kingdom, and the aſſiſting of that Schiſm which is now broke forth. And as this was with great Moderation, ſo was it with the joint Approbation of his Majeſty and the Lords of his Council, upon the Reaſons openly given and debated. And all this before I proceeded to do any thing; as appears *apud Acta*.'

Then they went to the Thirteenth Original Article; which here follows.

XIII. He hath traitorouſly and wickedly endeavoured to reconcile the Church of *England* with the Church of *Rome*: And for the effecting thereof, hath conſorted and confederated with divers Popiſh Prieſts and Jeſuits; and hath kept ſecret Intelligence with the Pope of *Rome*: And by himſelf, his Agents and Inſtruments, treated with ſuch as have from thence received Authority and Inſtruction. He hath permitted and countenanced a Popiſh Hierarchy or Eccleſiaſtical Government to be eſtabliſhed in this Kingdom. By all which traitorous and malicious Practices this Church and Kingdom have been exceedingly indangered, and like to fall under the Tyranny of the *Roman* See.

The Seventh Additional Article.

That the ſaid Archbiſhop at ſeveral times within theſe ten Years laſt paſt, at *Weſtminſter*, and elſewhere within this Realm, contrary to the known Laws of this Land, hath endeavoured to advance Popery and Superſtition within the Realm: And for that end and purpoſe hath wittingly and willingly received, harboured, and relieved divers Popiſh Prieſts and Jeſuits; namely, one called *Sancta Clara*, alias *Damport*, a dangerous Perſon and *Franciſcan* Friar: who having written a Popiſh and Seditious Book, entitled, *Deus, Natura, Gratia*, wherein the Thirty nine Articles of the Church of *England*, eſtabliſhed by Act of Parliament, were much traduced and ſcandalized; the ſaid Archbiſhop had diver's Conferences with him, while he was in writing the ſaid Book: and did alſo provide Maintenance and Entertainment for one Monſieur *S. Giles*, a Popiſh Prieſt, at *Oxford*, knowing him to be a Popiſh Prieſt.

I. The firſt Charge (they ſay) was to be laid as a Foundation; and it was, That I was generally reputed a Papiſt in Heart, both in *Oxford*, and ſince I came thence.

1. The firſt Witneſs for this was Dr. *Featly*. He ſays, There was ſuch an Opinion of me thirty Years ſince there. But he ſays he never heard any Popiſh Opinion maintained by me. So here's nothing of Knowledge. And if I ſhould ſay that above thirty Years ago there was an Opinion that Dr. *Featly*, then in *Oxford*, was a Puritan, this could make no Proof againſt him: Nor can his ſaying that I was reputed a Papiſt, make any Proof againſt me. He ſays farther, That one Mr. *Ruſſel*, who had been bred in *St. John's-College*, told him in *Paris*, that I maintained ſome Catholick Opinions. Firſt, Mr. *Nicolas* would have it that this Mr. *Ruſſel* was my Scholar: But the whole College can witneſs it is not ſo; nor had he ever any relation to me in the leaſt degree. After his Father's Death he left the College, and went beyond-Sea; where the weak Man (for ſuch he was) loſt his Religion. Secondly, Dr. *Featly* ſays expreſly, that Mr. *Ruſſel* ſaid I was no Papiſt; which, for the Countenance of his own Charge, he would never have ſaid, had he thought me one. Thirdly, if he did ſay that I maintained ſome Catholick Opinions; yet he named none, by which there might be Tryal and Judgment whether they were ſuch or no, in the Senſe he meant them. Laſtly, Mr. *Perkins*, in his *Reformed Catholick*, ſets down divers Opinions in which they of *Rome* and we agree: Shall he be a Papiſt for this? Or ſhall not that which is lawful for him, be as lawful for me?

2. The ſecond Witneſs was one *Harris*. He ſays, That Mr. *Ireland* (who was ſome time Student of *Chriſt-Church* in *Oxford*, and after School-Maſter at *Weſtminſter*) told him that I would leave the Church of *England*. This is a bare Report from Mr. *Ireland*, with whom I never had any Acquaintance, nor was ſcarce in his Company twice in all my Life. Nor is it in my power to hinder what Mr. *Ireland* will ſay, or Mr. *Harris* from him. He ſays, That one that called himſelf *Leander*, came over on purpoſe to make this Reconciliation. If he did, (which is more than I know or believe) I think he would hardly make ſuch a one, as *Harris* is reported to be, acquainted with it. But howſoever, if he did come with that purpoſe, was it in my power to hinder his coming? And here is no Proof offered that I did help on his Purpoſe, or ſo much as know of it. He ſays he often petitioned me for Relief, but had none. It may be; I well knew he deſerved none: And your Lordſhips know that by Law I might not afford him any. Had I given him any, I ſhould now have heard it with both Ears. For I am informed he is a Prieſt, and condemned in a *Præmunire*, and was let out of Priſon on purpoſe to be a Witneſs againſt me. And having

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ſet that which is aforeſaid, under his Hand, is now ſlipped away, and gone. Who got him out of Priſon for this good purpoſe, I know not; but ſure ſomewhat there is in it, for your Lordſhips ſee his Teſtimony is now read, but he appears not.

3. The third Witneſs was Sir *Nathaniel Brent*, (now abſent, but came in the next day.) He ſays, I was eſteemed Popiſhly-affected in *Oxford*; and he gave three Inſtances very carefully, to prove it. The firſt was, That in the Divinity-School there, I maintained the Neceſſity of Baptiſm. I did ſo; and my Predeceſſor Archbiſhop *Abbot* was then Vice-Chancellor, and preſent, and approved my Opinion: and my Grace paſſed for my Degree to be Batchelor of Divinity, without any one Man's oppoſition. He ſays, That Mr. *Dale* of *Merton-College* then ſhewed him all my Suppoſition taken out of *Bellarmine*. This is a bold and a dangerous Oath: He might ſwear that Mr. *Dale* ſhewed him in *Bellarmine*, that which he ſaid was my Suppoſition; but that he ſhewed him all my Suppoſition there, is a ſtrange Oath for a Man of Learning and Law to make, in ſuch a Preſence. Beſides, I have my Suppoſition, which I then made, yet by me; and if my Tenet of that Queſtion be the ſame with *Bellarmine's*, or that there be any Line taken out of him, but what I cite for my own advantage againſt him, I will utterly forfeit my Reputation of any Learning to your Lordſhips. His ſecond Inſtance was, That I was acquainted with one Mr. *Brown*, Fellow of *Corpus-Chriſti-College* in *Oxford*, who was ſuſpected to be a Papiſt, and after his death proved to be one, by a Book that was found in his Study, proving that a Man might be a Roman Catholick, and yet go to Church, and conform in *England*. I was acquainted with this Man; he was a very good Scholar and an honeſt Man, and a good Proteſtant, for ought I know. For the Tract found after his death among his Papers, that's no Proof; for Scholars get all the Papers they can, eſpecially ſuch as belong to their own Profeſſion. And the more ſtrange the Opinions are, the more do they labour to get them. Nor is it any Proof that the Tract was of his making, becauſe written in his own Hand, as 'tis urged. For the Argument being ſo foul and dangerous, it could not be ſafe for him, nor any way fit, to commit it to any other to write for him. Nor is there any Proof that I knew he had ſuch a Tract by him; neither indeed did I. The Opinion is very baſe and unworthy, and was firſt broached by the Jeſuit *Azorius*, and it ſeems ſome of the Fellows had inlarged him, and made this Tract out of his Principles. His third Inſtance was, That I petitioned King *James* in this buſineſs. I was complained of to King *James* by a great Perſon, That I had inward Acquaintance with this Man. Hereupon, my waiting Month being *June*, and not long after the Complaint made, I took occaſion in my firſt Sermon to confute this Opinion, and then petitioned his Majeſty that it might be examined, that ſuch an Imputation might not lie upon me. His Majeſty referred it to the Lord Archbiſhop of *Canterbury*, Biſhops of *London*, *Wincheſter*, and *Dureſm*; where after full Examination I was acquitted.

Inſtit. Moral. *p.* 1. *l.* 8. *c.* 27.

[a] Abbot, King, Mountague, Nicle.

II. The Second Charge was, that the ſame Opinion was held of me beyond the Seas, That I was a cunning Promoter of the *Roman* Cauſe. And here the Witneſſes are the ſame, which were produced before; Mr. *Challoner*, who told over his old Tale again of I know not what Plot he heard from a Jeſuit: nothing but Hearſay at the beſt. And it ſavours like an Almanack *de poſt facto*, 'or 'rather of ſomewhat elſe, which I will ſpare to 'name, becauſe he is upon his Oath.' The other Witneſs is Mr. *Anthony Mildmay*, who alſo tells over his old Tale of his Father *Fitton*. But he was out of the way again, and appeared not till the next day, with Sir *Nathaniel Brent*. So here's a Repetition again of the ſame Witneſſes, and the ſame things, to multiply the noiſe. 'Only noble 'Sir *Henry Mildmay* appeared not the ſecond time; 'but whether it were becauſe he had enough at 'his firſt appearance, or whether his Face was 'ſcratched then (as ſince Men ſay it was) I cannot tell.'

III. The Third Charge was, That I had a damnable Plot, to reconcile the Church of *England* with the Church of *Rome*. If to reconcile them with the Maintenance of Idolatry, it were a damnable Plot indeed. But if Chriſtian Truth and Peace might meet and unite together, all *Chriſtendom* over, were that a Sin too? Were I able to plot and effect ſuch a Reconciliation, I would think myſelf moſt happy, whatever I ſuffered for it. But how is this damnable Plot proved? Pope *Gregory* writ a Letter to his Nuncio in *Spain*, and a Letter alſo to King *Charles*; which Letter is printed: Copies of theſe Letters were found in my Study. Could I hinder the Pope from writing to whom he pleaſed? Shall not I get Copies of any Letters I can, to ſee what practiſing is abroad for private Intereſt? Shall it be lawful for all my Predeceſſors to get and keep Copies of ſuch Letters by them, and ſhall it be unlawful for me only? And here I produced Mr. *Dobſon*, an antient Servant to my Predeceſſors, who witneſſed that Archbiſhop *Bancroft* had ſtore of them, and kept them all his time. Nor do I know, how this Charge can fall upon me: for there is no one word in any of the Letters produced, that reflects upon me, or any Plot of mine. Nor indeed had I ever any ſuch to reflect upon.

IV. The Fourth Charge is, That I had a hand in the Plot for ſending the King, when he was Prince, into *Spain*, to be perverted in his Religion. They follow their Proof of this out of my Diary: And they begin with my Friendſhip with the Lord Duke of *Buckingham*, who waited on the Prince in this Journey. And firſt they urged my Diary at *June* 9. 1622. where I mention, that there were then Particulars, which are not for Paper. But the Words, which lead theſe in, were his Entrance upon a near Reſpect to me, the particular Expreſſions whereof were not for Paper: Nor Word, nor Thought, of either Plot or Popery. Then they urged *June* 15. 1622. where 'tis ſaid, that I became C. that is, Confeſſor to the Lord Duke. Firſt, If my Lord Duke would honour me ſo much as to make me his Confeſſor, as I know no Sin in it, ſo is it abundantly proof, that the Paſſages before mentioned were not for Paper. Should I venture them ſo, there's never a Perſon of Honour preſent, but would think me moſt unworthy of that Truſt. Next, they preſſed *June* 13. 1623. where I confeſs, that I received Letters from my Lord Duke out of *Spain*. I did ſo; and I then held it great honour to me, and do ſo ſtill. But then, and long before, it was known to all Men whither he was gone, and with whom; nay, it was commonly known to all Men of Quality hereabout within three or four days: And till it was ſo commonly known, I knew it not. Yea, but

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then they inforced out of *Febr.* 17. 162⅔. That the Prince and the Marquiss of *Buckingham* set forward very secretly for *Spain*. And *Febr.* 21. That I writ to his Lordship into *Spain*. 'Tis true, they went away that Day, and very secretly; but I neither did, nor could set it down, till afterwards that I came to know it. And then so soon as I came to know it, which was about the 21st, I did write. To these was cunningly (how honestly let all the World judge) pieced a Passage out of a Letter of mine to Bishop *Hall*. But that Letter was read, at my humble Motion to the Lords, and the Date of it was in 1634. So, many Years after this Business of *Spain*. And the Passage mentioned, was only about King *James*'s manner of defending the Pope to be Antichrist, and how he salved it while the Prince was in *Spain*. But King *James* related it after. Nor could any Words of that Letter be drawn to the King's going thither, much less to any knowledge I had of it.

V. The Fifth Charge was concerning his Majesty's Match with *France*. And here again they urge my Diary at *Mar.* 11. 1625. That the Duke of *Buckingham* was then and there employed. And at *May* 19. & 29. That I then writ Letters to him. First, My Lords, I hold it my great honour, that my Lord Duke would write to me, and give me leave to write to him. Secondly, I have committed some Error in these Letters, or none. If none, why are they charged? If any, why are they not produced, that I may see what it is, and answer it?

VI. The Sixth Charge was, That I was an Instrument of the Queen's. This they endeavoured to prove by my Diary in three places. First, at *Aug.* 30. 1634. Upon occasion of some Service done, she was graciously pleased to give me leave to have immediate Access unto her, when I had occasion. This is true, and I most humbly thanked her Majesty for it: for I very well knew what belonged to Addresses at second hand in Court. But what Crime is in this, that the Queen was pleased to give me Access unto her, when I had occasion? Here's no word of Religion. Secondly, at *May* 18. 1635. where 'tis said, That I gave her Majesty an account of some thing committed to me. If her Majesty sent or spake to me to do any thing, as it seems she did, shall I want so much Duty as to give her an account of it? So belike I must be unmannerly with her Majesty, or lie open to no less than a Charge of High Treason. Thirdly, at *April* 3. 1639. 'tis made a great matter, That I should then dispatch a great Business for the Queen, which I understood she would not move for herself: and that for this her Majesty gave me great Thanks. Mr. *Nicolas*'s Inference upon this was, That they conceive wherefore. But his Conceit makes no Evidence: he must not only conceive, but prove wherefore, before it can work any thing against me. As for Religion, as there is no word of it in my Diary, so neither was it at this time thought on. Her Majesty would therein have moved for herself: But it seems it must be a Crime if I be but civil and dutiful towards the Queen, though it be but thrice mentioned in so many Years.

VII. The Seventh Charge was, That I forbad Ministers praying for the Queen's Conversion, and punished others. The first Witness, Mr. *Ratcliff*, says, That Sir *Nath. Brent* gave it in charge at *Bow-Church* in my Visitation. The more to blame he, if so he did. Yea, but he says, it was by my Command delivered unto him by Sir *John Lambe*. Was it so? How doth Mr. *Ratcliff* know that? he doth not express. He was not present, when I spake with Sir *John Lambe*. And if Sir *Nath. Brent* told him of it, 'tis but Hearsay. And Sir *Nath.* having been so ready a Witness against me, why is he not examined to this Particular? And as for the Paper which was shewed, it appears plainly there, that it was no Paper of Instructions sent to my Visitors by me, but of particular Informations to me: of which one was, That the Queen was prayed for in a very factious and scandalous way. And this appeared, when that Paper was read. And this I referred to my Visitors, as I not only might, but ought: not forbidding the Prayers, but the scandalous manner of them. The second Witness was Mr. *Pryn*; who says, That one Mr. *Jones* was punished for praying for the Queen. He was punished in the High-Commission for scandalous abusing the Queen, under a Form of praying for her, and for divers other Articles that were against him. 'And this Answer I gave to 'Mr. *Brown*, who forgot not this in summing up 'my Charge.'

VIII. The Eighth Charge was, That I punished Men for praying to preserve the Prince. No, God forbid. The High-Commission-Book was shewed, and that there in the Year 1634, one Mr. *Howe* was censured for it. I got this Act of the High-Commission to be read to the Lords: His Prayer went thus, *That God would preserve the Prince in the true Religion, of which there was cause to fear.* Could this Prayer have any other Operation upon the People, than to make them think his Majesty was careless in the Education of the Prince, especially in point of Religion? And this was so grievous and graceless a Scandal cast upon a Religious King, as nothing could be greater. Upon the matter, it was the shew of a Prayer for the Prince, but was indeed to destroy the King in the Hearts of his People. And had I not there consented to his Punishment, I had deserved to be punished myself. 'Mr. *Brown*, when he repeated the Sum of 'the Evidence, laid this Charge upon me, but 'spake not one word (to my remembrance) of 'this Answer given to it.'

IX. The Ninth Charge, That I did extol Queen *Mary*'s days. The Proof for it was taken out of the Preface to the Statutes of the University of *Oxford*. I took a great deal of pains about those Statutes, and might justly have expected Thanks for it, not such an Accusation. But as for the Preface, it was made and printed at *Oxford*: I meddled not with it. I could trust the University with little, if not with the making of a Preface. If they have done any thing amiss in it, let them answer it. The Passage was about certain Offers made to amend those confused old Statutes, both in *Edward* VI's and Queen *Mary*'s days; but no effect came of the pains then taken, *Recruduit Labor*, says the Preface. So that this I can answer for them: There's not a word spoken of Religion, but of Manners only, and that as much in relation to the Times of Princes following, as hers. For the words, to my remembrance, are *Interim optandâ Temporum Fœlicitate*, &c. And that *Interim* cannot be restrained to Queen *Mary*'s days only, but must include the whole *Interim*, or middle distance of Time, to that present in which I settled the Body of their Statutes; that is, all Queen *Elizabeth*'s and King *James*'s days, which I think no Man can deny was *Optanda Temporum Fœlicitas*.

X. Here Mr. *Nicolas* confessed there was *no downright Proof* against me. That was his Phrase:

But he added, that was not to be expected in ſuch a Work of Darkneſs. Then he produced a Paper found in my Study, printed at *Rome*. So were divers of my Books printed there: what of this? They may print what they will at *Rome*, I cannot hinder it: and I may have and keep whatever they print, no Law forbidding it. Then he ſhewed a Letter ſent unto me from Mr. *Graves*. The Gentleman is at this preſent Fellow of *Merton-College* in *Oxford*, a great Traveller, and a Man of great Worth. As far as I remember, his Letter came to me from *Alexandria*. It was fit to be ſent, and kindly received; as by me it was. I deſired it might be read. Then were mentioned Sir *William Boſwell*'s Letters, and the Papers ſent by *Andreas ab Habernfeld*, about a great Plot to deſtroy the King and Religion, and that I concealed theſe Papers. 'I might have been amazed at the Impu-
'dence of this Charge above all the reſt: *Diaboli*
'*Impudentia*, the Devil's Impudence,
S. Aug. Epiſt. 167. 'and no leſs, as St. *Auguſtine* ſpeaks
'in another Caſe.' Did I conceal theſe Papers? Firſt, the ſame Day that I received them, I ſent them by an Expreſs to his Majeſty. I had a ſpeedy Anſwer from his Majeſty, and that I returned with equal ſpeed to his Majeſty's Agent Sir *William Boſwell*, as I was commanded. And this Mr. *Pryn* and Mr. *Nicolas* knew: For Mr. *Pryn* took all theſe Letters and Papers from me, when he ſearched me at the *Tower*; and out of them made his Book called (*a*) *Rome*'s *Maſter-piece*: excepting the Slanders, which he hath juggled in of his own. So ſoon as his Majeſty came home, I humbly beſought him, that he would be pleaſed to appoint a time, and call ſome Lords to him, to hear and examine the Buſineſs; and this Examination continued till I was committed. What was after done, I cannot account for. Beſides, my Lords, it appears by thoſe Papers, that my Life was ſought for, becauſe I would not give way to the Change of Religion; and Mr. *Pryn* himſelf hath printed this: and yet now Mr. *Nicolas*, from his Teſtimony, preſſes theſe Papers againſt me. But the King, and the Lords, and both Secretaries of State then preſent, can witneſs, that I took all the care and pains above-mentioned, to have it ſifted to the bottom. 'Notwithſtanding
'all this, Mr. *Nicolas* falls upon this Plot again
'upon the next Day of my Hearing, as if nothing
'had been ſaid unto it: and was ſo ſhameleſs, as
'to ſay, That I followed this Buſineſs ſo long as I
'thought the Plot was againſt the Puritans; but
'ſo ſoon as I found it was againſt the Papiſts, I
'kept it ſecret, till Mr. *Pryn* diſcovered it in his
'Search of my Papers. Where, Firſt, there's no
'word in all the Papers to make me or any Man
'think the Puritans were concerned in it. And
'Secondly, I did not ſleep upon the Receipt of
'theſe Papers, till I had ſent them to his Ma-
'jeſty. But I had reaſon to keep the Papers as
'ſafe as I could, conſidering how much they
'juſtify me againſt theſe foul Calumnies put up-
'on me.'

XI. Then followed the Charge of *Sancta Clara*'s Book, *alias* Monſieur *St. Giles*: ſo they expreſſed it; and I muſt follow the way they lead me.

1. Firſt then they charge, That I had often Conference with him, while he was writing his Book, intitled, *Deus, Natura, Gratia*. No, he never came to me, till he was ready to print that Book. Then ſome Friends of his brought him to me. His Suit then was, That he might print that Book here. Upon Speech with him, I found the Scope of his Book to be ſuch, as that the Church of *England* would have little cauſe to thank him for it: and ſo abſolutely denied it. Nor did he ever come more at me after this, but twice or thrice at moſt, when he made great Friends to me, that he might print another Book, to prove that Biſhops are by Divine Right. My Anſwer then was, That I did not like the way which the Church of *Rome* went, in the Caſe of Epiſcopacy. And howſoever, that I would never give way, that any ſuch Book ſhould be printed here from the Pen of a Romaniſt; and that the Biſhops of *England* were able to defend their own Cauſe and Calling, without calling in Aid from *Rome*, and would in due time. Maintenance he never had any from me, nor did I then know him to be a Prieſt. Nor was there any Proof ſo much as offered in contrary to any of this.

2. Secondly, They did ſpecially except againſt a Paſſage in the Licenſer, and another at the end of the Book. The Book was printed at *Lyons*, where I could not hinder the printing, either of the whole, or any part. This might have been ſomething, had I licenſed it here; but that I conſtantly denied.

3. Thirdly, They produced a Letter written to me from *Venice*, by one Mr. *Middleton*, Chaplain there to the Right Honourable the now Earl of *Denbigh*, his Majeſty's Ambaſſador. Therein he writes, *That* S. Clara *was* Homo nequiſſimus, *and that one Monſieur* S. Giles *was the Author of that Book*. That *Clara* and *S. Giles* were the ſame Perſon, is but Mr. *Middleton*'s Opinion. Such News as he there heard, ſome true, ſome falſe, he thought fit to write unto me: and he being abſent, here's no proof upon Oath, that they are one and the ſame Perſon. And I hope a young Man's Letter from *Venice*, or any other place, ſignifying only ſuch things as he hears, ſhall not ſtand for good Evidence in a Caſe of Life. And he was mainly deceived in this Particular, as appears, Firſt, Becauſe what *Clara* is, I know not: but Monſieur *St. Giles* is a great Scholar, and a ſober Man; and one that gave the late Lord *Brooke* ſo good Content, that he allow'd him One Hundred Pound a Year during his Life. Secondly, Becauſe 'tis commonly known that *Clara* is an *Engliſhman*, and *St. Giles* a *Frenchman* born and bred.

'Thirdly, Becauſe their own Arti- *The 7th Addi-*
'cle, upon which they bring this *tional.*
'Charge, acknowledges them two
'diſtinct Perſons. Fourthly, Becauſe both Mr.
'*Pryn* and Mr. *Nicolas* had Monſieur *S. Giles* before
'them in Examination, and could not but know
'him to be a *Frenchman*: as appears by a Warrant
'given to him by Mr. *Pryn*, to ſecure him after his
'Examination; which Warrant follows in theſe
'words:

'THESE *are to certify thoſe whom it may concern,*
'*That the Committee of the Houſe of Commons,*

(*a*) *This Book was publiſhed by* Pryn *in the Year* 1643, *in five Sheets in Quarto. A Copy whereof being by his Endeavours conveyed to the Archbiſhop, then a Priſoner in the* Tower, *the Archbiſhop wrote Notes in the Margin of it, ſo far, and ſo much, as to vindicate himſelf from the Aſperſions laid upon him therein. This Copy, with the ſaid Notes, is now in the hands of that knowing and learned Antiquary Mr.* Anthony Wood; *which having been by him communicated to me, I have, with his leave, tranſcribed the Archbiſhop's Notes, and cauſed them to be adjoined to theſe Papers concerning the Plot diſcovered by* Andrew ab Habernfeld, *reprinted in this Collection.* H. W.

'appointed

'*appointed to prosecute the Archbishop of* Canterbury, '*have examined and received Satisfaction from Mon-*'*sieur* S. Giles, *a Domestick Servant to the Resident of* 'Venice; *and therefore he is no farther to be examined* '*or molested concerning the same.*

'This Licence came to my hands since my an-'swering was past, so I could not then shew it. 'Monsieur *S. Giles* was never the Man that gave 'me notice of any of this, not so much as that he 'had been examined; but my Secretary Mr. *Dell* 'came to hear of it by chance, and went to him, 'and had this Copy (with some Labour) from him, 'and will make oath it is a true Copy. This is 'not the thankfullest Part that ever *S. Giles* played, 'considering my Carriage towards him.'

4. Then they charged upon Monsieur *S. Giles* directly, That I knew him to be a Priest, and yet maintained him at *Oxford*. The (a) Case was this: Mr. *S. Giles* was in good Place about the Queen's Majesty at her first coming: Here he did so good Services to this State, that he lost himself in *France*, and durst not go thither when the *French* were sent away. All this while the Man was unknown to me, till his Majesty one day at *St. James's* told me this, and that he was a Priest, and that it lay upon him in Honour to allow him some Maintenance, and prescribed me a way how to order it, that he might receive One Hundred Marks a Year as from him; and gave me charge, if the Pension were at any time behind, I should acquaint him with it. After this Mr. *S. Giles*, by his Friends, petition'd his Majesty, that being a Stranger, he might live in *Oxford*, to have the use of the Library there, being resolved to meddle no more with the Controversies of the Time, but to apply himself to *Metaphysical* Learning. His Majesty was desirous to have him plac'd in some College, to save Charges: But this I most humbly deprecated, because it might be dangerous to the Youth there, and scandalous to his Majesty, the Church, and the University; and dangerous to my self, being Chancellor: to the rest I submitted. So he was left to place himself in some Town-House, as he could: And for this his Majesty gave me his Warrant, which Mr. *Pryn*, in his Search, took from me. But here follows the true Copy of it.

'Charles Rex.

'CAnterbury, *Mr.* S. Giles *by serving Us and this* '*State, hath lost all his Hopes in* France, *and* '*desires to spend his time here at his private Studies.* '*I would have you think upon some way for his Main-*'*tenance, and to place him in* Oxford, *that he may* '*have use of that Library, which he much desires. And* '*you may so order it, that his Profession in Religion may* '*do no harm.*'

And according to this Direction of his Majesty I did take order, but with assurance from himself, and with Spies upon him there, besides the special Care of the Vice-Chancellor, that he should not converse with young Students, nor exercise his Priestly Office, nor do any thing against the Laws. Nor did I ever hear that he failed in any of these Assumptions.

5. Then they produced one Mr. *Broad*, who testified, That while *S. Giles* lived at *Oxford*, some Doctors came to him. Doctors were able to deal well enough with him; but all Resort of young Scholars was forbidden. He says farther, That Mr. *S. Giles* should say, That the Bishops of *England* were cordially of his Religion, but that he feared their Rigidness would spoil all. First, This is but a Report of his Speech. Secondly, Why was not *S. Giles* at his Examination asked, whether he said it or no? And if he did, what Ground he had for it? At the most, it was but his Opinion of the Bishops, who were never the more cordial to Popery for his thinking so. 'And Thirdly, I 'doubt it appears by this time, that all is over-'thrown, or near it, not by the Rigidness, but 'by Over-Remissness of some Bishops, who never 'would believe any Danger could come from the '*Godly*, as they were called.'

6. Lastly, What's the reason of this great Endeavour, upon nothing but News in a Letter, to make *Clara* and Mr. *S. Giles* to be one and the same Man? 'Doubtless, nothing but an Hydropical Thirst 'after my Blood.' For Resort of Priests to *Lambeth*, was usual in both my last Predecessors times, *Bancroft's* and *Abbot's*; and some lay in the House and had Relief. This was proved to the Lords by two antient Servants of that House: Neither of which have been done in my time. Archbishop *Abbot* made a Warrant (this Warrant was shewed) to secure Mr. *Preston* an *English* Priest, upon a [1] Command of King *James*: Why may not I a *French* one, by the Warrant of King *Charles*? King *James* justified Bishop *Bancroft* for doing this, when he was Bishop of *London*, and no Privy-Counsellor: And may not I do it, being Archbishop and Privy-Counsellor, with as much Privity of the King and the State, as he did? But to let these pass, why should I say here was a Thirst for Blood? I'll tell you why? The Statute of 27 *Eliz.* makes it Felony without Benefit of Clergy, to maintain or relieve any *Romish* Priest born in *England*, or any other of her Majesty's Dominions, knowing him to be such. Now they had laid their *Article*, That I had given Maintenance to one Monsieur *S. Giles*, a Popish Priest at *Oxford*, knowing him to be such. But when, upon Examination of *S. Giles*, they found him to be a *Frenchman*, and so not within the Statute; (as the words of that Statute are most plain, and so is Sir *Edw. Coke's* Judgment upon them; both which I then read to the Lords:) I say, when they saw this, then they cast about how to make (b) *S. Clara* and Mr. *S. Giles* to be one Man. And though they could find no Shadow of Proof of a thing that is not, but *a Letter of News from* Venice; yet against their own Knowledge and Conscience, they give that in Evidence to reach my Life any way.

[1] *Confer. at* Hamp. Court, *p.* 51.

27 Eliz. c. 2. § 3.

Art. 7. *Addit.*

1. 3. Instit. c. 37.

Here Mr. *Nicolas*, so soon as he had discovered whither I tended, would have broken me off, saying, They did not urge it for that now, they were not yet come to it. I replied, if they came to it after, I would be at the pains to answer again: But since it concerned my Life, I would not slip

(a) *The Archbishop related this Case more at large, and therewith defended himself in a written Paper; which being seized by* Pryn *in the Tower, was now produced and read before the Lords. It may be found in* Pryn's Compl. Hist. p. 428. *H. W.*

(b) *After all,* Pryn *would insinuate, that* S. Giles *was the same Man with* Sancta Clara, *and wrote the Book, entitled,* Deus, Natura, & Gratia, *although he fully knew the contrary,* Compl. Hist. p. 427, 429. *Nay, he hath the Confidence at last* (p. 430.) *to add, that* it is most apparent. *H. W.*

it now, nor leave it unanswered in any Circumstance. So I went on, but they never mentioned it after; and by this way meant certainly to have involved me within the Law, *Clara* being an *Englishman* born. 'God of his Mercy grant, that 'this Thirst after my Blood lie not too heavy a-'nother day upon their Souls. Mr. *Brown*, in 'summing up the Charge, fell upon this also. I 'made a brief Answer out of that which is afore 'said: Yet after, in his Reply, he fell upon this 'Letter of Mr. *Middleton*'s, and cites his News 'for Evidence, That *S. Clara* and Mr. *S. Giles* were 'the same Man: Which I much wonder so able 'and grave a Man as he is, should swallow from 'Mr. *Pryn*, who doubtless (being present) was 'angry to see himself so laid open in the House 'of Commons.'

XII. At last came in the last Charge of this Day, That a Cardinal's Hat was offer'd unto me. My Diary quoted for this, at *Aug.* 4. & 21. 1633. I could hinder no Offer, unless I could prophesy what each Man came about, and so shun them. But why is not my Answer, there set down, expressed too? My Answer was, *That somewhat dwelt in me, which would not suffer me to accept that, till* Rome *were other than now it is.* Besides, I went presently to his Majesty, and acquainted him with it; which is all that *the Law requires at my hands. And his Majesty very prudently and religiously (yet in a calm way, the Persons offering it, having relation to some Ambassador) freed me speedily of that, both Trouble and Danger. They urged farther out of the Papers of *Andreas ab Habernfield* (which Mr. *Pryn* took from me in his Search) That Signior *Con* had power to offer me a Cardinal's Hat. The words which they cite, are (for I could never get sight of those Papers since) *Mandatum habuit offerre, sed non obtulit.* What Power he had to make me such an Offer, I know not; but themselves confess he did not offer it. Nor had I ever any Speech with him during all the time he staid here. I was sollicited as much by honourable Friends to give him admittance to me at *Lambeth*, with Assurance he should speak nothing about Religion, as ever I had about any thing in my Life. I still refused, and could not persuade my self to do other; and yet could not but inwardly (*in Verbo Sacerdotis*, this is true) condemn my self of gross Incivility for refusing; for which yet now I see I am much bound to God for that Unmannerliness. Had I held a Correspondence with him, though never so innocent, where had I now been? Besides, I would not have it forgotten, that if to offer a Cardinal's Hat, or any like thing, shall be a sufficient Cause to make a Man guilty of Treason, it shall be in the power of any *Romanist* to make any *English* Bishop a Traytor when he pleases: a Mischief not to be indured. And thus this long and tedious Day ended; and I had order to attend again on *July* 24. which I did accordingly.

*Sir Ed. Coke, L. 3. Instit. c. 3.

The Nineteenth Day of my Hearing.

I. MOnday, *July* 24. 1644. This Day they went on with the same Article: And the first Charge was, my denying the Pope to be Antichrist. The Proofs, the Alteration of the Clause in the Letters Patents for the *Palatinate*, and the Letters between Bishop *Hall* and me. These Proofs are answer'd before, and repeated here only to make a noise. Nor did I in any of these deny the Pope to be Antichrist: For, to forbear that word, for some both Temporal and Ecclesiastical Respects, is one thing; and to deny the Thing it self, is another.

II. The second consists of a great many Particulars, and most of them urged before, repeated only to help to make the Ignorant clamorous and wild against me. God forgive them this Practice.

1. The first Particular was *Shelford*'s Book: *The whole Book.* And Mr. *Pryn* very gravely said, That this Book and the other two following, were found in my Study. Is he not yet ashamed of this Argument? May I have no Book in my Study, but I must be of the same Judgment with the Author in all things? The Author is altogether unknown to me; the Book was licensed at *Cambridge*: so nothing faulty in me, but the having of the Book in my Study.

2. The second was Dr. *Heylin*'s Book against Mr. *Burton.* This Book was printed by my Command (they say) and in it is a Passage for Absolute Obedience to Kings, *p.* 229. This was before also. And I did command the printing of the Book, but gave no Warrant to put any thing unjustifiable into it. This Passage I caused to be read to the Lords; and the Doctor there says no more than what he learned of King *James* in the Conference at *Hampton-Court.* But if any thing be amiss, he is ready to answer it: But I find not one word in him, that this Absolute Obedience ought to be in any thing that is against Law. 'That's 'one of Mr. *Nicolas*'s Stretches.'

Heylin cont. Burton. *p.* 229.

3. The third Particular is Bishop *Mountague*'s Appeal, *p.* 141. But nothing hence charged upon me, but only, that the Book was found in my Study. I would Mr. *Pryn* could find any Books there now.

4. The fourth was, That divers Books of like nature were licensed by my Chaplains. But none was of all they then named, but Dr. *Heylin*'s and *Sales*, of which your Lordships have heard the Plot how it came to be licensed. And for Dr. *Heylin*, he is ready to make all good, which he hath therein done.

5. The fifth Particular is, That the Homilies which are authorized in the Church of *England*, make the Pope Antichrist, *p.* 216. And the *Babylonish* Beast of *Rome*, p. 316. But, First, this is nothing against me, till it be proved, (which yet is not done) That I have positively denied the Pope to be Antichrist. And, Secondly, I do not conceive, that the Article of the Church of *England*, which confirms the Homilies, doth also confirm every Phrase that is in them. Nor, Thirdly, do I conceive, that the Homilies in those Places which are cited, do make the Pope the great Antichrist. For, in the first place, the Words are, *to the beating down of Sin, Death, the Pope, the Devil, and all the Kingdom of Antichrist*: Which Words cannot possibly imply, that the Pope is that Antichrist. In the second place, he is only called the *Babylonical Beast of* Rome; which Phrase doth not necessarily signify *the great Antichrist.* For the *Beast* so often mentioned in the *Revelation* (Chap. 11. 7.) is no where called *the Babylonical Beast of* Rome. And if that Beast do stand for the great Antichrist, (I say *If*, because those Scriptures are very dark) then † the Beast is primarily the *Roman* Empire in the Judgment of the *Geneva Noters*. 'And

Art. 35. Eccl. Angl.

† Annot. in Apoc. 17. 8.

'that

'that there should be two great *Antichrists*, is more 'than any Man hath yet said. Here Mr. *Nicolas* 'was up again with *Pander to the Whore of* Babylon, 'and his other foul Language; not remembring 'all this while, (which yet I was loth to mind him 'of) that one of his zealous Witnesses against the '*Whore of* Babylon, and all her Superstitions, got 'all his Means (which are great) by being a Pan-'der to other lewd Women; and loved the Busi-'ness it self so well, as that he was (not long since, 'Men say) taken in Bed with one of his Wife's 'Maids. Good Mr. *Nicolas*, do not dispense with 'all Whores, save the Whore of *Babylon*.'

6. The sixth Particular was the Articles of *Ireland*, which call the Pope the *Man of Sin*. But the Articles of *Ireland* bind neither this Church, nor me. And some learned Protestants do not understand that noted place of the Apostle, 2 *Thess.* 2. as meant of Antichrist or the Pope.

7. The seventh and last Particular is a Repetition of *Sancta Clara* and Mr. *St. Giles*, and the *Letter of News*, (which were News indeed) to make them one Man; though this were answered at large but the last Day: and Sir *Ed. Hungerford*'s Testimony brought up again. It's a sign Mr. *Nicolas* hath indeed no downright Proof, (as he said before) that so tumbles up and down in repeating the same Things.

III. The third Charge is, That I say in my [a] Book that the Religion of the Church of *Rome* and ours is all one. This is spoken only in opposition to other Religions, in regard of Christianity. The Words are, *Nor do the Church of* Rome *and the Protestants set up a different Religion; for the Christian Religion is the same to both*, &c. And the like Passage to this is in my [b] Speech in the Star-Chamber. And these Passages were read to the Lords. So that either Papists must be denied to be Christians, or else this Charge can work nothing against me.

[a] *My Book cont.* Fisher, *p.* 376.

[b] *Pag.* 36.

IV. The fourth Charge is out of *Chounens*'s Book, *p.* 45, & 46. licensed by my Chaplain Dr. *Brave*; where (they say) 'tis said, *That* Rome *is a true Church, and differs not in Fundamentals*. And that at the High-Commission, when this Book was question'd by some, I did say, *That the Church of* Rome *and the Protestants did not differ in Fundamentals, but in Circumstances*. And this latter part was testified by Mr. *Burton* and one Mr. *Lane*, who said they were present. First, Suppose this be false, and that they do differ in Fundamentals; yet this then is but my Error in Divinity, no Practice to overthrow Religion. Secondly, I suppose, if I did so say, I did not err: For the Foundation of Christian Religion are the Articles of the Creed; and the Church of *Rome* denies no one of them. Therefore there is no Difference in the Fundamentals. If they of *Rome* differ in Exposition of some of these, that must needs be a Superstructure upon or beside the Article, not the Article or Foundation it self. Nor did I follow my own Judgment herein, but (*a*) *Calvin*'s; who says expressly, *That in despight of Antichrist, the Foundations of the Church remain'd in the Papacy it self, that the Church might not wholly perish*. And this Passage was then read to the Lords. Thirdly, These two learned Witnesses (as they would be reputed) are quite mistaken in their very Terms: For they report me, as if I said, *Not in Fundamentals, but in Circumstantials*; whereas these are not *Membra opposita*, [c] but Fundamentals and Superstructures, which may sway quite beside the Foundation. And this, though not the only, yet is a main Failing in the *Roman* Fabrick; in which many Things are built upon unwarrantable Tradition, as is expressed in my [d] Book at large, and their many Superstitions named: and that Passage read also to the Lords. For though they differ not in the prime Foundations, [e] yet they in many things grate close upon them, and in some things fall beside them, to no small hazard of their own Souls. As for Circumstantials, it seems these Men have forgotten, or never knew, that many times Circumstantials in Religion do quite destroy the Foundation. For Example: The Circumstances are these; *Quis? Quid? Ubi? Quibus Auxiliis? Quomodo? Quando?*

[c] *Cont.* Fisher, §. 3. *p.* 14.

[d] *Cont.* Fisher, *p.* 377.

[e] *Cont.* Fisher, §. 37. *nu.* 6. *p.* 320.

1. *Quid?* What a Man believes; and that contains Fundamentals, and in the first place,

2. *Ubi?* Place, a mere Circumstance; yet to deny that Christ took our Flesh of the Blessed Virgin, and that in *Judea*, denies the Foundation, and is flat Judaism.

3. *Quibus Auxiliis?* By what Helps a Man believes, and in some measure obeys as he is commanded? For to believe that a Man doth this by the Strength of Nature only, and not by Aid and Assistance of Grace, is with the *Pelagian* to deny the Foundation, and to overthrow the Grace of Christ.

4. *Quando?* When? That's Time, a mere Circumstance: Yet to deny that Christ is already come in the Flesh, denies the Foundation utterly, and is flat Judaism, and an inseparable Badge of the great Antichrist, 1 *John* 4. 3. And in the case of the Resurrection, to say 'tis past already, (which is Time) St. *Paul* tells us, 2 *Tim.* 2. 18. is no less than *the Overthrow of Faith*. And the Rule is general, That some [f] Circumstances, *dant Speciem*, give the very Kind and Form to a moral Action. 'This for 'their Ignorance: But for the Ma-'lice of their Oath, I leave them to 'God's Mercy. Here Mr. *Brown*, 'when he summed up the Evidence 'against me, fell upon this; and said, 'That when I gave divers Instances what dange-'rous Errors Circumstances did sometimes breed 'in Religion, I gave no Instance in any Point of 'Popery. But to this I answered, First, That it was 'not material what Instances I made, so I was able 'to make some. Secondly, That it was not pos-'sible for me, or perhaps a readier Man, to have 'all Instances so present with his Memory. Thirdly, 'If an Instance in Popery, rank Popery, will serve 'the turn, you may take it in Transubstantiation. 'That is either a Fundamental Point, or it is 'not; If it be not fundamental, why did the 'Papist put the Protestant to death for it? And 'why did the Protestant suffer death? If it be 'fundamental, (as it seems by both sides it was 'accounted) it is upon the bare Circumstance

[f] Aliqua Circumstantia dat speciem Actui morali. *Tho.* 1. *secundæ, q.* 73. *A.* 7. *ad primum.*

(*a*) Quemadmodum sæpe diruuntur ædificia, ut fundamenta & ruinæ maneant; ita non passus est Ecclesiam suam ab Antichristo vel à fundamento subverti, vel solo æquari, &c. sed ab ipsâ quaque vastatione semirutum ædificium superesse voluit. *Calv. L.* 4. *Inst. c.* 2. §. 11.

'of

'of *Quomodo*, how Chriſt is preſent in the Sacra-
'ment.'

As for that which was ſaid in the Beginning of this Charge, *That* Rome *is a True Church*: I ever did, and ever muſt grant it, that ſuch it is, *Veritate Entis*, in the Truth of its Entity and Being. For, as I have ſaid againſt [a] *Fiſher*, *Ens & Verum*, *Being* and *True* are convertible one with another. And every Thing that hath a Being, is truly that Being which it is in Truth of Subſtance. But a Right or an Orthodox Church I never ſaid it was, either in Doctrine or Manners. As a Thief is a true Man in Verity of his Eſſence, that is, he is a Creature indued with Reaſon: But it doth not therefore follow and that he is a true Man, *Veritate Moris*, in his Life and Converſation. 'And this I anſwered firſt to the 'Lords, and after to Mr. *Brown*'s ſummary Charge; 'who in his laſt Reply ſaid two Things: Firſt, 'That when I ſaid *Rome* was a True Church, I 'ſpake it generally, without this Diſtinction. But 'this is quite beyond the Proof; for no Witneſs 'ſays ſo. Beſides, it is manifeſt by Diſtinction of 'Fundamentals from other Doctrines (acknow-'ledged by both the Witneſſes) that I did not 'ſpeak it abſolutely, but plain enough to any or-'dinary Underſtanding. Secondly, (which I was 'very ſorry to hear from ſo grave a Man) he add-'ed, That there was no Truth of a Church, but 'in the Verity of Doctrine and Manners; and that '*in Veritate Entis*, a Company of *Turks* were a 'True Church. Now God be merciful to us, whi-'ther are we poſting? 'Tis known that the *Greek* 'Word Ἐκκλησία, which ſignifies *Church*, ſignifies 'alſo in Heathen Authors any kind of *Company* or '*Congregation* of Men, *Turks* if you will. But in 'Eccleſiaſtical Writers, and among of Chriſtians, 'the Word *Church* is uſed only (and all Ἐκκλησία 'too) for a Company of Men which profeſs the 'Faith of Chriſt, and are baptized into his Name. 'And will any Man ſay that a Company of *Turks* 'are ſuch a Church *in Veritate Entis*, in the Verity 'of this Being, as all the World knows Papiſts 'are? Or if he will not ſpeak *de Ente tali*, but 'change the *Suppoſitum*, he may ſay what he 'pleaſe. But I was very much troubled to hear 'this, and from him.' I had almoſt forgot that Mr. *Nicolas* here preſſed the Authority of the [b] *Homilies* upon me again; where 'tis ſaid, *That the Biſhop of* Rome *and their Adherents are not the true Church.* But the Anſwer is eaſy: For I ſay as the *Homily* doth, and as it means too in that place; namely, That the Church of *Rome* is not the True, that is, not the Catholick Church, nor the Head thereof. But there is a great deal of Difference between *the Church* and *a Church*: The one is the General, the other a Particular. *The Church* it cannot be: *A Church* it is; and a true one too, in the Senſe before ſpecified. Upon occaſion of this, Mr. *Nicolas*'s Mouth was open again, and ſaid, That at the beginning I reckon'd up ſome that I had converted; but if this were my Opinion, and that if this might ſtand for good, I might convert the Devil and all. My Ears had been ſo beaten with his Language, that I was patient, and left him to inſult. And to help on this Buſineſs, while he was in theſe loud Expreſſions, the Earl of *Pembroke* came to Mr. *Burton* to the Bar, and in my hearing deſired him to repeat the Teſtimony he had given; which Mr. *Burton* did, and his Lordſhip ſeemed to be much pleaſed with it. Not long before, when the News was come hot to the Houſe that *York* was taken, when I came at Five in the Afternoon to make my Anſwer, I was no ſooner come to the Bar, but the ſame Lord came and ſat juſt before me, and there with much Joy told Mr. Lieutenant the News. I preſume he did it in favour to me, becauſe he thought it would put me in very good Heart, being then inſtantly to begin to make my Anſwer. God forgive this Lord; for I have deſerved in my time far better of him, if he underſtood himſelf, or any Man elſe.

[a] §. 20. *p.* 128.

[b] *Hom. Par.* 2. *p.* 213.

The next Charge was out of Dr. *Pocklinton*'s *Altare Chriſtianum*, *p.* 49, 50. where he ſpeaks (they ſay, for I now have not his Book) of a Happineſs that the Biſhops of *England* can derive their Succeſſion from St. *Peter*; which, in great Scorn, Mr. *Nicolas* called the *Archbiſhop's Pedegree.* Firſt, If there be any Crime in this, Dr. *Pocklinton* is to anſwer it, not I. Secondly, He may ſcorn what he will; but wiſe Men know 'tis a great Honour to the Church of *England*, and a great Stopple in the Mouths of the *Romaniſts*, that her Biſhops can derive their Calling ſucceſſively from St. *Peter*; eſpecially conſidering how much they ſtand upon perſonal Succeſſion. Thirdly, Dr. *Pocklinton* in this ſays no more for me and the Biſhops, than (*a*) St. *Auguſtin* urged for himſelf and his Brethren againſt the *Donatiſts* in the ſame Words, ſave that St. *Auguſtin* begins at St. *Peter*, and deſcends to his own Time; and the Doctor begins at his own Time, and aſcends to St. *Peter*. 'But it ſeems, an upſtart Clergy, 'without a Calling, will ſerve Mr. *Nicolas* well 'enough.'

VI. The ſixth Charge was, That Books were written of purpoſe to maintain theſe Opinions; and ſuch Men as writ them only preferred. He named Mr. *Shelford*, Mr. *Butterfield*, Dr. *Coſens*, and Dr. *Pocklinton*. This hath been clamoured upon already: If any have ſet out unworthy Books, they may be called to account for it; I hope I ſhall not anſwer for all the Divines in the Kingdom. 'They 'whom I preferred were worthy and able Men, 'and it will not be in the power of Mr. *White*'s 'Centuries, to blaſt a Man of them among any 'that know them.' For theſe that are named, Mr. *Shelford* I know not, Mr. *Butterfield* I ſaw puniſhed in the High-Commiſſion; neither of them preferred, that I know. 'The two laſt, by whom-'ſoever they were preferred, deſerved all the Pre-'ferment they had, and more.'

VII. The ſeventh Charge is out of my Diary at *June* 15. 1632. where 'tis ſaid, That *I preferred Mr. Secretary* Windebank, *my old Friend.* And here Mr. *Nicolas* laid all the Correſpondency open, which (he ſaid) that Gentleman had with the Pope's Agents, with Prieſts and Jeſuits: And when he had made him this way as foul as he could, then I muſt be guilty of all, for preferring ſuch a Man to the King. This Gentleman was indeed my antient Friend: In my many Years Acquaintance with him, I ſaw nothing in him but Honeſty and Worth. If when he was preferred, he deceived my Opinion, he is living to anſwer for himſelf. Many in all Ages have been preferred to Princes, which do not anſwer the Hopes and Deſires of them which prefer them; and yet they not made anſwerable for

(*a*) Petro ſucceſſit Linus, Lino Clemens, &c. Et ſic uſque ad Anaſtaſium, qui nunc ſedet. Et in hoc ordine ſucceſſionis nullus Donatiſta Epiſcopus invenitur. *S. Aug. Epiſt.* 165.

them neither. But whether he did fail in any publick Truſt, or no, I am not his Judge. Yea, but ſome Letters were found from his Son *Thomas*, what Entertainment he had in foreign Parts for his Father's ſake. But theſe Letters were read to the Lords, and there is not one Word in them that relates to me: And 'tis both likely and fit the Son of a Secretary of State ſhould be worthily uſed in his Travels. Yea, but his Son *Chriſtopher* was at *Rome*, and ſent thither to inſinuate himſelf with the Pope: So *Andreas ab Habernfeld* writes in the Papers which Sir *William Boſwell* ſent over to me. If he did ſend his Son to that end; then I diſcovered his Plot; for I cauſed thoſe Papers to be examined by the King and the Lords, as is before related. Beſides, in my poor Judgment the Pope muſt be a very ſimple Man, ('it may be Mr. *Nicolas* thinks 'him ſo, compared with himſelf') that a Youth of ſeventeen at the moſt, ſhould inſinuate himſelf to fiſh any thing out of him for his Father's Service. Laſtly, He preſſed, That my Intereſt continued with Mr. Secretary in all theſe Courſes of his. 'Tis well known in Court the old Intereſt did not continue between us: But for old Friendſhip's ſake I will not be drawn to ſay more. As for his releaſing of any Prieſts, he muſt give an account of that himſelf. But for my ſelf, I was ſo careful in this Particular, that I never put my Hand, tho publick at Council-Table or Star-Chamber, to any Releaſe in all my time. I might be named, as preſent when ſuch Releaſe was made, (which I could not avoid;) but act in any I did not. Nay, I was ſo careful, that I refuſed to ſet my Hand to any Licence to travel, leſt, if any young Man ſhould be perverted abroad in his Travels, any thing might be imputed to me. And this all the Clerks of the Council can witneſs. 'But I ſee 'no Warineſs, no Care, can prevent the Envy and 'the Malice of the Many and the Mighty.'

Qui ſe inſinuaret cum Papâ.

VIII. The eighth Charge was my Correſpondence with Popiſh Prieſts. And for Proof of this, they produced divers Witneſſes.

1. The firſt Witneſs was one *Wadſworth*, one of the common Meſſengers uſed to attach ſuch Perſons. He ſays, That *Smith, alias Fludd*, bragged to him that he had Acquaintance with me. Here's nothing but a bragging Report of *Smith*; who, what he is, I know not. So here's no Proof. He ſays, That four Pound was ſent to himſelf, to free him out of Priſon; and that *Davis* told him it came from me. This is but a Hearſay from *Davis*, as the former was from *Smith*. But ſay, my Lords, if I did ſend him four Pound to free him out of Priſon, doth he not now very thankfully reward me for it? The truth is, my Lords, I did ſend him four Pound: And the Motive that made me ſend it, was becauſe I heard he was a Convert from Popery to be a Proteſtant, and that his Impriſonment was as much for that as for any thing elſe. And this was atteſted to the Lords by my Servant Mr. *Snath*, who was one of them that moved me for him.

2. The ſecond Witneſs was *Francis Newton*, another Meſſenger. He ſays, That when he had taken *Henry Mors*, a Prieſt, he ſhould have been carried to a private Committee; that he diſliked it, and complained to Mr. *Secretary Cook*, who (he ſays) ſent him to me; and that when he came to *Lambeth*, Mr. *Dell* told him I was in my Garden with Sir *Toby Matthew*. My Servant Mr. *Dell* being appointed my Sollicitor, was now preſent in Court, and denied all this. And well he might; for Sir *Toby* was never in my Garden with me in all his Life. And if Mr. *Dell* told him that I would not meddle in the Buſineſs, (as he ſays he did) Mr. *Dell* muſt give the account for it, not I. Yet if there were a Reference of this *Mors* to a private Committee, the hindring of that was more proper to Mr. Secretary than to me. Howſoever, here was no hurt done: For he confeſſes that *Mors* was ſent back to *Newgate*. And if (as he farther ſays) he was diſcharged by Mr. Secretary *Windebank*, that is nothing to me. He ſays, He was informed by *Stukely*, that *Smith, alias Fludd*, was acquainted with me. But if he were but informed ſo himſelf, that's no Proof to inform your Lordſhips. He ſays, That *Brown* a Prieſt was diſmiſſed out of the High-Commiſſion. Thus it was: He was called in thither for very foul Uncleanneſs. In Proceſs of this Buſineſs, he there openly confeſſed himſelf a Prieſt. Hereupon that Court ſent him to *Newgate*. 'What 'became of him after, I know not, ſave that I 'know he was ſtrictly examined by Mr. *Pym* and 'others concerning me.' This *Newton*, upon what Grudge I know not, calls me Rogue, and all to naught, in all Companies; and with ſo much I acquainted the Lords.

3. The third Witneſs was *Tho. Mayo*, a Meſſenger alſo. He ſays, That Sir *Toby Matthew* was accounted a Prieſt when he was in Parts beyond the Seas; and that he ſaw him in Coach with me, and that he went over with me in my Barge. Firſt, I gave in two Exceptions againſt this Witneſs. One, that he was a Man of no Conſcience; for he had ſhifted his Religion from Proteſtant to Papiſt, and back again three or four times: Which was a Thing known. The other was, That he kept a Brothel-Houſe at this preſent; and that his Fellow *Wadſworth* knew this, and called him pimping Knave, ſaying he kept a Brace of Wenches at this time in his Houſe. And theſe Words he ſpake of him but the Fifth of this preſent *July*, in the *Bull*-Tavern in the *Palace-Yard*. So I thought him no fit Witneſs. But he was heard for all this. 'And afterwards '*Wadſworth* meeting my Servant Mr. *Snath*, he told 'him that he did ſay ſo to *Mayo*, and wonder'd how 'I ſhould come to hear it.' Being admitted, and ſaying as he did, I told the Lords that he began with a very bold Oath, and like a Shifter of his Religion: For I had four Servants there, three of which uſually attended me when I went and returned from Court, Mr. *Dell*, Mr. *Snath*, Mr. *Goodwin*, and Mr. *Dobſon*, and they all atteſted the contrary; and I never went, but one of theſe, at leaſt, was with me. Beſides, he is ſingle in this Teſtimony. He ſays, That he ſaw Sir *Toby* ſeveral times in my Houſe. But he confeſſes withal, that he never ſaw him near me. For my own part, I cannot ſay that ever he was within my Doors. But if he, or others of his Quality, do come to pry out any thing in my Houſe, how is it poſſible for me to hinder it? My Porter could not ſee it written in their Foreheads, who they were. He ſays, That one *Price* was often ſeen at my Houſe. But he doth not ſay he was ſeen with me, or there with my Knowledge. He ſays, That one *Leander* was reported to have been my Chamber-Fellow in *Oxford*. Firſt, This is but a Report, and ſo no Evidence. Secondly, If he were my Chamber-Fellow in *Oxford* when we were Boys together, I am ſure he was then no Prieſt; and he was but a Boy when he left the College. He confeſſes that I gave Order to obſerve who and how many reſorted to Ambaſſadors Houſes, and Signior *Con*'s, and ſays he thought I could prove it. But I believe he would

would never have confeſſed it, but that he knew I could prove it. And thereupon I ſhewed the Lords many Papers certifying me what Numbers were found reſorting to each place reſpectively; and *Thomas Mayo*'s Hand to many of thoſe Papers. He ſays, he took one *Peter Wilford* and brought him to me to *Whitehall*; while Sir *John Lambe* was with me. But he confeſſes withal, that *Wilford* then ſhewed Mr. Secretary *Windebank*'s Warrant to diſcharge him: And then what could I do to him? Nay, I have ſome cauſe to think he would never have apprehended him, had he not known he had that Warrant. Laſtly, he ſays, That once at the Star-Chamber I told him he was too quick and nimble for me. And I hope it is no Treaſon, if I did ſay ſo. Nor could I mean he was too quick in apprehending Prieſts, for I found both him and his Fellows, after *Croſſe*'s death, ſlow enough at that: But if I ſaid ſo, it was becauſe I could not tell how to truſt his Shifting and his Wilineſs.

4. The fourth Witneſs was *Elizabeth Graye*, Wife to another Meſſenger. And this is a very fine Witneſs. For firſt, ſhe ſays, her Husband was committed by my means. And then with a Breath ſhe ſays, She doth not know by whom he was committed, but ſhe thinks by Secretary *Windebank* and me. But ſince ſhe doth not know, but think only; I hope her thinking can be no Evidence. She ſays, That ſhe delivered me a Petition, and that I flung it away, ſaying, *I would not meddle with any Prieſt-catching Knave.* The Witneſs ſingle, and I doubt doating, and the Words far from Treaſon.

5. The fifth Witneſs was *John Cooke*, a Meſſenger too, and one that for his Miſdemeanour had ſtood in the Pillory. This I urged againſt him, as unfit to witneſs againſt me: 'My Witneſs that 'ſaw him in the Pillory, was ſo threatned, that 'he ſent me word he durſt not come. I may not 'ſay from whom this Threatning came.' But the thing was ſo true, that *Cooke* himſelf confeſſed it, but excuſed the Cauſe; and his Teſtimony received. He told how *Fiſher* the Jeſuit was taken by *Graye*; That when he was brought to the Council-Table, Secretary *Cook* and I went to the King to know his Pleaſure about him; That we brought back word from his Majeſty to the Lords, that he ſhould be baniſhed. All this while here's no hurt done. Then he ſays, That notwithſtanding this Order of his Majeſty, *Graye* and he met *Fiſher* at liberty, by a Warrant from Secretary *Windebank:* That hereupon *Graye* repaired to Secretary *Cook*, and to me, and that *Dell* told him I would not meddle with it. My Secretary muſt anſwer this, I remember it not. But if Mr. *Dell* received any ſuch Anſwer from me, That I would not meddle with it; there were two apparent Reaſons for it: One, that I would not meddle with it alone, his Majeſty's Order being to all the Lords: The other, that *Fiſher* was the Man I had written againſt, and Men would have been apt to ſay, that when I could not anſwer, I ſought means to deſtroy. So I no way fit (alone at leaſt) to meddle with him of all Men. He ſays, That *Graye* was committed to the *Fleet*, for railing on me in my own Houſe. Yet he confeſſes, that he was not committed by me. And I preſume your Lordſhips will think there was Cauſe of his Commitment, if he did rail upon me. And 'tis confeſſed by Mr. *Pryn*, (tho he had then received no Anſwer from myſelf) That he ſaid he ſaw now how the Game went, and hoped e'er long to ſee better Days, *&c.* He ſays, That *Smith*, alias *Fludd*, deſired Sir *Kenelm Digby*, as he was going to *Lambeth*, to tell me that he could not dine with me that day, but deſired his Buſineſs might be remembred. No ſuch Man ever dined at my Table, to my knowledge. And if any Prieſt would ſay ſo to Sir *Kenelm*, how could I poſſibly hinder it? And Sir *Kenelm*, when this *Cooke* was examined, was a Priſoner in *Wincheſter-Houſe*; why was not he examined to ſift out this Truth, if Truth be in it?

The Pop. Roy. Favourit. p. 31.

6. The ſixth Witneſs was *John Threſher*, a Meſſenger too: He ſays, that he took *Murs* and *Goodwin*, two Prieſts; and that Secretary *Windebank* took away his Warrant, and diſmiſſed them, ſaying, he would ſpeak with me about it: And that when he came to me, I was angry with him about the Warrant. Mr. Secretary *Windebank* will, I hope, be able to anſwer for his own Actions. Why he diſmiſſed the Prieſts, I know not; but he had great reaſon to take away his Warrant, and I a greater reaſon to be angry with him for it. For no Warrant can iſſue from the High-Commiſſion Court, but under three of their Hands at leaſt. Now *Threſher* having gotten my Hand to the Warrant, never goes for more Hands, but proceeds in his Office, upon this unwarrantable Warrant. Had not I reaſon to be offended at this? He ſays, That at the ſame time I ſaid that *Graye* was an ill-tongued Fellow, and that if he kept him company, I ſhould not regard him. I had good cauſe to ſay this and more, conſidering how *Graye* had uſed me: and I believe no Archbiſhop would have borne his words. Laſtly, he ſays, That by a Warrant from me he arreſted Sir *Toby Matthew*, and that the Earl of *Strafford* ſtayed him from going to Priſon, ſaying, he ſhould anſwer it before the Lords. Here by the Witneſs himſelf it appears that I did my Duty. And Sir *Toby* did appear before the Lords, as was 'aſſumed he ſhould. In the mean time, I was complained of to the Queen: and a great Lady (who perhaps made the Complaint) ſtood by, and made herſelf merry to hear me chid. The Queen was pleaſed to ſend to the Lords, and Sir *Toby* was releaſed. Where my fault was in all this, I do not yet ſee.

'*aſſured.*

7. The laſt of theſe famous Witneſſes, was *Goldſmith*; who ſays nothing, but that one day before the High-Commiſſion Court began, I forewarned the Meſſengers of that Court of *Graye*, in regard he was openly ſpoke againſt at the Council-Table. Which, all things conſidered, I had great reaſon to do. He ſays likewiſe, That then *Graye*'s Wife tender'd me a Petition, which I rejected, ſaying, *I would meddle with no Prieſt-catching Knaves.* I think his Carriage deſerved no better of me, than to reject his Petition: But as for the Words, I cannot own them; let the *Goldſmith* look to it that he have not forged them. And I would very willingly know, whether when the Apoſtle required, that *an Accuſation ſhould not be received againſt an Elder, but under two or three Witneſſes*, (1 *Tim.* 5. 19.) he had any meaning they ſhould be ſuch as theſe?

Frigidè dictum. W. S. A. C.

IX. The Ninth Charge was about the ordering of Popiſh Books that were ſeized, and the diſpoſing of them. The ſole Witneſs here, is *John Egerton*: he ſays, Theſe Books were delivered to Mr. *Matterſhead*, Regiſter to the High-Commiſſion. And I ſay ſo too; it was the conſtant Courſe of the High-Commiſſion to ſend them thither, and have them kept in that Office, till there was a ſuffi-

ſufficient number of them, and then to burn them. Yea, but he adds, That *Matterſhead* told him they were re-delivered to the Owners. This is but a Report, and *Matterſhead* is dead, who ſhould make it good. 'And though this be but a ſingle Witneſs, and of a dead Man's Report; yet Mr. 'Browne thought fit to ſum it up with the reſt. 'But ſurely if any Books were re-delivered to the 'Owners, it was ſo ordered by the High-Commiſſion, in regard the Books were not found 'dangerous: From me, *Matterſhead* had never any 'ſuch Command.' Laſtly, he ſays, He met Sir *Toby Matthew* twice at *Lambeth*. But he confeſſes, he never ſaw him with me; and then me it cannot concern.

X. The Tenth Charge was concerning the Prieſts in *Newgate*; the Witneſſes are Mr. *Deuxel*, and *Francis Newton*. They both agree, and they ſay, That the Prieſts there had the beſt Chambers, and Liberty to go abroad without Keepers. I hope theſe Men do not mean to make the Archbiſhop of *Canterbury* Keeper of *Newgate*. If any Man gave them this Liberty, he is to be blamed for it, not I, who never knew it till now. Nor do either of theſe Witneſſes ſay, that they called on me for remedy, or ever did ſo much as acquaint me with it. And they ſay this was twelve Years ſince; and I had been Archbiſhop but ſeven Years when I was committed.

XI. The Eleventh Charge was about Words in my Epiſtle Dedicatory before my Book againſt Mr. *Fiſher*. The Words theſe; *For, to my remembrance, I have not given him, or his, ſo much as coarſe Language*. So the Charge is, becauſe I have not given ill Words. And here Mr. *Nicolas* fell foul upon me again for taking ſuch care, that the Whore of *Babylon* may have nothing but good Words, *&c.* But firſt, my Lords, I have always thought, and do ſtill, that ill Language is no Proof againſt an Adverſary: All the good it can do, is, it may bring Scorn upon the Author, and work Hardneſs of Heart in the Adverſary, whom he doth or ſhould labour to convert. And this I learned of two eminent Fathers in the Church, (*a*) *Gregory Nazianzen*, and (*b*) St. *Auguſtine*. The firſt would not uſe it, no not againſt the *Arians*, who (as he ſaith) made open War againſt the Deity of Chriſt. Nor would the other againſt the ſame Adverſaries. The one accounts it Ignorance, though a Faſhion taken up by many; and the other Loſs of Time. And here I deſired the Lords, that I might read what immediately followed this Paſſage, which was granted: And there, as their Lordſhips did, ſo may the Reader ſee, if he pleaſe, that though my Words were not uncivil, yet in the matter I favoured neither him nor his. And to avoid Tediouſneſs, thither I refer the Reader. With this, that ſometimes Men apt enough to accuſe me, can plead for this Moderation in their own Caſes, and tell each other that [1] *Chriſt will not own Bitterneſs in maintaining any way, though conſonant to his Word*. And [2] another *finds juſt fault both with Papiſts and* Martin Mar-Prelate, *for this reproachful Language*. And yet it muſt be a Crime in me not to uſe it.

[1] *In the Antiquaries to Mr.* Pryn, *p.* 12.
[2] Sid. Simpſon's *Anatomiſt, p.* 2, *&* 6.

XII. The laſt Charge was the Commitment of one *Ann Huſſy* to the Sheriff of *London*. The Buſineſs was this. She ſent one *Philip Bambridge* to tell me of I know not what Plot againſt the King, (nor I think ſhe neither.) *Bambridge* came to *Whitehall* toward the Evening, and could make nothing of this dangerous Plot. Yet becauſe it pretended ſo high, I ſent him preſently to Mr. Secretary *Windebank*; I being the next Morning to go out of Town. The Buſineſs was called to the Council-Table. When I came back, I was preſent there. *Bambridge* produced *Ann Huſſy*, but ſhe could make nothing appear. She ſays, I thought ſhe was out of her Wits. Not ſo, my Lords; but I did not think ſhe was well in them; nor do I yet. And whereas ſhe complains of her Impriſonment, it was her own deſire ſhe might be committed to the Sheriff; and Mr. *Hearn* (my Counſel here preſent) was aſſigned by the Lords to take her Examination. Therefore if any Particular in this Charge ſtick with your Lordſhips, I humbly deſire Mr. *Hearn* may ſupply my Want of Memory. But it paſſed over, as well it might. Here this Day ended, and I was ordered to attend again *July* 29.

The Twentieth, and the Laſt Day of my Hearing.

MOnday, *July* 29. 1644. This Day I appeared again, and they proceeded upon the Fourteenth Original Article, which follows in theſe words.

XIV. That to preſerve himſelf from being queſtioned for theſe, and other his traitorous Courſes, he hath laboured to ſubvert the Rights of Parliaments, and the antient Courſe of Parliamentary Proceedings, and by falſe and malicious Slanders to incenſe his Majeſty againſt Parliaments. By which Words, Counſels and Actions, he hath traitorouſly, and contrary to his Allegiance, laboured to alienate the Hearts of the King's liege People from his Majeſty, to ſet a Diviſion between them, and to ruin and deſtroy his Majeſty's Kingdoms. For which they do impeach him of High-Treaſon againſt our Sovereign Lord the King, his Crown and Dignity.

I. The Firſt Charge of this Day was prefaced with a Note out of my Diary, at *May* 8. 1626. That *the Duke of* Buckingham *was that day impeached to the Lords by the Houſe of Commons*. And at *May* 25. *The Difference ariſing in the Houſe of Peers about the Earl of* Arundel's *Commitment to the* Tower *without a Cauſe declared*. No uſe made of theſe, but that I then Biſhop of *St. Davids* took notice of theſe things. Then the Charge followed; and the firſt of it was, That I then being of the Lords Houſe, and ſo to be one of the Duke's Judges, made a Speech for him, and corrected his Speech in ſome particulars; and of a Judge made myſelf an Advocate. Which Mr. *Nicolas* ſaid was a great Offence. I ſaw not theſe Papers, and therefore can ſay nothing, what is, or is not under my Hand. But to the thing itſelf, I ſay firſt, That if in that Speech any particular Fault had been found, impeaching any Right or Power of Parliament, that I muſt have anſwered; but none is charged, but only the bare making of one Speech, and the mending of another. And this is a very

See Heylin's *Life of Archbiſhop* Laud, *p.* 152.

(*a*) Non imperitè docemus, nec Adverſarios Contumeliis inceſſimus, ut plerique faciunt, &c. *Greg. Naz. Orat.* 32.

(*b*) Abſtineamus nos à conviciis, ne tempus inaniter impendamus, &c. *Aug. Epiſt.* 177.

poor Argument of any Enmity against Parliaments. Secondly, Seeing no Fault is charged upon me in particular, it was but the Office of a poor Friend to a great one, to whom being so much bound as I was, I could not refuse so much Service, being intreated to it. And Thirdly, I do humbly conceive, that so long as there was nothing done against Law, any Friend may privately assist another in his Difficulties. And I am persuaded, many Friends in either House do what they justly may, when such sad Occasions happen. 'And this 'Answer I gave to Mr. *Brown*, when he summed 'up my Charge in the House of Commons.

'But Mr. *Brown* did not begin with this, but 'with another, here omitted by Mr. *Nicolas*; 'though he had pressed it before in the fifteenth 'Day of my Hearing. Dr. *Potter* writ unto me for 'my Advice in some Passages of a Book writ by 'him, (as I remember against a Book intitled, '*Charity mistaken:*) I did not think it fit to amend 'any thing with my own Pen, but put some few 'things back to his second Thoughts, of which 'this was one; That if he express himself so, he 'will give as much Power to the Parliament in 'Matters of Doctrine, as to the Church. This 'Mr. *Brown* said, took away all Authority from 'Parliaments, in that kind. But, under favour, 'this takes away nor all, nor any that is due unto them. Not all, for my Words are about '*giving so much Power:* Now he that would not 'have so much given to the one, as the other, 'doth not take away all from either: Not any that 'is due to them; for my Words not meddling simply with Parliamentary Power (as appears by 'the Comparative Words *so much*) my Intention 'must needs be to have Dr. *Potter* so to consider 'of his Words, as that, that which is proper to 'the Church, might not be ascribed to Parliaments. 'And this I conceive is plain in the very Letter of the Law. The Words of the

* 1 Eliz. c. 1. '* Statute are, *Or such as shall hereafter be ordered, judged, or determined to 'be Heresy, by the High-Court of Parliament in this 'Realm, with the Assent of the Clergy in their Convocation.* Where 'tis manifest, that the judging and 'determining Part, for the Truth or Falshood of 'the Doctrine, is in the Church. For *the Assent 'of the Church* or Clergy cannot be given but in 'Convocation, and so the Law requires it. Now '*Assent in Convocation* cannot be given, but there 'must precede a Debate, a Judging, a Voting, 'and a Determining. Therefore the *determining 'Power* for the Truth or Falshood of the Doctrine, 'Heresy or no Heresy, is in the Church: But *the 'judging and determining Power* for binding to Obedience, and for Punishment, is in the Parliament, with this Assent of the Clergy. Therefore I humbly conceive the Parliament cannot 'by Law, that is, till this Law be first altered, 'determine the Truth of Doctrine without this 'Assent of the Church in Convocation; and that 'such a Synod and Convocation, as is chosen and 'assembled as the Laws and Customs of this Realm 'require.

'To this Mr. *Brown*, in his Reply upon me in 'the House of Commons, said two Things. The 'one, That this Branch of the Statute of 1 *Eliz.* was 'for Heresy only, and the adjudging of that; but 'meddles not with the Parliament's Power in other 'matters of Religion. If it be for Heresy only, 'that the Church alone shall not so determine 'Heresy, as to bring those grievous Punishments 'which the Law lays upon it, upon the Neck of 'any Subject, without Determination in Parliament; then is the Church in Convocation left 'free also in other matters of Religion, according 'to the first Clause in *Magna Charta*, which establishes the Church in all her Rights. And her 'main and constant Right when that Charter was 'made and confirmed, *was Power of determining in 'matters of Doctrine and Discipline of the Church.* 'And this Right of the Clergy is not bounded or 'limited by any Law, but this Clause of 1 *Eliz.* 'that ever I heard of.

'The other was, That if this were so, that the 'Parliament might not meddle with Religion, but 'with the Assent of the Clergy in Convocation, 'we should have had no Reformation: for the 'Bishops and the Clergy dissented. First, it is not '(as I conceive) to be denied, That the King and 'his High Court of Parliament may make any 'Law what they please, and by their Absolute 'Power may change Religion, *Christianity* into '*Turcism*, if they please, (which God forbid:) And 'the Subjects, whose Consciences cannot obey, must 'fly, or endure the Penalty of the Law. But both 'King and Parliament are *sub graviori Regno*, and 'must answer to God for all such Abuse of Power. 'But beside this Absolute, there is a Limited Power; Limited, I say, by natural Justice and Equity, by which no Man, no Court, can do more, than what he can by right: And according to 'this Power, the Church's Interest must be considered, and that indifferently, as well as the 'Parliament's. To apply this to the Particular of 'the Reformation. The Parliament, in the beginning of Queen *Elizabeth*, would not indure Popish Superstition, and by Absolute 'Power abolished it, 'without any 'Assent of the Clergy in Convocation. And then in her first Year, '*Anno* 1559. she had a Visitation, 'and set out her *Injunctions*, to direct 'and order such of the Clergy as 'could conform their Judgments to the Reformation.

[a] Id possumus, quod jure possumus.

[b] *By the Advice of her Honourable Council.* Prefat. to the Injunctions.

'But then so soon as the Clergy was settled, 'and that a Form of Doctrine was to be agreed 'upon, to shew the difference from the *Roman* Superstition, a Synod was called; and in the Year '1562. the Articles of Religion were agreed upon, and they were determined and confirmed by 'Parliament, with the Assent of the Clergy in 'Convocation, and that by a just and orderly 'Power. Nor is the Absolute Power of King 'and Parliament any way unjust in it self, but 'may many ways be made such, by Misinformation, or otherwise. And this gives the King 'and the Parliament their full Power, and yet preserves this Church in her just Right: Just, and 'acknowledged by some that loved 'her not over-well. For the [c] Lord 'Brooke tells us, That *what a Church 'will take for true Doctrine, lies only in 'that Church.* Nay, the very Heathen 'saw clearly the Justice of this; for '[d] *M. Lucullus* was able to say in *Tully*, 'That *the Priests were Judges of Religion, and the Senate of Law.*'

[c] *Discourse*, §. 1. c. 9. p. 51.

[d] Religionis Judices Pontifices sunt, Legis Senatus. *Cic. L. 4. Epist. ad Att. Ep. 2.*

II. The second Proof is, That I made two Speeches for the King, to be spoken or sent to the Parliament that then was; and that they had some four and ill Passages in them. 'These Speeches were read 'to the Lords; and had I now the Copies, I 'would

'would inſert them here, and make the World 'Judge of them.' Firſt, I might ſhuffle here, and deny the making of them: For no Proof is offer'd, but that they are in my Hand, and that is no neceſſary Proof; for I had then many Papers by me written in my own Hand, which were not my making, tho I tranſcribed them, as not thinking it fit to truſt them in other Hands. But, Secondly, I did make them, and I followed the Inſtructions which were given me, as cloſe as I could, to the very Phraſes; and being commanded to the Service, I hope it ſhall not now be made my Crime that I was truſted by my Sovereign. Thirdly, As I did never endeavour to imbitter the King this way; ſo the ſmart Paſſages which Mr. *Nicolas* ſays are there, I hope will not be thought ſuch, when 'tis conſider'd whoſe Mouth was to utter them, and upon what Occaſion: Yet if ſuch they ſhall be thought, I am heartily ſorry for them, and humbly deſire they may be paſs'd by. Howſoever, they can make no Proof that I am an Enemy to Parliaments. 'And this 'Anſwer I gave Mr. *Brown* in the Houſe of Com-'mons, for he there omitted it not.'

See the Diary *at* March 26, 29. May 11. Anno 1626. H. W.

III. The third Proof that I am an Enemy to Parliaments, is the Teſtimony of one Mr. *Bland*: A forward Witneſs he hath been againſt me in other Particulars. Here he ſays, That Sir *Sackvil Crowe* ſhewed him a Paper, in which were fifteen or ſixteen Paſſages concerning Parliaments, with ſome four Aſperſions to boot; and that this Paper was ſubſcribed *W. Laud.* Firſt, my Lords, this Man is but a ſingle Witneſs. Secondly, He ſays, He had this Paper from Sir *Sackvil Crowe*, and he is now in *Turkey*, and cannot be produced, that the Truth may be known. Thirdly, As I never gave Sir *Sackvil* any ſuch Paper, ſo had he come by any ſuch, 'tis more than probable ſomebody elſe might have ſeen it beſide Mr. *Bland*, to make a ſecond Witneſs. Fourthly, This is a very bold Oath; for he ſwears, the Paper was ſubſcribed with my own Hand, *W. Laud:* Whereas I being then Biſhop of *St. Davids*, never writ my Name to any thing other than *Guil. Meneven.* Let him bethink himſelf of this Oath, *ne quid gravius dicam.* Beſides, it may be conſidered too, that this, with ſome Particulars mentioned by Mr. *Bland*, was charged in the firſt Additional Article, and now brought in upon the fourteenth Original; partly to confound me, that I might not ſee how, or againſt what to defend my ſelf; and partly to make me ſecure, becauſe they had quite paſſed over the firſt Additional: But eſpecially, becauſe they had therein charged me, that theſe Propoſitions of mine had cauſed that Parliament to be diſſolved; and yet in the ſame Article, and within three Lines, 'tis ſaid expreſly, That my Propoſitions were delivered to my Lord Duke of *Buckingham* after that Parliament was diſſolved. 'So this Article hangs as well together as Mr. '*Bland*'s Teſtimony concerning it. Mr. *Brown* 'preſſed this alſo hard againſt me; but I anſwered 'according to the Sum of that which is above-'written.' And as for the Particular ſaid to be in that Paper, (were it mine, as it is not) or were the Words thought treaſonable, (as well they cannot be) yet the Statute of Queen *Mary* makes it, that no Words, nor Writings, nor Cypherings, nor Deeds, ſhall be Treaſon, but only ſuch as are within the Statute of 25 *Edw.* 3. and no other. And this Statute I then read to the Lords, though I conceive there was no need of it.

Art. 1. *Additional.*

1 Mariæ c. 1. §. 3.

IV. The fourth Proof was out of my Diary, at *June* 15. 1626. The Words theſe: *Poſt multas agitationes privata Malitia in Ducem* Buckinhamiæ *ſuperavit & ſuffocavit omnia publica negotia; nihil actum eſt, ſed Parliamentum ſolutum.* And this was applied firſt by Mr. *Nicolas*, and after by Mr. *Brown*, as if I had charged this private Malice upon the Parliament. But this is utterly miſtaken: For I ſpake not this of the Parliament, but of ſome few particular Men, ſome of the Houſe, 'Men well e-'nough known to the World;' and more, not of the Houſe, but Sticklers at large, who went between, and did very ill Offices, and ſo wronged both the King and the Parliament: which is no new thing in *England.* That my Words there cannot be meant of the Parliament, is two ways apparent. Firſt, in that I ſay, *privata Malitia*, private Malice did it; but name not the Parliament, nor charge any thing upon it. Secondly, Becauſe had I ſpoken this of the Parliament, it could not have been called *private*, but *publick Malice*; nothing being more publick in this Kingdom, than what is done in and by the Parliament.

V. The fifth Proof was, That a Proclamation for calling in of the Remonſtrance, was found in my Study: And Mr. *Nicolas* ſaid, They conceived I had a hand in it. It was as lawful for me to have and keep this Proclamation, as for any other Subject. And their Conceit that I had a hand in it, is no Proof. Mr. *Nicolas* ſays, That my Preferments followed very quick upon this; and infers, That I was preferred for my ill Services in this kind. But all the Proof that he brings for this his uncharitable Inference, is the comparing of the Times; and I ſhall be content to be tried by that. For by his own Acknowledgment this Proclamation came out *June* 16. 1622. I being then Biſhop of *St. David's:* And he confeſſes I was not made Biſhop of *Bath* and *Wells* till *June* 20. 1626. full four Years after; nor a Privy-Counſellor till *April* 29. 1627. which was five Years after. Whereas Rewards for ſuch Services are found to come much quicker. 'And Mr. *Brown*, when he made his 'ſummary Charge, ſlighted this, and paſſed it 'over.'

VI. The ſixth Proof of my Enmity to Parliaments, was a Paper of Reaſons, Mr. *Nicolas* ſaid, againſt Parliaments. But, Firſt, when this Paper was ſhewed and read to the Lords, it was found otherwiſe, and was but a Paper of Hopes and Fears, which were conceived of a Parliament: Not Reaſons againſt them. Secondly, Theſe Fears and Hopes were not of a Parliament then in Being, but of one in Deliberation, whether it ſhould be or not at that time; which all Men know is often diſputed, and without offence. And any conſidering Man may privately do it, for his own uſe and tryal of his Judgment. Thirdly, In this Deliberation, I was not the Author of theſe *Fears and Hopes*, but an *Amanuenſis* to higher Powers, in regard their Hands were ſlower; though commanded alſo to ſet down my own Opinion, which I did. Fourthly, I was then either a Counſellor, or a ſworn Servant to the King, and required, upon my Oath, to deliver truly, both my Fears and my Hopes; and I durſt not perjure my ſelf: And I hope the keeping of my Oath, and doing my Duty in that kind, ſhall not now prejudice my Life. Fifthly, Theſe *Fears and Hopes*, whatever they contain, did relate to the being or not being of that one Parliament only, as appears in the very Paper it ſelf;

and the *Hopes* prevailed, and that Parliament ſat. 'And this Anſwer I gave to Mr. *Brown*, who 'made all the uſe of this Paper, that could be, a-'gainſt me.'

Here Mr. *Nicolas* brings in Mr. *Bland* again, who ſays, That the four laſt Heads in this Paper, were in that Paper alſo which was ſhewed him. This ſingle Witneſs hath an excellent Memory, that can remember four Heads of a Paper punctually ſixteen Years ago. I asked why he did not complain of me then, when his Memory was freſher, and his Witneſs Sir *Sackvil Crowe* nearer? 'Twas replied, *He durſt not for my Greatneſs*. Why, but he knows well enough, that Parliaments, when they have a juſt Cauſe of Proceeding, do neither fear nor ſpare any Man's Greatneſs. And is it probable, that they which ſpared not the Duke of *Buckingham*'s Greatneſs, would have feared mine, being then a poor Biſhop of *Bath* and *Wells*? And a Parliament was held again in the very next Year, 1627. ſo that he wanted not opportunity to complain. Nor can I believe any Opinion of my ſuppoſed Greatneſs ſtopped him: Let him look into himſelf.

Then Mr. *Nicolas* told the Lords with great vehemency, what Venom there was in this Paper, which, he ſaid, was in every Particular. A right Spider I ſee now he is, Venom out of any thing.

[*Here is a void ſpace left, I ſuppoſe, with deſign to have the* Paper *(here mentioned) to be inſerted: which was not done.*]

VII. The ſeventh Proof out of my Diary at *March* 1628. where the Words are, *That the Parliament which was diſſolved* March 10. 1628. *ſought my Ruin.* 'This had been a better Argument to 'prove Parliaments an Enemy to me, than me to 'them.' But nothing can be meant by this, but that my Ruin was ſought in that Parliament by ſome particular Men, whoſe Edge was too keen againſt me. And this appears in my Diary at *June* 14. preceding; at which time I was put into a Remonſtrance, which, had I been found any way guilty, muſt needs have ruin'd me. But by God's Bleſſing, the very ſame Day I did clearly acquit my ſelf in open Parliament, of all the Aſperſions caſt upon me about Dr. *Manwaring*'s Sermons. 'This Particular Mr. *Brown* charged upon 'me, and I anſwer'd as before: But Mr. *Nicolas* 'did not touch upon it this Day.'

VIII. The eighth Proof that I was an Enemy to Parliaments, was taken from ſome Marginal Notes, which I had made upon a printed Speech of Sir *Benjamin Rudyard*, which he ſpake in the Parliament held *Anno* 1627. Mr. *Nicolas* named four; but Mr. *Brown*, in ſumming up my Charge, inſiſted only upon two. The Word *Reducing*; and the *Aim of gaining from the King*. Sir *Benjamin Rudyard* is my old Acquaintance, and a very worthy Member of that Houſe, both now and then. But be a Man never ſo worthy, may he not uſe ſome Phraſe amiſs? Or if he do, may not I or another obſerve, yea, check at it, but by and by I muſt be an Enemy to Parliaments? Is there any Argument in this; I ſaid a *Gentleman* in the Houſe of Commons uſed an ill Phraſe in a Speech of his in that Houſe, therefore I am an Enemy to the Parliament in which he ſpake it? Say I am miſtaken, and not he, and that the Phraſe is without Exception; yet this is but my Error in Judgment, no Proof of Enmity, either to the Parliament, or him that ſpake it. That which I ſaid was this: Firſt, That *the Word* Reducing, *as there placed, was a hard Phraſe*. Let any Man view that Speech conſiderately, and tell me whether it be not ſo. Secondly, That *I diſliked the Word* Gaining, *being between the King and his People in Parliament*. For (as I humbly conceive) there will always be Work enough for both to join for the publick Good; and well it can never be, if they which ſhould ſo join, do labour only to gain one from another. For if the King ſhall labour to *gain* upon the Liberty or Property of the Subject, or the Subjects in Parliament labour to *gain* from the juſt Power and Prerogative of the King; can any prudent Man think the Publick can thrive there-while? Yea, but they ſay, That my Marginal Note upon this Phraſe was, That this *Gaining* was the Aim of the lower Houſe. If my Note be ſo, yet that cannot be otherwiſe underſtood, than that according to this Expreſſion, this muſt be their *Aim*. 'And the 'Reaſon why I found fault with the Phraſe was, 'becauſe I ſaw this muſt follow out of it. So, 'under favour, I was not ſo bold with this Gentle-'man, as he was with the Houſe in uſing this 'Speech.'

IX. The next Proof was, That I found fault with eight Bills that were then in the Houſe. This is a very poor Proof of my Enmity to Parliaments, that I diſliked ſome Bills propoſed in them; though there be no Proof of this urged at all, ſave only that I writ the time, *May* 27. 1628. upon the Paper where the Bills were mentioned. And I hope, to mention the time when any Bills were propoſed, is not to diſlike the Bills. But ſay I did diſlike them, what then? It is lawful for any Member of the Houſe (and ſuch was I then) to take Exceptions, which he thinks are juſt, againſt any Bill before it paſs. And ſhall not that which is lawful for any Man to do, be lawful for me? Beſide, almoſt all Bills are put in by private Perſons: The Houſe is not intereſted in them, till they are paſſed and voted by them: So that till then any Man may ſpend his Judgment upon the Bill, without any Wrong at all to the Parliament. 'Mr. *Brown* ſaw this well enough, and therefore 'vouchſafed not ſo much as to name it.'

X. The tenth Proof was, That I made an Anſwer to the Remonſtrance ſet out by Parliament, *Anno* 1628. This was preſſed before, and here 'tis laid hold of on all hands, to make as full a Cry as it can againſt me. 'Mr. *Nicolas* preſſes it here aloud (as 'he doth all things) and Mr. *Brown* lays it cloſe 'in ſumming up the Charge.' My Anſwer the ſame to both. 1. They charge me, That I made that Anſwer to the Remonſtrance which came forth *Anno* 1628. I did this by the King's Command, and upon ſuch Inſtructions as were given me. And as I obeyed the Command, ſo did I cloſely purſue my Inſtructions; and I durſt do no other, for I was then upon my Oath as a ſworn Counſellor, and ſo employed in that Service. And I hope no Man will conceive, that I would, without ſuch a Command, have undertaken ſuch a kind of Service. 2. Yea, but they ſay, It doth not appear that I had any ſuch Command. Yes, that appears as plainly as that I made it. For they bring no Proof that I made it, but becauſe the Indorſement upon that Paper is in my Hand, and calls it my Anſwer: And the ſame Indorſement ſays, I made it by his Majeſty's Command. So either the Indorſement is no ſufficient Proof for the one, or if it be, 'tis ſufficient for both; and muſt needs witneſs the one for me with the ſame Strength that it doth the other againſt me. For a kind of Confeſſion that

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Indorſement is, and muſt therefore not be broken, but be taken with all its Qualities. 3. Thirdly, They ſay there are ſome ſour and bitter Paſſages in the Anſwer. 'Tis more than I perceived, if it be ſo. Nor was any Sourneſs intended. And I hope no ſuch Paſſages found in it, the Perſon conſidered in whoſe Name the Anſwer was made. The Expreſſions indeed might have been too big for a Subject's Mouth. 4. Fourthly, They ſay I was diſpleaſed that this Anſwer was not printed; but all the Proof they brought for it is, That it is written upon the Paper, that there was an Intention to print it, but that I know not what hinder'd it. 'But this Argument can never conclude: 'John a Nokes knows not who hinder'd the print-'ing of a Jewiſh Catechiſm in *England*, therefore 'he was diſpleaſed the Catechiſm was not printed. 'But I ſee every Foot can help trample him that 'is down.' Yea, but they inſtanced in three Particulars, which they charged ſeverally upon me. The firſt Particular was, That by this Remonſtrance they ſought to fill our People's Hearts more than our Ears. A ſecond was, That they ſwelled to that bigneſs, till they brake themſelves. But neither of theſe ſtrike at any Right or Privilege of Parliaments; they only tax ſome Abuſes, which were conceived to be in the Miſcarriage of that one Parliament. And both theſe Particulars were in my Inſtructions. And though I have ever honoured Parliaments, and ever ſhall, yet I cannot think them infallible. General Councils have greater Promiſes than they, yet they may err. 'And when a Parliament, by what ill Accident 'ſoever, comes to err, may not their King tell 'them of it? Or muſt every Paſſage in his An-'ſwer be ſour, that pleaſes not?' And for that Remonſtrance, whither it tended, let the World judge; the Office is too dangerous for me. The third Particular, was the excuſing of *Ireland*, and the Growth of Popery there, of which that Remonſtrance *Ann.* 1628, complained. This was in the Inſtructions too. And I had reaſon to think, the King and his Council underſtood the State of *Ireland*, for Religion and other Affairs, as well as other Men. And I was the more eaſily led into the belief, that Religion was much at one ſtate in *Ireland*, in Queen *Elizabeth*'s and King *James*'s time, and now; becauſe ever ſince I underſtood any thing of thoſe *Iriſh* Affairs, I ſtill heard the ſame Complaints that were now made. For in all theſe times they had their *Romiſh* Hierarchy; ſubmitted to their Government; paid them Tythes; came not to the Proteſtant Churches; and rebelled under *Tyrone*, under pretence of Religion. And I do not conceive they have gone beyond this now. 'If they have, let them anſwer it, who 'have occaſioned it.' But to prove this great new Growth of Popery there, they produced firſt a Proclamation from the State in *Ireland*, dated *April* 1. 1629. Then a Letter of the Biſhop of *Kilmore*'s to myſelf, dated *April* 1. 1630. Thirdly, A Complaint made to the State there, *Ann.* 1633. of this Growth, ſo that I could not but know it. Moſt true; when theſe Informations came, I could not but know it: But look upon their Date, and you ſhall find that all of them came after this Anſwer was made to the Remonſtrance, and therefore could not poſſibly be foreſeen by me, without the Gift of Prophecy. Then they produced a Letter of the Earl of *Strafford*'s, in which he communicated to me, *Mar.* 1633. That to mould the Lower Houſe there, and to rule them the better, he had got them to be choſen of an equal number of Proteſtants and Papiſts. 'And here Mr. *May-'nard*, who preſſed this Point of Religion hard 'upon me, began to fall foul upon this Policy of 'the Earl of *Strafford*, and himſelf yet brake off 'with this, *But he is gone.*' Then he fell upon me as a Man likely to approve thoſe ways, becauſe he deſired the Letter might be communicated to me. This Letter was not written to me, as appears by the Charge itſelf: for if it had, no Man elſe needed to communicate it to me. And I would fain know, how I could help any of this? If that Lord would write any thing to me himſelf, or communicate any thing to another that ſhould acquaint me with it, was it in my power to hinder either of theſe? And there were other Paſſages in this Letter, for which, I conceive, his Lordſhip deſired the Communication of that Letter to me, much more than the Particular urged, which could no way relate unto me. 'And Mr. 'Brown in his Sum ſaid very little, if any thing, 'to this Buſineſs of *Ireland*.'

XI. After this Mr. *Nicolas*, who would have nothing forgotten, that might help to multiply Clamour againſt me, fell upon five Particulars, which he did but name, and left the Lords to their Notes. Four of theſe five were handled before. As Firſt, the words, *If the Parliament prove peeviſh.* Secondly, *That the King might uſe his own Power.* Thirdly, The Violation of the Petition of Right. Fourthly, The Canons. Fifthly, That I ſet Spies about the Election of Parliament-Men in *Glouceſterſhire*: And for this laſt, they produced a Letter of one *Allibon* to Dr. *Heylin*. To the four firſt, I referred the Lords to their Notes of my Anſwers, as they did. To this laſt, that Mr. *Allibon* is a mere Stranger to me, I know not the Man. And 'tis not likely I ſhould employ a Stranger in ſuch a Buſineſs. The Letter was ſent to Dr. *Heylin*, and if there were any diſcovery in it of Jugglings there in thoſe Elections, (as too often there are;) and if Dr. *Heylin* ſent me thoſe Letters, as deſirous I ſhould ſee what Practices are abroad, what fault is there in him or me for this?

XII. Then Mr. *Nicolas* would not omit that which he thought might diſgrace and diſcontent me, though it could no way be drawn to be any Accuſation: 'twas out of my Diary, at *Oct.* 27. 1640. this Parliament being then ready to begin. The Paſſage there is, *That going into my upper Study, to ſend away ſome Manuſcripts to* Oxford, *I found my Picture which hung there privately, fallen down upon the face, and lying on the Floor; I am almoſt every day threatned with my Ruin, God grant this be no Omen of it.* The Accident is true; and having ſo many Libels cauſeleſly thrown out againſt me, and hearing ſo many ways as I did, that my Ruin was plotted, I had reaſon to apprehend it. But I apprehended it without Paſſion, and with looking up to God, that it might not be ominous to me. 'What is 'this Man angry at? Or why is this produced?'

XIII. But though I cannot tell why this was produced, yet the next was urged only to inceniſe your Lordſhips againſt me; 'tis in my Diary again, at *Feb.* 11. 1640. where Mr. *Nicolas* ſays confidently, I did abuſe your Lordſhips, and accuſe you of Injuſtice. My Lords, what I ſaid in my Diary, appears not; if it did appear whole and all together, I doubt not but it alone would abundantly ſatisfy your Lordſhips. But that Paſſage is more than half burnt out (as is to be ſeen) whether of purpoſe by Mr. *Pryn*, or caſually, I cannot tell; yet the Paſſage as confidently made up, and

It was viewed.

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read to your Lordſhips, as if nothing were wanting. For the thing itſelf, the Cloſe of my words is this; *So I ſee what Juſtice I may expect, ſince here's a Reſolution taken, not only before my Anſwer, but before my Charge is brought up againſt me.* Which Words can traduce no Man's Juſtice: Firſt, Becauſe they depend upon an *If*; if the Parliament-Man there mentioned told me truth, that ſuch a Reſolution was taken. And Secondly, Becauſe it can be no Juſtice in any Men, be the Sentence never ſo moderate in itſelf, to take up a Reſolution what Sentence ſhall paſs, before Anſwer given, or Charge put in: for elſe a Man may be puniſhed firſt, and tryed after, which is contrary * to all Rules of Juſtice. And therefore if ſuch a Reſolution were taken (as I believe not) I might well ſay that which followed after.

* Potentia ſequi debet Juſtitiam, non præire. *Aug. L.* 13. *de Trin. c.* 13.

XIV. Then was produced a Paper concerning the Subſidies or Aids which had been given in divers Parliaments, in which it is ſaid, at the beginning of it, *That* Magna Charta *had an obſcure Birth, and was foſtered by an ill Nurſe.* 'I believe that no Man that knows 'Mr. *Nicolas*, thinks that he ſpake ſoftly upon 'this.' No, he ſpake loud enough: What Laws would I ſpare, that ſpake thus of *Magna Charta?* Firſt, Here is no Proof offered that this Paper is my Collection, but only that it is in my Hand: by which Argument (as is ſaid before) I may be made the Author of any thing; and ſo may any Scholar, that is able and willing to inform himſelf. Secondly, The main Draught of that Paper is not in my Hand, though ſome Notes upon it be. Thirdly, There are *Littleton*, and other Lawyers, quoted in that Paper, Authors which I never read. Nor is this now any diſgrace to *Magna Charta*, that it had an obſcure Birth: for ſay the Difficulties of the Times brought it obſcurely forth, that's no blemiſh to the Credit and Honour to which it hath for many Ages attained. Not only their Laws, but the greateſt Empires that have been in the World, ſome of them have had obſcure Beginnings: witneſs the *Roman* Empire. Fourthly, What if our Stories agree upon it, that it had an obſcure Birth, and a worſe Nurſe? What if ſome Law-Books (which Mr. *Nicolas* never read) and thoſe of good account, uſe almoſt the ſame words of *Magna Charta*, which are in that Paper? Shall the ſame Words be Hiſtory and Law in them, and Treaſon in me? And ſomewhat certainly there is in it, 'that Mr. *Brown*, when he gave his 'ſummary Charge againſt me, firſt 'to the Lords, and after in the 'Houſe of Commons, quite omitted 'this Particular. Sure I believe he 'found nothing was in the Paper but 'known Truth, and ſo paſſed it 'over, elſe he would never have 'denied a Vindication to *Magna* 'Charta.'

Here is a void Space left in the Margin, with deſign (I ſuppoſe) to inſert therein ſome Paſſages out of Law-Books concerning the obſcure Birth of Magna Charta: *which Space was not filled up.* H. W.

XV. After all this, Mr. *Nicolas* concludes with a Dream, which he ſays was mine. The Dream (he ſays) was, that I ſhould come to greater Preferment in the Church, and Power in the State, than any Man of my Birth and Calling had done before me, but that in the end I ſhould be hanged. Firſt, My Lords, if I had had any ſuch Dream, 'tis no proof of any thing againſt me. Dreams are not in the power of him that hath them, but in the Unrulineſs of the Fancy, which in broken Sleeps wanders which way it pleaſes, and ſhapes what it pleaſes; *Numb.* 11. But this Dream is brought in, as the Fall of my Picture was, to make me a Scorn to your Lordſhips and the People, and to try whether any thing will yet at laſt break my Patience. This Dream is reported here according to Mr. *Pryn*'s Edition of my Diary, ſomewhat different from that which Mr. *Pryn* printed in a former Book of his: but the beginning and the end agree. From Mr. *Pryn*, *Culmer* hath taken and printed it. And Mr. *Pryn* confeſſed before the Lords, that one Mr. *Badger* an Attorney at Law, a Kinſman of mine, told it him. The truth, my Lords, is this. This *Badger* married a near Kinſwoman of mine; he was a notorious Separatiſt, and ſo nearer in Affection to Mr. *Pryn*, than to me in Alliance. This Man came one day to me to *Lambeth*, and told me privately (which was more Manners than uſually the bold Man had) that he heard I had ſuch a Dream when I was young, in *Oxford*: I proteſted to him there was no ſuch thing, and that ſome malicious Fellow or other had ſet him on work to come and abuſe me to my face. He ſeemed ſatisfied: but going to viſit Mr. *Pryn* then in the *Tower*, he told it him; and Mr. *Pryn*, without further proof, prints it in the next Book he ſet out. When I ſaw it in print, and found that ſome in Court took notice of it, I reſolved to acquaint his Majeſty how I was uſed; and meeting with the Earl of *Pembroke*, then Lord Chamberlain, and my great Friend, as he pretended, (the King being not then come forth of his Chamber) I told his Lordſhip how I was uſed; and when the King came forth, I told it him alſo. But the Earl of *Pembroke*, then preſent in the Houſe, and called up by them for a Witneſs, forgetting the Circumſtances, but remembring the Thing, took it *upon his Honour*, that I ſaid nothing of Mr. *Pryn*'s printing it, but that I told him abſolutely I had this Dream. Now God forgive his Lordſhip. I was much troubled in myſelf to hear him to take it *upon his Diſhonour*, (for ſo it was) and yet unwilling (knowing his Violence) to conteſt with him in that Place, and in my Condition; and obſerving what Spleen he hath lately ſhewed againſt me, I ſtood a little ſtill to gather up myſelf. When Mr. *Nicolas*, before I could make any Reply, fell on with great earneſtneſs, and told the Lords, That the fore part of my Dream was found true, to the great hurt both of Church and State; and that he hoped they would now make good the latter, *That I might be hanged.* To which I anſwered, That I had not forgotten our Saviour's Prediction, St. *John* 16. 33. *That in the World we ſhould be ſure to meet with Affliction.* Nor his Prayer; *Father, forgive theſe Men, for they know not what they do*; St. *Luke* 23. 34. No, nor is that out of my memory which St. *Paul* ſpeaks, 1 *Cor.* 4. 3. *de Humano Die.* But for the Publick, with this I ſhall conclude: *God of his infinite Mercy bleſs the King and his People with Love, and Peace, and Piety, and Plenty, which is the worſt I ever wiſhed or endeavoured, whatſoever it ſhall pleaſe God ſhall become of me; to whoſe bleſſed Will and Pleaſure, in all humility I ſubmit myſelf.* And here ended this laſt Day of my Tryal. But before I went from the Bar, I made three Motions to the Lords: The one, That I might have a Day to make a Recapitulation of this long and various Charge, or of the chief Heads of it, that it might appear in a Body together. The other, That after this, my Counſel might have a Day to ſpeak to all Points of Law, incident to my Cauſe. The third, That they would be pleaſed to remember, that I had pleaded the

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Act of Oblivion to the thirteenth Original Article. Mr. *Nicolas* ſaid they would acquaint their Houſe with it. And the Lords promiſed to take all into Conſideration. And ſo I was diſmiſſed *ſine Die*.

'But here I may not go off from this Dream ſo, 'ſince Mr. *Pryn* hath printed it at the end of my 'Diary: Where he ſhameleſly ſays, This Dream 'was atteſted from my own Mouth at my Tryal 'in the Lords Houſe. For I have ſet down all 'that paſſed exactly. Nor did I then give any At'teſtation to it; only before I could gather up my 'ſelf to anſwer the Earl of *Pembroke* in a fitting 'manner, and not to hurt my ſelf, Mr. *Nicolas* fell 'upon me with that unchriſtian Bitterneſs, as di'verted me from the Earl, to anſwer him. But 'once for all, and to ſatisfy any Man that deſires 'it, that is all true which I have here ſet down 'concerning this Dream: And upon my Chriſtia'nity and Hope of future Salvation, I never had 'this Dream, nor any like it; nor did I ever tell 'it this Lord, or any other, any other way than 'in relation to *Badger* and *Pryn*, as is before rela'ted. And ſure if I had had ſuch a Dream, I ſhould 'not have had ſo little Diſcretion as to tell it any 'Man, leaſt of all to pour it into that Sieve, the 'Earl of *Pembroke*. For that which follows, and 'wherein his Charity and Words are almoſt the 'ſame with thoſe of Mr. *Nicolas*, I give him the 'ſame Anſwer, and (forgiving him all his moſt un'chriſtian and inſatiable Malice againſt me) leave 'my ſelf in the hands of God, not in his.'

Aug. 23. 1644. I received an Order from the Lords, That if I had a mind to make a Recapitulation (as I had formerly deſired) of my long and various Charge, I ſhould provide my ſelf for it againſt Monday next, (this Order came upon Friday;) and that I ſhould give in my Anſwer the next Morning what I meant to do. The next Day, *Aug.* 24. in obedience to this Order, I gave in my Anſwer; which was humble Thanks that I might have Liberty to make it, referring the Day to their honourable Conſideration, with this, that Monday next was a very ſhort Time for ſuch a Collection. Upon this Anſwer an Order was preſently made, that I ſhould provide to make my Recapitulation upon Monday, *September* the ſecond. And about this time (the certain Day I know not) it was reſolved in the Houſe of Commons, that according to my Plea I ſhould enjoy the Benefit of the Act of Oblivion, and not be put to anſwer the thirteenth Original Article, concerning the *Scotiſh* Buſineſs. And truly, I bleſs God for it, I did not deſire the Benefit of that Act for any Senſe of Guiltineſs which I had in my ſelf; but in conſideration of the Times, and the Malice of the now potent Faction, which being implacable towards me, I could not think it Wiſdom to lay by any ſuch Power as might help to ſecure me. Yet in the former part of my Hiſtory, when I had good reaſon to think I ſhould not be called to anſwer ſuch general Articles, I have ſet down my Anſwer to each of them, as much as Generals can be anſwered. And thereby I hope my Innocency will appear to this thirteenth Article alſo.

Then came Monday, *Sept.* 2. And, according to the Order of the Lords, I made the Recapitulation of my whole Cauſe, in Matters of greateſt Moment, in this Form following. But ſo ſoon as I came to the Bar, I ſaw every Lord preſent with a new thin Book in *Folio*, in a blue Coat. I heard that Morning, that Mr. *Pryn* had printed my Diary, and publiſhed it to the World to diſgrace me. Some Notes of his own are made upon it. The firſt and the laſt are two deſperate Untruths, beſides ſome others. This was the Book then in the Lords Hands; and I aſſure my ſelf that Time picked for it, that the ſight of it might damp me, and diſenable me to ſpeak. I confeſs I was a little troubled at it. But after I had gathered up my ſelf, and looked up to God, I went on to the Buſineſs of the Day, and thus I ſpake.

My Recapitulation.

'MY Lords, my Hearing began *March* 12. '164⅓. and continued to the end of *July*. 'In this time I was heard before your Lordſhips, 'with much Honour and Patience, twenty Days; 'and ſent back without hearing, by reaſon of your 'Lordſhips greater Employments, twelve Days: 'The reſt were taken up with providing the Charge 'againſt me.

'And now, my Lords, being come near an end, 'I am by your Grace and Favour, and the Leave of 'theſe Gentlemen of the Honourable Houſe of 'Commons, to repreſent to your Lordſhips and 'your Memories, a brief Sum of my Anſwers to 'this long and various Charge: In which I ſhall 'not only endeavour, but perform alſo all poſſible 'Brevity. And as with much Thankfulneſs I ac'knowledge my ſelf bound to your Lordſhips for 'your Patience; ſo I cannot doubt but that I ſhall 'be as much obliged for your Juſtice, in what I 'am innocent from Crime; and for your Clemency, 'in what the common Frailty of Mankind hath 'made me err. And I humbly deſire your Lord'ſhips to look upon the whole Buſineſs with ho'nourable Care of my Calling, of my Age, of my 'long Impriſonment, of my Sufferings in my E'ſtate, and of my Patience in and through this 'whole Affliction; the Sequeſtration having been 'upon my Eſtate above two Years. In which, 'notwithſtanding, I may not omit to give Thanks 'for the Relief which my Petitions found, for my 'preſent Neceſſities in this Time of my Hearing, at 'your honourable Hands.

'1. Firſt then, I humbly deſire your Lordſhips 'to remember the Generality, and, by occaſion of 'that, the Incertainty of almoſt every Article char'ged upon me; which hath caſt me into great 'Streights all along in making my Defence.

'2. Next, That your Lordſhips will be pleaſed to 'conſider what a ſhort Space, upon each Day's 'Hearing, hath been allowed me to make my An'ſwer to the many Charges in each ſeveral Day 'laid againſt me: Indeed, ſome Days ſcarce Time 'enough to peruſe the Evidence, much leſs to make, 'and then to review and weigh my Anſwers. 'Eſpecially conſidering (to my greateſt Grief) 'that ſuch a Charge ſhould be brought up againſt 'me from ſo great and honourable a Body as the 'Commons of *England*. In regard of which, and 'all other ſad Occaſions, I did at firſt, and do ſtill 'in all Humility deſire, that in all Particulars con'cerning Law, my Counſel may be heard before 'your Lordſhips proceed to Sentence; and that a 'Day may be aſſigned for my Counſel accord'ingly.

'3. Thirdly, I heartily pray alſo, that it may 'be taken into your honourable Conſideration how 'I have all manner of ways been ſifted to the ve'ry Bran, for that (whate'er it amounts to) which 'ſtands in Charge againſt me.

'(1.) The

'(1.) The Key and Uſe of my Study at *Lambeth*, Books, and Papers, taken from me.

'(2.) A Search upon me at the *Tower*, made by Mr. *Pryn*, and one and twenty Bundles of Papers, prepared for my Defence, taken from me, and not three Bundles reſtored to me again. This Search made before any particular Articles were brought up againſt me. My very Pockets ſearched; and my Diary, nay, my very Prayer-Book taken from me, and after uſed againſt me: And that in ſome Caſes not to prove, but to make a Charge. Yet I am thus far glad, even for this ſad Accident: For by my Diary your Lordſhips have ſeen the Paſſages of my Life; and by my Prayer-Book the greateſt Secrets between God and my Soul. So that you may be ſure you have me at the very bottom. Yet, bleſſed be God, no Diſloyalty is found in the one; no Popery in the other.

'(3.) That all Books of Council-Table, Star-Chamber, High-Commiſſion, Signet-Office, my own Regiſteries, and the Regiſteries of *Oxford* and *Cambridge*, have been moſt exquiſitely ſearched for matter againſt me, and kept from me and my uſe, and ſo affording me no Help towards my Defence.

'4. I humbly deſire your Lordſhips to remember in the fourth place, That the Things wherein I took great pains, and all for the publick Good and Honour of this Kingdom and Church, without any the leaſt Eye to my own Particular, nay, with my own great and large Expences, have been objected againſt me as Crimes: As, namely, the Repair of *St. Paul's*, and the ſettling of the Statutes of the Univerſity of *Oxford*.

'(1.) For *St. Paul's*: Not the Repair it ſelf, they ſay, (no, for very ſhame they dare not ſay that, though that be it which galls the Faction) but the demoliſhing the Houſes which ſtood about it. Yea, but without taking down of theſe Houſes, it was not poſſible to come at the Church to repair it; which is a known Truth. And they were taken down by Commiſſion under the Broad-Seal. And the Tenants had valuable Conſideration for their ſeveral Intereſts, according to the Number of their Years remaining, and according to the Judgment of Commiſſioners named for that purpoſe, and named by his Majeſty and the Lords, not by me: Nor did I ever ſo much as ſit with them about this Buſineſs. And if the Commiſſion it ſelf were any way illegal, (as they urge it is) that muſt reflect upon them whoſe Office was to draw and ſeal it; not on me, who underſtood not the Legality or Illegality of ſuch Commiſſions: Nor did I deſire that any one Circumſtance againſt Law ſhould be put into it; nor is any ſuch thing ſo much as offered in proof againſt me. And becauſe it was preſſed, That theſe Houſes could not be pulled down but by order of Parliament, and not by the King's Commiſſion alone; I did here firſt read in part, and afterwards, according to a *Salvo* granted me, deliver into the Court three Records, two in *Edward* I's Time, and one in *Edward* III's Time, in which are theſe Words; *Authoritate noſtra Regali, prout opus fuerit, ceſſantibus quibuſcunque Appellationum & Reclamationum diffugiis, Juris, Scripti, aut Patriæ ſtrepitu procedatis; Nova Ædificia quæ, &c. amoveri, & divelli penitus faciatis, &c.* And a little after, *Quouſque per nos cum deliberatione & aviſamento noſtri Conſilii ſuper hoc aliter fuerit ordinatum, &c.* Here's no ſtaying for a Parliament; here's no Recompence given; here's barring of all Appeal, nay, all Remedy of Law, though written. And all this by the King's own Authority, with the Advice of his Council. And is a far more moderate way taken by me, yet under the ſame Authority, and for the Removal of far greater Abuſes, and for a more noble End, become Treaſon?

[1] 1 Pars Pat. de An. 45 Ed. 3, m. 34.

'(2.) As for the Statutes of *Oxford*, the Circumſtances charged againſt me are many; and therefore I crave leave to refer my ſelf to what I had already anſwered therein.

'5. Fifthly, Many of the Witneſſes brought againſt me in this Buſineſs are more than ſuſpected Sectaries and Separatiſts from the Church; which by my Place I was to puniſh, and that exaſperated them againſt me, whereas by [*] Law no Schiſmatick ought to be received againſt his Biſhop. And many of theſe are Witneſſes in their own Cauſes, and pre-examined before they come in Court; at which Pre-examination I was not preſent, nor any for me, to croſs interrogate. Nay, many Cauſes which took up divers Days of Hearing in Star-Chamber, High-Commiſſion, and at Council-Table, are now upon the ſudden eaſily overthrown by the Depoſitions of the Parties themſelves. And upon what Law this is grounded, I humbly ſubmit to your Lordſhips. And ſuch as theſe are the Cauſes of Mr. *Pryn*, Mr. *Burton*, Mr. *Wilſon*, Alderman *Chambers*, Mr. *Vaſſal*, Mr. *Waker*, Mr. *Huntly*, Mr. *Foxlye*, and many other. Where I humbly repreſent alſo, how impoſſible it is for any Man that ſits as a Judge to give an account of all the ſeveral Motives which directed his Conſcience in ſo divers Cauſes, and ſo many Years paſt, as theſe have been, and where ſo many Witneſſes have been examined, as have been here produced againſt me: My Lords, above an hundred and fifty Witneſſes, and ſome of them three, four, ſix times over; and Mr. *Pryn* I know not how often. Whereas the Civil Law ſays expreſly, That *the (a) Judges ſhould moderate Things ſo, that no Man ſhould be oppreſſed by the Multitude of Witneſſes; which is a kind of Proof too, that they which ſo do, diſtruſt the Truth and Goodneſs of their Cauſe.* Beſides, my Lords, in all Matters which came before me I have done nothing, to the uttermoſt of my Underſtanding, but what might conduce to the Peace and Welfare of this Kingdom, and the Maintenance of the Doctrine and Diſcipline of this Church eſtabliſhed by Law; and under which God hath bleſſed this State with ſo great Peace and Plenty, as other neighbouring Nations have looked upon with Admiration. And what Miſeries the Overthrow of it (which God in Mercy forbid) may produce, he alone knows.

[*] Cod. L. 1. Tit. 5. L. 12. & 21. *Confer.* at Hampton-Court, *p.* 26.

'6. Sixthly, My Lords, there have been many and different Charges laid upon me about Words. But many of them (if ſpoken) were only paſſio-

(a) Judices moderentur, &c. ne effrænata poteſtate ad vexandos Homines ſuperflua multitudo Teſtium protrahatur. *M. L.* 21. *Tit.* 5. Adde & hanc rationem, quod qui prædicta licentia abuuntur, veniunt in ſuſpitionem, quod non ſatis confidunt veritati. *Gloſſ. ibid.*

'nate and hasty; and such, upon what occasion so-'ever drawn from me, (and I have had all manner 'of Provocations put upon me) may among hu-'man Errors be pardoned unto me, if so it please 'your Lordships. But for such as may seem to be 'of a higher nature, as those witnessed by Sir *Henry* '*Vane* the Elder, I gave my Answer again now fully 'to the Lords, but shall not need to repeat it here.

'7. Seventhly, Then, my Lords, for my Actions: 'Not only my own, but other Mens have been 'heavily charged against me in many Particulars, 'and that criminally, and I hope your Lord-'ships will think illegally: As Secretary *Winde-'bank*'s, Bishop *Montague*'s, my Chaplains, Dr. *Hey-'lin*'s, Dr. *Cosens*'s, Dr. *Pocklinton*'s, Dr. *Dove*'s, 'Mr. *Shelford*'s, and divers others: And many of 'these Charges look back into many Years past. 'Whereas the Act made this present Parliament 'takes no notice of, nor punishes any Man for any 'thing done and past at the Council-Table, Star-'Chamber, or High-Commission, much less doth 'it make any thing Treason. And out of this Act 'I am no way excepted. Besides, (as I have often 'pleaded) all Acts done in the Star-Chamber, at 'Council-Table, High-Commission, or Convoca-'tion, are all joint Acts of that Body in and by 'which they were done; and cannot by any Law 'be singly put upon me, it being a known Rule of 'the Law, *Refertur ad universos quod publice fit per 'majorem partem.* And [1] Mr. *Pryn* 'himself can stand upon this Rule 'against the *Independents*, and tell us 'that the major Voice or Party ought 'to over-rule and bind the less; and 'he quotes [2] Scripture for it too. 'In which place, that which is done 'by the major Part is ascribed to 'all; not laid upon any one, as here upon me. 'And in some of these Courts, Star-Chamber espe-'cially, and Council-Table, I was accompanied 'with Persons of great Honour, Knowledge, and 'Experience, Judges, and others: And 'tis to me 'strange, and will seem so to future Ages, that one 'and the same Act shall be Treason in me, and not 'the least Crime; nay, nor Misdemeanour in any 'other. And yet no Proof hath been offered that 'I sollicited any Man to concur with me, and al-'most all the Votes given preceded mine, so that 'mine could lead no Man.'

[1] Pryn *in his* Independency examined, *p.* 4.

[2] 1 Chron. 13. 4, 5. Acts 15. 22.

8. After this I answered to divers other Parti-culars, as, namely, to the Canons, both as they concerned Aid to the King, and as they looked up-on Matters of the Church and Religion.

9. To the Charge about Prohibitions.

10. To the base Charge about Bribery. But pass them over here, as being answered before: Whi-ther I may refer the Reader now, though I could not the Lords then.

'11. My Lords, after this came in the long 'and various Charge of my usurping Papal Power, 'and no less than a Design to bring in all the Cor-'ruptions of Popery, to the utter Overthrow of 'the Protestant Religion established in *England*. 'And this they went about to prove,

'(1.) *By my Windows in the Chappel:* An Argu-'ment as brittle as the Glass in which the Pic-'tures are.

'(2.) *By Pictures in my Gallery:* Which were there 'before the House was mine, and so proved to 'your Lordships.

'(3.) *By Reverence done in my Chappel:* As if it 'were not due to God, especially in his Church; 'and done it was not to any other Person or 'Thing.

'(4.) *By Consecration of Churches:* Which was long 'before Popery came into the World; as was also the 'Care of safe laying up of all hallowed and sacred 'Things. For which, I desire your 'Lordships I may read a short Passage 'out of [3] Sir *Walter Raleigh*'s History; 'the rather because written by a Lay-'Man, and since the Times of Re-'formation.

[3] *Sir* Wal. Ra-leigh's Hist. of the World, *L.* 2. *c.* 3. *§.* 1.

But this Mr. *Maynard* excepted against, both as new Matter, and because I had not the Book pre-sent, though the Paper thence transcribed was of-fered to be attested by Oath to be a true Copy. But though I could not be suffered to read it then, yet here it follows: 'So sacred was the moveable 'Temple of God, and with such Reverence guard-'ed and transported, as 22000 Persons were dedi-'cated to the Service and Attendance thereof, of 'which 8580 had the peculiar Charge, according 'to their several Offices and Functions, the Parti-'culars whereof are in the Third and Fourth of '*Numbers.* The reverend Care which *Moses* the 'Prophet and chosen Servant of God had, in all 'that belonged even to the outward and least Parts 'of the Tabernacle, Ark, and Sanctuary, witnes-'sed well the inward and most humble Zeal borne 'toward God himself. The Industry used in the 'framing thereof, and every and the least part there-'of, the curious Workmanship thereon bestowed, 'the exceeding Charge and Expence in the Provi-'sions, the dutiful Observance in laying up and 'preserving the Holy Vessels, the solemn removing 'thereof, the vigilant Attendance thereon, and 'the provident Defence of the same, which all 'Ages have in some degree imitated, is now so 'forgotten and cast away, in this superfine Age, 'by those of the *Family*, by the *Anabaptists*, '*Brownists*, and other Sectaries, as all Costs and 'Care bestowed and had of the Church, wherein 'God is to be served and worshipped, is accounted 'a kind of Popery, and as proceeding from an 'idolatrous Disposition. Insomuch, as Time would 'soon bring to pass (if it were not resisted) that 'God would be turned out of Churches into Barns, 'and from thence again into the Fields and Moun-'tains, and under the Hedges; and the Office of 'the Ministry (robbed of all Dignity and Respect) 'be as contemptible as those Places; all Order, 'Discipline, and Church-Government, left to 'Newness of Opinion and Mens Fancies: Yea, 'and soon after as many Kinds of Religions would 'spring up, as there are Parish-Churches, *&c.*' Do ye not think some body set Mr. *Maynard* on to prohibit the reading out of this Passage, as foresee-ing whither it tended? For I had read one third part of it, before I had the Stop put upon me.

'(5.) But they went on with their Proof, by my 'censuring of good Men, that is, Separatists and 'refractory Persons.

'(6.) By my Chaplains expunging some Things 'out of Books which made against the Papists. 'It may be, if my Chaplains (whom it concerns) 'had Liberty to answer, they were such Passages 'as could not be made good against the Papists; 'and then 'tis far better they should be out than 'in. For as (*a*) St. *Augustin* observed in his, and

(*a*) Quid Molestiæ & Tristitiæ ingerunt Prudentibus Fratribus, temerarii Assertores satis dici non potest. *Aug.* 1. *de Gen. ad Lit. C.* 19.

'we find it true in our Time, *The Inconvenience* 'is great, *which comes to the Church and Religion by* 'bold *Affirmers*. Nay, he is at a *ſatis dici non po-* 'teſt, the Miſchief is ſo great as cannot be ex- 'preſſed.

'(7.) Then by altering ſome Things in a Ser- 'mon of Dr. *Sibthorp*'s. But my Anſwer formerly 'given will ſhew I had cauſe.

'(8.) By my Preferment of unworthy Men. So 'unworthy, as that they would be famous both for 'Life and Learning, were they in any other Pro- 'teſtant Church in Chriſtendom. And they are 'ſo Popiſhly affected, as that having ſuffered much 'both in State and Reputation (ſince this Perſe- 'cution of the Clergy began; for leſs it hath not 'been) no one of them is altered in Judgment, or 'fallen into any liking with the Church of *Rome*.

'(9.) By the Overthrow of the *Feoffment*: But 'that was done by Judgment in the *Exchequer*, to 'which I referred my ſelf. And if the Judgment 'there given be right, there's no Fault in any 'Man: If it were wrong, the Fault was in the 'Judges, not in me; I ſollicited none of them.

'(10.) By a Paſſage in my Book, 'where I ſay, *The Religion of the Pa-* 'piſts *and ours is one*: But that's ex- 'preſſed at large, only becauſe both 'are Chriſtianity; and no Man, I hope, will de- 'ny that *Papiſts* are *Chriſtians*. As for their no- 'torious Failings in Chriſtianity, I have in the 'ſame Book ſaid enough to them.

Cont. Fiſh. p. 376.

'(11.) By a Teſtimony of Mr. *Burton*'s and Mr. 'Lane's, That I ſhould ſay, *We and the Church of* 'Rome *did not differ in Fundamentals, but in Circum-* 'ſtantials. [This I here followed at large; but, to avoid tedious Repetition, refer my Reader to the Place where 'tis anſwered.]

'(12.) By my making the *Dutch* Churches to be 'of another Religion. But this is miſtaken (as 'my Anſwer will ſhew the Reader;) and if they 'do not make themſelves of another Religion, 'I ſhall never endeavour to make them.

'(13.) By a Pack of ſuch Witneſſes, as were ne- 'ver produced againſt any Man of my Place and 'Calling; Meſſengers and Purſuivants, and ſuch 'as have ſhifted their Religion to and again; Pil- 'lory-Men and Bawds; and theſe the Men that 'muſt prove my Correſpondence with Prieſts.

'(14.) In the midſt of theſe, upon occaſion of the 'Ceremonies at the Coronation, it was preſſed 'againſt me, That *I had altered the King's Oath*.

'(15.) And laſt of all, That *I had ſhewed my ſelf* 'an *Enemy to Parliaments*. [Upon both theſe I did very much enlarge my ſelf: But here alſo, that I may not be a Burden in repeating the ſame things, I deſire the Reader to look upon them in their proper Places, where I doubt not but my Anſwer will give him full Satisfaction, that I did not the one, nor am the other.]

'But, my Lords, there are other ſtrange Argu- 'ments produced againſt me, to prove my Com- 'pliance with *Rome*, which I moſt humbly deſire 'your Lordſhips may not be forgotten.

'1. As, Firſt, my Lords, it hath been charged 'upon me, That I made the Oath recited in the 'firſt of the late Canons; one Clauſe whereof is 'this: *That I will never give my Conſent to ſubject* 'this *Church to the Uſurpations and Superſtitions of* 'the *Church of* Rome. Whence the Argument drawn 'againſt me, muſt be this, and can be no other; 'That I did endeavour to bring in *Popery*, becauſe 'I made and took a ſolemn Oath, never to give 'my Conſent to ſubject this Church of *England* to 'to the Uſurpations and Superſtitions of the 'Church of *Rome*. I beſeech your Lordſhips mark 'the Force of this Argument; and they which 'follow are as pregnant againſt me.

'2. Secondly, My Book againſt *Fiſher*, hath been 'charged againſt me; where the Argument muſt 'lie thus: I have endeavoured to advance *Popery*, 'becauſe I have written againſt it: And with 'what Strength I have written againſt it, I leave 'Poſterity to judge, when the Envy which now 'over-loads me, ſhall be buried with me. This 'I will ſay with St. *Gregory Nazianzen* (whoſe 'Succeſs at *Conſtantinople* was not much unlike 'mine here, ſave that his Life was 'not ſought) *I* † *never laboured for* 'Peace *to the Wrong and Detriment of* 'Chriſtian *Verity*; nor I hope ever 'ſhall. [And let the Church of *Eng-* 'land look to it: for in great Humi- lity I crave to write this (though then was no time to ſpeak it) That the Church of *England* muſt leave the way it's now going, and come back to that way of Defence which I have followed in my Book, or ſhe ſhall never be able to juſtify her Separation from the Church of *Rome*.]

† Non ſtudeamus paci in veræ doctrinæ detrimentum, *Greg. Naz. Orat.* 32.

'3. Thirdly, All the late Canons have been 'charged againſt me; and the Argument which 'is drawn from thence, muſt lie thus: The third of 'theſe Canons for ſuppreſſing the Growth of *Po-* 'pery, is the moſt full and ſtrict Canon that ever 'was made againſt it in the Church of *England*; 'therefore I that made this Canon to keep it out, 'am guilty of endeavouring to bring it in.

'4. Fourthly, I have by my Induſtry, and God's 'great Bleſſing upon my Labours, ſtayed as many 'from going, and reduced to the Church of *Eng-* 'land as many that were gone to *Rome*, as I be- 'lieve any Miniſter in *England* can truly ſay he 'hath done: I named them before, and had Scorn 'enough put upon me for it, as your Lordſhips 'could not but both ſee and hear; where the Ar- 'gument lies thus: I converted many from *Popery*, 'and ſettled them in the Religion eſtabliſhed in '*England*; therefore I laboured to bring in *Popery*, 'which out of all doubt can be no ſober Man's 'way.

'5. Fifthly, The Plot diſcovered to Sir *William* 'Boſwell and my ſelf, by *Andreas ab Habernfield*, 'hath been charged againſt me: That Plot for 'altering of Religion, and by what ways, your 'Lordſhips have heard already, and 'is to be ſeen at full in *Rome's Ma-* 'ſter-Piece. Now if this Plot in the 'Iſſue proved nothing but a confuſed 'Information, and no Proof of any Particular, as 'indeed it did; what's become of *Rome's Maſter-* 'Piece? But if it had any Reality in it, as it 'appeared to be a ſad Plot, not only to me, but 'to all Men that ſaw the ſhort Propoſitions which 'were firſt ſent, with an abſolute Undertaking to 'prove them; then it appears expreſly, that I was 'in danger of my Life, for ſtiffly oppoſing the 'bringing in of *Popery*; and that there was no 'hope to alter Religion in *England*, till I was ta- 'ken out of the way. And though in Concluſion 'the Proofs failed, yet what was conſulted, and 'it ſeems reſolved, concerning me, is plain e- 'nough. And then the Argument againſt me lies 'thus: There's no hope to bring in *Popery*, till I 'am taken out of the way; therefore I did la- 'bour to bring it in. Do not theſe things, my 'Lords, hang handſomly together?

Mr. Pryn's Rome's *Maſter-Piece.*

'6. Laſtly,

'6. Lastly, There have been above threescore 'Letters and other Papers, brought out of my Study into this Honourable House; they are all about 'composing the Differences between the *Lutherans* 'and the *Calvinists* in *Germany*. Why they should 'be brought hither, but in hope to charge them 'upon 'em, I know not; and then the Argument 'will be this: I laboured to reconcile the *Protestants* in *Germany*, that they might unanimously 'set themselves against the *Papists*; therefore I laboured to bring *Popery* into *England*.

'Now that your Lordships have heard the Arguments, and what Proof they make against me, 'I must be bold to put you in mind of that 'which was said here at the Bar, *April* 16. 1644. 'That they did not urge any of these particular 'Actions as Treason against me; but the Result 'of them altogether amounted to Treason. For 'Answer to which, I must be bold to tell your 'Lordships, That if no Particular which is charged upon me be Treason, the Result from them 'cannot be Treason, which will appear by these 'Reasons following:

'1. First, The Result must be of the same Nature and Species with the Particulars from which 'it rises. But 'tis confessed no one of the Particulars are Treason: Therefore neither is the 'Result that rises from them. And this holds in '*Nature*, in *Morality*, and in *Law*.

'In *Nature*, and that both for Integral and Essential Parts: for neither can the Body of a Bear 'and the Soul of a Lion, result into a Fox; nor 'the Legs of a Bull, the Body of a Horse, and the 'Head of an Ass, result into a Man.

'In *Morality*, and that is seen both in Vertues 'and Vices: For neither can many Actions of Liberality, Meekness and Sobriety, rise up into a 'Result of Fortitude; neither can many Actions 'of Malice, Drunkenness and Covetousness, result into Treason.

'In *Law* 'tis so too: For be there never so many particular Crimes, yet there is no Law in 'this Kingdom, nor any where else that I know, 'that makes a Result of different Crimes to be 'Treason, where none of the Particulars are Treason by Law. So this imaginary Result is a Monster in Nature, in Morality and in Law; and if 'it be nourished, will devour all the Safety of the 'Subject of *England*, which now stands so well 'fenced by the known Law of the Land. And 'therefore I humbly desire your Lordships, not 'for mine, but for the Publick's sake, to weigh this 'Business well, before this Gap be made so wide, 'as there will hardly be Power left again to shut it.

'2. My second Reason is joined to the Answer 'of an Objection: For when this Result was 'spoken of, it was added, That the Particulars 'charged against me, are of the same kind, and 'do all tend to the Subversion of Law and Religion, and so become Treason. But, First, suppose that all the Particulars charged, do tend 'to the Subversion of Law, yet that cannot make 'them to be all of one kind: For all Crimes 'tend more or less to the Overthrow of Vertue; 'yet no Man can say, that all Crimes are of the 'same kind. Secondly, Be they of the same, or 'different kinds; yet neither all, nor any of these 'charged against me, do tend to the Subversion of 'the Law: For 'tis one thing to break, dislike or 'speak against some particular Laws, and quite 'another to labour the Subversion of the whole 'Body of the Law, and the Frame of Government. 'And that I have done this by Conspiracy, Force, 'or any overt Action, is not so much as offered in 'Proof. And for the Breach of any particular 'Law, if I be guilty, I am to be punished by the 'Sanction of that Law which I have broken.

'3. Thirdly, Whereas it hath been said, That 'many Actions of the same kind make a Habit. 'That's true: But what then? For, First, the 'Actions urged against me, are not of the same 'kind, but exceeding different. Secondly, If the 'Habit be treasonable, then all those particular 'Actions which bred that Habit, must be several 'Treasons, as well as the Result or Habit it self; 'whereas it hath been granted all along, that my 'particular Actions are not Treasons. And, Thirdly, 'a Habit in it self, neither is nor can be Treason; 'for all Treason is either *Thought*, *Word* or *Overt Act*; but no Habit is either of these, 'therefore not Treason. For a * Habit is that in the Soul which enclines the Powers of it, and makes 'a Man apt and ready to think, speak, or do that 'to which he is habituated. So an ill Habit against Sovereign Power, may make a Man apt 'and forward to fall into Treason; but Treason 'it is not.

* Tho. 1. 2æ. q. 50. A. 5.

'4. Fourthly, Nor can this Result be Treason 'at the Common Law, by which alone, I conceive, 'there is no Treason at all this day in *England*: 'For the main end of that excellent Statute of 25 '*Edw.* 3. was for the Safety of the Subject, against 'the manifold Treasons which variously fell upon them by the Common Law; and bounded 'all Treasons, and limited them to the things expressed to be Treason in and by that Statute. 'And in all times of difficulty since, Recourse 'hath still been had to that Statute: And to that 'Statute I refer my self, with this; That this Result must be something within this Statute, or 'some other known Statute, or else it cannot be 'Treason: And no Proof at all hath been so much 'as offered, that this Result is Treason by any 'Law.

'My Lords, I do with all humble Submission 'desire, that when the Reply is made to this Matter of Fact, a Day may be assigned for my Counsel to be heard in Matter of Law, in all and 'every Particular which they shall find necessary 'for my just Defence.

'And now, my Lords, I do in all Humility lay 'my self low at God's Mercy-seat, to do with 'me as he pleases; and under God, I shall rely 'upon your Lordships Justice, Honour and Clemency, of which I cannot doubt. And without 'being farther tedious to your Lordships (who 'have with very honourable Patience heard me 'through this long and tedious Tryal) I shall conclude with that which St. *Augustine* said to *Romanianus*, a Man that had tried 'both Fortunes as well as I: * *If the Providence of God reaches down to us* (as most certain it doth) *Sic tecum agi oportet, sicut agitur*: It must so be done with thee (and so with me also) as it is done. And under that Providence, 'which will, I doubt not, work to the best to 'my Soul that loves God, I repose my self.

* S. Aug. l. 1. cont. Academ. c. 1. S. Mat. 10. 29. Rom. 8. 28.

Here ended my *Recapitulation*, and with it the Work of that Day: And I was ordered to appear again the Saturday following, to hear Mr. *Brown* sum up the whole Charge against me. But upon Tuesday, *Septemb.* 3. this was put off, to give Mr. *Brown* more time, to Wednesday, *Septemb.* 11.

ON Wednesday, *Septemb.* 11. Mr. *Brown* made in the Lords House, a Sum or Brief of the Charge which was brought against me, and touched, by the way, at some things in my *Recapitulation*. But in regard I might not answer him, I took no perfect Notes, but stood still, and possessed my Soul in Patience; yet wondring at the bold, free, frequent, and most false Swearing that had been against me. When Mr. *Brown* had ended, I humbly desired again, that my Counsel might be heard in Point of Law. And they were hereupon ordered to deliver in Writing under their Hands, what Points of Law they would insist upon, and that by Saturday, *Septemb.* 14.

This Day my Counsel, according as they were ordered, delivered into the Lords House, these two Points following, by way of Question. First, Whether in all, or any of the Articles charged against me, there be contained any Treason by the established Laws of this Kingdom? Secondly, Whether the Charge of the said Impeachment and Articles, did contain such Certainty and Particularity as is required by Law, in a Case where Treason is charged? This Day I petitioned the Lords, that my Counsel might have access to, and take Copies of all such Records as they thought necessary for my Defence; which was granted and order'd accordingly.

My Counsels *Queries* having been formerly sent down to the House of Commons, they were there referred to a Committee of Lawyers to consider of; And on Friday, *Septemb.* 27. they were earnestly called upon to hasten their Report. And on Friday, *Octob.* 4. Mr. *Nicolas* made a great noise about me in the House, and would have had me presently censured in the House; and no less would serve his turn, but that I must be *hanged*; and was at *Sus. per Coll.* till upon the Reasons before given, that if they went on this way, they must condemn me unheard; this violent Clamour ceased for that time. And a Message was sent up to the Lords for my Counsel to be heard, as touching the first Question concerning Treason; but not concerning any Exception that they shall take against the Articles in point of Certainty. This Message the Lords took into present Consideration, and order'd it accordingly: And appointed the Friday following, being *Octob.* 11. for my Counsel to be heard, and my self to be present.

This Day, according to this Order of the Lords, I and my Counsel attended. My Counsel were Mr. *Hern* and Mr. *Hale* of *Lincoln's-Inn*, and Mr. *Gerard* of *Gray's-Inn*. When we were called into the House, and the Lords settled in their Places, Mr. (a) *John Hern* (who was the Man that spake what all had resolved on) delivered his Argument very freely and stoutly, proving that nothing which I have either said or done according to this Charge, is Treason, by any known established Law of this Kingdom. The Argument follows in these Words, according to the Copy which Mr. *Hern* himself delivered me.

My Lords,

A short Introduction.

'THE Work of this Day, we humbly conceive, is in many respects of very great and high Concernment.

'1. In that it concerns Matter of Life, a thing of the highest Consequence.

'2. The Life of an Archbishop, a Person who had attained the highest Dignity conferred in the Church of *England*.

'3. Those happy Laws, many Years since enacted and confirmed by several Parliaments, to be the Boundaries what was Treason; a Crime before so various, as it had no Bounds; and so odious, that the Punishment of it was an infamous Death, a total Confiscation, with a Brand of Infamy to all Posterity.

'4. In that the Charge against him moves from no less a Body than the whole Commons of *England*, which presents him now a Prisoner at this Bar before your Lordships, in the High and Supreme Court of Judicature in Parliament.

'And if any thing shall fall from us, subject to any doubtful Construction, we shall humbly crave your Lordships Pardon, and Leave to make our Explication: For as there is upon us a Duty to be wary, not to offer any thing which may minister just Offence; so neither may we be unfaithful, to omit what may justly tend to our Client's Defence.

The Charge, upon what it consists.

'The Charge against him, we find to be made up of two several Parcels of Articles, exhibited by the Honourable House of Commons.

The Titles of the several Parcels of the Articles, upon which the Charge against the ABp was made up.

'1. The first, *In Maintenance of their Accusation, whereby he stands charged with High Treason.*

'2. The latter intitled, *Farther Articles of Impeachment of High Treason, and divers High Crimes and Misdemeanours; for all which Matters and Things they have impeached him of High Treason, and other High Crimes and Misdemeanours, tending to the Subversion of Religion, Laws and Liberties, and to the utter Ruin of this Church and Commonwealth.*

The Straits upon his Counsel by reason of the mix'd Charge, without distinguishing what was intended to be a Treason, what a Misdemeanour.

'Concerning this Charge, and the Archbishop's Defence he hitherto made before your Lordships, we (by your Lordships Command assigned his Counsel) neither have nor could (by reason of the mix'd Charge, without distinguishing what was thereby intended to be a Charge of Treason, and what of Misdemeanour only) be farther useful to him, than to advise the Form of his Plea and Answer, which we received from him, as to all the Matters of Fact, to be a Not Guilty.

'We have not in all or any the Facts charged or evidenced against him, in any sort intermeddled. But the same (how proved and how appliable to the Charges, without mention of any of them) shall wholly leave to your Lordships Notes and Memories.

'What Defence he hath offered hitherto, hath been wholly his own: he without us in that, and we without consulting him in the Work of this Day.

'Wherein, having received your Lordships Commands, we did present in writing the Points in Law we then humbly conceived fit for us to insist upon.

(a) *The Lord Chancellor* Finch *told me, that this Argument was not Mr.* Hern's, *(though he pronounced it) for he could not argue; but it was Mr.* Hale, *afterward Lord Chief Justice. And he said farther, that being then a young Lawyer, he stood behind Mr.* Hern, *when he spoke at the Bar of the Lords House, and took Notes of it; and that it will be published among his* Reports W. S. A. C.

'I. Whe-

The two Points presented by Counsel in writing, to be insisted upon for his Defence in point of Law.

'I. Whether in all, or any the 'Articles charged against him, there 'was contained any Treason by the 'established Laws of this Kingdom.

'II. Whether the Charge of the 'said Impeachment and Articles, did 'contain such Certainty and Particu-'larity, as is required by Law in a 'Case where Treason is charged.

The first only admitted.

'But being enjoined by your Ho-'nourable Order, to speak only to 'the former; we shall, as in Duty 'becomes, conform thereunto.

The Method proposed,

'For our Method herein shall fol-'low the Course holden in the Reply 'made upon the whole Articles; 'whereby we conceived the Charges contained in 'them were reduced to these three Generals.

The three general Charges.

'1. A traitorous Endeavour to 'subvert the Fundamental Laws of 'the Realm; and instead thereof, to 'introduce an Arbitrary and Tyran-'nical Government against Law; contained in the 'first Original and first Additional Articles.

'2. Secondly, A traitorous Endeavour to sub-'vert God's true Religion by Law established; 'and instead thereof, to set up Popish Superstition 'and Idolatry: this contained in the seventh Ori-'ginal and seventh Additional Articles.

'3. Thirdly, That he laboured to subvert the 'Rights of Parliament, and the antient Course of 'Parliamentary Proceedings, and by false and ma-'licious Slanders to incense his Majesty against 'Parliaments. And this contained in the four-'teenth Original and tenth Additional Articles.

'All other the Articles, we humbly conceive 'to be but Instances, conducing and applied to 'some of those Generals.

'Concerning those three General Heads of the 'Charge, we shall crave leave to propose two 'Questions to be debated.

Two general Questions to be insisted upon.

'1. Whether there be at this day 'any other Treason, than what is 'declared by the Statute of 25 *Ed.* 3. 'cap. 2. or enacted by some subse-'quent particular Statute; which we humbly 'conceive, and shall endeavour to satisfy your 'Lordships, there is not any.

'2. Whether any the Matters in any of the Ar-'ticles charged, contain any of the Treasons de-'clared by that Law, or enacted by any subse-'quent Law; which we likewise conceive they do 'not. And for the clearing of both these, shall 'humbly insist, That,

'(1.) An Endeavour to subvert the Laws, an 'Endeavour to subvert Religion, a labouring to 'subvert the Rights of Parliaments; are not 'Treasons, either within the Statute of 25 *Ed.* 3. 'or by any other particular Statute.

'(2.) That not any of the Particulars, instan-'ced in any other the Articles, is a Treason 'within the Statute 25 *Ed.* 3. or any other Sta-'tute.

In maintenance of our first Tenet upon the first Question.

'And to make good our Tenet 'upon our first Question, shall hum-'bly offer,

'That before this Statute of 25 'Ed. 3. Treasons at the Common 'Law were so general and uncer-'tain, that almost any Crime, by Inferences and 'Constructions, might be, and was often extended 'to be a Treason; insomuch as we find in 21 of 'the Book of Assize, killing the King's Messen-'ger was Treason. And in the Parliament-Roll, '21 *Ed.* 3. *num.* 15. accroaching the Royal Power '(wherein every Excess was subject to a Construc-'tion of Treason) was Treason; for which di-'vers having suffered, the Commons in Parlia-'ment finding how mischievous and destructive 'it was to the Subject, petitioned it might be 'bounded and declared. And this, not to give 'any liberty, but to give bounds to it; one while 'it being construed an Accroachment of Royal 'Power, as in the Case of the Earl of *Lancaster*, 'temp. Ed. 2. for being over-popular with the Peo-'ple; and in the same King's Reign to *Spencer*, 'for being over-gracious with the King.

The Uncertainty of what was, or was not Treason, produced the Law of 25 Edw. 3.

'The Sense of these and other 'Mischiefs by the Uncertainty of 'Treason, brought on this Law of '25 *Ed.* 3. And the Benefit of it to 'the Subject, says Sir *Ed. Coke* upon 'his Collections of the Pleas of the 'Crown, begot that Parliament the 'Name of (a) *Parliamentum Benedic-'tum*; and that, except *Magna Charta*, no other 'Act of Parliament had more Honour given it by 'the King, Lords, and Commons.

The Act of 25 Ed. 3. the Rule in Parliament to judge Treasons by.

'And this Law hath been in all 'times the Rule to judge Treasons 'by, even in Parliament; and there-'fore in the Parliament-Roll, 1 *H.* 4. 'num. 144. the Tryal and Judgment in 'Cases of Impeachment of Treason, 'is prayed by the Commons might 'be according to the antient Laws. 'And in the Parliament-Roll 5 *H.* 4. 'num. 12. in the Case of the then Earl 'of *Northumberland*, this Statute of '25 *Ed.* 3. was the Guide and Rule 'by which the Lords judged, in a 'Case endeavoured to have been ex-'tended to be a Treason, the same to be no 'Treason.

Parliament-Roll 1 H. 4. num. 144. the Prayer of the Commons.

Parliament-Roll, 5 H. 4. num. 12. Case of E. of Northumberland.

'And it is, as we conceive, very 'observable, That if at any time 'the Necessity or Excess of the 'Times produced any particular 'Laws in Parliament, for making 'of Treasons not contained in that 'Law of 25 *Ed.* 3. yet they returned and fixed in 'that Law.

Treasons particularly enacted after 25 Ed. 3. still reduced to that Law.

'Witness the Statute of 1 *H.* 4. 'cap. 10. whereby all those Facts 'which were made Treasons mean 'between in the divided time of *R.* 2. 'were reduced to this of *Ed.* 3.

Treasons made in the divided time of R. 2. reduced per Stat. 1 H. 4. c. 10.

'In the time of *H.* 8. wherein se-'veral Offences were enacted to be 'Treasons, not contained in the Sta-'tute of 25 *Ed.* 3. the same were all 'swept away by the Statute of 1 *Ed.* 6. 'cap. 12.

Made in the time of H. 8. reduced 1 Ed. 6. c. 12.

'And again, where in the time of '*Ed.* 6. several Treasons were enact-'ed, they were all repealed, and by 'Act made 1 *Mariæ* 1. none other 'Offence left to be Treason, than 'what was contained and declared 'by the Statute of 25 *Ed.* 3.

Made in the time of Ed. 6. reduced by the Act of 1 Mariæ, c. 10.

(a) *The Parliament of* 25 Ed. 3. *by reason of that Law called* Parliamentum Benedictum, *and that no Law had deservedly more Honour than* Magna Charta.

'And

From 1 H. 4. to this day, no Judgment in Parliament given of any Treason not contained in that Law.

'And from 1 *H.* 4. to Queen *Mary*, and from thence downward, 'we find not any Judgment hath 'been given in Parliament, for any 'Treason not declared and contained 'in that Law, but by Bill.

This Law in all times the Standard to judge Treasons by.

'Thus in Succession of all Times, 'this Statute of 25 *Ed.* 3. in the 'Wisdom of former Parliaments, 'hath stood and been the constant 'fixed Rule for all Judgments in Ca-'ses of Treason.

'We shall now observe, what Offences are in 'and by that Law declared to be Treasons; 'whereby your Lordships will examine, whether 'you find any of them in the Charge of these Ar-'ticles: For which purpose we shall desire this 'Statute of 25 *Ed.* 3. be read.

'The Treasons by that Act declared, are,

Treasons declared per Stat. 25 Ed. 3. c. 2.

'1. Compassing and imagining 'the Death of the King, Queen, 'or Prince, and declaring the same 'by some Overt-Act.

'2. Murdering the Chancellor, Treasurer, *&c.*

'3. Violating the Queen, the King's eldest 'Daughter, or the Prince's Wife.

'4. Levying War against the King.

'5. Or adhering to the King's Enemies, within 'the Realm or without, and declaring the same 'by some Overt-Act.

'6. Counterfeiting the Seals and Coin.

'7. Bringing in Counterfeit Coin.

Stat. 25 Ed. 3. may admit no Construction by Equity or Inference to make other Treason than thereby declared.

'Next, We shall lay for a ground, 'that this Act ought not be construed 'by Equity or Inference.

Reasons why not.

'1. For that it is a declarative 'Law, and no Declaration ought to 'be upon a Declaration.

'2. It was a Law provided to se-'cure the Subject, for his Life, Li-'berty, and Estate; and to admit 'Constructions and Inferences upon 'it, were to destroy the Security 'provided for by it.

'3. It hath been the constant Opinion in all 'times, both in Parliament and upon Judicial De-'bates, that this Act must be literally construed, 'and not by Inference or Illation: nor would it 'be admitted in a Particular declared by this 'Law to be Treason; which a Man would have 'thought might have been consistent with it.

'Counterfeiting the Coin of the Kingdom, 'is by this Law declared Treason.

Instances where it would not.

'Washing, Filing, and Clipping 'the Coin, is an Abuse, an Abasing, 'and not making it current: yet in '3 *H.* 5. when the Question was in 'Parliament, whether that Offence 'was Treason within the Statute of '25 *Ed.* 3. it is declared by a spe-'cial Act then made, 3 *H.* 5. *cap.* 6. That foras-'much as before that time great doubt and ambi-'guity had been, whether those Offences ought 'to be adjudged Treason, or not, inasmuch as 'mention is not thereof made in the Declaration 'of the Articles of Treason by that Statute of '25 *Ed.* 3. the same was by that particular Act 'made Treason, which before was none: and 'counterfeiting of foreign Coin made current here, 'an equal Mischief with counterfeiting of the 'Coin of this Realm; yet because the words of 'the Statute are *his Money*, this not Treason until

Stat. 3 H. 5. cap. 6.

'the Act of 1 *Mariæ cap.* 6. made 'it so. And Sir *Ed. Coke* in his Book 'before-mentioned, saith, A com-'passing to levy War, is not a Trea-'son within that Law, unless it pro-'ceed into Act; but only to compass the Death 'of the King: Yet if a Constructive Treason should 'be admitted, it might happily without any great 'straining be inferred, That compassing to levy 'War is in some sort a Compassing of the King's 'Death: and of this kind many more Instances 'may be given.

1 M. cap. 6. Coke *Collections Pleas of the Crown.*

'So that the Result of all this is, That what-'soever is not declared to be a Treason within 'the Letter of this Law, may not be adjudged a 'Treason, by Inference, Construction or other-'wise.

'Having done with this first, we now shall 'come to our second Question.

2. Question.

'Whether any the Matters in all, 'or any the Articles charged, con-'tain any the Treasons declared by 'that Law, or enacted by any subsequent Law; 'wherein, although the Charges may appear to be 'great and enormous Crimes; yet we shall endea-'vour, and hope to satisfy your Lordships, the same, 'nor any of them, are Treasons by any established 'Law of the Kingdom. For clearing whereof, 'we shall pursue the Order first proposed.

'First, That an Endeavour to subvert Funda-'mental Laws, is not Treason by any Law in this 'Kingdom established: and particular Act to 'make it Treason there is none; so as we must 'then return to apply those former general Obser-'vations of that Act of 25 *Ed.* 3. to this Particular; 'and shall add for Reasons,

'1. That it is not comprised within any the 'Words of that Law, nor may by any Construc-'on or Inference be brought within it, for the 'Reasons formerly alledged.

'2. Because an Endeavour to subvert Laws, is 'of so great a Latitude and Uncertainty, that 'every Action not warranted by Law, may be 'thereby extended to be a Treason.

Mildmay's *Case*, 6 Report Coke, *Fol.* 42.

'In the sixth *Report*, in *Mildmay*'s 'Case, *Fol.* 42. where a Conveyance 'was made in Tail, with a Proviso, 'if he did go about or attempt to 'discontinue the Entail, the same should be void: 'It was resolved the Proviso was void; and the 'principal Reason was, That these Words, *at-tempt or go about*, are Words uncertain and void 'in Law. And the Words of the Book are very 'observable, *viz. God defend, that Inheritances and Estates of Men should depend upon such Incertainties; for that* misera est Servitus, ubi Jus est vagum, & quod non definitur in Jure quid fit conatus; *and therefore the Rule of the Law doth decide this Point.* Non efficit conatus nisi sequitur effectus; *and the Law doth reject Conations and Goings about, as things uncertain, which cannot be put in issue.* 'These are the Words of the Book: And if 'so considerable in Estates, your Lordships, we 'conceive, will hold it far more considerable 'in a Case of Life, which is of highest Conse-'quence.

Objection. Answer.

'And if it should be said this Law 'of 25 *Ed.* 3. takes notice of Com-'passing and Imagining: We answer, 'it is in a Particular declared by 'that Law to be Treason, in compassing the Death 'of the King; But this of endeavouring to sub-

'vert

'vert Laws, not declared by that or any other 'Law to be a Treaſon.

'And if it ſhould be granted, that this Law 'might in any Caſe admit any other Fact to be 'Treaſon by Inference or Conſtruction, other than 'is therein particularly declared, which we con-'ceive it cannot:

'Yet it is not imaginable, that a Law intro-'duced purpoſely to limit and aſcertain Crimes 'of ſo high Conſequence, ſhould by Conſtruc-'tion or Inference be ſubject to a Conſtruction 'of admitting ſo uncertain and indefinite a thing, 'as an Endeavour to ſubvert the Law is, it 'being not compriſed within the Letter of that 'Law.

'3. That the Subverſion of the Law is an im-'poſſible thing; therefore an Endeavour to do an 'Act which cannot be effected, cannot be Trea-'ſon.

'4. That in all times the Endeavouring to ſub-'vert the Laws hath been conceived no determi-'nate Crime, but rather an Aggravation only of a 'Crime than otherwiſe: And therefore hath been 'uſually joined as an Aggravation or Reſult of 'Crimes below Treaſon.

Parliament-Roll, 28 H. 6. n. 28, *to* 47. *In the Caſe of the Duke of* Suffolk.

'As appears in the Parliament-Roll, '28 *H. 6. num.* 28. to *num.* 47. in the 'Caſe of the Duke of *Suffolk*, where the 'Commons in Parliament having pre-'ferred Articles of Treaſon againſt 'him, did not make that any part of 'their Charge. Yet in the ſame Parli-'ament, and within few Days after, the firſt being 'in *February*, the latter in *March*, exhibiting other 'Articles againſt him, they therein charged all the 'Miſpriſions, Offences, and Deeds, therein men-'tioned, to have been the Cauſe of the Subverſion 'of Laws and Juſtice, and the Execution there-'of; and nigh likely to tend to the Deſtruction of 'the Realm. So as it appears it was then con-'ceived an Offence of another nature, and not a 'Treaſon,

Articles, Cardinal Wool-ſey *in Parlia-ment*, 21 H. 8. *Indictment K. Bench* Ligham, 23 H. 8.

'And it appears as well by the Ar-'ticles exhibited in Parliament, 21 'H. 8. againſt Cardinal *Woolſey*, as 'by Indictment in the *King's-Bench* 'againſt *Ligham*, 23 *H.* 8. *Rot.* 25. 'That the Cardinal did endeavour to 'ſubvert *Antiquiſſimas Leges hujus Regni, Univerſumq; hoc Regnum Angliæ Legibus Imperialibus ſubjugare:* which although 'it be a Charge of ſubverting the antient Laws 'of the Kingdom, and to introduce new and 'arbitrary Laws; yet neither upon the Articles 'or Indictment was the ſame imputed to be 'Treaſon; but ended in a Charge of a Premu-'nire.

Empſon, 1 H. 8.

'And if it ſhall be ſaid that '*Empſon*, 1 *H.* 8. had Judgment, and 'died for it, upon an Indictment 'in *London*; we anſwer,

'1. This was not the Subſtance of the Indict-'ment, but only an Aggravation.

'2. And if charged, it is with an actual ſubvert-'ing, not with an Endeavour to ſubvert the Laws; 'and is joined with divers other Offences.

'3. Which is a full Anſwer, The Indictment up-'on which he was tried was *Paſchæ* 2 *H.* 8. at *Nor-'thampton*, and was for levying War againſt the 'King, a Treaſon declared by the Law of 25 *Ed.* 3. 'upon which he was convicted and ſuffered; and 'no Proceeding upon the other Indictment ever 'had.

Anſwer to the ſecond general Charge of endeavouring to ſubvert Religion.

'And as to the ſecond general 'Charge of endeavouring to ſubvert 'Religion:

'This no more than that former of 'ſubverting the Laws is any Treaſon, 'within any Law eſtabliſhed in this 'Kingdom.

'And herein, as to the Charge of the Endea-'vour, we ſhall rely upon what hath been al-'ready ſaid upon the former.

'With this further:

'That until that happy Reformation, begun in 'the Time of King *Edward* VI. there was ano-'ther Frame of Religion eſtabliſhed by Law; 'which was conceived until then to have been 'the True Religion; and any Endeavour to 'change or alter it, proſecuted with great Extre-'mities. Yet was not any Attempt to alter it con-'ceived to be a Treaſon; but ſeveral ſpecial Acts 'of Parliament were made for particular Puniſh-'ments againſt Perſons who ſhould 'attempt the Alteration thereof; 'witneſs the Statute of 5 *R.* 2. *c.* 5. 'and 2 *H.* 5. *c.* 7.

Stat. 5 R. 2. c. 5. 2 H. 5. c. 7.

'In which latter, although mention is made of 'endeavouring to deſtroy and ſubvert the Chriſtian 'Faith, yet was not the Offence made or decla-'red to be Treaſon. And at this day Hereſy, of 'what kind ſoever, is not puniſhable, but ac-'cording to the old Courſe of the Law.

'And we may add the Statute of '1 *Edw. 6. cap.* 12. that of 1 *Mar.* 12. 'which makes it but Felony to at-'tempt an Alteration of Religion by 'Force: The worſt kind of Attempt certainly.

Stat. 1 Ed. 6. c. 12. 1 Mar. c. 12.

Anſwer to the third general Charge, labouring to ſubvert and incenſe the King againſt Parliaments.

'To the third and laſt general 'Charge, labouring to ſubvert the 'Rights of Parliaments. To the 'labouring to do it, we ſhall add 'nothing to what hath been ſaid to 'the Charge of Endeavour in the 'two former; only thus much we 'ſhall obſerve:

Articles againſt the Duke of Ireland, *and others*, 11 R. 2.

'That in the Parliament of 11 *R.* 2. 'amongſt the many Articles preferr'd 'againſt the Duke of *Ireland*, and 'others, the 14th Article contains a 'Charge much of this nature, *viz.* 14 *Article.*

'*That when the Lords and others in di-'vers Parliaments, had moved to have a good Government 'in the Realm, they had ſo far incenſed the King, that 'he cauſed divers to depart from his Parliament; ſo 'that they durſt not, for fear of Death, adviſe for 'the good of the Kingdom.* Yet when the Lords came 'to ſingle out the Articles, what was, or what 'was not Treaſon, That, although a Charge tran-'ſcending this, was none of the Articles by them 'declared to be Treaſon.

Anſwer to the particular Articles inſiſted upon principally in the Charge.

'My Lords, having done with 'theſe Generals, it remains only that 'we apply our ſelves to thoſe other 'Articles which we conceive were 'inſiſted upon as Inſtances conducing 'and applied to ſome of the Gene-'rals we have handled.

'Wherein, if the Generals be not Treaſon, the 'particular Inſtances cannot be: And on the other 'ſide, if the Inſtances fall ſhort of Treaſons, the 'Application to thoſe Generals cannot make them 'Treaſons.

'We ſhall only ſingle out two Particulars, and 'in thoſe be very brief, in that moſt which hath 'been ſaid to the former Generals is appliable to 'them;

'them; inaſmuch as none of them is declared to 'be a Treaſon by the Statute of 25 *Ed.* 3. or by 'any other Law enacted.

The firſt Particular.

'1. The firſt of theſe in the 10th 'Original Article, *viz.* That he hath 'traitorouſly endeavoured to recon-'cile the Church of *England* with the 'Church of *Rome*. Which, if it be any Treaſon, 'muſt be a Treaſon within the Statute of 5 *Jac.* 'cap. 4. whereby is provided, That if any Man 'ſhall put in practice to reconcile any of his Ma-'jeſty's Subjects to the Pope or See of *Rome*, the 'ſame is enacted to be Treaſon; which we con-'ceive clearly is none of this Charge.

Differences between the Matters charged, and the Fact made Treaſon by the Statute 3 Jac. c. 4.

'(1) Firſt, For that here only is 'charged an Endeavour; there a 'putting in practice.

'(2.) Here a Reconciling of the 'Church of *England* with the Church 'of *Rome*; there a Reconciling ſome 'of his Majeſty's Subjects to the 'See of *Rome*. And a Reconciling 'with, may as well be a Reducing of that of *Rome* 'to *England*, as *England* to *Rome*.

The ſecond Particular.

'The ſecond, in the 7th Additio-'nal Article, For wittingly and wil-'lingly receiving and harbouring di-'vers Popiſh Prieſts and Jeſuits, name-'ly, *Sancta Clara* and Monſieur *St. Giles*.

'Which Offence, as to the harbouring Prieſts 'and Jeſuits, born within his Majeſty's Domi-'nions, by the Statute of 27 *Eliz. cap.* 2. is made 'Felony, not Treaſon; and extends only to Prieſts '*Engliſh* born, which theſe are not charged to 'be.

'My Lords, we have now gone through thoſe 'Articles wherein we conceive the Treaſons char-'ged were intended, and have endeavoured to 'make it appear, That none of the Matters in any 'of the Articles charged are Treaſon within the 'Letter of any Law.

'And if not ſo, then they cannot by Inference 'or Parity of Reaſon, be heighten'd to a Trea-'ſon.

'It is true, the Crimes, as they are laid in the 'Charge, are great and many.

'Yet if the Laws of this Realm, which have 'diſtinguiſhed Crimes, and accordingly given them 'ſeveral Names, and inflicted Puniſhments, raiſe 'none of theſe to a Treaſon;

Number of Crimes below Treaſon or Felony, cannot make a Treaſon.

'That we humbly conceive will 'be worthy of your Lordſhips Conſi-'deration in this Caſe; and that 'their Number cannot make them 'exceed their Nature. And if they 'be but Crimes and Miſdemeanours 'apart, below Treaſon or Felony, 'they cannot make a Treaſon by putting them to-'gether.

'Otherwiſe the Statute of 25 *Ed.* 3. which we 'have ſo much inſiſted upon, had been fruitleſs 'and vain; if after all that Exactneſs any Num-'ber of Miſdemeanours (in themſelves no Treaſon) 'ſhould by Complication produce a Treaſon, and 'yet no mention made of it in that Law, much 'leſs any Determination thereby, that any Num-'ber, or what Number, and of what Nature of 'Crimes, below Treaſon, ſhould make a Trea-'ſon.

'It is true, my Lords, That by the Statute of '25 *Ed.* 3. there is a Clauſe in theſe Words:

Power to declare Treaſons, per Stat. 25 Ed. 3. c. 2. *Wherein we conceive there is no Power to declare an Offence below a Felony to be a Treaſon.*

'*It is accorded, That if any other Caſe,* '*ſuppoſed Treaſon, which is not therein* '*ſpecified, doth happen before any Juſtices,* '*the Juſtices ſhall tarry without any go-*'*ing to Judgment of the Treaſon, until* '*the Cauſe be ſhewed and declared before* '*the King and his Parliament, whether* '*it ought to be judged Treaſon or Fe-*'*lony.*

'And that hereby might ſeem to 'be inferred, That there ſhould be 'ſome other Treaſons than are mentioned in that 'Law, which may be declared in Parliament.

'But, my Lords, we ſhall obſerve,

'1. If ſuch Declaration look only forward, then 'the Law, making it Treaſon, precedes the Of-'fence, and is no more than an enacting Law.

'If it look backward to the Offence paſt, then 'it appears by the very Clauſe it ſelf, of 25 *Edw.* 3. 'it ſhould be at the leaſt a Felony at the Common 'Law; and that a Crime or Crimes below a Fe-'lony, were never intended to be by this Law 'to be declared, or to be heighten'd to a Treaſon. 'And we find not any Crime declared Treaſon 'with a Retroſpect, unleſs it were a Felony be-'fore. And in the late Caſe of the Earl of *Straf-*'*ford*, attainted by Bill, there is a Treaſon within 'this Law charged, and declared by the Bill of 'his Attainder to have been proved.

'2. Secondly, We are not now in caſe of a De-'claration of a Treaſon, but before your Lordſhips 'only upon an Impeachment; and in ſuch caſe we 'humbly conceive the Law already eſtabliſhed, as 'it hath been, ſo it will be the Rule. (*a*)

'Thus, my Lords, we have gone through that 'Part which belongs to us, directed us by your 'Lordſhips, *viz.*

'Whether in all or any the Articles exhibited 'before your Lordſhips, there is contained any 'Treaſon by any eſtabliſhed Law of this Kingdom, 'without meddling at all with the Facts or Proof 'made of them; which, together with our weak 'Endeavours, we humbly ſubmit to your Lord-'ſhips great Judgment. And for any Authorities 'cited by us, are ready (if ſo commanded) to pro-'duce them.

Here this Day ended; and I had a few Days reſt. But on *Tueſday*, *October* 22. being a Day made ſolemn for Humiliation, my Chamber at the *Tower* was ſearched again for Letters and Papers; but nothing found.

After this, there went up and down all about *London* and the Suburbs, a Petition for the bringing of Delinquents to Juſtice; and ſome Preachers exhorted the People to be zealous in it, telling them it was for the Glory of God, and the Good of the Church. By this means they got many Hands of Men which little thought what they went about. In this Petition, none were named but my ſelf and the Biſhop of *Ely*; ſo their Drift was known to

(*a*) *Whatſoever hath been hitherto placed in the Margin of this Argument, was tranſcribed from Mr.* Hern's *own Copy; but this which followeth, I tranſcribed from a looſe Note, wrote by an unknown Hand, and affixed to this Place.* H. W.

Concerning the Proviſo *in* 25 Edw. 3. (*laſt mentioned*) *it is obſervable, That Mr.* Lane, *in the Lord* Strafford's *Tryal, ſaith, That that Clauſe of Proviſion,* 25 Edw. 3. *is quite taken away by* 6 Hen. 8. cap. 4. & 20. *So that no Treaſon is now to be reckoned, but what is literally contained in* 25 Ed. 3. *See for this* Whitlock's *Memoirs,* p. 43. *See alſo* Burnet's Hiſt. Reform. Part II. pag. 253. *about the Repeal of Treaſons.*

none

none but their own Party; and was undoubtedly ſet on foot to do me Miſchief. Whoſe Deſign this was, God knows; but I have cauſe to ſuſpect Mr. *Pryn*'s Hand in it. This barbarous way of the People's clamouring upon great Courts of Juſtice, as if they knew not how to govern themſelves and the Cauſes brought before them, is a moſt unchriſtian Courſe, and not to be endured in any well-govern'd State. This Petition, with a Multitude of Hands to it, was delivered to the Houſe of Commons on Monday, *October* 28. Concerning which I ſhall obſerve this, That neither the Lord Mayor nor the Sheriffs made any Stop to this illegal and blood-thirſty Courſe, though it were publickly known, and the People exhorted to ſet Hands to it in the Pariſh-Churches. What this, and ſuch-like Courſes as theſe, may bring upon this City, God alone knows, whom I humbly pray to ſhew it Mercy.

November 1. This Day, being *All-hallan-Day*, a Warrant came to the Lieutenant from the Houſe of Commons to bring me to their Bar, to hear the Evidence formerly ſummed up, and given againſt me in the Lords Houſe. I knew no Law nor Cuſtom for this; for though our Votes, by a late Act of Parliament, be taken away, yet our Baronies are not: And ſo long as we remain Barons, we belong to the Lords Houſe, and not to the Commons. Yet how to help my ſelf, I knew not: For when the Warrant came to me, the Lords Houſe was riſen, and I was commanded to the Houſe of Commons the next Morning before the Lords came to ſit; ſo I could not petition them for any Privilege. And had I done it, I doubt it would have been interpreted for an Endeavour to make a Breach between the Houſes: And ſhould I have under any Pretence refuſed to go, Mr. Lieutenant would have carried me.

Therefore on Saturday, *November* 2. I went, according to the Warrant, to the Houſe of Commons. So ſoon as ever I was come to the Bar, Mr. *Speaker* told me, There was an Ordinance drawn up to attaint me of High-Treaſon; but that they would not paſs it till they had heard a Summary of the Charge which was laid againſt me; and that I was ſent for to hear it alſo. I humbly beſought them that my Counſel and my Sollicitor (who were always preſent with me in the Lords Houſe) might ſtand now by me: But it would not be granted. Then Mr. *Brown*, by Order from the Speaker, delivered the Collection and Sum of the Charge againſt me; much at one with that which he formerly made in the Lords Houſe. Now I took Notes of it as exactly as I could. He had no ſooner done, but Mr. Speaker preſſed me to make Anſwer preſently. I humbly beſought the Houſe I might not be put to that, the Charge being long and various; but that I might have Time, and that my Counſel might be heard for Matter of Law. I was commanded to withdraw. And when I was called in again, I received an Order peremptory, to anſwer the Monday Seven-night after to ſuch Things as the Reporter was miſtaken in. But not a Word of hearing my Counſel. I returned to my Priſon.

This Wedneſday, *November* 6. I got my Prayer-Book, by the Help of Mr. *Hern* and Mr. *Brown*, out of Mr. *Pryn*'s Hands, where it had been ever ſince the laſt of *May*, 1643.

Monday, *November* 11. I came to the Houſe of Commons again; and, according to their peremptory Order, made my Anſwer to the Summary Charge which Mr. *Brown* made againſt me. But here I ſhall advertiſe the Reader, That, to avoid troubleſome and tedious Repetition, I ſhall not ſet down my Anſwer at large, as there I ſpake it; becauſe there is nothing in it but what is in my former Anſwers, the Beginning and the End only excepted. But it was neceſſary for me then to make a whole and an entire Anſwer, becauſe the Houſe of Commons had then heard no part of my Defence. But I preſume the charitable Reader will look upon my Anſwers in their proper place, rather than be troubled a ſecond time with the ſame Thing. Yet becauſe Mr. *Brown* went a different way in his Summary from the Charge lately given, I ſhall repreſent a Skeleton of my Anſwer, with all the Limbs of it entire, that it may be ſeen, as it were, together; though I report nothing which hath been already ſaid. And thus I began:

My Defence in the Houſe of Commons.

'MR. Speaker, I was here *November* 2. It was the firſt time that ever I came within theſe Doors.' And here then you gave me 'the moſt uncomfortable Breakfaſt that ever I 'came to; namely, That this Honourable Houſe 'had drawn up an Ordinance againſt me of High 'Treaſon: But that before they would proceed 'farther, I ſhould hear the Sum of the Charge 'which was againſt me; which was the Cauſe I 'was ſent for then: And to give my Anſwer 'to that which was then ſaid, or rather miſtaken 'in ſaying and inferring, is the cauſe of my 'coming now.

'1. And, Firſt, Mr. Speaker, I give Thanks to 'this Honourable Houſe that they have given me 'leave to ſpeak for my ſelf. 2. Secondly, I do 'humbly deſire if any Word or Thing ſhould be 'miſtaken or unadviſedly expreſſed by me, (which 'ſhall be fore againſt my Will) I may have Liberty to recall and expound my ſelf. 3. Thirdly, 'That you will favourably conſider into what 'Straits I am caſt; that after a long and tedious 'Hearing, I muſt now come to anſwer to a Sum 'or an Epitome of the ſame Charge; which how 'dangerous it may be for me, all Men that know 'Epitomes cannot but underſtand.

'Mr. Speaker, I am come hither to make a 'Brief of my Anſwer to a Sum of my Charge; 'wherein I may receive as much Detriment by 'my own Brief, for want of larger Expreſſion, as 'by the other of my Charge, by Omiſſion or Miſtake: Yet ſince your Command is upon me, I 'ſhall, without farther Preface, (which I conceive 'would be as tedious to you, as to me troubleſome) addreſs my ſelf, and with as much Brevity 'as the many Heads of the Charge will bear. 'And that my Anſwer may be the clearer both 'to this Honourable Houſe, and to the Gentleman who reported the Charge, I ſhall follow every Thing in the ſame Order he proceeded in: 'So far forth, at leaſt, as an old ſlow Hand could 'take them, a heavy Heart obſerve them, and an 'old decayed Memory retain them.

'This worthy Gentleman hath preſſed all things 'as hardly againſt me, as the Cauſe can any way 'bear; That was his Duty to this Honourable 'Houſe, and it troubles me not: But his Carriage and Expreſſions were civil towards me, in 'this my great Affliction; and for this I render 'him humble and hearty Thanks, having from 'other Hands pledged my Saviour in Gall and 'Vinegar,

'Vinegar, and drunk up the Cup of the Scornings 'of the People to the very bottom.

'This Gentleman began with four Generals, 'which he said I complained of, and I say I had 'cause so to do. 1. The first Complaint was, '*That I had lain three Years in Prison before I was 'heard.* And this, he said, was my own Fault, 'because I delayed the putting in of my full An-'swer when I was called. But herein he is quite 'mistaken: For I could not answer till I was 'called, and I was not called in three Years; 'nor then could I plead to more Articles than 'were put to me.' [Nor did this delay three Months of the three Years: Yet this Gentleman in his Reply said still, it was my Fault, *because I did not petition to be brought to hearing.* But this, under favour, is a weaker Reason than the former. For the Condition of the Times considered, neither my Counsel, nor my other Friends, nor my self, could think that a fit or a discreet way. Besides, it is well known, that had I petitioned I could not have been heard, my business being in a manner cast aside, till Mr. *Pryn*'s Malice, actuated by a Search into my own Papers, undertook it.] '2. The Gentleman said, my se-'cond Complaint was, *That my Papers were seized*: 'But he said, that was done by Authority. And 'I never denied that: But that which he added 'is much mistaken; namely, That I ever seized 'any Man's Papers without Authority, or by my 'own Power; but what was done in that kind, 'was by the joint Authority of that Court, in 'which I then sat. Nor was my Complaint gene-'ral, that my Papers were seized; but that the 'Papers prepared for my Defence were taken 'from me, and not restored when I needed 'them, and petitioned for them. 3. He said, 'my third Complaint was, *That many of the Wit-'nesses produced against me were Separatists.* I did 'indeed complain of this, and I had abundant 'Cause so to do: For there was scarce an active 'Separatist in *England*, but some way or other his 'Influence was into this Business against me. And 'whereas the Gentleman said, *The Witnesses were 'some Aldermen, and some Gentlemen, and Men of 'Quality:* That's nothing; for both Gentlemen, 'and Aldermen, and Men of all Conditions, (the 'more's the pity) as the Times now go, are Se-'paratists from the Doctrine and Discipline of the 'Church of *England* established by Law. And I 'would to God some of my Judges were not. '4. My fourth Complaint, he said, was, *of the ex-'cessive Number of the Witnesses.* And he added, 'That if I would not have so many Witnesses, 'I should not have given occasion for it, by com-'mitting so many Crimes. But, First, whether I 'have committed so many Crimes as are urged a-'gainst me, is yet in question. And, Secondly, 'tis one thing to give cause, and another thing 'to give occasion: For an Occasion may be ta-'ken, when 'tis pretended as given. And so I 'hope it will be found in my Case. But the thing 'here mistaken is, That these are all said to be 'legal Witnesses; whereas almost all of them have, at 'some time or other, been before me as their Judge, 'either at *Star-Chamber*, or *Council-Table*, or *High-'Commission*, or as Referee. And then I humbly 'desire it may be considered; First, How impossi-'ble it is for a Judge to please all Men. Secondly, How improbable it is, that Witnesses dis-'pleased, should be indifferent in their Testimony. 'And, Thirdly, how hard it is to convince a Man 'by such interested Witnesses, now (upon the 'matter) becoming Judges of him 'that judged them. And (as St * *Au-'gustine* speaks) *Quomodo potest, how is 'it possible for one that is contentious and 'evil, to speak well of his Judge?*

* Quomodo potest malus litigator laudare Judices? *Aug. Epist.* 166.

'From these Generals the Gentleman passed to the Particulars of the Charge; 'and he caused the 7, 8, 9, 10, 11th Original Arti-'cles, and the 7th Additional to be read. That 'done, he divided the Charge into two main Heads: 'The one, an Endeavour in me to subvert the 'Laws of the Kingdom; and the other, a like 'Endeavour to alter the true *Protestant Religion* in-'to *Popery*. The Evidence given in the Lords 'House, began at the *Laws*, and ended in *Reli-'gion*; but this Gentleman in his Sum, both there 'and here, began with *Religion*, and ended with 'the *Laws*.

'I. The Charge concerning Religion, he said, 'would bear two Parts; the Ceremonial, and the 'Substantial Part of Religion.

'(1.) And he professed he would begin at the 'Ceremonial, where having first charged in gene-'ral, the Statute of the 3 and 4 of *Ed. 6. c.* 10. for 'the Destruction of Images, he gave these particu-'lar Instances following, to shew my Intention to 'alter Religion.

'1. The setting up of coloured Glass with Pic-'tures in the Windows of my Chappel; the Com-'munion-Table Altar-wise; Candlesticks thereon, 'with Reverence and Bowings.

'2. A Bible in my Study with the five Wounds 'of Christ wrought upon the Cover in Needle-'Work.

'3. Three Pictures in my Gallery; the *Ecce Ho-'mo*; the Four *Latin* Fathers, and the History '(St. *John* 10.) of the true Shepherd entring in by 'the Door, and the Thief by the Window.

'4. The Crucifix hung up in the Chappel at '*White-Hall* on *Good Friday*; and what happened 'there upon Dr. *Brown*'s coming in, and doing 'Reverence.

'5. The Copes and Bowings used in Cathedral 'Churches since my time.

'6. The Ceremonies used at his Majesty's Co-'ronation.

'7. The Abuses in the Universities, especially '*Oxford*.

'1. The Titles given me from thence.

'2. Divers Particulars in the new Statutes.

'3. Images countenanced there, by me, in di-'vers Chappels.

'4. The Picture of the Virgin *Mary* at *St. Ma-'ry*'s Church-Door.

'5. Nothing to be done without me in Con-gregations.

'8. The Ceremonies in some Parish-Churches, 'and some punished for neglect of them. Instan-'ces in some of *Beckington*, some of *Lewes*, and in 'Mr. *Chancy* of *Ware*.

'9. That I preferred no Men, but such as were 'active for the Ceremonies.

'10. Passages expunged out of Books, if contra-'ry to these Courses; as that in Dr. *Featly*'s Ser-'mons concerning Images.

'11. Bibles with Pictures in them.

'12. The severe Punishment of Mr. *Workman* of '*Gloucester*, only for a Sermon against Images.

'13. Words spoken to take Bishop *Jewell*'s Works 'and the *Book of Martyrs*, out of some Parish-'Churches.

'14. The Consecration of *Cree-Church*, and *St. 'Giles in the Fields*. In all which, as I humbly con-

'ceive,

'ceive, here's nothing (eſpecially my Anſwers being taken to them) that can co-operate to any Alteration of Religion. Nor is there any Treaſon, were all that is urged true.

'(2.) From hence, Mr. *Speaker*, this worthy Gentleman paſſed over from the Ceremonies, to thoſe things which, he ſaid, concerned the Subſtance of Religion: In which the Particulars which he charged were theſe;

'1. A Doubtfulneſs, if not a Denial of the Pope's being *Antichriſt*.

'2. Diſlike of the Name, *the Idol of* Rome.

'3. The Alteration of ſome Paſſages in the Publick Prayers appointed for *Novemb.* 5. and the *Coronation-Day*.

'4. The *Antichriſtian Yoke* left out of the Brief for the *Palatinate*, with an Expreſſion, as if we and thoſe Reformed Churches were not of the ſame Religion.

'5. That Men were puniſhed for praying for the *Queen* and *Prince*.

'6. That the Church of *Rome* is a true Church.

'7. That the Communion-Table or Altar is the Chief Place; for there's *hoc eſt Corpus meum*.

'8. Reſtraint of all Books againſt Popery. Inſtances in a Book of Biſhop *Carleton's*: One tendred by Sir *Edward Hungerford*. Dr. *Clark's* Sermons. Dr. *Jones*. None called in but *Sales*. That I my ſelf did expunge ſome Paſſages out of a Sermon of Dr. *Sibthorp's*. Popiſh Books ſeized, redelivered to the Owners. That for theſe I muſt anſwer for my Chaplains, ſince *John* Archbiſhop of *York* was fined for his Commiſſary's Act againſt the Biſhop of *Durham*; who having a Patent, could not ſo eaſily be put out of his place, as I might change my Chaplains.

'9. Three Miniſters in my Dioceſs ſuſpended for not reading the *Book of Recreations* on the Lord's Day.

'10. The Feoffment for buying in of Impropriations, overthrown, to the Hindrance of Preaching, and Scandal to Religion.

'11. Incroachment upon the Lord Chamberlain for naming of Chaplains to the King; and upon the Maſter of the Wards for giving of Benefices.

'12. Familiarity with Prieſts and Jeſuits, *S. Clara* and Monſieur *S. Giles*.

'13. The Teſtimonies of Mr. *Chaloner*, Sir *Henry Mildmay*, and his Brother Mr. *Anthony*, what Opinion was held of me beyond the Seas, for my cunning introducing of Popery.

'14. That an Offer was made unto me to be a Cardinal. And thus far this Gentleman proceeded in Points of Religion.

'But becauſe there hath paſſed divers things done at and by the *Council-Table*, the Courts of *Star-Chamber*, and *High-Commiſſion*, and in *Convocation*; and becauſe many more things ſo done, are to come in the next Head concerning the Law; I humbly crave leave, for avoiding tedious Repetition, to ſay it once for all, That no Act done by any of theſe, either by full Conſent or major Part, which involves the reſt, ought to be charged ſingly againſt me: And that for theſe Reaſons following;

'1. Firſt, Becauſe this is not *peccare cum multis*: For they meet not there in a Relation as *multi*, but as *unum Aggregatum*, as Bodies made one by Law. And therefore the Acts done by them, are Acts of thoſe Bodies, not of any one Man ſitting in them. And in this Senſe a Parliament is one Body conſiſting of many; and the Acts done by it are Acts of Parliament. For which (ſhould any of them prove amiſs) no one Man is anſwerable, though many times one Man brings in the Bill.

'2. Secondly, Becauſe I could ſway no Man's Vote in any of thoſe places (though this hath been often urged againſt me, as an *over-potent Member*) for my Vote was either laſt, or laſt ſave one, in all theſe Places; ſo I could not lead. Nor is there any ſo much as ſhew of Proof offered, that I moved, or prepared any Man to a Sentence one way or other, in any one of theſe Courts or Places.

'3. Thirdly, Becauſe in thoſe Courts of Judicature, there was the Aſſiſtance of able Judges, Lawyers and Divines for Direction. And how can that be a Treaſon in me, which is not made ſo much as a Miſdemeanour in any of the reſt?

'4. Fourthly, Becauſe the Act of this preſent Parliament, which hath taken away the *Star-Chamber*, and the *High-Commiſſion*, and bounded the *Council-Table*, looks forward only, and puniſhes no Man for any Act paſt; much leſs doth it make any Man's Actions done in them to be Treaſon: And I am no way excluded from the Benefit of that Act.

'5. Laſtly, Becauſe in all my Proceedings, both in the High-Commiſſion and elſewhere, I kept ſtrictly to the Doctrine and Diſcipline of the Church of *England* eſtabliſhed by Law, againſt both Papiſts and other Sectaries. And under this Government, and Doctrine of this Church, it hath pleaſed God, now for above Fourſcore Years together, to bleſs this Kingdom and People above other Nations. And I pray God, if we forſake the one, it prove not a Cauſe to deprive us of the other.

'II. And now, Mr. *Speaker*, I ſhall follow this worthy Gentleman, as he went on to the ſecond General Head, *the Subverſion of the Laws*. And here, when he had cauſed the 1, 2, 3, 5, and 14th Original Articles to be read, as alſo the 2, 9, and 10th Additionals; he then ſaid, That I had labour'd this Subverſion by my Counſels, and by my Actions.

'(1.) By my Counſels firſt; of which he gave three Inſtances.

'1. The Vote of the *Council-Table* to aſſiſt the King in extraordinary ways, if the Parliament ſhould prove peeviſh and refuſe: And this out of my Diary at *Decemb.* 5. 1639.

'2. The Paſſage in the Epiſtle before my Speech in the *Star-Chamber*; *Not one way of Government, ſince the Humours of the People were in continual Change*.

'3. A Speech at *Council-Table*, That now the King might uſe his own Power, *&c.* witneſſed only by Sir *Henry Vane* the Elder.

'(2.) From my Counſels, Proceed was made to my Actions; where the Particulars were;

'1. That I attempted to ſet *Proclamations* above the *Law*.

'2. That I was for all illegal Projects at the *Council-Table*; inſtanced in *Incloſures*, in *Ship-Money*, and Sir *John Corbett's* Commitment.

'3. The taking down of the Houſes about *St. Paul's*, with the large Commiſſion for the Repair of the Weſt-End.

'4. The ſtopping of two Brewers in their Trade, being in *Weſtminſter*, and pretended to annoy the Court.

'5. Things done by me as *Referee*; inſtanced 'in a Caſe between *Rich* and *Pool*, and another of 'one *Symmes*.

'6. Obſtructing the Courſe of Law, by ſending 'to Judges; inſtanced in the Pariſhioners of *Bec-'kington*, in the Caſe of *Ferdinando Adams*; in Sir 'Henry *Martyn*'s Caſe about an Attorney at Law; 'Judge *Richardſon*'s Words in Mr. *Huntley*'s Caſe; 'and Baron *Trevor*'s Words in *Grafton*'s Caſe.

'7. The puniſhing Men that came in a legal 'Way; inſtanced in the Caſe of *Newcomin* and 'Burrowes; that I ſaid in the High-Commiſſion, 'I hoped to ſee the Clergy exempt again the 'next Hundred Years: The two Church-Wardens 'of *Cheſham*, with Words concerning Sir *Thomas* 'Dacres.

'8. The Caſe of Prohibitions; and Mr. *Whee-'ler*'s Note out of a Sermon of mine concerning 'them.

'9. That no Pope ever claimed ſo much Juriſ-'diction, not from the King.

'10. The Canons; and I the main Man; the 'over-grown Member again.

'11. The Statutes of *Oxford* enforced a ſecond 'time; *Nevil*'s Caſe of *Merton-College* inſtanced 'in.

'12. Books printed that are againſt the Law; 'inſtanced in *Cowell*'s Interpreter, and Dr. *Man-'waring*'s Sermons.

'13. The Alteration of the *King's Oath* at his 'Coronation.

'14. My Enmity to Parliaments. To all which, 'as I then gave ſufficient Anſwers, ſo I hope the 'courteous Reader hath found them at large in 'their ſeveral Places. And for this laſt concerning '*Parliaments*, I humbly and heartily deſire, that 'this may be taken notice of, and remembred, 'That there is not in any one of theſe Paper-'Proofs produced againſt me, any one thing 'that offers to take away any Rights of *Parlia-'ments*, rightly underſtood; much leſs any that 'offers to take away *Parliaments* themſelves; 'which is a continued Miſtake all along this par-'ticular Charge. And if any raſh or unweighed 'Words have fallen from me, yet theſe cannot 'be extended to the diſannulling of *Parliaments*, 'or their Privileges in any kind, which I defend-'ed in Print long ſince, before I could foreſee any 'of this Danger threatning me. It 'is in my Book * againſt *Fiſher*: It 'was read in the Lords Houſe, and 'I humbly deſire I may read it here.

* Cont. Fiſher, p. 211.

'And it was read.

'After this, it was inferred by this worthy 'Gentleman, *what a great Offender I was, and 'greater than Cardinal* Woolſey. Mr. *Speaker*, I 'have ſeen the Articles againſt the Cardinal, and 'ſure ſomebody is miſtaken; for ſome of them 'are far greater than any thing that is proved 'againſt me. In which (I thank Chriſt for it) 'my Conſcience is at peace; whereas the Car-'dinal confeſſed himſelf guilty of them all, and 'yet no thought of Treaſon committed; and a '*Præmunire* was all that was laid upon him.

'Then he gave a touch, That '† in *Edward* III's time, there was 'a Complaint, that too much of the 'Civil Government was in the hands 'of the Biſhops; and that in the 45th Year of 'his Reign, they were put out, and Laymen put 'in. But, Firſt, this concerns not me. Secondly, The late Act of this Parliament hath taken 'ſufficient Order with that Calling for meddling 'in Civil Affairs. Thirdly, The Time is memo-'rable when this was done: it was in the Forty 'and Fifth Year of *Edward* III. that's enough.

† Anno 45. Ed. 3.

'Mr. Speaker, I ſhall draw towards an end. Yet 'not forgetting what Ordinance you told me was 'drawn up againſt me; if that which I have now 'ſaid may any way ſatisfy this Honourable Houſe 'to make ſtay of it, or to mitigate it, I ſhall bleſs 'God and you for it. And I humbly deſire you to 'take into conſideration my Calling, my Age, 'my former Life, my Fall, my Impriſonment long 'and ſtrict; that theſe Conſiderations may move 'with you. In my Proſperity (I bleſs God for 'it) I was never puffed up into Vanity, whatever 'the World may think of me. And in theſe laſt 'full Four Years durance, I thank 'the ſame God, * *gravem Fortunam 'conſtanter tuli*; I have with decent 'Conſtancy borne the weight of a 'preſſing Fortune: And I hope God will ſtrengthen 'me unto, and in the end of it.

* Tacit. l. 6. Annal.

'Mr. Speaker, I am very † aged, 'conſidering the Turmoils of my 'Life; and I daily find in my ſelf 'more Decays than I make ſhew of: 'and the Period of my Life, in the Courſe of Na-'ture, cannot be far off. It cannot but be a great 'Grief unto me, to ſtand at theſe Years thus 'charged before ye: Yet give me leave to ſay 'thus much without offence, Whatſoever Errors 'or Faults I may have committed by the way, in 'my my Proceedings, through human Infirmity; 'as who is he that hath not offended, and broken 'ſome Statute-Laws too by Ignorance, or Miſap-'prehenſion, or Forgetfulneſs, at ſome ſudden time 'of Action? yet if God bleſs me with ſo much Me-'mory, I will die with theſe Words in my Mouth; '*That I never intended, much leſs endeavoured, the Sub-'verſion of the Laws of the Kingdom, nor the bringing in 'of Popiſh Superſtition upon the true Proteſtant Religion 'eſtabliſhed by Law in this Kingdom.*

† Annum jam agens ſeptuageſimum ſecundum.

'And now, Mr. Speaker, having done with the 'Fact, I have but this one thing to put to the Con-'ſideration of this Honourable Houſe. My Charge 'hath been repeated, I confeſs, by a very worthy, 'and a very able Gentleman: But *Ability* is not 'abſolute in any. The Evidence given againſt 'me before the Lords, was (as by the Law it 'ought to be) given in upon Oath: But the Evi-'dence now ſummed up, and preſented to this 'Honourable Houſe, is but upon the Collection 'and Judgment of one Man, how able or intire 'ſoever: and what he conceived is proved againſt 'me, is but according to his Judgment and Me-'mory; which perhaps may differ much from the 'Opinion and Judgment of the Judges themſelves, 'who heard the Evidence at large. Nor was this 'Gentleman himſelf preſent every Day of my 'Hearing; and then for thoſe Days in which he 'was abſent, he can report no more here, than 'what others have reported to him. So for ſo 'much, his Repetition here is but a Report of a 'Report of Evidence given; and at the beſt but 'a Report of Evidence, and not upon Oath. And, 'I ſuppoſe, never any Jurors, who are Tryers of 'the Fact in any Caſe, Civil or Criminal, did 'ever ground their Verdict upon an Evidence on-'ly reported before them, and which themſelves 'heard not.

'And if this manner of Proceeding ſhall be 'thought leſs conſiderable in my Perſon, yet I 'humbly deſire it may be thoroughly weighed in 'the prudent Judgment of this Honourable Houſe,

'the great Preſerver of the Laws and Liberties of 'the Subject of *England*, how far it doth or may 'trench upon theſe in future Conſequences, if 'theſe great Boundaries be laid looſe and open.

'And becauſe my Infirmities are many and 'great, which Age and Grief have added to 'thoſe which are naturally in me, I moſt humbly 'deſire again, That my Counſel may be heard for 'point of Law, according to the former Con-'ceſſion of this Honourable Houſe: For I aſſure 'myſelf, upon that which hath been pleaded to 'the Lords, That no one, nor all of the things 'together which are charged againſt me, if 'proved, (which I conceive they are not) can 'make me guilty of High Treaſon, by any known 'eſtabliſhed Law of this Kingdom.

'The Sum of all is this: Upon an Impeach-'ment ariſing from this Houſe, I have pleaded '*Not Guilty*. Thereupon Iſſue hath been joined, 'and Evidence given in upon Oath. And now I 'muſt humbly leave it to you, your Wiſdom and 'Juſtice, whether it ſhall be thought fit, and juſt, 'and honourable, to judge me here, only upon a 'Report, or a Hearſay, and that not upon Oath.'

Here ended the heavy Buſineſs of this Day. I was exceeding faint with ſpeaking ſo long; and I had great Pain and Soreneſs in my Breaſt for almoſt a Fortnight after: then, I thank God, it wore away. I was commanded to withdraw, and to attend the Houſe again on Wedneſday, *Nov.* 13. 1644. which I did. Then Mr. *Brown* made a Reply to my Anſwer: the Reply had ſome great Miſtakes in it, but elſe was for the moſt part but a more earneſt affirming of what he had delivered. And I conceived I was not to anſwer to his Reply, but that he was to have the laſt Speech: for ſo it was always carried, during my Hearing in the Lords Houſe. Therefore being diſmiſſed, I went away: And I was no ſooner gone, but the Houſe called for the Ordinance which was drawn up againſt me, and without hearing my Counſel, or any more ado, voted me guilty of High Treaſon. And yet, when I came that day to the Houſe, all Men, and many of the Houſe themſelves, did much magnify my Anſwer before given: I will forbear to ſet down in what Language, becauſe it was high; and as no time can be fit for Vanity, ſo leaſt of all was this time for me. And vain I muſt needs be thought, ſhould I here relate what was told me from many and good hands. But it ſeems the Clamour prevailed againſt me.

On Saturday, *Novemb.* 16. this Ordinance was paſſed the Houſe of Commons ſuddenly, and with ſo great deliberation, as you have heard, was tranſmitted to the Lords, and by them the Debate concerning it put off to Friday *Novemb.* 22. Then the Earl of *Pembroke* began more fully to ſhew his canker'd Humour againſt me: how provoked, I proteſt I know not, unleſs by my ſerving him far beyond his Deſert. There, among other coarſe Language, he beſtowed (as I am informed) the *Raſcal* and the *Villain* upon me: and told the Lords, they would put off giving their Conſent to the Ordinance, till the Citizens would come down, and call for Juſtice, as they did in my Lord *Strafford*'s Caſe. Was there not Juſtice and Wiſdom in this Speech? Hereupon the Buſineſs was put off to Saturday, *Novemb.* 23. and then to Friday, *Novemb.* 29. But then upon Thurſday, *Novemb.* 28. Mr. *Strowd* came up with a Meſſage from the Commons, to quicken the Lords in this Buſineſs: And at the end of his Meſſage, he let fall, That *they ſhould do well to agree to the Ordinance, or elſe the Multitude would come down and force them to it.* At this, ſome Lords very honourably took exception; and Mr. *Strowd* durſt not bide it, that this was any part of the Meſſage delivered him by the Houſe of Commons. But the matter was paſſed over, and Mr. *Strowd* not ſo much as checked. This, it may be, was thought ſeaſonable by ſome, to hearten on the Violence of the Earl of *Pembroke*.

The Buſineſs not long heard on Friday, was put off again to Monday *Decemb.* 2. and the Houſe of Lords put into a Committee, to examine Particulars by their Notes: the Earl of *Northumberland* on the Wool-Sack during the Debate, which continued, more or leſs, ſome days. Where their own Notes failed, they called to Mr. *Brown*, Clerk of their Houſe, for his. But at laſt, finding him very ready and quick for any thing that was charged againſt me, but loth to be known what Anſwer I gave to any Point, ſome Lords obſerved it. And it did after appear, that the Notes which he put to the Lords, were not the Notes which himſelf took, but that he had a Copy given him, (whether by Mr. *Pryn* or any other, I know not) and I was informed that the Earl of *Warwick* had another Copy of the very ſame. This is marvellous juſt and honourable in that Earl; and moſt Chriſtian-like in Mr. *Brown*. It may be, he learned it out of the Notes which his Father-in-Law takes at Sermons.

Upon Monday, *December* 16. there was (the Times conſidered) a very full Houſe of Lords; about twenty preſent, and my Buſineſs largely debated, and ready to come to the Queſtion. I wiſh with all my heart it had, while the Houſe was ſo full. But the Earl of *Pembroke* fell again into his wonted Violence, and asked the Lords what they ſtuck at? And added, *What, ſhall we think the Houſe of Commons had no Conſcience in paſſing this Ordinance? Yes, they knew well enough what they did.* One of the Wits hearing this excellent Paſſage of the Earl's, proteſted, if ever he lived to ſee a Parliament in *Bedlam*, this prudent Earl ſhould be Speaker, if he were able to procure him the Place.

In the mean time this unhappy Clamour of his, put the Buſineſs off again to the next day, being Tueſday, *Decemb.* 17. Then there were but fourteen Lords in the Houſe. My Buſineſs was aſſumed, and propoſed in three Queſtions, and I was voted guilty of the Fact in all three. Namely, Guilty of endeavouring to ſubvert the Laws; to overthrow the Proteſtant Religion; and that I was an Enemy to Parliaments. Then it being put to the Judges, whether this were Treaſon or no; the Judges unanimouſly declared, that nothing which was charged againſt me was Treaſon, by any known and eſtabliſhed Law of the Land, with many things to and fro concerning this Buſineſs.

On Tueſday, *Dec.* 24. *Chriſtmas-Eve*, the Lords had a Conference with the Commons about it. In which they declared, that they had diligently weighed all things that were charged againſt me, but could not by any one of them, or all, find me guilty of Treaſon. And therefore deſired that the Argument made by my Counſel might be anſwered. And if it could be made appear unto them by any Law to be Treaſon, they would then proceed farther, as in Honour and Juſtice they ſhould find fit. Then came *Chriſtmas-Day*, *Dec.* 25. the laſt Wedneſday in the Month, and a moſt ſolemn Faſt kept on it, with as ſolemn an Ordinance for the due Obſervance of this Faſt, and againſt the manner of keeping of that Day in former Superſtitious Times.

imes. A Faſt never before heard of in *Chriſtendom*.

After this Conference, Mr. Serjeant *Wilde* ſpeaking freely to ſome Friends about this Buſineſs, told them, he wonder'd the Lords ſhould ſo much diſtruſt their Judgments, as to deſire a Conference about it. To ſee how good Wits agree! Surely, I believe he was of the Earl of *Pembroke*'s Counſel, or the Earl of his, they jump ſo together. It ſeems in theſe Mens Opinions, the Houſe of Commons can neither err in Conſcience nor Judgment. Howſoever, that Houſe thought it fit the Lords ſhould be ſatisfied, that I was by Law guilty of High Treaſon: and to that end ſent up a Committee, *Jan.* 2. 1644. to make proof of it to their Lordſhips. At this Meeting, two Judges were preſent, Juſtice *Reeves* and Judge *Bacon*. The Managers of the Buſineſs againſt me, were three Lawyers, Mr. *Brown*, Serjeant *Wilde*, and Mr. *Nicolas*. Neither myſelf nor any of my Counſel there. What this will effect upon the Lords, Time muſt diſcover, as it doth the Effects of other Eclipſes. And thus far I had proceeded in this ſad Hiſtory by *Jan.* 3. 1644. The reſt ſhall follow, as it comes to my knowledge.

[H. W. *Next day, the Archbiſhop receiving the News that the Bill of Attainder had paſſed in the Houſe of Lords, broke off his Hiſtory, and prepared himſelf for Death. I ſhall therefore ſupply the Hiſtory from the Accounts of Mr.* Ruſhworth, *and Dr.* Heylin.]

A Supplement to the preceding Tryal, taken from the Hiſtorical Collections *of* John Ruſhworth, *Par.* 3. *Vol.* 2. *p.* 834.

THE Reaſons of the Commons for the Attainder of the Archbiſhop, were at a Conference *Jan.* 2. by Serjeant *Wilde*, Mr. *Brown*, and Mr. *Nicolas*, communicated to the Lords; who thereupon, on the 4th of *January*, paſſed the Ordinance of Attainder: whereby it was ordained, that he ſhould ſuffer Death, as in Caſes of High Treaſon. And on the 6th of *January* it was ordered by both Houſes, that he ſhould ſuffer accordingly on Friday the 10th. But on the 7th, the Lords at a Conference acquainted the Commons with a Letter and Petition from the Archbiſhop, and a Pardon to him from the King, dated the 12th of *April*, 19 *Car.* of which he deſired the benefit: but the ſame was over-ruled and rejected. His Petition was, that in caſe he muſt die, Dr. *Stern*, Dr. *Heywood*, and Dr. *Martin*, might be permitted to be with him before and at his Death, to adminiſter Comfort to his Soul; and that the Manner of his Execution might be altered to Beheading. To which the Lords agreed, but the Commons then refuſed both; only granted, that Dr. *Stern*, and Mr. *Marſhal*, and Mr. *Palmer*, ſhould go to him; and one or both of the latter to be conſtantly preſent, whilſt Dr. *Stern* was with him. But the next day, upon another Petition of his, ſetting forth Reaſons, from his being a Divine, a Biſhop, one that had had the Honour to ſit in the Houſe of Peers, and of the King's moſt Honourable Privy-Council, *&c.* praying in thoſe regards, not to be expoſed to ſuch an ignominious Death; the Commons conſented to remit the reſt of the Sentence, and that he ſhould ſuffer Death by being beheaded. Accordingly on the 10th of *January* he was conducted from the *Tower* to the Scaffold on *Tower-Hill*; where being arrived, holding a Paper in his hand, he ſpake to the People as followeth.

[*Then followeth the Archbiſhop's Speech and Prayer, and other Circumſtances of his Execution,* verbatim, *as they were printed in a Pamphlet of three Sheets in* 4*to*, London, 1644.]

A Supplement to the preceding Tryal, taken out of Dr. Heylin's Cyprianus Anglicus, *or his Life of Archbiſhop* Laud, *pag.* 527, &c.

THE Bill of Attainder of the Archbiſhop paſſed in the Houſe of Commons, *Nov.* 13. 1644. But yet the Buſineſs was not done; for the Lords ſtuck at it: ſome of which, having not extinguiſhed all the Sparks of Humanity, began to find themſelves compaſſionate of his Condition, not knowing how ſoon it ſhould or might be made their own, if once diſfavoured by the Grandees of that potent Faction. For the Ordinance having been tranſmitted to the Houſe of Peers, and the Houſe of Peers deliberating ſomewhat long upon it, it was voted on *Decemb.* 4. That all Books, Writings, and Evidences, which concerned the Tryal, ſhould be brought before the Lords in Parliament; to the end, that they might ſeriouſly and diſtinctly conſider of all Particulars amongſt themſelves, as they came before them. But meaning to make ſure work of it, they had in the mean time (after no ſmall Evaporations of Heat and Paſſion) prepared an Ordinance, which they ſent up to the Lords, importing the diſplacing of them from all thoſe Places of Power and Command which they had in the Army. Which being found too weak to hold, they fall upon another and a likelier Project, which was to bring the Lords to ſit in the Commons Houſe, where they were ſure they ſhould be inconſiderable both for Power and Number. And to effect the ſame with more ſpeed and certainty, they had recourſe to their old Arts, drawing down *Watkins* with his general Muſter of Subſcriptions, and putting a Petition into his hands, to be tendred by him to the Houſes, that is, themſelves: wherein it was required amongſt other things, That they ſhould *vigorouſly proceed unto the Puniſhment of all Delinquents*; and that for the more quick Diſpatch of Publick Buſineſs of State, the Lords would pleaſe to vote and ſit together with the Commons. On ſuch uncertain Terms, ſuch a tickliſh Tenure, did they then hold their Place and Power in Parliament, who ſo officiouſly complied with the Houſe of Commons, in depriving the Biſhops of their Vote, and the Church's Birthright. And this was it which helped them in that time of need. And yet not thinking this Device ſufficient to fright their Lordſhips to a preſent Compliance, *Strowd* was ſent up with a Meſſage from the Houſe of Commons, to let them know, that the *Londoners* would ſhortly bring a Petition with 20000 Hands to obtain that Ordinance. By which ſtale and common Stratagem, they wrought ſo far on ſome weak Spirits, the reſt withdrawing themſelves, (as formerly in the Caſe of the Earl of *Strafford*) that in a thin and ſlender Houſe, not above ſix or ſeven in number, it was paſs'd at laſt. The day before, they paſs'd the Ordinance for eſtabliſhing their new *Directory*, which in effect was nothing but a total Abolition of the Common-Prayer-Book; and thereby ſhewed unto the World, how little hopes they had of ſettling their new Form of Worſhip, if the Foundation of

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it were not laid in the Blood of this famous Prelate, who had ſo ſtoutly ſtood up for it againſt all Novelliſm and Faction, in the whole Courſe of his Life. It was certified by ſome Letters to *Oxon*, and ſo reported in the *Mercurius Aulicus* of the following Week, That the Lord *Bruce* (but better known by the Name of the Earl of *Elgin*) was one of the Number of thoſe few Lords, who had voted to the Sentence of his Condemnation. The others, which concurred in that fatal Sentence, being the Earls of *Kent*, *Pembroke*, *Salisbury*, and *Bolingbroke*, together with the Lord *North*, and the Lord *Gray* of *Werk*. But whatſoever may be ſaid of the other ſix, I have been advertiſed lately from a very good Hand, that the ſaid Lord *Bruce* hath frequently diſclaimed that Action, and ſolemnly profeſſed his Deteſtation of the whole Proceedings, as moſt abhorrent from his Nature, and contrary to his known Affections, as well unto his Majeſty's Service, as the Peace and Preſervation of the Church of *England*.

The Proceedings of the Houſe of Commons in the Years 1640, 41, &c. *againſt Dr.* William Laud, *Archbiſhop of* Canterbury, *as publiſhed by Mr.* Ruſhworth *in his* Hiſtorical Collections.

Vide *Part* 3. *Vol.* 1. *p.* 122, 123.

Mr. Harbottle Grimſtone's *Speech on a Debate touching the Archbiſhop of* Canterbury, Dec. 18. 1640.

Mr. *Speaker*,

THERE hath been preſented to the Houſe a moſt faithful and exact Report of the Conference we had with the Lords yeſterday, together with the Opinion of the Committees that we imployed in the Service, That they conceived it fit that the Archbiſhop of *Canterbury* ſhould be ſequeſtred; and I muſt ſecond the Motion. And with the Favour of this Houſe I ſhall be bold to offer my Reaſons, why I conceive it more neceſſary we ſhould proceed a little further than the Deſire of a bare Sequeſtration only.

Mr. Speaker, Long Introductions are not ſuitable to weighty Buſineſſes: We are now fallen upon the great Man, the Archbiſhop of *Canterbury*: Look upon him as he is in Highneſs, and he is the Sty of all peſtilential Filth, that hath infeſted the State and Government of this Commonwealth: Look upon him in his Dependencies, and he is the only Man, the only Man that hath raiſed and advanced all thoſe that, together with himſelf, have been the Authors and Cauſers of all our Ruins, Miſeries, and Calamities we now groan under. Who is it but he only that hath brought the Earl of *Strafford* to all his great Places and Imployments? A fit Spirit and Inſtrument to act and execute all his wicked and bloody Deſigns in theſe Kingdoms. Who is it but he only that brought in Secretary *Windebank* into this Place of Service, of Truſt, the very Broker and Pander to the Whore of *Babylon*?

Who is it, Mr. Speaker, but he only that hath advanced all our Popiſh Biſhops? I ſhall name but ſome of them, Biſhop *Manwaring*, the Biſhop of *Bath* and *Wells*, the Biſhop of *Oxford*, and Biſhop *Wren*, the leaſt of all theſe Birds, but one of the moſt unclean ones. Theſe are the Men that ſhould have fed Chriſt's Flock; but they are the Wolves that have devoured them: The Sheep ſhould have fed upon the Mountains; but the Mountains have eaten up the Sheep. It was the Happineſs of our Church, when the Zeal of God's Houſe eat up the Biſhops, glorious and brave Martyrs, that went to the Stake in Defence of the Proteſtant Religion; but the Zeal of the Biſhops hath been only to perſecute and eat up the Church.

Who is it, Mr. Speaker, but this great Archbiſhop of *Canterbury* that hath ſat at the Helm, to ſteer and manage all the Projects that have been ſet on foot in this Kingdom this ten Years laſt paſt? And rather than he would ſtand out, he hath moſt unworthily trucked and chaffered in the meaneſt of them. As, for Inſtance, that of Tobacco, whereby Thouſands of poor People have been ſtripp'd and turned out of their Trades, for which they have ſerved as Apprentices. We all know he was the Compounder and Contractor with them for the Licences, putting them to pay Fines and a Fee-farm Rent to uſe their Trade. Certainly, Mr. Speaker, he might have ſpent his Time much better, and more for his Grace in the Pulpit, than thus ſherking and raking in the Tobacco-Shops. Mr. Speaker, we know what he hath been charged withal in this Houſe, Crimes of a dangerous Conſequence, and of a tranſcendent Nature, no leſs than the Subverſion of the Government of this Kingdom, and the Alteration of the Proteſtant Religion; and this is not upon a bare Information only, but much of it is come before us already upon clear and manifeſt Proofs: And there is ſcarce any Grievance or Complaint come before us in this Place, wherein we do not find him intermentioned, and, as it were, twiſted into it; like a buſy angry Waſp, his Sting is in the Tail of every Thing. We have this day likewiſe heard the Report of the Conference yeſterday, and it is the Accuſation which the *Scotch* Commiſſioners have charged him withal; and we do all know he is guilty of the ſame, if not more, here in this Kingdom.

Mr. Speaker, He hath been the great and common Enemy of all Goodneſs and Good Men; and

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it is not ſafe that ſuch a Viper ſhould be near his Majeſty's Perſon, to diſtil his Poiſon into his ſacred Ears; nor is it ſafe for the Commonwealth that he ſit in ſo eminent a Place of Government, being thus accuſed. We know what he did in the Earl of *Strafford*'s Caſe: This Man is the corrupt Fountain, that hath corrupted all the Streams; and till the Fountain be purged, we can never expect nor hope to have clear Channels. I ſhall be therefore bold to offer my Opinion; and if I err, it is the Error of my Judgment, and not my want of Zeal and Affection to the publick Good: I conceive it is moſt neceſſary and fit that we ſhould now take up a Reſolution to do ſomewhat, to ſtrike while the Iron is hot, and to go up to the Lords in the Names of the Commons of this Houſe, and in the Names of the Commons of *England*, and to accuſe him of High Treaſon; and to deſire their Lordſhips his Perſon may be ſequeſtred, and that in convenient Time we may bring up his Charge.

December 18. 1640. This Day the Archbiſhop of *Canterbury* was voted by the Houſe of Commons to be a Traytor; and Mr. *Hollis* was ſent to the Lords to accuſe him of High Treaſon: Which he did immediately; aſſuring the Lords, that in convenient Time there ſhould be a Charge put in againſt him, to make good the Accuſation; deſiring that he might be ſequeſtred from the Houſe, and committed to ſafe Cuſtody. Upon which he was committed to the Cuſtody of the Gentleman Uſher, and ſequeſtred from ſitting in Parliament till he cleared himſelf of this Accuſation.

The Archbiſhop being called to the Bar as a Delinquent, deſired their Lorſhips to give him leave to go home and fetch Papers, whereby to enable him to make his Defence to his Charge: Which the Houſe granted, and that he ſhould take his own Time this Afternoon to ſort his Papers; but directed that it ſhould be done in the Preſence of the Gentleman Uſher, and afterwards to return to the Houſe of the Gentleman Uſher this Night, and to be in ſafe Cuſtody.

The Lords further ordered, That no Member of their Houſe ſhall viſit the Lord Archbiſhop of *Canterbury* without Leave of the Houſe.

Feb. 26. 1640. This Day the engroſſed Articles againſt the Archbiſhop of *Canterbury* were read, and ordered to be ſent up to the Lords; and were carried up by Mr. *Pym*, Mr. *Hampden*, and Mr. *Maynard*. *Ibid. p.* 195.

And Mr. *Pym* coming to the Lords Bar to preſent them, ſpake as followeth:

Mr. Pym's *Speech.*

My Lords,

I Am commanded by the Knights, Citizens, and Burgeſſes, now aſſembled for the Commons in Parliament, to deliver to your Lordſhips theſe Articles, in maintenance of their Charge againſt the Archbiſhop of *Canterbury*. Their Deſire is, That firſt your Lordſhips would be pleaſed to hear the Articles read; and then I ſhall endeavour to preſent to you the Senſe of the Commons concerning the Nature of the Charge, and the Order of their Proceedings.

[*The Articles being the ſame as printed in the Biſhop's own Account (except ſome few Variations, which are there noted) are here omitted.* Vide antea, p. 375.]

The Articles being read, Mr. *Pym* proceeded as follows: *Ibid. p.* 199.

My Lords,

There is an Expreſſion in the Scripture which I will not preſume either to underſtand, or to interpret; yet to a vulgar Eye it ſeems to have an Aſpect ſomething ſuitable to the Perſon and Cauſe before you. It is a Deſcription of the evil Spirits, wherein they are ſaid to be *Spiritual Wickedneſſes in high Places*: Crimes acted by the ſpiritual Faculties of the Soul, the Will and Underſtanding, exerciſed about ſpiritual Matters, concerning God's Worſhip, and the Salvation of Man, ſeconded with Power, Authority, Learning, and many other Advantages, do make the Party who commits them very ſuitable to that Deſcription, *Spiritual Wickedneſſes in high Places*. Theſe Crimes, my Lords, are various in their Nature, heinous in their Quality, and univerſal in their Extent. If you examine them Theologically, as they ſtand in oppoſition to the Truth of God, they will be found to be againſt the Rule of Faith, againſt the Power of Godlineſs, againſt the Means of Salvation.

If you examine them Morally, as they ſtand in oppoſition to the Light of Nature, to right Reaſon, and the Principles of human Society, you will then perceive Pride without any Moderation; ſuch a Pride as that is which exalts it ſelf above all that is called God: Malice without any Provocation; Malice againſt Virtue, againſt Innocence, againſt Piety: Injuſtice, without any Means of Reſtitution; even ſuch Injuſtice as doth rob the preſent Times of their Poſſeſſions, the future of their Poſſibilities.

If they be examined, my Lords, by legal Rules in a Civil Way, as they ſtand in oppoſition to the publick Good, and to the Laws of the Land, he will be found to be a Traytor againſt his Majeſty's Crown, an Incendiary againſt the Peace of the State; he will be found to be the higheſt, the boldeſt, and moſt impudent Oppreſſor that ever was, an Oppreſſor both of King and People.

This Charge, my Lords, is diſtributed and conveyed into fourteen ſeveral Articles, as you have heard; and thoſe Articles are only general, it being the Intention of the Houſe of Commons (which they have commanded me to declare) to make them more certain and particular by preparatory Examinations, to be taken with the Help of your Lordſhips Houſe, as in the Caſe of my Lord of *Strafford*. I ſhall now run through them with a light Touch, only marking in every of them ſome ſpecial Point of Venom, Virulency, and Malignity.

1. The firſt Article, my Lords, doth contain his Endeavour to introduce into this Kingdom an arbitrary Power of Government, without any Limitations or Rules of Law. This (my Lords) is againſt the Safety of the King's Perſon, the Honour of his Crown, and moſt deſtructive to his People. Thoſe Cauſes which are moſt perfect, have not only a Power to produce Effects, but to conſerve and cheriſh them. The ſeminary Virtue, and the nutritive Virtue in Vegetables, do proceed from the ſame Principles. It was the Defect of Juſtice, and the Reſtraining of Oppreſſion and Violence, that firſt brought Government into the World, and ſet up Kings, the moſt excellent way of Government; and by the Maintenance of Juſtice all kinds of Government receive a ſure Foundation and Eſtabliſhment. It is this that hath in it an Ability to preſerve and ſecure the Royal Power of Kings, yea, to adorn and increaſe it.

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2. In the ſecond Article, your Lordſhips may obſerve abſolute and unlimited Power defended by Preaching, by Sermons, and other Diſcourſes printed and publiſhed upon that Subject. And truly (my Lords) it ſeems to be a prodigious Crime, that the Truth of God and his holy Law ſhould be perverted to defend the Lawleſſneſs of Men; that the holy and ſacred Function of the Miniſtry, which was ordained for Inſtruction of Mens Souls in the Ways of God, ſhould be ſo abuſed, that the Miniſters are become the Trumpets of Sedition, the Promoters and Defenders of Violence and Oppreſſion.

3. In the third Article, my Lords, you have the Judges, who under his Majeſty are the Diſpenſers and Diſtributers of Juſtice, frequently corrupted by Fear and Sollicitation: You have the Courſe of Juſtice, in the Execution of it, ſhamefully obſtructed. And if a wilful Act of Injuſtice in a Judge be ſo high a Crime, in the Eſtimate of the Law, as to deſerve Death; under what Burden of Guilt doth this Man lie, who hath been the Cauſe of great Numbers of ſuch voluntary and wilful Acts of Injuſtice?

4. In the fourth Article he will be found in his own Perſon to have ſold Juſtice in Cauſes depending before him; and by his wicked Counſel endeavouring to make his Majeſty a Merchant of the ſame Commodity, only with this Difference, that the King by taking Money for Places of Judicature ſhould ſell it in groſs, whereas the Archbiſhop ſold it by retail.

5. In the fifth Article there appears a Power uſurped of making Canons, of laying Obligations on the Subjects in the nature of Law: And this Power abuſed to the making of ſuch Canons as are in the Matter of them very pernicious, being directly contrary to the Prerogative of the King, and the Liberty of the People. In the manner of preſſing of them, may be found Fraud and Shuffling; in the Concluſion, Violence and Conſtraint, Men being forced by Terror and Threatning to ſubſcribe to all. Which Power, thus wickedly gotten, they labour to eſtabliſh by Perjury, enjoining ſuch an Oath for the maintenance of it, as can neither be taken nor kept with a good Conſcience.

6. In the ſixth Article you have the King robbed of his Supremacy; you have a Papal Power exerciſed over his Majeſty's Subjects in their Conſciences, and in their Perſons; you have Eccleſiaſtical Juriſdiction claimed by an incident Right, which the Law declares to proceed from the Crown.

And herein your Lordſhips may obſerve, That thoſe who labour in Civil Matters to ſet up the King above the Laws of the Kingdom, do yet in Eccleſiaſtical Matters endeavour to ſet up themſelves above the King. This was firſt procured by the Archbiſhop to be extrajudicially declared by the Judges, and then to be publiſhed in a Proclamation: In doing whereof, he hath made the King's Throne but a Foot-ſtool for his own and their Pride.

7. You have, my Lords, in the ſeventh Article Religion undermined and ſubverted; you have Popery cheriſhed and defended; you have this ſeconded with Power and Violence, by ſevere Puniſhment upon thoſe which have oppoſed this miſchievous Intention: And by the ſubtle and eager Proſecution of theſe Men, hath the Power of Eccleſiaſtical Commiſſioners, of the Star-Chamber and Council-Table, been often made ſubſervient to his wicked Deſigns.

8. My Lords, you may obſerve in the eighth Article, great Care taken to get into his own hand the Power of nominating to Eccleſiaſtical Livings and Promotions: You have as much miſchievous, as much wicked Care taken in the diſpoſing of theſe Preferments, to the Hindrance and Corruption of Religion. And by this Means, my Lords, the King's ſacred Majeſty, inſtead of Sermons fit for Spiritual Inſtructors, hath often had Invectives againſt his People, Encouragement to Injuſtice, or to the Overthrow of the Laws. Such Chaplains have been been brought into his Service as have, as much as may be, laboured to corrupt his own Houſhold, and been eminent Examples of Corruption to others; which hath ſo far prevailed, as that it hath exceedingly tainted the Univerſities, and been generally diſperſed to all the chief Cities, the greateſt Towns and Auditories of the Kingdom. The grievous Effects whereof are moſt manifeſt to the Commons Houſe, there being divers hundred Complaints there depending in the Houſe againſt ſcandalous Miniſters; and yet I believe the hundredth Part of them is not yet brought in.

9. The ninth Article ſets out the like Care to have Chaplains of his own, that might be Promoters of this wicked and traitorous Deſign, Men of corrupt Judgments, of corrupt Practices, extremely addicted to Superſtition. And to ſuch Mens Care hath been committed the licenſing of Books to the Preſs: By means whereof, many have been publiſhed that are full of Falſhood, of Scandals, ſuch as have been more worthy to be burnt by the Hand of the Hangman in *Smithfield*, (as I think one of them was) than to be admitted to come into the Hands of the King's People.

10. In the tenth Article it will appear how he, having made theſe Approaches to Popery, comes now to cloſe and join more nearly with it: He confederates with Prieſts and Jeſuits; he, by his Inſtruments, negotiates with the Pope at *Rome*, and hath Correſpondence with them that he authoriſed from *Rome* here; he hath permitted a *Roman* Hierarchy to be ſet up in this Kingdom. And tho he hath been ſo careful, that a poor Man could not go to the Neighbour-Pariſh to hear a Sermon, when he had none at home, could not have a Sermon repeated, nor Prayer uſed in his own Family, but he was a fit Subject for the High-Commiſſion Court; yet the other hath been done in all parts of the Realm, and no notice taken of it by any Eccleſiaſtical Judges or Courts.

11. My Lords, you may perceive Preaching ſuppreſs'd in the eleventh; divers godly and orthodox Miniſters oppreſſed in their Perſons and Eſtates. You have the King's loyal Subjects baniſhed out of the Kingdom; not as *Elimelech*, to ſeek for Bread in foreign Countries, by reaſon of the great Scarcity which was in *Iſrael*; but travelling abroad for the Bread of Life, becauſe they could not have it at home, by reaſon of the ſpiritual Famine of God's Word, cauſed by this Man and his Partakers. And by this means you have had the Trade, the Manufactory, the Induſtry of many Thouſands of his Majeſty's Subjects carried out of the Land.

It is a miſerable Abuſe of the Spiritual Keys, to ſhut up the Doors of Heaven, and to open the Gates of Hell; to let in Profaneneſs, Ignorance, Superſtition, and Error. I ſhall need ſay no more: Theſe Things are evident, and abundantly known to all.

12. In the twelfth Article, my Lords, you have a Diviſion endeavour'd between this and the foreign Reformed Churches. The Church of Chriſt

is one Body; and the Members of Christ have a mutual Relation, as Members of the same Body. Unity with God's true Church every where, is not only the Beauty, but the Strength of Religion; of which Beauty and Strength he hath sought to deprive this Church, by his manifold Attempts to break this Union. To which purpose he hath suppressed the Privileges granted to the *Dutch* and *French* Churches: he hath denied them to be of the same Faith and Religion with us; and many other ways hath he declared his Malice to those Churches.

13. In the thirteenth Article, as he hath sought to make an Ecclesiastical Division of Religious Difference between us and foreign Nations, so he hath sought to make a Civil Difference between us and his Majesty's Subjects of the Kingdom of *Scotland*: And these he hath promoted by many Innovations there, pressed by himself and his own Authority. When they were uncapable of such Alterations, he advised his Majesty to use Violence. He hath made private and publick Collections towards the Maintenance of the War, which he might justly call his own War; and with an impudent Boldness hath struck Tallies in the Exchequer for divers Sums of Money procured by himself, *pro Defensione Regni*; when by his Counsels the King was drawn to undertake, not a Defensive, but an Offensive War.

14. He hath, lastly, thought to secure himself and his Party, by seeking to undermine Parliaments, and thereby hath laboured to bereave this Kingdom of the Legislative Power, which can only be used in Parliaments; and that we should be left a Kingdom, without that which indeed makes and constitutes a Kingdom, and is the only means to preserve and restore it from Distempers and Decays. He hath hereby endeavoured to bereave us of the highest Judicatory; such a Judicatory, as is necessary and essential to our Government, some Cases of Treason, and others concerning the Prerogative of the Crown, and Liberty of the People. It is the supreme Judicatory, to which all difficult Cases resort from other Courts. He hath sought to deprive the King of the Love and Counsel of his People, and of that Assistance which he might have from them; and likewise to deprive the People of that Relief of Grievances, which they most humbly expect from his Majesty.

My Lords, The Parliament is the Cabinet wherein the chiefest Jewels both of the Crown and Kingdom are deposited. The great Prerogative of the King, and Liberty of the People, are most effectually exercised and maintained by Parliaments. Here, my Lords, you cannot pass by this Occasion of great Thanks to God and his Majesty for passing the Bill, whereby the frequent Course of Parliaments is established; which I assure myself he will by experience find to be a strong Foundation both of his Honour and of his Crown.

This is all, my Lords, I have to say to the Particulars of the Charge. The Commons desire your Lordships, that they may have the same way of Examination that they had in the Case of the Earl of *Strafford*; that is, to examine Members of all kinds, of your Lordships House and their own, and others, as they shall see cause: and those Examinations to be kept secret and private, that they may with more advantage be made use of when the matter comes to tryal. They have declared, That they reserve to themselves the Power of making Additional Articles; by which they intend to reduce his Charge to be more particular and certain, in respect of the several Times, Occasion, and other Circumstances of the Offences therein charged. And that your Lordships would be pleased to put this Cause in such a quick way of Proceeding, that these great and dangerous Crimes, together with the Offenders, may be brought to a just Judgment.

Upon the reading of these Articles, the Lords made an Order, That the Archbishop should, on Monday following, being the first of *March*, be removed from Mr. *Maxwell*'s, and sent to the *Tower*; and that he and the Earl of *Strafford* should not come together.

An Ordinance of the Lords and Commons, assembled in Parliament, concerningt he Archbishop of Canterbury.

Part 3. Vol. 2. p. 320.

Die Martis, 16 Maii 1643.

'WHereas *William Laud*, Archbishop of *Canterbury*, standeth impeached in this present Parliament for High Treason, and for divers other great Offences and Misdemeanours; and by reason of many great and weighty Businesses he cannot yet be brought to Tryal for the said Offences and Misdemeanours; and he, in respect of his said Archbishoprick of *Canterbury*, hath power to give and collate fit Clerks to divers Parsonages, Vicaridges, Prebends, and other Ecclesiastical Promotions and Preferments; and if any of them should become void, and he left to prefer whom he please to the same, the same may prove very inconvenient, he bestowing them upon unfit and unworthy Persons.

'Be it therefore ordered and ordained, by the Lords and Commons in this present Parliament, That in case any of the aforesaid Parsonages, Vicaridges, Prebends, or other Ecclesiastical Promotions or Preferments, now be, or shall hereafter, and before the Tryal of the said Lord Archbishop, become void; That the said Lord Archbishop of *Canterbury* shall forbear to present or collate any Person or Persons thereunto, without the Leave and Order of both Houses of Parliament. And it is further ordered and ordained, That the said Lord Archbishop shall, from time to time, until his said Tryal, present and collate such fit Person or Persons, to every such Parsonage, Vicaridge, Prebend, and other Ecclesiastical Preferment, as aforesaid, which now are, or hereafter before his said Tryal shall become void, as by both Houses of Parliament shall be nominated and appointed. And it is further ordered by the said Lords and Commons in Parliament, That all Archdeacons, Registers, and other Officers, Ministers, and Persons whatsoever, shall forbear to give or make any Admission, Institution, Collation, or Induction of any Person or Persons whatsoever, which by the said Archbishop shall be presented in or to any such Parsonage, Vicaridge, Prebend, or other Ecclesiastical Preferment, other than such Person and Persons as shall be nominated and appointed by both Houses of Parliament as aforesaid. And it is lastly ordered, That the Lord Archbishop, and the Church-wardens of every Parish, and other Officers of the Church, where any Parsonage,

'ſonage, Vicaridge, Prebend, or other Eccleſiaſtical Promotions or Preferments, in the Donation 'or Gift of the ſaid Archbiſhop, are; ſhall within two months after the reſpective Avoidance 'thereof, give notice of ſuch Avoidance to the 'Lord Speaker of the Houſe of Peers, for the 'time being.'

Ibid. p. 330. *Die Sabbati* 10 *Junii* 1643.

An Ordinance of the Lords and Commons aſſembled in Parliament, That all the Temporal Livings, Dignities, and Eccleſiaſtical Promotions, belonging unto William *Lord Archbiſhop of* Canterbury, *be forthwith ſequeſtred by and unto the Parliament.*

'WHereas by an Ordinance of Parliament, of the 16th of *May* 1643, the Archbiſhop 'of *Canterbury* is required from time to time, until 'his Tryal, to collate ſuch fit Perſons unto any 'Eccleſiaſtical Preferment in his Patronage, as 'ſhall by both Houſes be nominated unto him; 'and, in purſuance of the ſaid Ordinance, another Ordinance of the Lords and Commons paſt 'the 20th of the ſame Month, requiring the ſaid 'Archbiſhop to collate upon *Edward Corbet*, Fellow 'of *Merton-College* in *Oxford*, the Rectory of *Chartham* in the County of *Kent*, void by Death of 'Dr. *Bargrave*, the laſt Incumbent: and whereas 'the ſaid Archbiſhop of *Canterbury* refuſeth Obedience to the ſaid Ordinance, it is therefore ordered, and be it ſo ordained by the Lords and 'Commons in Parliament, That all the Temporalties of the Archbiſhop of *Canterbury* be hereby ſequeſter'd by and unto the Parliament, and '*William* Lord Archbiſhop of *Canterbury* be ſuſpended *ab Officio & Beneficio, & omni & omnimoda Juriſdictione Archiepiſcopali*, until he be either 'convicted or acquitted of High-Treaſon, for 'which he ſtands now accuſed. And whatſoever 'Livings, Dignities, or Eccleſiaſtical Promotions, 'in the ſaid Archbiſhop's Gift or Collation, are, 'or hereafter ſhall be void, ſhall henceforth be inſtituted or inducted into by the Archbiſhop's 'Vicar-General, or any other having Authority in 'his behalf, upon the Nomination and Recommendation of both Houſes of Parliament, during 'the time of the Suſpenſion and Sequeſtration aforeſaid. And upon this Ordinance it is ordered, and be it ſo ordained by the Lords and 'Commons in Parliament, That the ſaid *Edward Corbet* be, and is hereby nominated and recommended forthwith, upon ſight hereof, to be admitted, inſtituted, and inducted by the Vicar-General aforeſaid, or any other having Authority in his behalf, into the ſaid Rectory of *Chartham, ratione Suſpenſionis Domini Gulielmi Archiepiſcopi Cantuarienſis, & Sequeſtrationis Temporalium Archiepiſcopatus in manibus ſupremæ Curiæ Parliamenti jam exiſtentium*, the ſame belonging unto their 'Gift. And it is hereby further ordained by the 'Lords and Commons in Parliament, that during 'the Suſpenſion and Sequeſtration aforeſaid, the 'Juriſdiction of the ſaid Archbiſhop ſhall be executed and exerciſed by his Vicar-General, and 'other his inferiour Judges and Officers, as formerly the ſame hath been.'

Ibid. p. 817. *Octob.* 23. 1643. Additional Articles were carried up to the Houſe of Lords, of this tenour.

Further Articles of Impeachment by the Commons aſſembled in Parliament againſt William Laud *Archbiſhop of* Canterbury, *of High Treaſon, and divers High Crimes and Miſdemeanours, as followeth.*

I. THAT the ſaid Archbiſhop of *Canterbury*, to introduce an Arbitrary Government within this Realm, and to deſtroy Parliaments, in the third and fourth Year of his Majeſty's Reign that now is, a Parliament being then called and ſitting at *Weſtminſter*, traitorouſly and maliciouſly cauſed the ſaid Parliament to be diſſolved, to the great Grievance of his Majeſty's Subjects, and Prejudice of this Commonwealth. And ſoon after the Diſſolution thereof, gave divers Propoſitions under his Hand to *George* then Duke of *Buckingham*, caſting therein many falſe Aſperſions upon the ſaid Parliament, calling it a factious Parliament, and falſly affirming that it had caſt many Scandals upon his Majeſty, and had uſed him like a Child in his Minority; ſtiling them Puritans, and commending the Papiſts for harmleſs and peaceable Subjects.

II. That within the ſpace of ten Years laſt paſt, the ſaid Archbiſhop hath treacherouſly endeavoured to ſubvert the Fundamental Laws of this Realm; and to that end hath in like manner endeavoured to advance the Power of the Council-Table, the Canons of the Church, and the King's Prerogative, above the Laws and Statutes of the Realm. And for manifeſtation thereof, about ſix Years laſt paſt, being then a Privy-Counſellor to his Majeſty, and ſitting at the Council-Table, he ſaid, *That as long as he ſat there, they ſhould know, that an Order of that Board ſhould be of equal force with a Law or Act of Parliament.* And at another time uſed theſe words, *That he hoped e'er long, that the Canons of the Church and the King's Prerogative ſhould be of as great power as an Act of Parliament.* And at another time ſaid, *That thoſe that would not yield to the King's Power, he would cruſh them to pieces.*

III. That the ſaid Archbiſhop, to advance the Canons of the Church, and Power Eccleſiaſtical, above the Law of the Land, and to pervert and hinder the Courſe of Juſtice, hath at divers times within the ſaid time, by his Letters, and other undue Means and Sollicitations uſed to Judges, oppoſed and ſtopped the granting of his Majeſty's Writs of Prohibition, where the ſame ought to have been granted for ſtay of Proceedings in the Eccleſiaſtical Court: whereby Juſtice hath been delayed and hindred, and the Judges diverted from doing their Duties.

IV. That for the end and purpoſe aforeſaid, about ſeven Years laſt paſt, a Judgment being given in his Majeſty's Court of *King's-Bench* againſt one *Burley* a Parſon, being a Man of bad Life and Converſation, in an Information upon the Statute of 21 *Hen.* 8. for wilful Non-Reſidency; the ſaid Archbiſhop, by Sollicitations and other undue Means uſed to the Judges of that Court, cauſed Execution upon the ſaid Judgment to be ſtayed: and being moved therein, and made acquainted with the bad Life and Converſation of the ſaid Parſon, he ſaid, *That he had ſpoken to the Judges for him, and that he would never ſuffer a Judgment to paſs againſt any Clergyman by* Nihil dicit.

V. That the ſaid Archbiſhop about eight Years laſt paſt, being then alſo a Privy-Counſellor to his Majeſty, for the end and purpoſe aforeſaid, cauſed Sir *John Corbet* of *Stoke* in the County of *Salop* Baronet,

ronet, then a Juſtice of Peace of the ſaid County, to be committed to the Priſon of the *Fleet*, where he continued Priſoner for the ſpace of half a year or more, for no other cauſe, but for calling for the *Petition of Right*, and cauſing it to be read at the Seſſions of the Peace for that County, upon a juſt and neceſſary Occaſion. And during the time of his ſaid Impriſonment, the ſaid Archbiſhop without any Colour of Right, by a Writing under the Seal of his Archbiſhoprick, granted away a parcel of the Glebe-Land of the Church of *Adderly* in the ſaid County, whereof the ſaid Sir *John Corbet* was then Patron, unto *Robert* Viſcount *Kilmurrey*, without the Conſent of the ſaid Sir *John*, or the then Incumbent of the ſaid Church: which ſaid Viſcount *Kilmurrey* built a Chappel upon the ſaid parcel of Glebe-Land, to the great prejudice of the ſaid Sir *John Corbet*, which hath cauſed great Suits and Contentions between them. And whereas the ſaid Sir *John Corbet* had a Judgment againſt Sir *James Stonehouſe* Knight, in an Action of Waſte, in his Majeſty's Court of *Common-Pleas* at *Weſtminſter*, which was afterwards affirmed on a Writ of Error in the *King's-Bench*, and Execution thereupon awarded; yet the ſaid Sir *John* by means of the ſaid Archbiſhop could not have the effect thereof, but was committed to Priſon by the ſaid Archbiſhop and others at the Council-Table, until he had ſubmitted himſelf unto the Order of the ſaid Table, whereby he loſt the benefit of the ſaid Judgment and Execution.

VI. That whereas divers Gifts and Diſpoſitions of divers Sums of Money were heretofore made by divers charitable and well-diſpoſed Perſons, for the buying in of divers Impropriations for the Maintenance of preaching the Word of God in ſeveral Churches; the ſaid Archbiſhop about eight Years laſt paſt wilfully and maliciouſly cauſed the ſaid Gifts, Feoffments, and Conveyances made to the Uſes aforeſaid, to be overthrown in his Majeſty's Court of *Exchequer*, contrary to Law, as things dangerous to the Church and State, under the ſpecious pretence of buying in Appropriations; whereby that pious Work was ſuppreſſed and trodden down, to the great Diſhonour of God, and Scandal of Religion.

VII. That the ſaid Archbiſhop at ſeveral times, within theſe ten Years laſt paſt, at *Weſtminſter*, and elſewhere within this Realm, contrary to the known Laws of this Land, hath endeavoured to advance Popery and Superſtition within the Realm: And for that end and purpoſe hath wittingly and willingly received, harboured, and relieved divers Popiſh Prieſts and Jeſuits; namely, one called *Sancta Clara*, alias *Damport*, a dangerous Perſon and *Franciſcan* Friar: who having written a Popiſh and Seditious Book, entitled, *Deus, Natura, Gratia*, wherein the Thirty nine Articles of the Church of *England*, eſtabliſhed by Act of Parliament, were much traduced and ſcandalized; the ſaid Archbiſhop had divers Conferences with him, while he was writing the ſaid Book: and did alſo provide Maintenance and Entertainment for one Monſieur *S. Giles*, a Popiſh Prieſt, at *Oxford*, knowing him to be a Popiſh Prieſt.

VIII. That the ſaid Archbiſhop about four Years laſt paſt, at *Weſtminſter* aforeſaid, ſaid, *That there muſt be a Blow given to the Church, ſuch as had not been yet given, before it could be brought to Conformity*; declaring thereby his Intention to be, to ſhake and alter the true Proteſtant Religion eſtabliſhed in the Church of *England*.

IX. That in or about the Month of *May* 1640. preſently after the Diſſolution of the laſt Parliament, the ſaid Archbiſhop, for the Ends and Purpoſes aforeſaid, cauſed a Synod or Convocation of the Clergy to be held for the ſeveral Provinces of *Canterbury* and *York*, wherein were made and eſtabliſhed by his means and procurement divers Canons and Conſtitutions Eccleſiaſtical; contrary to the Laws of this Realm, the Rights and Privileges of Parliament, the Liberty and Propriety of the Subject, tending alſo to Sedition, and of dangerous conſequence. And among other things, the ſaid Archbiſhop cauſed a moſt dangerous and illegal Oath to be therein made and contrived, the Tenour whereof followeth in theſe words: —*That I* A. B. *do ſwear that I do approve the Doctrine and Diſcipline or Government eſtabliſhed in the Church of* England, *as containing all things neceſſary to Salvation; and that I will not endeavour by myſelf or any other, directly or indirectly, to bring in any Popiſh Doctrine, contrary to that which is ſo eſtabliſhed: Nor will I ever give my Conſent to alter the Government of this Church by Archbiſhops, Biſhops, Deans, and Archdeacons, &c. as it ſtands now eſtabliſhed, and as by Right it ought to ſtand; nor yet ever ſubject it to the Uſurpations and Superſtitions of the See of* Rome. *And all theſe things I do plainly and ſincerely acknowledge and ſwear, according to the plain and common Senſe and Underſtanding of the ſame words, without any Equivocation, or mental Evaſion, or ſecret Reſervation whatſoever. And this I do heartily, willingly, and truly upon the Faith of a Chriſtian; ſo help me God in Jeſus Chriſt.* Which Oath the ſaid Archbiſhop himſelf did take, and cauſed divers other Miniſters of the Church to take the ſame, upon pain of Suſpenſion and Deprivation of their Livings, and other ſevere Penalties; and did alſo cauſe *Godfrey*, then Biſhop of *Glouceſter*, to be committed to Priſon for refuſing to ſubſcribe to the ſaid Canons, and to take the ſaid Oath: and afterward the ſaid Biſhop ſubmitting himſelf to take the ſaid Oath, he was ſet at liberty.

X. That a little before the calling of the laſt Parliament, *Anno* 1640. a Vote being then paſſed, and a Reſolution taken at the Council-Table, by the Advice of the ſaid Archbiſhop, for aſſiſting of the King in Extraordinary Ways, if the ſaid Parliament ſhould prove peeviſh, and refuſe to ſupply his Majeſty; the ſaid Archbiſhop wickedly and maliciouſly adviſed his Majeſty to diſſolve the ſaid Parliament, and accordingly the ſame was diſſolved: And preſently after the ſaid Archbiſhop told his Majeſty, *That now he was abſolved from all Rules of Government, and left free to uſe extraordinary Ways for his Supply.*

For all which Matters and Things, the ſaid Commons aſſembled in Parliament, in the name of themſelves and of all the Commons of *England*, do impeach the ſaid Archbiſhop of *Canterbury* of High Treaſon, and other High Crimes and Miſdemeanours, tending to the Subverſion of our Religion, Laws, and Liberties, and to the utter Ruin of this Church and Commonwealth. And the ſaid Commons by proteſtation ſaving to themſelves the liberty of exhibiting at any time hereafter any further or other Accuſation or Impeachment againſt the ſaid *William Laud* Archbiſhop of *Canterbury*, and alſo of replying to the Anſwer that he ſhall make unto the ſaid Articles, or any of them; or offering Proof of the Premiſes, or any other Impeachments or Accuſations that ſhall be exhibited by them, as the Cauſe ſhall (according to the Courſe of Parliament) require: do pray that he the ſaid *William Laud*, Archbiſhop of *Canterbury*, may

may be called to anſwer the ſaid ſeveral Crimes and Miſdemeanours, and receive ſuch condign Puniſhment as the ſame ſhall deſerve; and that ſuch further Proceedings may be upon every of them had and uſed againſt him, as is agreeable to Law and Juſtice.

Die Lunæ, 23 Octob. 1643.

ORdered, *&c.* That the Lord Archbiſhop of *Canterbury* ſhall put in his Anſwer in writing into this Houſe by the 30th Day of this Inſtant *October*, unto the particular Articles in maintenance of their former Impeachment of High Treaſon, and divers High Crimes and Miſdemeanours, brought up from the Houſe of Commons againſt him, and remaining now before the Lords in Parliament.

The Archbiſhop being ſerved with this Order the ſame Day, the next Morning ſent this Petition (written with his own Hand) to the Lords.

To the Honourable the Lords aſſembled in the High Court of Parliament, the Humble Petition of William Laud *Archbiſhop of* Canterbury.

Humbly ſheweth,

THAT he hath received your Lordſhips Order of *October* 23. 1643. with a Copy of the Articles charged againſt him, and requiring him to make anſwer.

Moſt humbly prayeth, That according to an Order of that Honourable Houſe, he may have Counſel aſſigned him, and that Maſter *Hearne* and Maſter *Chute* may be his Counſel, and may have free liberty to come unto him; and that he may have ſome Money out of his Eſtate to fee his Counſel, and defray his other Charges, he having been for this laſt whole Year burdenſome to his Friends. And further, That he may have all his Papers and Books, moſt of which belong to his Defence, which Maſter *Pryn* took from him by Order from the Lords, delivered unto him, that he may be able to anſwer for himſelf. That alſo he may have Time and Means to ſend for his Witneſſes, which can hardly be done in the time limited: and that he may have his Servants about him, to ſend about his neceſſary Occaſions. And laſtly, That he may have longer time, the Articles being large and many. *And he ſhall ever pray*, &c.

William Cant.

Which Petition being read in the Lords Houſe *October* 24. 1643. this Order was made.

Die Martis, 24 Octob. 1643.

UPON the reading of the Petition of the Lord Archbiſhop of *Canterbury* this Day in the Houſe, it is ordered, *&c.* That time is given him until Monday the ſixth of *November* for the putting in his Anſwer in writing into this Houſe unto the particular Articles brought up from the Houſe of Commons, in maintenance of their former Impeachment of High Treaſon, and divers High Crimes and Miſdemeanours againſt him. That Maſter *Hearne* and Maſter *Chute* are hereby aſſigned of Counſel for the drawing up of his Anſwer, who are to be permitted to have free Acceſs in and out to him. That this Houſe doth hereby recommend to the Committee of Sequeſtrations, that the ſaid Lord Archbiſhop ſhall have ſuch Means afforded him out of his Eſtate, as will enable him to pay his Counſel, and defray his other Charges. That when his Lordſhip ſhall ſet down particularly what Papers and Writings are neceſſary for his Defence that ſhould be reſtored unto him, their Lordſhips will take it into their Conſideration. That upon his Lordſhip's nominating who ſhall be his Sollicitor, the Lords will return their Anſwer. And for the Witneſſes, when a Day ſhall be appointed for his Lordſhip's Tryal, this Houſe will give ſuch Directions therein as ſhall be juſt.

Die Sabbati, 28 Octob. 1643.

ORdered, *&c.* That Maſter *Hales* is hereby appointed to be of Counſel with the Lord Archbiſhop of *Canterbury*, with his other Counſel already appointed for the drawing of his Anſwer to the Charge of the Houſe of Commons againſt him. And that Maſter *W. Dell*, *Richard Cobb*, and Maſter *George Smith*, his Lordſhip's Servants, ſhall have liberty to attend the ſaid Archbiſhop's ſeveral Affairs, and be permitted to come in and out unto him, as there ſhall be occaſion.

After which, *Octob.* 31. he exhibited this Petition to the Lords.

To the Right Honourable the Lords aſſembled in Parliament, the Humble Petition of William *Archbiſhop of* Canterbury.

Moſt humbly ſheweth,

THAT your Petitioner having preſented againſt him, by the Honourable Houſe of Commons, to your Lordſhips, an Impeachment, intitled, *Further Articles of Impeachment by the Commons aſſembled in Parliament, of High Treaſon, and divers High Crimes and Miſdemeanours*; to which by your Honourable Order of the 24th of *October* annexed, he is directed to put in his Anſwer in writing by Monday the 6th of *November*; and hath thereby Counſel aſſigned him to draw up the ſame.

That your Petitioner's Counſel, upon reading of the Articles, finding that as well in the Frame as the Concluſion thereof, the Matters of Crime and Miſdemeanours are ſo interwoven with References to the Matters thereby charged as Treaſon, as they cannot take upon them to diſtinguiſh them: and conceiving it not to have been your Lordſhip's Intention by their Aſſignments that they ſhould adviſe an Anſwer to any part of the Impeachment charged againſt your Petitioner as Treaſon, do forbear to adviſe your Petitioner's Anſwer to the ſaid Articles, without ſome Declaration firſt had, which of the ſaid Articles are intended to be a Charge of High Treaſon, and which of them of Crimes and Miſdemeanours; without which, your Petitioner is like to be deprived of the Aſſiſtance of Counſel, granted by your Lordſhip's Order.

Your Petitioner humbly beſeecheth your Lordſhips, in this ſo heavy a Charge on him, from ſo Great and Honourable a Body, in ſuch a Strait of Time, That it may be declared, which of the ſaid Articles are intended to be Charges of Crimes and Miſdemeanours only, in which your Petitioner may have the Aſſiſtance of his Counſel aſſigned him, to adviſe him in his Anſwer thereunto: And that your Lordſhips will be further honourably

pleaſed

pleaſed to inlarge your Petitioner in the Time allotted for his Anſwer. *And your Petitioner ſhall pray*, &c.

William Cant.

Upon which Petition, this Order was formed.

Die Martis, 31 Octob.

ORdered, &c. That the Lord Archbiſhop of *Canterbury* ſhall have time to put in his Anſwer to the Impeachment of the Houſe of Commons, until Monday the 13th of *November* next. And that this Houſe doth forbear to declare any Opinion concerning the ſeveral Articles of the ſaid Impeachment, but leaves it to his Counſel to do and adviſe as his Counſel ſhall think moſt fitting.

Die Veneris, 10 Novemb. 1643.

ORdered, That the Lieutenant of the *Tower*, or his Deputies, ſhall bring in ſafety the Lord Archbiſhop of *Canterbury* before their Lordſhips on Monday the 13th of this Inſtant *November*, by Ten of the clock in the Morning, to put in his Anſwer into the Houſe to the Impeachment of the Houſe of Commons, remaining now before the Lords in Parliament; and this to be a ſufficient Warrant in that behalf.

To the Gentleman-Uſher, &c.

On the 13th of *November*, the Archbiſhop appearing at the Lords Bar in Perſon, put in this following Anſwer to the Additional Articles exhibited againſt him.

The Humble Anſwer of William *Archbiſhop of* Canterbury, *to the further Articles of Impeachment of High Treaſon and divers High Crimes and Miſdemeanours exhibited againſt him by the Honourable Houſe of Commons, according to Direction of an Order of this Honourable Houſe of the* 13*th of* Octob. *laſt.*

ALL Advantages of Exception to the ſaid Articles of Impeachment, to this Defendant, ſaved and reſerved, this Defendant humbly ſaith, That he is not guilty of all or any the Matters by the ſaid Impeachment charged, in ſuch manner and form as the ſame are by the ſaid Articles of Impeachment charged.

Alſo upon his Motion the ſame Day to the Lords, this Order was made in the favour of him.

Die Lunæ, 13 Novemb. 1643.

ORdered by the Lords in Parliament, That the Lord Archbiſhop of *Canterbury*'s Counſel ſhall provide themſelves to adviſe him in point of Law, in all the Articles of the whole Charge; and for the Matter of Fact, when the Cauſe comes to be proſecuted by the Houſe of Commons, as there ſhall be need, their Lordſhips will give further Directions in due time.

On the 11th of *December* 1643, the Houſe of Commons made this enſuing Order.

11 Decembr. 1643.

ORdered, That the Committee for the Tryal of the Archbiſhop of *Canterbury* do meet this Afternoon at Two of the clock in the *Star-Chamber*, to prepare the Evidence againſt the Archbiſhop of *Canterbury*; and to ſummon ſuch Witneſſes as are needful, and prepare the Buſineſs fit for Tryal, and to acquaint the Houſe when they are ready; and this they are to do with all convenient ſpeed they can, and have power to ſend for Parties, Witneſſes, Papers, Records, &c. And the Care thereof is particularly committed unto Serjeant *Wilde*.

Die Mercurii, 3 Jan. 1643.

IT is this Day ordered by the Lords in Parliament, That this Houſe will proceed againſt *William Laud* Archbiſhop of *Canterbury* upon the Impeachment brought up from the Houſe of Commons for High Crimes and Miſdemeanours, on Monday Morning next at Ten of the clock, being the Eighth of this Inſtant *January* 1643. At which time the ſaid Archbiſhop is to prepare himſelf for his Defence.

To the Gentleman-Uſher attending this Houſe, or his Deputy, to be delivered to the Lieutenant of the Tower, *or his Deputy, for the Archbiſhop.*

Jan. 3. 1643. A Meſſage ſent from the Lords by Sir *Robert Rich* and Mr. *Page*, *The Lords commanded us to put you in mind, that the Archbiſhop of* Canterbury *hath put in his Plea to the Impeachment of this Houſe ſent up to the Lords ſome time ſince, which they deſire you to take into Conſideration what is fit to be done in it.*

Jan. 5. The Houſe of Commons deſired the Lords to appoint a Committee to examine ſome Witneſſes upon Oath, againſt the Archbiſhop, in the preſence of the Committee of the Commons; which was granted.

On the ſixth of *January*, the Archbiſhop preferred a Petition to the Lords, written with his Secretary Mr. *Dell*'s Hand, and ſubſcribed with his own, as follows.

To the Right Honourable the Lords aſſembled in the High Court of Parliament, the Humble Petition of William Laud *Archbiſhop of* Canterbury, *Priſoner in the* Tower.

Humbly ſheweth,

THAT your Petitioner having received your Lordſhips Command, by your Honourable Order of the 3d of this Inſtant *January*, annexed, to attend and anſwer the Impeachments againſt your Petitioner, from the Honourable Houſe of Commons, on Monday the 8th of this Inſtant *January*, which is but five days diſtance, and at a time when two of his three Counſel aſſigned are out of Town, and your Petitioner's Witneſſes reſiding in ſeveral remote places, cannot be ſummoned in ſo ſhort a time, nor willing happily to come upon their Summons, without Warrant from your Lordſhips:

Your Petitioner's moſt humble Suit to your Lordſhips is, That you will honourably vouchſafe him ſome more convenient time to ſend for his Counſel and Witneſſes, to teſtify in the Matters of Fact charged againſt him; and withal to grant the Petitioner your Honourable Order, to command the Witneſſes ſummoned to attend at the time by your Lordſhips to be appointed. Which his humble Requeſt, your Petitioner had ſooner preſented to your

your Lordſhips, but that no Sitting hath been (as your Petitioner is informed) until this Day, ſithence your Honourable Order in this behalf made known to him. *And your Petitioner ſhall pray*, &c.

William Cant.

Sabbati, 6 Jan. 1643.

WHereas the Houſe formerly appointed Monday, being the 8th of this Inſtant *January*, 1643. to proceed againſt *William Laud*, Archbiſhop of *Canterbury*, upon the Impeachment brought up againſt him from the Houſe of Commons for High Treaſon, and High Crimes and Miſdemeanours; upon reading the Petition of the ſaid Archbiſhop, it is this Day ordered by the Lords in Parliament, to the end that the Counſel and Witneſſes of the ſaid Archbiſhop may have competent Time to attend the Hearing of the Cauſe, That this Houſe will reſpite the Proceedings againſt the ſaid Archbiſhop, upon the ſaid Impeachment, until Tueſday the 16th of this Inſtant *January*, 1643. at Ten of the clock in the Morning. At which Time the ſaid Archbiſhop is peremptorily appointed to provide his Witneſſes, and prepare his Defence unto the ſaid Impeachments.

To the Gentleman-Uſher, &c.

In purſuance whereof, on the 15th of *January* an Order was made, commanding the Lieutenant of the *Tower* to bring up his Priſoner accordingly. Who being brought to the Lords Houſe at the Time appointed, about Three a clock that Afternoon the Lords ſent down this Meſſage to the Houſe of Commons, thus enter'd in their Journal.

16 *Jan.* 1643.

A Meſſage from the Lords, by Sir *Robert Rich* and Mr. *Page*, to acquaint the Houſe that they are ready to hear the Charge upon the Impeachment againſt the Biſhop of *Canterbury*.

Upon this Meſſage, the Committee of the Houſe of Commons, appointed to manage the Evidence againſt him, went up to the Lords Houſe. And then the Archbiſhop being brought to the Bar, after he had there kneeled a little ſpace, was commanded to ſtand up. Which Ceremony ended, Mr. *Maynard*, one of the Committee, deſired the Lords that the Original and Additional Articles of Impeachment againſt the Archbiſhop might be read; which being read accordingly by the Clerk, he then prayed that the Archbiſhop's ſeveral Anſwers to theſe Articles might likewiſe be read. Whereupon the Speaker of the Lords Houſe commanding them to be read, the Clerk read only his forementioned Anſwer to the Additional Articles; but no Anſwer to the Original, there being never any Anſwer put in unto them.

Hereupon Mr. *Maynard* ſpake to the Lords to this effect:

Mr. Maynard's *Speech on this occaſion.*

My Lords,

IT now appears to your Lordſhips how unwilling the Archbiſhop is (out of Conſciouſneſs of his own Guilt) to come to his Tryal, that in all this ſpace, from his firſt Impeachment, he hath not ſo much as put in any Anſwer to the Original Articles, though he had long ſince Counſel aſſigned him for that purpoſe. My Lords, this is none of the Commons fault, but his own: For your Lordſhips well know that the Commons can take no notice what is done in the Houſe of Peers in a Parliamentary way, but by a Meſſage from your Lordſhips, who, after our Articles exhibited, were to call upon the Archbiſhop for an Anſwer to them. And your Lordſhips ſending us ſeveral Meſſages heretofore, that the Archbiſhop had put in his Anſwer to the Articles, and that you were ready to hear our Charge againſt him, and appointing this Day for his Tryal, the Commons thereupon conceived that he had formerly put in his Plea and Anſwer, in due Form, to all their Articles: But the contrary now appearing both to your Lordſhips and us, it is impoſſible for us to proceed at this time on his Tryal, there being no Iſſue joined upon the Original Articles, for want of an Anſwer to them; and to proceed upon the Additionals before any Anſwer given to the Originals, will be very prepoſterous. Wherefore we humbly pray your Lordſhips to order that the Archbiſhop may forthwith put in his Anſwer both to the Original and Additional Articles, by the Advice of his Counſel, or otherwiſe, in ſuch a ſort as he will ſtand to it: And then we ſhall without any Delay join Iſſue with him, proceed on in his Tryal and Evidence againſt him, when your Lordſhips ſhall appoint.

The Archbiſhop deſired the Lords that he might adviſe with his Counſel, whether the Articles were certain and particular enough to be anſwered unto; and that if their Lordſhips ſhould over-rule him to put in his Anſwer to them, he might have convenient Time to do it.

Upon this, all being commanded to withdraw, the Lords, after ſome ſhort Debate among themſelves, and upon reading the Archbiſhop's Petition to have Mr. *Gerrard* of *Gray's-Inn* aſſigned for his Counſel, to join with thoſe formerly aſſigned him, made this enſuing Order:

Die Martis, 16 *Jan.* 1643.

UPON the reading the Petition of *William* Archbiſhop of *Canterbury*, it is this Day ordered by the Lords in Parliament, That Mr *Richard Gerrard* of *Gray's-Inn* be added to the former Counſel aſſigned to the ſaid Archbiſhop, to be likewiſe of his Counſel.

It is alſo ordered by the Lords in Parliament, That *William* Archbiſhop of *Canterbury* ſhall put in his Anſwer in Writing into this Houſe, to the firſt and further Articles of Impeachment brought up from the Houſe of Commons againſt him by Monday Morning next peremptorily; and that the ſame Counſel formerly aſſigned him ſhall be of Counſel with him.

On the 19th of *January* the Archbiſhop ſent this Petition to the Lords.

To the Right Honourable the Lords aſſembled in Parliament, the humble Petition of William *Archbiſhop of* Canterbury, *Priſoner in the* Tower;

Sheweth,

THAT whereas your Petitioner having formerly anſwered the particular Articles exhibited

bited againſt him by the Honourable Houſe of Commons; and now by your Lordſhips Order, of the 16th of this Inſtant, is commanded to put in his Anſwer to the firſt and further Articles of Impeachment brought up againſt him by Monday Morning next; for the doing whereof, his former Counſel is aſſigned him.

That your Petitioner having adviſed with his Counſel concerning the firſt Articles, which were exhibited now almoſt three Years ſithence, finding upon Peruſal and Debate of the ſame that the ſaid former Articles are ſuch, that no Anſwer can be made thereunto, nor your Petitioner in any wiſe enabled to prepare for his Defence to the ſame, as they now ſtand:

That foraſmuch as the ſaid Articles of Impeachment import no leſs than a Charge of High Treaſon; and foraſmuch as your Petitioner is by his Counſel informed that (eſpecially in Caſes of Life) the Defendant is allowed to offer to the Court, where the ſame depends, his Exceptions by his Counſel before any Plea pleaded:

Your Petitioner moſt humbly beſeecheth your Lordſhips to appoint a Day for the hearing of your Petitioner's Counſel concerning the ſame. *And your Petitioner ſhall pray*, &c.

William Cant.

What Anſwer the Lords returned to this Petition, I find not; but on the 20th of *January* they made an Order for the Lieutenant to bring him up on the Monday following, to put in his Anſwer according to their Order of the 16th.

And in purſuance thereof, on the 22d of *January* the Archbiſhop perſonally appearing at the Lords Bar, did put in this following Anſwer both to the Commons Original and Additional Articles.

The Humble Anſwer of William *Archbiſhop of* Canterbury *to the firſt and further Articles of Impeachment brought up by the Honourable Houſe of Commons againſt him, and by Order of the Right Honourable the Lords in Parliament of the 16th of this Inſtant directed to be put in.*

AS to the thirteenth Article of the firſt Articles, and the Matters therein charged, and all other Matters and Things in the ſame, or any of the reſt of the ſaid Articles, contained, which concern any Act of Hoſtility, whether between the King and his Subjects, or between Subject and Subject, or which may be conceived to ariſe upon the coming of any *Engliſh* Army againſt *Scotland*, or upon any Action, Attempt, Aſſiſtance, Counſel, or Device having relation thereunto, and falling out by the occaſion of the late Troubles, preceding the late Concluſion of the Treaty, and Return of the *Scotiſh* Army into *Scotland*; this Defendant ſaith, That it is enacted by an Act made during the ſitting of this preſent Parliament, that the ſame, and whatſoever hath enſued thereupon, whether trenching upon the Laws and Liberties of the Church and Kingdom, or upon his Majeſty's Honour and Authority, in no time hereafter may be called in queſtion, or reſented as a Wrong national or perſonal, and that no mention be made thereof in time coming, neither in Judgment, nor out of Judgment; but that it be held and reputed as though never ſuch Things had been thought or wrought, as by the ſaid Act may more at large appear: with this, That this Defendant doth aver, That he is none of the Perſons excepted by the ſaid Act; or the ſaid Offences charged upon this Defendant, any of the Offences excepted by the ſaid Act.

And as to all the reſt and further Articles, this Defendant, ſaving to himſelf all Advantages of Exception to the ſaid Articles, humbly ſaith, He is not guilty of all or any the Matters by the ſaid Articles charged, in ſuch Manner and Form as the ſame are by the ſaid Articles charged againſt him.

William Cant.

The ſame Day the Lords, by Sir *Robert Rich* and Mr. *Page*, ſent down this Anſwer of the Archbiſhop's to the Houſe of Commons; which was read, and ordered to be referred to the Committee appointed to manage the Evidence againſt the ſaid Archbiſhop, and accordingly delivered to Serjeant *Wilde*.

And it was further, the ſame Day, ordered by the Commons, That the ſaid Committee, appointed to manage the Evidence at the Tryal of the Archbiſhop of *Canterbury*, do peremptorily meet this Afternoon, at Three of the clock, in the Court of Wards, upon the Diſtribution of the Parts of the Evidence.

Die Lunæ, 4 Martii, 1643.

A Meſſage to be ſent to the Lords to deſire them to appoint a Day for the Tryal of the Biſhop of *Canterbury*. Mr. Serjeant *Wilde* went up to the Lords, to appoint a Day for the Tryal of the Archbiſhop of *Canterbury*. Serjeant *Wilde* brings Anſwer, That the Lords have appointed to-morrow ſeven-night for the Tryal of the Archbiſhop of *Canterbury*.

For which purpoſe the Lords made the following Order.

Die Lunæ, 4 Martii, 1643.

ORdered, That the Archbiſhop of *Canterbury* ſhall appear before their Lordſhips on Tueſday the 12th of this Inſtant *March*, at Nine of the clock in the Morning. At which Time this Houſe will proceed againſt the Archbiſhop upon the firſt and further Articles of Impeachment, brought up from the Houſe of Commons againſt him for High Treaſon, and High Crimes and Miſdemeanors: whereof the ſaid Archbiſhop is hereby to take notice, and provide himſelf accordingly.

After this, the Archbiſhop petitioning the Commons Houſe, That Sir *Henry Mildmay*, a Member thereof, might be examined as a Witneſs for him at his Tryal; this Order was thereupon conceived.

9 Martii, 1644.

THE humble Petition of *William* Archbiſhop of *Canterbury*, deſiring that Sir *Henry Mildmay* may be examined as a Witneſs in his Buſineſs, he being to come to his Tryal on *Tueſday* next, was this Day read; and it is ordered according to his Petition, That he ſhall be examined as a Witneſs at the Tryal of the ſaid Biſhop accordingly. It was likewiſe then ordered, That divers Members of the Houſe of Commons ſhall be examined as Witneſſes

Witneſſes againſt him; and that the Lords be moved by Serjeant *Wilde*, that ſome Members and Attendants of the Lords Houſe be examined at the Archbiſhop's Tryal. And that it be referred to the Committee of Sequeſtrations, to conſider of ſome convenient Recompence for ſuch Clerks, Sollicitors, and others, as have been or ſhall be imployed in the tranſcribing of Breviats, and other Services done by them to the Committee for the Biſhop of *Canterbury*'s Tryal.

On *Thurſday* the 12th of *March*, 164⅔. being the Day appointed for the Commencement of his Tryal, the Archbiſhop about Three of the clock in the Afternoon was brought by the Lieutenant of the *Tower* and Uſher of the Black-Rod to the Bar in the Lords Houſe; where after he had kneeled a little Space, the Lord *Gray* of *Werk*, Speaker *pro tempore*, commanded him to riſe up. And the Committee of the Houſe of Commons, appointed to manage the Evidence at his Tryal, demanded that the ſeveral Articles of their Impeachment againſt him might be read. Whereupon one of the Clerks of the Lords Houſe read both the Original and Additional Articles before mentioned, and after that his Anſwer, Plea, and Demurrer thereunto.

The Archbiſhop then deſired the Lords that the Houſe of Commons might give in all their Charge and Evidence to all the Articles againſt him together, before he ſhould be put to give his Anſwer to any particular Charge, becauſe he was antient, his Memory very ſhort, and the Articles general; and that he might anſwer all his Charge together, and not each Day's Evidence by piece-meal. To which, on the behalf of the Commons, it was anſwered by Mr. *Maynard*;

I. That if the Archbiſhop's Memory was ſo bad, it would be far worſe for him to charge it with anſwering many Particulars, and the whole Evidence againſt him together, than to anſwer every particular Charge each Day, as it ſhould be given in againſt him, whilſt it was freſh in Memory.

II. That it might and would be a great Inconvenience to have Witneſſes croſs-examined upon other Days than thoſe whereon they gave in their Teſtimony againſt the Priſoner.

III. That the Lords themſelves would find it difficult to paſs their Judgment upon all the Charge together, without hearing his punctual Anſwer to every particular Proof as it ſhould be given in Evidence, whilſt it was freſh in their Memories.

IV. Becauſe elſe all the Witneſſes, which were very many, muſt of neceſſity attend, and be kept in Town from the firſt to the laſt Day of his Tryal; which would be a very great Charge and Inconvenience.

V. In the Earl of *Strafford*'s Caſe, this very Parliament, he was put to anſwer every Day to the particular Evidence given againſt him on the ſame Day.

Upon which Reaſons, the Houſe of Peers ordered that the Archbiſhop ſhould make his particular Anſwer to every particular Charge on the ſame Day it was given in againſt him.

Then the Archbiſhop deſired that the Houſe of Commons would ſever the Articles which were Treaſon from thoſe other Articles which were matter of Crime and Miſdemeanor only; that ſo he might know which of them were Treaſon, and which not. Hereto Mr. *Maynard* anſwered, That this they might not do, becauſe they were now only to try the Matter of Fact, not Law; and becauſe all the Articles taken together, not each or any particular Article by it ſelf, made up the Treaſon wherewith he was charged; to wit, His Endeavours to ſubvert and deſtroy Religion, the fundamental Laws of the Land, and Government of the Realm, and to bring in Popery and an arbitrary Tyrannical Government againſt Law.

Then, as an Introduction to the Proof of the Charge, Serjeant *Wilde* ſpake to the Houſe of Peers as followeth.

Serjeant Wilde's *Speech.*

My Lords,

THIS great Cauſe of the Archbiſhop of *Canterbury*, after a long and painful Travail, is now come to the Birth; of which it may be truly ſaid, as it was in a like Caſe, *Repertum eſt hodierno die facinus, quod nec Poeta fingere, nec Hiſtrio ſonare, nec Mimus imitari potuerit.*

For if all the Oppreſſions, all the pernicious Practices and Machinations, which have been in each Time to ruinate our Religion, Laws, and Liberties, were loſt, I think here they might have been found and drawn out again to the Life. So that your Lordſhips, who have been the great Aſſertors of our Liberties, and ſtood ſo faſt to the Rules and Principles of your noble Progenitors, (which others have ignobly deſerted) may after a long Conflict with ſo many great and matchleſs Difficulties, ſay now as a great Commander once did upon an extraordinary Danger, *Tandem par animo meo periculum video.* Here is a Cauſe proportionable to your ſelves, apt and proper for the Juſtice and Power of this Honourable Court.

Had they been Faults of common Frailty, Error, or Incogitancy, which this Man hath committed, we ſhould gladly have ſtepped back, and caſt a Cloak over them; but being ſo wilful, ſo univerſal, ſo deſtructive to the Laws of God and Man, ſo comprehenſive of all the Evils and Miſeries which now we ſuffer, the Sin would lie upon our own Heads, if we ſhould not call for Juſtice. Which that it hath been ſo long uncalled for, (not deferred or delayed) I ſuppoſe no Man will think ſtrange, who conſiders the preſent Diſtractions, the Death and Diſperſion of our Witneſſes, the Loſs of ſome of our Members who have been imployed and taken pains in this Buſineſs, the Multitude of Diverſions we have had, and have daily, occaſioned by the Acts and Influences of this Meteor.

But the Truth ſurvives, and Matter enough ſurvives; ſo copious and ſo full of Variety, that if all the Particulars ſhould be examined for his three Years Impriſonment, which he complains of, there would be three Years time of Tryal and Hearing of the heavy Charge that lies againſt him, a Charge of High Treaſon. Treaſon in all and every part: Treaſon in the higheſt Pitch and Altitude. For what greater Treaſon can there be, than to betray the whole Realm, and to ſubvert the very Foundations, leaving nothing for Poſterity but a Curſe upon him that ſhall go about to build again?

That which of it ſelf is ſo heinous, is much more enhanced and aggravated by the Quality of the Perſon, a Churchman, a great Prelate, a Man in great Truſt, Place, and Authority in Church and Commonwealth.

A Man indued with ſo great Gifts of Nature, and ſo many of Grace and Favour from his Majeſty; and for all theſe to be perverted to a contra-

ry end, even to the Deſtruction of the Publick, and the ruin of the Womb that bare him, how deep a Dye do theſe impoſe upon this foul Crime?

How Churchmen in all Ages (as hath been often obſerved) ſhould come to be the archeſt Seedſmen of Miſchief, and principal Actors in all the great Diſtractions and Alterations that have happened, is a Deſtiny that may ſeem ſtrange. But the Reaſon is, (*Ex bono Theologo malus Medicus*) their intermeddling with temporal Things and Matters heterogeneal to their Calling, wherein God is pleaſed to ſmite them with Blindneſs, and to infatuate their Counſel. Whereof a perfect Pattern we have in this great Prelate; who, by abuſing his Profeſſion, and making the Buſineſs of State the cuſtomary Subject of all his Endeavours, became the Author of all the illegal and tyrannical Proceedings in the Star-Chamber, High-Commiſſion Court, and other Courts; of all the Innovations in Doctrine and Diſcipline, of the ſuppreſſing of godly Miniſters and Preaching; of the advancing of others, who were the Promoters of Popery and Arbitrary Power; and indeed, of all the Concuſſions and Diſtractions in Church and State, whereby Religion hath been joſtled out, Laws and Parliaments trodden down with Contempt.

For Matter of Religion, ſurely thoſe Times were happy, when by the Magnanimity of Princes, and the Wiſdom and Piety of our Predeceſſors, the Antichriſtian Yoke of Popery was ſhaken off.

And now after ſo many bloody Maſſacres in *France*, ſuch fiery Perſecutions here in Queen *Mary*'s Days, ſo many treacherous Conſpiracies in time of Queen *Elizabeth*, that execrable and horrid Powder-Plot in the Time of the late King *James*, ſuch Streams and Rivers of Blood in *Germany* and *Ireland*, and other Parts of the Chriſtian World, ever ſince by thoſe reſtleſs and cruel Firebrands of all Miſchief: for any Man now to go about to rebuild theſe Walls of *Jericho*, and to reduce us to thoſe rotten Principles of Error and Darkneſs, how can it be expected better than that the People ſhould be even ready to ſtone him, as they did him that did but act the part of *Bellerophon* in *Rome*?

But to avoid this Danger, he conveys this Poiſon in a gilded Pill, with Baits and Pretences of Reconciliation; a pleaſing Snare, *Laqueus Diaboli ad miſerorum animas ad infernum detrudendas.*

A Bead-Roll of Particulars might be recited, wherein this Reconcilement was to be wrought in Points of Free-Will, Merits, Juſtification, Univerſal Grace, Purgatory; and, in effect, all the reſt.

To draw on theſe, there muſt be an introducing of Popiſh Ceremonies in all the Particulars contained in the Maſs-Books, and Pontificals themſelves: And to make way for theſe, the Book of Sports muſt be publiſhed, and preſſed beyond the King's Intention or Declaration, which was but a civil Command: But he ſubjoins Eccleſiaſtical Penalties, even the ſharpeſt, Suſpenſion, Deprivation, and the like; theſe executed on divers good and godly Men with a high Hand. Thus a Liberty proclaimed not to Captives, but to profane Caitiffs; this Day ſet apart by God *ab æterno*, expoſed and proſtituted to all Looſeneſs and Irreligion, and that by a Law: This Lamb taken out of his Boſom.

Jehoſaphat ſends Prieſts and Levites into all the Cities and Tribes to inſtruct them: This Prelate ſends Declarations and Injunctions to corrupt them, and to extinguiſh the Lamp and Light of Religion. In the former Acts, he deſtroys the Proteſtant; in this, Religion it ſelf. In the one, he leaves Superſtition; in the other, nothing but Atheiſm and Profaneneſs: In the one, he deſtroys Presbyters, as did *Diocleſian*; in the other, *Presbyterium*, as did the Apoſtate *Julian*. Yet to ſhew his Love to Religion, (the Pope's only) he holds Correſpondency with thoſe of *Rome*, Cardinal *Barberino*, *Panzani*, *Con*, *Roſetti*, the Pope's *Nuncios*, Sir *Toby Matthews*, *Saint Clara*, *Saint Giles*, the moſt dangerous and deſperate Jeſuits, and many others *ejuſdem Farinæ*. And by all theſe Steps and Rounds he makes a Ladder for himſelf to climb up to the Papal Dignity; in example of *Anſelme*, whom (though famous for his Contumacy and Rebellion) yet he calls him his worthy Predeceſſor, (as was *Becket* alſo) and is contented to take upon him the Plenitude of Power, the Title of *Holineſs*, of *Archangel* of this Church, the Lineal Succeſſor of *Gregory* the Firſt, (rather of *Gregory* the Seventh;) and for all this was well worthy to have theſe great Offers made him, recorded in his own Memorials, by thoſe that had Ability to perform it, (*viz.*) a Cardinal's Cap. But ſuch was his Modeſty to forbear it; becauſe, though *Rome* be a true viſible Church in his Opinion, yet ſomething dwelt with him that hindered it for a time, to wit, I ſuppoſe his dwelling here.

For his Attempts againſt the Laws, the Subject's Birth-right, and the Rights of Parliaments, their chief Support and Refuge, how little regard he had to them, how much he did deſpiſe and abhor them, making it his Ambition to prefer the Contemners and Abuſers of them, and to ſet up his Canons and Conſtitutions above them, impoſing of unjuſt and unlawful Oaths, Exactions, Monopolies, all ſorts of Oppreſſions, ſtopping of Prohibitions and Courſe of Juſtice, reſcinding of Acts of Parliament, advancing of Proclamations, and all kind of Arbitrary Power above the Laws of God or Man; is fully expreſſed in the Articles, and will more fully appear in the Evidence. To conclude, *Naaman* was a great Man; but he was a Leper. This Man's Leproſy hath ſo infected all, as there remains no other Cure but the Sword of Juſtice; which we doubt not but your Lordſhips will ſo apply, that the Commonwealth ſhall yet live again and flouriſh.

When the Serjeant had done, the Archbiſhop deſired that he might have Liberty to ſpeak a few Words, to wipe off that Dirt which had been caſt upon him; which the Lords granting, he made an Oration, which he had prepared for that occaſion, holding it written in a Paper in his Hand.

[*Which being printed in his own Account* (vid. antea, p. 382.) *is here omitted.*]

The Heads of the Charge againſt the Archbiſhop.

THE Charge againſt the Archbiſhop was declared by the Managers to conſiſt of many various particular Crimes of high Nature, but reducible to one general Head, to wit, *High Treaſon againſt the King and Kingdom*; thus expreſſed in the firſt Original and ſecond Additional Articles, *That he hath traitorouſly endeavoured to ſubvert the Fundamental Laws and Government of the Kingdom of* England; *and inſtead thereof, to introduce an Arbitrary and*

and Tyrannical Government. This General they diſtributed into four ſpecifical Branches in the Articles of his Impeachment; under which all the particular capital Offences and grand Miſdemeanours, which they ſhould give in Evidence againſt him, were comprehenſible, *viz.*

1. His Traitorous Endeavours and Practices to alter and ſubvert God's true Religion by Law eſtabliſhed in this Realm; and inſtead thereof, to ſet up Popiſh Superſtition and Idolatry, and reconcile us to the Church of *Rome*; the Particulars whereof are ſpecified in the 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, and 13th Original, and the 6th, 7th, 8th, and 9th Additional Articles.

2. His Traitorous Uſurpation of a Papal and Tyrannical Power in the Church of *England* in all Eccleſiaſtical Affairs, in Prejudice and Derogation of his Majeſty's Royal Prerogative, and the Subjects Liberties, comprized in the ſixth Original Article.

3. His Traitorous Attempts and Endeavours to ſubvert the Fundamental Temporal Laws, Government, and Liberties of the Realm, and Subjects of *England*; and inſtead thereof, to introduce an Arbitrary and Tyrannical Government, againſt the Law and Subjects Liberties; expreſſed in the 1ſt, 2d, 3d, 4th, 5th, 6th, and 13th Original, and 1ſt, 2d, 3d, 4th, 5th, and 10th Additional Articles.

4. His Traitorous Endeavours to ſubvert the Rights of Parliament, and antient Courſe of Parliamentary Proceedings, and by falſe and malicious Slanders, to incenſe his Majeſty againſt Parliaments; contained in the 14th Original, and 1ſt, 9th, and 10th Additional Articles.

To make out all theſe:

The firſt Part of the Evidence, upon the 1ſt, 2d, 3d, and 4th Original, and the 2d, 3d, 4th, and 10th Additional Articles, was managed by *John Maynard* Eſq; one of the Commons Houſe; wherein four whole Days, namely, *March* 13, 16, and 18. *Anno* 1643. and *March* 28. 1644. were ſpent; the Forenoons of them in the Evidence and Proofs, the Afternoons in the Archbiſhop's Anſwers and Mr. *Maynard*'s Replies unto them.

The ſecond Part of the Evidence was proſecuted by *Robert Nicolas* Eſq; a Member alſo of the Houſe of Commons, which took up three whole Days, *viz. April* 16. and *May* the 4th, and the 16th. Morning and Evening in the Proof of the 5th and 6th Original, and 9th Additional Articles, and in the Anſwers and Replies upon them.

The third Part, touching Religion, (contained in the 7th, 8th, 9th, 10th, 11th, and 12th Original, and 6th and 7th Additional Articles) was carried on and managed by *John Wilde*, Serjeant at Law, of the Commons Houſe, for four whole Days, (to wit, *May* the 20th and 27th, and *June* the 6th and 11th;) and then, by reaſon of Mr. Serjeant's Sickneſs, purſued by Mr. *Nicolas* five entire Days more, (*viz. June* the 17th, 20th, and 27th, and *July* the 20th and 24th.)

The fourth and laſt Part of the Evidence (in Proof of the 14th Original, and 1ſt and 10th Additional Articles) was given in by Mr. *Nicolas* on the 29th of *July*, and concluded the ſame Day.

After all the Evidence thus given, and the Anſwers and Replies thereunto ſeverally and reſpectively made, the Archbiſhop moved that he might have Liberty to make a general Recapitulation of his whole Defence before the Lords; which accordingly he performed the 2d of *September*, 1644. To which *Samuel Brown* Eſq; a Member of the Houſe of Commons, replied, on the 11th of *September*, ſumming up the principal Parts of the Evidence given againſt him at the Lords Bar, and endeavouring to anſwer and invalidate the Archbiſhop's Allegations and Defences: Who the ſame Day praying the Lords that his Counſel might be heard in Point of Law in his behalf, and their Lordſhips conſenting thereunto, the Managers for the Houſe of Commons deſired that they might firſt have notice what Matters of Law the ſaid Archbiſhop's Counſel would inſiſt upon, that ſo they might prepare themſelves to make reply. Whereupon it was ordered that they ſhould ſpeak to this Point of Law, *Whether in all or any of the Articles charged againſt him, there were any Treaſon contained?* Which was argued at the Lords Bar by Mr. *John Hern*, as the Mouth of his Counſel, *October* the 11th, and replied unto by the Managers.

The Tryal of Connor *Lord* Macguire, Feb. 10. 1644. *in the* 20*th Year of King* Charles *the Firſt.*

BY the Indictment the Priſoner at the Bar is charged, That he, together with Sir *Phil. O-Neale*, *Philip O-Relly*, *Roger Moore* Eſq; *Roger Macguire* Eſq; *Toole O-Coule* Clerk, (being a *Roman* Prieſt,) *Hugh Macmahune*, and divers other Perſons, falſe Traytors, unknown, as a falſe Traytor againſt the King's Majeſty, his ſupreme Leige Lord, not having the Fear of God in his Heart, nor conſidering his Duty or Allegiance, but being ſeduced by the Inſtigation of the Devil, intending altogether to withdraw, b[illegible] out, and extinguiſh the cordial Love and due Obedience which faithful Subjects owe to their Sovereign; did on the 20th of *October*, 17 *Car.* at *Dublin* in *Ireland*, in the Parts beyond the Seas, and at divers other Times, both before and after, as well at *Dublin* as elſewhere, falſly, maliciouſly, and traitorouſly conſpire, imagine, and compaſs utterly to deprive and diſinherit the King's Majeſty of his Royal Eſtate and Kingdom of *Ireland*; to bring his Majeſty's Perſon to Death and Deſtruction; to raiſe Sedition, and breed and cauſe miſerable Slaughter and Deſtruction amongſt the King's Subjects throughout all the whole Kingdom; to make an Inſurrection and Rebellion againſt the King his Sovereign; to levy publick, open, bloody, and

and fierce War againſt the King in that Kingdom; to change and alter, according to their own Wills, the Government of the Kingdom, and the Religion there eſtabliſhed, and totally to ſubvert the well-ordered State of that Commonwealth; to procure and bring in divers Strangers and Foreigners (not being the King's Subjects) in a warlike manner to invade that Kingdom of *Ireland*, and to levy War there.

And in execution of theſe their wicked Treaſons and traitorous Conſpiracies, 20 *Octob.* 17 *Car.* the Defendant, *Connor Macguire*, at *Dublin*, and divers other Times and Places, by one *Toole O-Coule*, and divers other Meſſengers, by him ſent to *Owen O-Neale*, being then in *Flanders*, did move and incite *Phil. O-Neale* to levy and raiſe an Army in *Flanders*, and thence to bring that Army over into *Ireland* in an hoſtile manner, to invade that Kingdom.

And further, to put in execution their traitorous Purpoſes, the Defendant, together with *Hugh Macmahune*, *Phil. O-Neale*, *Philip O-Relly*, *Roger Moore*, *Roger Macguire*, and *Toole O-Coule* the Prieſt, 20 *Oct.* 17 *Car.* at *Dublin*, and divers other Times and Places in *Ireland*, before and after, did traitorouſly conſpire to enter into, ſeize, get into their own power, and ſurprize the King's Caſtle at *Dublin*, and all other the King's Caſtles and Forts in that Kingdom, and the Magazine therein. And at the ſame time unlawfully and traitorouſly did endeavour and actually attempt to gain into their poſſeſſion and power, and to ſurprize the ſaid Caſtle of *Dublin*, and the Munition therein.

That the Defendant, with the other Perſons named, *Philip O-Neale* and others, further to bring to paſs their moſt horrid wicked Treaſons and Conſpiracies, on the 22d of *October*, 17 *Car.* at *Charlemont*, and other Places, before and after, being armed and arrayed with a great Multitude in a warlike manner, with Banners diſplayed, Drums, Swords, Staves, Guns, and other invaſive and defenſive Weapons, did falſly and traitorouſly prepare and levy open, fierce, and bloody War againſt the King's Majeſty; and the ſame 22d of *October* ſeized and ſurprized the King's Fort at *Charlemont*, and then and there maliciouſly and traitorouſly did kill and murder *Toby* Lord *Caulfield*, *Francis Davies*, and others of the King's Subjects, that were Proteſtants.

That the Defendants, 4 *Junii*, 18 *Car.* at the Caſtles of *Keilagh* and *Cragan*, and other Times and Places, before and after, levied War, ſeized and ſurprized thoſe Caſtles, and did kill and murder *Owen Powell* and *William Coſens*, and many other of the King's Proteſtant Subjects in that Kingdom.

Which ſeveral Offences are laid againſt his Duty and Allegiance, againſt the Peace of the King's Crown and Dignity, in manifeſt Breach and Contempt of the Laws and Statutes of this Kingdom.

The Defendant pleaded Not guilty. And being demanded how he would be tried;

The Copy of the Plea.

HE pleaded the Statute of *Magna Charta*, 10 *Feb.* 9 *Hen.* 3. That none ſhould be condemned but by Tryal of his Peers; and pleaded the Statute of 10 *Hen.* 7. That all the Statutes made in *England* ſhould from thenceforth be in force in *Ireland*.

And pleaded, That before the Time of the ſeveral Treaſons charged in the Indictment, *Bryan Macguire*, his Father, by Letters Patents was created Baron of *Enniskillen*, in *Ireland*, to him and the Heirs Males of his Body: By force whereof, his Father was ſeized of the Barony in Fee-Tail, and 1 *Feb.* 12 *Car.* died ſo ſeized; after whoſe Death the Barony deſcended to the Defendant, by virtue whereof he was a Baron of *Ireland*. And that at a Parliament held at *Dublin*, 16 *March*, 16 *Car.* which was there continued till the 7th of *Aug.* after, and then adjourned to the 9th of *November* following, and then prorogued to the 24th of *Feb.* thence next following, and from thence continued till the 24th of *June*, 18 *Car.*

That he was as one of the Noblemen and Peers of that Parliament; and that the 23d of *October*, 17 *Car.* he was arreſted and impriſoned upon pretence of the ſeveral Treaſons in the Indictment mentioned, and there continued till the 12th of *June*, 18 *Car.* when he was brought againſt his Will to *Weſtminſter*, and thence committed to the *Tower* of *London* in ſtrict Cuſtody. And averred his Plea, and prayed that he might be tried and judged by his Peers in *Ireland*.

Whereunto the King's Counſel demurred in Law, and the Defendants joined in the Demurrer.

Upon this Plea of the Lord *Macguire*, the beginning of *Hillary* Term, Judge *Bacon* delivered his Judgment, That a Baron of *Ireland* was triable by a Jury in this Kingdom. After which, the Houſe of Commons declared their Aſſent unto his Opinion in this following Vote.

Die Sabbati, 8 *Feb.* 1644.

REſolved upon the Queſtion, That the Houſe doth approve of the Judgment given by Maſter Juſtice *Bacon*, in over-ruling the Plea of the Lord *Macguire*, and of the Manner of the Tryal upon the Indictment of High Treaſon in the *King's-Bench*; and the Judge is hereby required to proceed ſpeedily thereupon, according to Law and Juſtice. The Lords Concurrence to be deſired herein; Maſter Recorder is appointed to carry it up.

Upon this Vote of the Honourable Houſe of Commons, the Houſe of Peers afterwards declared their Concurrence; and thereupon this enſuing Order was paſſed by both Houſes of Parliament.

Die Lunæ, 10 *Feb.* 1644.

ORdered by the Lords and Commons in Parliament aſſembled, That the ſaid Houſes do approve of the Judgment given by Maſter Juſtice *Bacon*, in over-ruling the Plea of the Lord *Macguire*, and of the Manner of the Tryal upon the Indictment of High Treaſon in the *King's-Bench*; and the Judge is hereby required to proceed ſpeedily thereupon, according to Law and Juſtice.

John Brown, Cler. Parl.
Hen. Elſing, Cler. Parl. D. C.

ON

ON Monday, *Febr.* 10. the Lord *Macguire* was brought from the *Tower* of *London*, by the Guard belonging thereunto, unto the *King's-Bench* Bar; where he was arraigned by the Name of *Connor Macguire*, alias *Cornelius Macguire* Eſq; (for his Plea of Peerage was found invalid, and ſo declared by the Court; and that Opinion of the Judge was ſince aſſented unto, and confirmed by both Houſes of Parliament.) At his coming to the Bar, the Priſoner ſpake as followeth.

Macguire. I do humbly move, that I may have time allowed me by this Court to ſend for my Witneſſes.

Judge. You have had a long time; you were indicted about the beginning of the laſt Term, you might have prepared Witneſſes the laſt Term.

Mac. I did not expect a Tryal.

Judge. You ſhould expect it at your peril.

Mac. I was told, when I came into the Kingdom, that I might have Witneſſes.

Judge. The Proof lies upon the King's part.

Mac. Though the Proof be of the King's part, yet I muſt have time to clear myſelf.

Judge. But if every Man ſhould ask ſo much time as you require, he ſhould never come to his Tryal.

Serj. *Whitfield.* Mr. Juſtice *Bacon*, we know that my Lord *Macguire* was indicted here the laſt Term; he was arraigned at this Bar, he pleaded *Not Guilty*, he could not but expect that he had then been tryed, if it had not been for the Plea of Peerage that he then put in: upon which he knows there was a deliberate Diſpute, and he could not tell but that there would be an end before this time; and if he had had any Witneſſes, he might have ſent for them the laſt Term. But it is a very unuſual Courſe, eſpecially in that he could not but expect that he ſhould be tryed before this time; but then the Court did conceive this was a legal Information. No Place is mentioned by the Priſoner where the Witneſſes ſhould be, nor are they named who they are, nor any particular thing that they ſhould teſtify; but the Proof lies clear on our part: there's no Juſtification in Treaſon; if we prove that this Lord hath committed Treaſon, there's no Juſtification of that, by any Witneſſes he can produce,

Judge. The Lord *Grey*, that was Lord-Deputy of *Ireland*, committed his Treaſons in *Ireland*, for which he was brought over hither, and try'd here; yet the Court did not ſtay for his ſending over into *Ireland* for Witneſſes.

Mac. I deſire Witneſſes.

Judge. What can your Witneſſes ſay for you? Can they ſay thus much, That you did not conſpire, as this Indictment charges you? That there was no taking of theſe Caſtles? Can they ſwear in the Negative? The Proof lies in the Affirmative on the King's part.

Mac. They may be miſ-informed.

Judge. Who may be miſ-informed?

Mac. The Court. I have been kept cloſe Priſoner a long time, and could not provide my Witneſſes.

Serj. *Whitfield.* If we were not tyed to that, to nothing but his own Confeſſion, there's enough to condemn him: for that he ſays he was kept cloſe Priſoner, he might have deſired that the laſt Term.

Serj. *Roll.* If we go upon your own Examination, the Witneſſes concurring with that, what can you have?

Judge. If you had Witneſſes here, we would hear them; but to ſtay upon a mere verbal Suppoſal for thoſe Witneſſes in *Ireland*, they may be in that Rebellion too, and they will never come hither, and ſo the matter muſt never come to a Tryal.

Mac. I deſire that it may be the next Term.

Judge. We cannot protract Time; they are the King's Witneſſes, there are (I ſuppoſe) divers here, many Witneſſes of the King's come out of *Ireland*; if you will ask them any Queſtions for your Defence, you ſhall. There are many Witneſſes of the King's that know how things were in *Ireland*, the Court ſhall put them to ſpeak.

Mac. I humbly deſire to have a formal Tryal.

Judge. In what reſpect do you mean? I think it is ſo now. Now you are come to be arraigned, and the Evidence is to come in againſt you, I conceive it is a formal one.

Then the Priſoner was required to hold up his Hand at the Bar; and it was demanded, if he would challenge any of the Jury that were to paſs upon him in the Matter of Life and Death.

Then the Jury being called, he looked upon them, and challenged thoſe which did appear, being twenty three; there being only one abſent. Being demanded whether his Challenge was peremptory or no? he anſwered it was, for Cauſes beſt known to himſelf.

Jury challenged.

Sir *William Brownelow* Kt. and Baronet.	*John Pawlet* Gent.
Sir *Henry Row*,	*Thomas Poltock* Gent.
Sir *Matthew Howland.*	*Henry Smith* Gent.
Thomas Marſh Eſq;	*Francis Child* Gent.
Thomas Wilcox Eſq;	*Edward Wilford* Gent.
William Lane Eſq;	*William Vincent* Gent.
Edward Rogers Eſq;	*John Barnes.*
Edward Claxton Eſq;	*John Arnold.*
Richard Zachary Eſq;	*John Huckſley* Eſq;
Humphrey Weſtwood Eſq;	Sir *James Harrington* Kt.
John Jackſon Eſq;	*Thomas Moore* Eſq;
	Henry Arundell Gent.

Serj. *Whitfield.* The Priſoner hath challenged all the Jury that does appear; twenty three appears, and he hath challenged them, and his Challenge is for Cauſes beſt known to himſelf, which is a peremptory Challenge. Truly, it is that which the Law doth allow, and we do not oppoſe it; but we do deſire that we may have another Writ returnable to-morrow.

Judge. You muſt have a *Venire Facias*.

Serj. *Whitfield.* This Cauſe is a Cauſe of very great weight, there are many Witneſſes that have long attended in Court, we are informed that ſome of them are gone away into *Ireland*; that there is the Sheriff of *Dublin*, and ſome others that are now preſent in Court, that cannot be here, if we ſhould defer this Tryal, as the Priſoner doth deſire: and we do deſire that it may be referred till to-morrow, we ſhall be ready to give in Evidence againſt him.

Judge. He hath ſpent three Days this Term already, this is the fourth: we would have proceeded now, but for his peremptory Challenge; but if we ſtay till to-morrow, he muſt be content to be try'd by a meaner Jury.

Mr. *Pryn.* This being a publick Caſe, we deſire a ſpeedy progreſs in it: our Witneſſes have been long detained here, and cannot attend till the next Term, ſome of them being to depart within 2 days.

Judge. A publick Caſe muſt have publick Juſtice on both ſides: for your Witneſſes, you ſhall ſtay your Witneſſes here. We muſt do that which the Law doth allow.

Serj.

Serj. *Whitfield.* The Law does allow of his peremptory Challenge; we desire to have a new Writ, and that it may be returnable to-morrow. For the doing of it, we shall leave it to those that are to prosecute it, and to the Sheriff. We see that this Cause cannot be try'd this day, we desire we may have a speedy end of it; there have been many Days spent in it, and we that are of Counsel for the King do desire, that we may confer together, departing the Court for some time; and when we have conferred together, we will return to the Court again, and then we will propound to you what Course we do desire for the speedy Tryal of this Cause.

To this Motion the Judge assented, and Serjeant *Whitfield* and the rest of the Counsel went to consult together about it; and after a short stay, upon their return, Serj. *Whitfield* spake thus:

Serj. *Whitfield.* We that are Counsel for the King have consulted together with the Clerk of the Crown, and the Secretary; we have withdrawn ourselves, and perused several Precedents, and we do find by several Precedents, that whereas a peremptory Challenge shall be, it is in the power of the Court to order the Course of Tryal, and the Course is this: There goes a Writ to the Sheriff, that he shall distrain all them that make default, and that he shall amove those that are challenged by the Prisoner; and further, that he shall return so many more for the Tryal. This we conceive to be the constant Course of this Court; and in this case my Lord *Macguire* having challenged 23 of the 24, we are to distrain the other that made default, and to amove the 23 that he hath challenged of them, and have a *Tales* returnable to-morrow for a new Jury.

Serj. *Roll.* That was in *Standish*'s Case and *Friar*'s Case.

Judge. I know the Court may grant a *Tales*, but the matter is, whether it can be done so soon as to-morrow or no, if the Sheriff can do it to-morrow.

Serj. *Whitfield.* We do find this in the Precedent of *Friar*, that in 3 *Hen.* 7. the Jury did appear on Friday, and all those that did appear were challenged, and there was a *Distringas* returned the next Day, which was Saturday. It may be *immediate*.

Judge. Then make your *Distringas* against to-morrow morning, make out a *Quadraginta Tales* against to-morrow.

Mac. I desire I may not be so severely dealt with.

Judge. It hath been so oftentimes, and the Court doth proceed in these Cases *de die in diem*, from day to day; and there is no difficulty in the granting of it, but whether the Sheriff can return it so soon. If the King's Counsel will have it to-morrow, the other Businesses of the Court must be put off.

Hereupon the Prisoner was discharged, and a Rule granted to the Lieutenant of the *Tower*, to bring him again the next day.

On Tuesday, *Febr.* 11. the Lord *Macguire* was again brought to the *King's-Bench* Bar, where he made a Motion that his Plea of Peerage might be referred to another Court. To which it was answered;

Serj. *Whitfield.* We know not for what end this Motion is, and we know this, that this is no time for my Lord to make this Request; for you know how far we have proceeded: He hath been arraigned, and indicted of High Treason, and one Jury he challenged, the other is returned, so as now he is in the way of his Tryal; we are now to proceed with such Evidence as we have, to prosecute instantly. We do not desire this to be produced again, and if it be, we know not how it could be material one way or other.

After this, the Lord *Macguire* further urged the Court to the former purpose: to which it was answered, That he was then brought to his Tryal as a Prisoner upon the Indictment, and that both the Lords and Commons had approved of the Opinion of the Court therein.

Mac. Please you Sir, one word more: I desire to appeal to the Lords.

Serj. *Whitfield.* When one is come here, to appeal to the Lords, that was never known: now you have put yourself upon the Country.

Mac. Under favour, I conceive I may, to an higher Court.

Judge. It cannot be granted, the Lords approved it: if you would have gone to an higher Court before, you might have taken your Course; now the Jury is returned, and you are appointed to be try'd here.

After this, the Lord *Macguire* desired further to appeal; to which the Answer was:

Serj. *Whitfield.* Here lies no such Appeal here: you are out of the Ecclesiastical Court, there is no such Plea here; you are now upon the middle of your Tryal, we desire you may go on, you have challenged 23 of the Jury already.

Judge. We have no such Course in the Common Law; if a Man will appeal from me, I cannot let him appeal to any Man.

Upon this, these of the Jury following were named, which he challenged; *viz. George Hanger* Esq; Sir *Michael Wharton*, *James Hawley* Esq; *George Smith* Esq; *Edmund Besley* Esq; *William Ewrsby* Esq; *Stephen Bourman* Gent. *George Weaver-Basset*, *J. Nicolls* the younger, *Henry Walker* Gent. *Randolph Nicoll*, *Andrew Brent*. Upon his challenging of these, which being added to the rest, make 35 in all, the other Jury being about to be called, the Lord *Macguire* moved:

Mac. Under favour, I conceive, that my Lands being sequestred, those Men that have bought my Lands, should not pass upon my Tryal; and therefore I desire they may make answer to it upon Oath, whether any of them have adventured or no.

Serj. *Whitfield.* To desire that a whole Jury may be demanded such a Question upon their Oath, is that that hath not been known. If my Lord *Macguire* have cause now against any, he hath run out the Liberty which the Law gave him, to challenge 35 peremptorily. Now if he should challenge any more, he must make a particular Challenge to every particular Man that comes to be sworn, and he must have such a Challenge notwithstanding as is warrantable by Law; but this general Challenge is not warrantable by Law, and if it were particular, it were not warrantable neither.

Serj. *Roll.* If you will challenge any more, the Law does not debar you to shew cause.

Mac. I conceive, that any that have given Money for *Ireland* for my destruction, ought not to pass against me.

Serj. *Whitfield.* This is for the King, this is for no particular Person whatsoever.

Mac. I beseech you hear me in it.

Judge. You know this, that the King cannot grant it without the Consent of both Houses, and in this case it may be put to the Jury to try upon their Oath. Thus far I shall agree, that if any of this

this Jury be to have any particular Benefit in *Ireland*, of Land or Goods by his Attainder, it is good; but if his Lands come to the King, and that the King is no way bound to give it any of them, it is no Challenge; look the Statute.

Mr. *Pryn.* Under favour, Mr. Juſtice *Bacon*, it doth not appear to the Court, that the Priſoner hath any Lands or Goods in *Ireland*; and therefore no ſuch Queſtion is to be demanded of the Jury.

Judge. You may make needleſs Diſputes upon it.

Then the Jury being accordingly required to anſwer upon Oath, whether they had adventured, or had any ſhare in *Ireland* for the Rebels Land; *Macguire* deſired the Queſtion might be, Whether they themſelves, their Children, or Brothers? But that would not be agreed unto, as being unreaſonable. Then the Jury following was ſworn: *I. Carpenter, John Cooper, A. Cordall, Rich. Atkinſon, Joſias Hendall, William Greenwood, William Barnes, Robert Stiles, George Norfolk, Edw. Hudſon, John Wait, Eſah Risby.* The Oath which they took, was this:

You ſhall well and truly try, and true Deliverance make, between our Sovereign Lord the King, and Connor Macguire *Eſq; now Priſoner at the Bar, and a true Verdict give according to your Evidence.*

The Jury being ſworn, *Macguire* moved that he might have a Jury of 24; to which it was anſwered;

Judge. There have been 40 named.

Mac. Under favour, I conceive, I ought to be try'd by 24; there were ſo many returned at firſt.

Judge. They returned 24; that is, becauſe if any of them did fail, and ſome may be challenged, then there might be twelve left.

Mac. Under favour, I conceive, there ſhould be 24 now left for my Tryal.

Judge. You are deceived in that. You challenged 23, and ſo there were 40 more added; now you have challenged 12 of this 40, and out of them there remains ſo many as will make up a Jury of 12.

Then the Court proceeded to his Tryal, and the Indictment againſt him was read. After which, the Court proceeded, ſaying: Gentlemen of the Jury, Upon this Indictment he hath been arraigned, and to his Arraignment he hath pleaded *Not Guilty*, and thereupon put himſelf upon his Country; and your Charge is, to inquire whether he be guilty of the Indictments, or any of them: If you find him not guilty, you are to declare it; if guilty, then you are to give in Evidence againſt him.

M. N. Mr. Judge *Bacon.* You obſerve by the Record that hath been read to you, that the Priſoner at the Bar ſtands indicted of ſeveral Treaſons, wherein it is found, That *Connor Macguire*, &c. as before in the Indictment. Now Gentlemen, you of the Jury, if it ſhall be proved to you, that the Priſoner at the Bar is guilty of all, or any of theſe Treaſons, then you are to give your Evidence.

Then theſe Witneſſes following were ſworn to give in Evidence againſt the Priſoner: The Lord *Blaney*, Lady *Calfield*, Sir *Arthur Loftus*, Sir *John Temple*, Sir *William Stewart*, Sir *Francis Hamilton*, Sir *Edward Borlacey*, Sir *William Cole*, Sir *Charles Coot*, Mrs. *Wordrofe*, *John Carmicks*, *Walter Gubſon*, *M. Bunbury*, Captain *Michael Balfoure*, Captain *Berisford*.

Sir William Cole's *Teſtimony.*

Serj. *Whitfield.* You know, Sir *William Cole*, a great many of their Names, which you have heard, that were Conſpirators with this Lord; what Religion were they of?

Sir *W. Cole.* They were all Papiſts.

Serj. *Whitfield.* Who were they?

Sir *W. Cole.* The Lord *Macguire*, Sir *Philom O-Neale*, *Roger Moor*, &c.

Serj. *Whitfield.* Sir *Francis Hamilton*, upon what occaſion was it, that the Conſpirators got an Order to view the Magazine?

Sir *F. Hamilton.* I was a Member of the Houſe of Commons there, and I remember very well, there came a Meſſage from the Houſe of Lords to the Houſe of Commons, to let them know, that there was ſome Plot for the blowing up of the Parliament-Houſe in *Ireland*; and they ſent a Meſſage, to deſire that they might ſearch under the Parliament-Houſe: and there was a Search made, and (as I remember) the Lord *Macguire* was one of the Committee from the Houſe of Lords made ſearch there; but what they found, I do not know. Afterwards they deſired that they might ſearch the Caſtle of *Dublin*, and other Magazines.

Counſel. What was the Cauſe.

Sir *F. Hamilton.* There was a Coachman of my Lord of *Strafford*'s, that had uttered ſome big Words, (as was given out) That the Parliament-Houſe ſhould be blown up: but what was the ground, I am perſuaded in my Conſcience, it was to know where the Store and Ammunition lay, that they might know where to ſurprize it.

Sir William Steward's *Teſtimony.*

I was one of the Committee that was ſent by the Parliament, and by Order from the Houſe of Lords, to ſearch the Parliament-Houſe, and the Lord *Macguire* was one of the Lords: they made a very ſtrict Search, and then they inquired for the King's Magazine, and I believe my Lord *Macguire* now here was one of the Committee that went to ſearch for the Houſe of Lords, and he did ſearch very narrowly, and they were deſirous to know where the Store was.

The Lord Blaney's *Teſtimony.*

Counſel. Whether this Search were moved by the Lord *Finghall*, and what was the end of it?

Ld *Blaney.* So near as I can, I will give you the buſineſs; it is ſo long ago. This I remember, that there was one of the Lords Houſe, whether it were my Lord *Finghall* or my Lord *Macary*, moved it, I cannot certainly depoſe, but I am ſure it was one of them. The Occaſion was, one of the Earl of *Strafford*'s Coachmen ſaid, he hoped to ſee ſome of the Lords blown up for it; it was about a Fortnight after the Earl of *Strafford* was beheaded here. Thereupon they got an Order for it, and ſo they went down, and they did not find the Powder, but they made as narrow a Search as ever any was. I asked what the meaning was of this, for we had ſtrange Cenſures of it ourſelves. Says of them the Lord *Clamorris*, they are afraid of a Powder-Plot of the Proteſtants. I anſwered, that I had heard of a Powder-Plot of the Papiſts, but never of the Proteſtants in my Life. But if you ask the reaſon of it, it was to aſſure themſelves of their Strength, for we found by woful Experience afterwards it was their end. My Lord *Borlace* ſaid, Let them not be afraid, for upon my Honour there is no Powder below. It's a great Houſe, the Houſe of Commons ſit on one ſide, and the Lords on the other, and the Block-houſe in the middle.

Counſel.

Counſel. What Religion is my Lord *Finghall* and my Lord *Clamorris* of?

Ld *Blaney.* The Lord *Finghall* is a Papiſt, and *Clamorris* a peſtiferous Papiſt.

Serj. *Whitfield.* All Papiſts. We ſhall now read the Examination of the manner of his taking, and then his own Examination. The firſt we ſhall read, is this of Mr. *Woodcock*, that was Sheriff of *Dublin*; he was in Town, but he could not ſtay, but he was examined before this Court.

The Information of John Woodcock, *the 27th of* October 1644. *taken upon Oath before* J. Bacon.

THE ſaid Examinate depoſeth and ſaith, That he being one of the Sheriffs of the ſaid City of *Dublin*, in the Year 1641, having notice given him in the Night upon the 22d of *October* in the ſame Year, of ſome great Deſign intended, did by virtue of his Office walk up and down the City that Night; and coming to the Houſe of one *Nevill*, a Chirurgeon in *Caſtle-ſtreet*, he underſtood by the ſaid *Nevill*, that the Lord *Macguire* with ſome ten or twelve others were there: this Examinate told him, it was fit for his Gueſts to be in bed at that time of night; but the ſaid *Nevill* did bring this Examinate word, that the Lord *Macguire* and his Company were then going to bed. The ſaid Examinate departed, ſetting a Watch near his Houſe; by which Watch he was informed, that the ſaid Lord *Macguire* and the reſt were gone from the Houſe, and were at the Houſe of one *Kerne* a Taylor: whereupon he ſearched the ſaid Houſe, and there found ſome Hatchets with the Helves newly cut off cloſe to the Hatchets, five Petronels, five or ſix Swords, three or four ſmall Piſtols, five or ſix Skeines, with other Arms of the Lord *Macguire*'s in an Houſe of Office in the ſaid Houſe; in another place divers Pole-Axes, and alſo behind a Hen-rooſt ſome great Weapons with ſharp Pikes of Iron in one end of them: the ſaid *Kerne* affirming, that he knew nothing of any of the Particulars before mentioned, nor how they came in his Houſe. The ſaid Examinate ſhewed all the ſaid Inſtruments unto the ſaid Lords Juſtices and Council of *Ireland*; and thereupon the ſaid Lords Juſtices and Council commanded Search to be made for the ſaid Lord *Macguire*. Upon which, the ſaid Examinate ſearching narrowly for him, at laſt found him in a Cock-loft, with a Cloke wrapt about him, ſtanding by a Bed, the Door lock'd upon him, there being no Key to be found; as alſo the Maſter of the Houſe flying away, and making an eſcape to the Enemy.

After this, the Lord *Macguire*'s own Examination was read, taken the 26th of *March* 1642. (for as Sir *John Temple* declared to the Court, the Lord *Macguire* was then brought to the Council-Board, and they could get nothing out of him) whereupon he was ſent back to Priſon for that time.

The Examination of Connor *Lord* Macguire, *Baron of* Enniskillen, *taken before us,* Charles *Lord* Lambert, *and Sir* Robert Meredith *Kt. Chancellor of his Majeſty's Court of Exchequer, the 26th Day of* March, 1642. *by direction of the Right Honourable the Lord Juſtices and Council.*

WHO being examined, ſaith, That about the time when Mr. *John Bellew* came out of *England* with the Commiſſion for the Continuance of the preſent Parliament, *Roger Moor*, in the ſaid *Moor*'s Chamber, in the Houſe of one *Peter de Coſtres* of this City, acquainted him this Examinate, That if the *Iriſh* would riſe, they might make their own Condition, for the regaining of their own Lands, and Freedom of their Religion. At which time the ſaid *Moor* alſo acquainted him this Examinate, That he had ſpoken with ſundry of *Leinſter*, who would be ready for that purpoſe: and withal told him this Examinate, That he was aſſured a good part of *Conaught* would do the like; and thereupon moved this Examinate to join likewiſe with them, with all he could make: unto which Motion, he this Examinate yielded. And the next day following, there was a Meeting in his the ſaid *Moor*'s Chamber aforeſaid, where were Col. *Mac-Bryan, Macmahone, Tirelagh O-Neal, Philip Mac-Hugh O Rely*, this Examinate, and *Roger Moor*; where Diſcourſe was had on that Buſineſs, yet nothing concluded on, ſave that *Roger Moor* and the reſt ſhould go and prepare their Parties. And this Examinate further ſaith, That about *May* laſt he this Examinate, *Roger Moor*, *Philip O-Rely*, and *Roger Macguire* this Examinate's Brother, diſpatched a Prieſt, one *Toole O-Coule*, who lived in *Leinſter*, unto *Owen O-Neale* into *Flanders*, to acquaint him with the Buſineſs concerning the general Rebellion then in preparation; which ſaid Prieſt returned about a Month before the time appointed for execution thereof. And the Anſwer which the ſaid Prieſt brought from the ſaid *Owen O-Neale*, was, That he would (within fifteen days after the People were up) be with him, with his beſt Aſſiſtance and Arms. And it being demanded why the ſaid *Owen* ſhould bring Arms, conſidering that the Caſtle of *Dublin* was to be taken, with the Arms therein; this Examinate anſwered, That they ſo provided for Arms, that they might not want any, in caſe they could not take the ſaid Caſtle, whereof they doubted. And this Examinate acknowledgeth, That the Caſtle of *Dublin* was to have been ſurprized by himſelf, Capt. *Bryan O-Neale*, Capt. *Con O-Neale*, Capt. *Macmahone*, one *Owen O-Rely*, *Roger Moor*, *Hugh Macmahone*, Col. *Plunket*, and Capt. *Fox*; and likewiſe further acknowledgeth, That *Hugh Mac-Phelim*, Captain *Con O-Neale*, and *Bryan O-Neale*, brought from *Owen O-Neale*, out of *Flanders*, the very ſame Meſſage which the ſaid Prieſt brought. And this Examinate further ſaith, That he was told by *Roger Moor*, that a great Man was in the Plot, but he might not name him for the preſent. And at another time, and during the ſitting of the Parliament the laſt Summer, he this Examinate was informed by one *John Barnwell* a Franciſcan Fryar, then reſident in this City, That thoſe of the Pale were alſo privy unto the Plot, (meaning the preſent Rebellion.) And laſtly ſaith, That of thoſe Perſons who came to attend him this Examinate for the Surprize of the ſaid Caſtle of *Dublin*, only *Cohonogh Macguire* was privy unto the Buſineſs in hand; and that the laſt Meeting (when the Day appointed for execution thereof was reſolved on) was at *Logh-Roſſe*, where were preſent only *Ever Macmahone*, Vicar-General of the Dioceſs of *Clogher*; *Thomas Mac-Kearnan*, a Fryar of *Dundalk*; Sir *Phelim O-Neale*, *Roger Moor*, and *Bryan O-Neale*.

Concordat cum Originali, Ex. per Parl. Harris. *Charles Lambert, Robert Meredith.*

This being read, and opened unto the Jury, being the L. *Macguire*'s free and voluntary Confeſſion, which he afterwards acknowledged ſince his coming to the *Tower*, *viz.*

Memo-

Memorandum, That this within-written being ſhewed and read unto the within-named Lord *Macguire*, and himſelf having peruſed the ſame, his Lordſhip did acknowledge the ſame to be true in all things, ſaving that he doth not now acknowledge that *Barnard* told him, That thoſe of the Pale were privy to the Plot; neither doth acknowledge, that *Cohonagh Macguire* was privy to the Plot before his coming to *Dublin*.

This Examination and Acknowledgment was made and taken the 22d *Day of* June, 1642. Anno Regni Caroli Regis decimo octavo, *before us*,

John Bramſton, Thomas Mallet.

In the Preſence of John Conyers, William Ayloffe, Nathaniel Finch.

June 24. 1642. *The Examination of* Connor *Lord* Macguire, *Baron of* Enniskillen, *taken before Sir* John Bramſtone *Knight, Lord Chief Juſtice of the* King's-Bench.

WHO ſaith, That he is of the Age of 26 Years and upwards, and that he was born in the County of *Fermanagh* in *Ireland*; and ſaith, That his Examination taken at *Dublin* the 26th Day of *March*, 1642. before *Charles* Lord *Lambert*, and Sir *Robert Meredith*, with his Acknowledgment thereof the 22d of *June*, before Judge *Bramſtone* and Juſtice *Mallet*, is true, in ſuch manner as in the ſaid Examination and Acknowledgement is expreſſed. *Connor Macguire.*

The Examination of Cornelius Macguire, *Lord Baron of* Enniskillen *in* Ireland, *taken before* Iſaac Pennington *Eſquire, Lieutenant of the Tower of* London, *and* Laurence Whitaker *Eſquire, two of his Majeſty's Juſtices of the Peace for the County of* Middleſex, *the firſt Day of* October, 1644.

HE denieth the receiving of any Letters or Meſſages out of *England* before the Rebellion, nor did he ever hear of any. He ſaith, he was but a mean Inſtrument in the Deſign in *Ireland*; he confeſſeth he intended to ſeize upon the Caſtle of *Dublin*, and the Magazine there, and keep it till they had Redreſs of ſome Grievances, which they purpoſed to propound to the Parliament there; one whereof was, to have a Toleration of the *Roman* Catholick Religion. He confeſſeth, that he came accidentally to *Philip O-Rely*'s Houſe, as he came up to *Dublin*; and, as he remembreth, *Macmahone* was then there: and that his Intention of coming up to *Dublin*, was to put the aforeſaid Deſign in execution, and that then and there they had ſpeech about that Deſign; but he remembreth not the Particulars: which Deſign was to be put in execution the 23d Day of *October* in that Year; and that he was taken there that very Day, being Saturday, upon Search made for him, carried before the Lords Juſtices, examined, committed, and ſent over into *England*.

He ſaith further, That he made his eſcape out of the Tower of *London* upon Sunday the 18th of *Auguſt* laſt, about four of the Clock in the Morning. *Laurence Whitaker, Iſaac Pennington.*

John Carmick's *Teſtimony.*

THAT upon the 21ſt of *October* 1641. *Fergus O-Howen*, one of the Followers of *Brian Macguire* Eſquire, came to his Chamber in the Caſtle of *Enniskillen*; and after he endeavoured to bind him to keep ſecret a Matter of great Concernment, which *Fergus* ſaid he had to diſcloſe, and particularly to conceal it from Sir *William Cole*, and all other *Engliſhmen*; this Examinate told him, He would be ſecret ſo far as it went with his Allegiance and Conſcience. He diſcovered unto the ſaid Examinate, That the L. *Macguire* and *Hugh Oge Macmahone*, accompanied with ſeveral *Iriſhmen* of the Counties of *Fermanagh* and *Monaghan*, did take their journies out of the ſaid Counties upon the 19th and 20th Days of *October* 1641, to the City of *Dublin*, with Reſolution and Intent to murder and kill his Highneſs's Lords Juſtices, and Council of the Kingdom of *Ireland*, and the reſt of the Proteſtants there; and alſo to poſſeſs themſelves of the City of *Dublin*, and to put all the Proteſtants there likewiſe to the Sword: and that to that effect there were other great Men, and others of the Papiſts of that Kingdom to repair unto, and meet them in *Dublin* on Saturday, the 23d of *Octob.* 1641. or thereabouts. And that all the Caſtles, Forts, Sea-Ports and Holds that were in the Poſſeſſion of the Proteſtants in the ſeveral Counties and Provinces in the Kingdom of *Ireland*, were then alſo deſigned and reſolved to be ſurprized and taken by the *Iriſh* Papiſts, and the Proteſtants in every of thoſe Caſtles, Forts, Sea-Ports and Holds, to be then alſo put all to the Sword by the *Iriſh* Papiſts in *Ireland*, in their own ſeveral Parts and Limits, by Men thereunto chiefly and particularly appointed by the Contrivers thereof: and that eſpecially the Town and Caſtle of *Enniskillen*, with the reſt, would be taken, and all the Proteſtants in it put to the Sword; and therefore adviſed the Examinate to get himſelf and Goods out of the Town: Whereat the Examinate ſmiling, *Fergus* bid him not to ſlight it, for he could aſſure thoſe things would come to paſs in ſeven Days, or elſe he would be bound to loſe his Head. Whereupon the ſaid *Fergus O Howen* departed, and the Examinate acquainting Sir *William Cole* with it, there came one *Flartagh Mac-Hugh*, a Gentleman and Freeholder of that County, and affirms to the ſame effect to Sir *William Cole*, that the Plot for ſurprizing the City and Caſtle of *Dublin*, the Caſtle of *Enniskillen*, and all the Caſtles and Strengths in *Ireland*, was to be put in full execution by the Papiſts, *Octob.* 22. and 23. 1641. throughout the ſaid Kingdom; and that *Brian Mac-Conaght Macguire*, Eſq; did ſend him the ſaid *Flartagh Mac-Hugh* to give notice and warning thereof to the ſaid Sir *William Cole*, whom he earneſtly deſired to be upon his Guard upon Friday the 22d and Saturday the 23d of *October*; for the L. *Macguire* was gone with *Macmahone* and others that Week with purpoſe to poſſeſs themſelves of the Caſtle and City of *Dublin*: And the L. *Macguire* had written his Letters to *Con O-Bourke*, *Owen O-Roreicke*, *Martagh Oge O-Fantagon*, and others, to go on with that Plot in thoſe Parts; and had appointed his Brother *Rori Macguire* (in his abſence) to command the *Iriſh* Papiſts of the County of *Fermanagh*, for the ſurprizing of the Caſtles and Houſes of the Proteſtants. Of all which Sir *William* advertiſed the Lords Juſtices and Council of *Ireland* the ſame Day. And this Examinate ſaith, That Captain *Mac-Hugh*, ſeven or eight Days before the Rebellion brake forth, declared, That the L. *Macguire* poſted Letters, and rode up and down to divers Gentlemen and others of that County, to be very active in the buſineſs: That it was averred upon the Oaths of *Flartagh Mac-Hugh*,

John Oge Mac-Hugh, and *Terlagh Oge Mac-Hugh*, before the ſaid Sir *William Cole*, That 150 Men were appointed to ſurprize the Caſtle of *Enniskillen*, under the Leading of *Don Macguire* and *Rori Macguire*, who were to murder the ſaid Sir *William Cole*, and his Wife, Children and Servants, and throw them over the Wall into the River, and then to do the like unto the Proteſtants in the Town and Corporation of *Enniskillen*: For which Service they were not only to have the Spoil and Riches of the ſaid Caſtle and Town, but to have alſo the Barony of *Clanawley* granted and confirmed in Fee to them and their Heirs, from the ſaid Lord *Macguire* and his Heirs. The Examinate then alſo produced a Letter written in *Iriſh*, from the Lord *Macguire*, to his Couſin *Brian Macguire*, wherein taking notice that he was abundantly inclined to the *Engliſh*, which did very much trouble him; and therefore deſired him to baniſh ſuch Thoughts out of his mind, and not to purſue thoſe Reſolutions which in the end might be his own Deſtruction, as he thought it would be to all thoſe that did not appear.

Preſently after, upon the 29th of *October*, one Captain *Rori Macguire* took upon him the managing of all Buſineſſes in his abſence; he fortifies firſt the *Caſtle-Haſen*, the Houſe wherein he dwelt himſelf, he took in the Caſtle of one *Edward Aldrith*, Eſq; he put out all the *Engliſh* there; he went to the Town, burnt that, but kill'd none of the Men; went thence to another Place, and hanged one *Eleazar M.* one that was Clerk of the Peace of the County; and from thence he went to *Newton*, four Miles off from it, took in the Town, ſtrip'd and diſarmed all the Proteſtants that were in the Church, the next Day after march'd away, and kill'd and deſtroyed moſt of the *Engliſh* in thoſe Parts; murder'd *Arthur Champion*, Eſq; and many more. Two and Twenty Caſtles were ſeized upon, and the Church of *Monah*, with 18 Proteſtants burnt in it: 764 Proteſtants were deſtroyed in that County; and I did hear there was about 152000, that they had deſtroyed in that Province of *Ulſter*, in the firſt four Months of the Rebellion.

John Carmick.

Then Sir *William Cole* (being preſent in Court) gave in his Evidence, much to the ſame effect as in *Carmick*'s Teſtimony.

Serj. *W.* We deſire to ſhorten, we have a great many Witneſſes; we ſhall go upon theſe Particulars: 1. Captain *O-Neale*'s landing in *Ireland*, and what he brought with him. 2. *Guilo* and *Crocan*. Laſtly, How long beſieged, and how many murdered.

Then Sir *William Steward* gave in Teſtimony to this effect:

That *Con Owen O-Neale* landed in *July* the ſame Year the Rebellion began, brought many Commanders, much Arms and Ammunition; many of his Commanders, nine of the chief of them, were taken Priſoners at one Battle.

Serj. *W.* It is his own Confeſſion, that he ſent a Prieſt over to fetch Arms to come into *Ireland*.

[Then the Lady *Calfield* was deſired to declare her Knowledge concerning the taking of *Charlemont-Caſtle*.]

Lady *Calfield*. The 23d of *October* 1641. Sir *Phelim O-Neale* and others came into the Caſtle, they ſeized upon all, murdered his Servants; and thoſe that were alive, they bound them, and put them in Priſon; and at that time Sir *Phelim O-Neale* himſelf, and other of his Companions, told her, That Dublin-*Caſtle and City, and moſt other Forts of* Ireland *were ſurprized by their Confederates the Papiſts; and that he was ſorry for his Couſin the Lord* Macguire, *and that he was afraid he was taken.*

Serj. *W.* What was done with my Lord *Calfield*?

Lady *Calfield*. He was murdered; he beg'd for his Life, and they durſt not but do it.

Serj. *W.* When Sir *Phelim O-Neale* had taken my Lord *Calfield*, then they got this Lady to write to the Lords Juſtices, that my Lord *Macguire* might be exchanged for her Son, but that would not be; and thereupon they murdered my Lord *Calfield*, *Francis Davis*, and others.

Mrs. Mary Wordrofe's *Teſtimony.*

That he came on Friday Night about 10 or 11 a clock to break into the Caſtle; I hearing the noiſe, asked what was the matter? I went to call up ſome of our Gentlemen; when I came in again, they had taken ſome of our Gentlemen and bound them.

She alſo teſtified the murdering of the Lord *Calfield*, *Francis Davis* and others; and the former Words concerning the Lord *Macguire*.

Serj. *W.* Theſe two Witneſſes prove that of *Charlemont*, how far the Rebels owned the Lord *Macguire*, as to endeavour his Exchange. We ſhall now come to the other Caſtles, how long they beſieged them, and who was murdered.

Walter Gubſon's *Teſtimony.*

They beſieged it a quarter of a Year before they took it; divers of the chief Conſpirators, and *Powell* and *Coſens* took the Caſtle by force in an hoſtile manner.

Sir Francis Hamilton's *Teſtimony.*

Philip O-Rely came to the Caſtle, to *Guilo* and *Crogan* Caſtles, and they lay before it a quarter of a Year with 2000 or 3000 Men, ſometimes 1500, but never leſs.

Sir Charles Coote's *Teſtimony concerning the Generality of the Rebellion.*

Sir *Phelim O-Neale* and *Roger Moore* were the Actors in the Maſſacres, and by publick Directions of ſome in place, and of the Titulary Biſhops, for the ſending of an exact Account of what Perſons were murdered throughout all *Ulſter*, a fourth Part of the Kingdom of *Ireland*, to the Pariſh-Prieſts in every Pariſh; and they ſent in a particular Account of it; and the Account was an Hundred Four Thouſand Seven Hundred in one Province, in the firſt three Months of the Rebellion.

Serj. *W.* What ſay you concerning the general Council and the Pope's Bull?

Sir *Charles Coote*. The Supreme Council, they took up a new Form of Government upon them of their own; and by this Authority it was granted to the Lady *Macguire*, that ſhe ſhould have the Rent of ſuch Lands in Recompence of the Loſs that he was at in their Cauſes. They have made ſeveral Judges of their own Courts: They print, they coin, they do all in their own Names.

The Copy of the Pope's Bull.

Ad futuram Rei Memoriam.

Urbanus Octavus, &c.

HAving taken into our ſerious Conſideration the great Zeal of the *Iriſh* towards the propagating of the Catholick Faith, and the Piety of the

the Catholick Warriors in the ſeveral Armies of that Kingdom (which was for that ſingular Fervency in the true Worſhip of God, and notable Care had formerly in the like Caſe, by the Inhabitants thereof, for the Maintenance and Preſervation of the ſame Orthodox Faith, called of old, *the Land of Saints*;) and having got certain Notice how, in Imitation of their godly and worthy Anceſtors, they endeavour by force of Arms to deliver their thralled Nation from the Oppreſſions and grievous Injuries of the Hereticks, wherewith this long time it hath been afflicted, and heavily burdened, and gallantly do in them what lieth to extirpate, and totally root out thoſe Workers of Iniquity, who in the Kingdom of *Ireland* had infected, and always ſtriving to infect the Maſs of Catholick Purity with the peſtiferous Leven of their heretical Contagion: We therefore being willing to cheriſh them with the Gifts of thoſe ſpiritual Graces, whereof by God we are ordained the only Diſpoſers on Earth, by the Mercy of the ſame Almighty God, truſting in the Authority of the bleſſed Apoſtles *Peter* and *Paul*; and by virtue of that Power of binding and looſing of Souls, which God was pleaſed (without our deſerving) to confer upon us; to all and every one of the faithful Chriſtians in the foreſaid Kingdom of *Ireland* now, and for the time militating againſt the Hereticks, and other Enemies of the Catholick Faith, they being truly and ſincerely penitent, after Confeſſion, and the ſpiritual refreſhing of themſelves with the ſacred Communion of the Body and Blood of Chriſt, do grant a full and plenary Indulgence, and abſolute Remiſſion for all their Sins, and ſuch as in the holy Time of Jubilee is uſual to be granted to thoſe that devoutly viſit a certain Number of privileged Churches, within and without the Walls of our City of *Rome*: by the Tenor of which preſent Letters, for once only and no more, we freely beſtow the Favour of this Abſolution upon all and every one of them; and withal, deſiring heartily all the Faithful in Chriſt, now in Arms as aforeſaid, to be Partakers of this moſt precious Treaſure.

To all and every one of theſe foreſaid faithful Chriſtians, we grant Licence, and give Power to chuſe into themſelves, for this effect, any fit Confeſſor, whether a Secular Prieſt, or a Regular of ſome Order; as likewiſe any other ſelected Perſon approved of by the Ordinary of the Place: who, after a diligent hearing of their Confeſſions, ſhall have Power to liberate and abſolve them from Excommunication, Suſpenſion, and all other Eccleſiaſtical Sentences and Cenſures by whomſoever, or for what Cauſe ſoever pronounced, or inflicted upon them; as alſo from all Sins, Treſpaſſes, Tranſgreſſions, Crimes and Delinquencies, how heinous and atrocious ſoever they be, not omitting thoſe very Enormities in the moſt peculiar Caſes, which by any whatſoever former Conſtitutions of ours, or of our predeceſſor Popes (than which we will have theſe to be no leſs valued in every Point) were deſigned to be reſerved to the Ordinary, or to the Apoſtolick See: from all which the Confeſſor ſhall hereby have Power granted him to abſolve the foreſaid Catholicks at the Bar of Conſcience, and in that Senſe only. And furthermore, we give them power to exchange what Vow or Vows ſoever they were formerly aſtricted to (thoſe of Religion and Chaſtity excepted) into any other pious and good Work or Works, impoſed or to be impoſed on them, and every one of them to perform in all the aforeſaid Caſes, by a wholeſom Penance, according to the Mind and Will of the Confeſſor.

Therefore, by the Tenor of theſe preſent Letters, and by the Virtue of that holy ſtrict Obedience, wherein all Chriſtians are bound unto us, we charge and command all and every one of the Reverend Brethren, Archbiſhops, Biſhops, and other Eccleſiaſtical Prelates, and whatſoever Ordinaries of Places now reſiding in *Ireland*, together with all Vicars, Subſtitutes and Officials under them; or theſe failing, we command all ſuch to whom in thoſe Places the Care of Souls is incumbent; that as ſoon as they ſhall have received the Copies of theſe our Letters, they ſhall forthwith, without any Stop or Delay, publiſh them, and cauſe them to be publiſhed throughout all their Churches, Dioceſſes, Provinces, Countries, Cities, Towns, Lands, Villages, and Places whatſoever.

Nevertheleſs, we do not intend by theſe preſent Letters, where any publick or ſecret Irregularity is made known, or any Defection, Apoſtacy, Incapacity or Inability in any manner of way contracted, to diſpenſe therewith, or grant to any other any Power or Faculty of Diſpenſation, Rehabilitation, or reſtoring the Delinquent to his former Condition, though but at the Bar of Conſcience: Neither can nor ſhould theſe our preſent Letters avail or be ſteadable to thoſe, who by us and the Apoſtolick See, or by any Prelate or Eccleſiaſtick Judge, have been excommunicated, ſuſpended, interdicted, or declared, and publickly denounced to have juſtly incurred the Sentences and Cenſures of the Church, till firſt they have ſatisfied and agreed with the Parties therein concerned, notwithſtanding all other Conſtitutions and Apoſtolical Ordinations; whereby, nevertheleſs, the Faculty of Abſolution in theſe, as well as other expreſſed Caſes, is ſo reſerved to his Holineſs the Pope for the time being, that no kind of Jubilee, nor Power of granting ſuch Indulgences can in any ſort avail, unleſs expreſs mention be made of the Fault or Faults in particular, and the whole Tenor of them fully deduced by an individual Relation from word to word, and not by general Clauſes importing the ſame thing. This, or ſome other requiſite Form of the like nature being carefully obſerved, we in that caſe eſpecially, expreſly and namely, by the effect of theſe Preſents, do totally aboliſh and remit them all and every one of them their Offences, notwithſtanding any thing to the contrary.

Now that theſe principal Letters of ours, which cannot be conveniently brought to every Place, may the ſooner come to the notice of all, our Will and Pleaſure is, That any whatſoever Copies or Tranſumpts, whether written or printed, that are ſubſcribed by the Hand of a Publick Notary, and which have the Seal of ſome eminent Perſon in Eccleſiaſtical Dignity affixed thereunto, be of the ſame Force, Power and Authority, and have the like Credit in every reſpect given unto them, as would be to theſe our principal Letters if they were ſhewn and exhibited.

Dated at *Rome* in the *Vatican*, or St. *Peter's* Palace, the 25th of *May* 1643. and in the twentieth Year of our Pontificat.

M. A. Maraldus.

Serj. *Whitfield*. We have troubled you with a long Relation of the Actions of the Confederates with the Lord *Macguire*, though not done in his own Perſon, and his own particular Act; but for this

that was done by the Generality, I heard my Lord ſay at the Bar, What's that to me? Yes, my Lord, this is to you; you were one of the Conſpirators in the firſt Plot, and you contrived the buſineſs. And that had been Treaſon alone, to ſend the Prieſt to fetch *Owen O-Neale* into *Ireland* with Arms and Soldiers: but you contrived this, and conſpired it, and you are as guilty in Law, in all theſe cruel Murders and Burnings in every Place: For the Law of *England* is, in Treaſon you are all Principals and no Acceſſaries. Your Son was there, your Lady is rewarded; for the ſupreme Council they have taken care of you: Why? becauſe you were one of the firſt Complotters of it; and this will light upon you, and fall very heavy. And for your Exchange, it was propounded for the Lord *Calfield*; but when they could not have that agreed upon, then what becomes of the poor Lord *Calfield*? murdered too! And you ſee what Incouragement you have from the Complotters, and from the Devil too; for they were both together in it. And now you have ſeen the Indictment fully made good.

Then the Lord *Macguire* proceeded to make his Defence, wherein he firſt of all denied his Examination, (although teſtified, as before, by ſo many credible Witneſſes) and ſaid, That he knew no ſuch Examination.

That at the time of his Apprehenſion at *Dublin*, he came about his own particular Occaſions, as his Eſtate was in Danger, if he did not follow it; That becauſe he was found about the City, he was therefore apprehended; That his Lodging was not within the City, but he lodged without the City; That he did lodge at Mr. *Nevil's* Houſe formerly, but not at this time; That for ſome of the Places mentioned, where he ſhould be about the Conſpiracy, he had not been there a Year before, he was certain of it. For the Number of Proteſtants that were mentioned to be ſlain, he ſaid he did not think there were ſo many Proteſtants in the whole Kingdom; That he was continually either at his own Houſe, or at *Dublin*, and knew nothing of the Plot, but by Hear-ſay.

Judge. You confeſs in your Examination, when the Day was for the Riſing, that you were in the Conſpiracy, and appointed for the taking of *Dublin*-Caſtle; and that you were taken when you came about it: alſo you rode about it, and provided Arms.

Mac. I was in the Houſe in the Cock-loft where I was taken, I did not know where any Army was.

Serj. *Whitfield.* My Lord *Macguire* does forget himſelf, what he acknowledges under his own Hand.

Then the Examination being ſhewed him, he ſaid, There's my Name, but not my Hand.

Judge. I am ſorry to hear it; I did rather expect that you ſhould have acknowledged it: Here are two able Witneſſes that can teſtify it againſt you; your denying your own Hand, which is ſo manifeſtly proved, will be a great Diſcredit to what you ſay: You acknowledged it at two ſeveral Times.

Mac. What did I acknowledge?

Judge. You ſay that you came to *Dublin* to ſettle your Eſtate: By your own Examination you acknowledge, That the Caſtle of *Dublin* was to be ſurprized by your ſelf.

Judge. It is now time we ſhould draw to the Jury: You hear my Lord *Bramſton* and my Brother *Finch* here juſtify it to you.

Then my L. *Macguire's* Examination was ſhewed to my L. *Blaney*, being preſent in Court, demanding whether he thought it to be *Macguire's* Hand, or no?

Lord *Blaney.* It is my Lord's own Hand, he hath written to me many Letters.

Mac. I don't think I have written many Letters to your Lordſhip.

Judge. Gentlemen of the Jury, you may go to the buſineſs; if there were nothing but that you ſee in this Caſe, but what is in the Examination, if you believe it to be his; his Confeſſion does acknowledge it: You hear this by the Teſtimony of my Lord *Bramſton* and my Brother *Finch* expreſly, that were preſent when he did acknowledge it, and ſet his Hand to it; and yet you ſee, though it is here proved by my Lord *Blaney*, he denies it. If you find this to be true, here is Treaſon enough, and too much too; for he does here confeſs, That *Roger Moore* did acquaint him, That if the *Iriſh* did riſe, they might make their own Conditions for regaining their Lands: And he acquainted him, That he had ſpoken with ſundry in *Leinſter*, that would be ready for that purpoſe; and that a great part of *Conaught* would do the like: and then moved him (this Lord) the Priſoner at the Bar, to join likewiſe with him, which he did; ſo then was the Plot. The next Day they met; he goes to *Moore's* Chamber again, where Col. *Mac-Brian*, *Mac-Mahone* and others had Diſcourſe again about it: Then he ſays, That they did ſend over to *Owen O-Neale*, to acquaint him concerning the general Rebellion in *Ireland*, then in preparation. He confeſſes expreſly, That being demanded why the ſaid *Owen* ſhould bring over Arms, ſeeing the Caſtle of *Dublin* was to be ſurprized? he anſwered, That they ſo provided Arms, that they might not want any thing, if they ſhould not take it, whereof they doubted. And then you have him acknowledging, That the Caſtle of *Dublin* was to be ſurprized by himſelf, and Captain *Brian O-Neale*, and others. Theſe Words ſhew here expreſly, That the Day whereon the Execution was appointed, by the L. *Macguire's* own Confeſſion, he was come to *Dublin* for the ſurprize of the Caſtle. So that it is apparent, that he was about this Plot expreſly. If this be true, That you did conſpire to make War or Rebellion within that Kingdom, though you were taken your ſelf before it was executed, yet it was your own Conſpiracy; And beſides, endeavouring after that to bring it to Perfection, by ſending over for Arms; all theſe do diſcover your own Intention to execute it.

Mac. I confeſs it not, I refer my ſelf to the Jury.

Judge. Gentlemen, you are to know, That to conſpire to raiſe a War, if any of that Conſpiracy do act it, as you ſee here Sir *Phelim O-Neale* did, if you obſerve the Teſtimony of my Lady *Calfield*, he came and ſurprized the Caſtle of *Charlemont*, and then it was given out, That my Lord *Macguire* had taken *Dublin*; ſo that though it did not take effect, that which is done by any, is Teſtimony enough.

Go together and conſider of it.

Upon this the Jury went together, and ſtaying a ſhort ſpace, returned their Verdict, which was, That they found him guilty of all the Treaſons according to the Indictment.

Clerk. Connor Macguire, alias *Cornelius Macguire*, thou haſt been indicted for ſeveral High Treaſons, and thou haſt been arraigned. Upon the Arraignment thou haſt pleaded, Not Guilty; and for thy Tryal haſt put thy ſelf upon the Country, which Country have

have found thee guilty, according to the Indictment; therefore prepare thy self to receive the Sentence.

Macg. I desire to know by what Law?

Judge. The Law is well enough known: That is a Treason within the Statute without doubt.

Macg. I was not tried by my Peers.

Judge. This is a general Exception, formerly annexed in your Plea: If you can shew some particular Cause also, you shall be heard.

Macg. I desire Counsel to advise me.

Judge. When you did put in a Plea therein, you had Counsel to advise you in your Plea, and to argue it: Now your Time is past for Counsel; you must have none assigned to pick Holes in the Indictment.

Macg. I desire the Court would consider of it before they proceed to Sentence.

Judge. You offer nothing to the Court that is of any difficulty; You had Counsel whether you should be tried by your Peers, or the Jury here; which Jury are to try any Man under a Nobleman in this Kingdom.

Macg. I desire to know under what Seal you thus proceed against me; for I think you sit here by the new Seal.

Judge. What Seal do you mean? I sit here by virtue of the old, by order of Parliament.

Macg. Under favour, I conceive that the Ordinance of Parliament for the new Seal, makes all done by the old Seal to be void.

Judge. Here is nothing done but by good Authority, and the Parliament's Approbation.

Macg. I conceive the Ordinance for the new Seal cuts off all Proceedings of the old.

Judge. My Authority is not cut off: I was made by the old Seal, before there was any new Seal, and so I am continued by the Parliament; and the Parliament did take notice that I have been allowed to sit. Besides this, there is nothing done in this Court by the new Seal: The Sheriffs are here by a Charter, and that comes in from Year to Year; and there is no Seal in order of Execution.

Judge. Well, if you have nothing to say for your self, I am to pronounce Sentence, as I am a Minister of Justice. You have been indicted here for several Treasons contained in your Indictment, as was here of late read unto you; and you have had a fair Proceeding, and very deliberately: For your Indictment came in about *Alhallowmas* last, three Weeks or a Month before the end of the last Term, three Weeks at least. You then made a Question, Whether you ought to be tried by your Peers in *Ireland*, or a Jury here? The Court did so far deliberate in it, as to allow you Counsel to plead with the best Advantage you could: And afterwards, this Term, there hath been two Arguments at the Bar on each side; where hath been said as much for you as can be. The Court over-ruled that, and so you are tried by a Jury; and you had the Liberty to challenge them, and had all the Advantages that the Law will afford, and take all the Exceptions you could. Truly, for my part, I see that there is not any one of them for me to sway the Judgment: The Treason and the Offences that you are charged withal are very heinous, your Crimes very impious; great Destruction hath followed upon your Plot, which the Jury have found you guilty of. What a mighty cruel War and great Devastation in that Kingdom? Most horrid to speak or rehearse! It is fitter for you now to bethink your self what your Offences are, and prepare your self for Death, rather than seek to mask or put colours upon those Things which are so manifestly proved to all the World. And now you are found guilty; and therefore there is no Contradiction or Gain-saying will avail you: You ought to repent, and pray to God to forgive that Offence whereof you are guilty. The Judgment that I am by the Law to pronounce against you, is this: *Connor Macguire* Esq; you being found guilty of the Treasons whereof you are indicted, your Judgment is, That you shall be carried from hence to the Place from whence you came, that is, the *Tower*, and from thence to *Tyburn*, the Place of Execution; and there you shall be hanged by the Neck, and cut down alive, your Bowels taken out, and burnt before your Face, your Head to be cut off, your Body to be divided into four Quarters, and the Head of your Body to be set up and disposed of as the State shall appoint. And the Lord have Mercy upon your Soul.

After Judgment pronounced, the King's Counsel demanded of him whether he would have any Ministers come to him, to prepare him for his end, and to advise him for the good of his Soul.

Macg. I desire none of them: But I desire I may be sent Prisoner to *Newgate*.

Counsel. His Reason is, Because there are some Popish Priests there.

Judge. That cannot be: Your Judgment is to return to the *Tower*; where you may have Ministers (if you please) to return to advise you for your Soul.

Macg. I desire you that some Gentlemen of my own Religion may have Access to me, to confer with me; and some who are my Fellow-Prisoners in the *Tower*, to speak with me in my Keeper's Presence.

Judge. You must name somebody in particular.

Macg. I desire to confer with Mr. *Walter Mountague*. [Belike he knew him to be a Popish Priest or Jesuit.]

Judge. You must prepare your self to die against Saturday next.

Macg. I desire a Fortnight's Time to prepare my self.

Judge. That is too long a Space, and I cannot grant it; but you shall have convenient Time.

Macg. I desire you that I may have three Days notice at least, to prepare my self.

Judge. You shall have three Days warning; but however delay no Time to prepare your self.

Macg. I desire my Execution may be altered, and not according to the Judgment; and that I may not be hanged, and quartered.

Judge. This lies not in my power to grant: But here are some Members of the House of Commons in Court, and you were best address your self to them, that they may acquaint the House with your Desires.

Macg. I shall desire the Gentlemen of the House of Commons, so many as are here, to move the House in my behalf, that I may have a Fortnight's Time to prepare my self, and that the Manner of my Execution may be changed.

Sir *John Clotworthy.* My Lord, I have been your School-Fellow heretofore, and have found some Ingenuity in you; and I have seen some Letters of yours, importing some Remorse of Conscience in you for this Fact; and I should be glad to discern the like Ingenuity in you still: And shall move the House that you may have some Ministers appointed to come to you; and likewise acquaint them with your other Desires.

Then the Prisoner departing from the Bar, Mr. *Pryn* advising him to confer with some godly Ministers

ſters for the Good and Comfort of his Soul; he anſwered, That he would have none at all, unleſs he might have ſome *Romiſh* Prieſts of his own Religion.

To which Mr. *Pryn* replied, My Lord, theſe *Romiſh* Prieſts are the chief Inſtruments who have adviſed you to plot and perpetrate thoſe execrable Treaſons for which you are now condemned, and have brought upon you that ſhameful Judgment of a Traytor, the Execution whereof you even now ſo earneſtly deprecated. Since then they have proved ſuch evil deſtructive Counſellors to you in your Life, you have great Reaſon to diſclaim them with their bloody Religion, and to ſeek out better Adviſers for you at your Death, leſt you eternally loſe your Soul as well as your Life, for the Blood of thoſe many thouſand Innocents which have been ſhed by your means. To which he, pauſing a little, anſwered, That he was reſolved in his Way. Whereupon another Lawyer ſaid, My Lord, you were beſt to hear both ſides. To which he anſwered, in an obſtinate manner, I am ſettled on one ſide already, and therefore I deſire not to confer with any other. And ſo departed thro' the Hall towards the *Tower*, the People crowding and running about to behold his Perſon.

After the Sentence pronounced againſt the Lord *Macguire*, as before ſaid, he petitioned the Parliament as followeth:

To the Right Honourable the Commons now aſſembled in Parliament, the humble Petition of the Lord Macguire;

Humbly ſheweth,

THAT your Petitioner ſtands condemned for his Life, and adjudged to be drawn, hanged, and quartered: The Performance whereof (he humbly conceives) in ſome more favourable manner, will be ſatisfactory to Juſtice. And foraſmuch as your Petitioner hath hitherto enjoyed the Degree and Dignity of a Lord, which he humbly conceives your Lordſhips are well acquainted with;

In tender Conſideration whereof, he deſireth that your Honours will graciouſly be pleaſed in Mercy to mitigate the Rigour of his Sentence, and turn it to that Degree which moſt befits the Denomination he hath: And as he hath been looked on by the Eye of Juſtice in his Condemnation, ſo in this Particular he may be pitied, and have Mercy. *And he ſhall ever pray*, &c.

Cornelius Macguire.

This Petition was rejected by the Parliament; and the Lord *Macguire* hanged, drawn, and quartered at *Tyburn*, on Thurſday, *Feb.* 20. according to the Sentence of the Court.

King CHARLES *his Tryal*; *begun Saturday*, January 20. *and ended on Saturday*, January 27. 1648. *Licenſed by* Gilbert Mabbot.

ON Saturday, being the 20th Day of *January*, 1648. the Lord Preſident of the High Court of Juſtice, with near fourſcore of the Members of the ſaid Court, having ſixteen Gentlemen with Partizans, and a Sword, and a Mace, with their and other Officers of the ſaid Court, marching before them, came to the Place ordered to be prepared for their ſitting at the Weſt-end of the great Hall at *Weſtminſter*; where the Lord Preſident in a Crimſon-Velvet Chair, fixed in the midſt of the Court, placed himſelf, having a Deſk with a Crimſon-Velvet Cuſhion before him; the reſt of the Members placing themſelves on each ſide of him upon ſeveral Seats, or Benches, prepared and hung with Scarlet for that purpoſe; and the Partizans dividing themſelves on each ſide of the Court before them.

The Court being thus ſat, and Silence made, the great Gate of the ſaid Hall was ſet open, to the end that all Perſons, without Exception, deſirous to ſee or hear, might come into it; upon which the Hall was preſently filled, and Silence again ordered.

This done, Colonel *Thomlinſon*, who had the Charge of the Priſoner, was commanded to bring him to the Court; who within a quarter of an hour's ſpace brought him, attended with about twenty Officers with Partizans, marching before him, there being other Gentlemen, to whoſe Care and Cuſtody he was likewiſe committed, marching in his Rear.

Being thus brought up within the Face of the Court, the Serjeant at Arms, with his Mace, receives and conducts him ſtrait to the Bar, having a Crimſon-Velvet Chair ſet before him. After a ſtern looking upon the Court, and the People in the Galleries on each ſide of him, he places himſelf, not at all moving his Hat, or otherwiſe ſhewing the leaſt reſpect to the Court; but preſently riſes up again, and turns about, looking downwards upon the Guards placed on the left ſide, and on the Multitude of Spectators on the right ſide of the ſaid great Hall. After Silence made among the People, the Act of Parliament for the trying of *Charles Stuart*, King of *England*, was read over by the Clerk of the Court, who ſat on one ſide of a Table covered with a rich *Turky*-Carpet, and placed at the Feet of the ſaid Lord Preſident; upon which Table was alſo laid the Sword and Mace.

After reading the ſaid Act, the ſeveral Names of the Commiſſioners were called over, every one who was preſent, being eighty, as aforeſaid, riſing up, and anſwering to his Call.

Having again placed himſelf in his Chair, with his Face towards the Court, Silence being again ordered, the Lord Preſident ſtood up, and ſaid:

Ld Preſident. Charles Stuart, King of *England*, the Commons of *England* aſſembled in Parliament being

deeply

deeply ſenſible of the Calamities that have been brought upon this Nation, (which is fixed upon you as the principal Author of it) have reſolved to make Inquiſition for Blood; and according to that Debt and Duty they owe to Juſtice, to God, the Kingdom, and themſelves, and according to the Fundamental Power that reſts in themſelves, they have reſolved to bring you to Tryal and Judgment; and for that purpoſe have conſtituted this High Court of Juſtice, before which you are brought.

This ſaid, Mr. *Cook*, Attorney for the Commonwealth (ſtanding within a Bar on the right hand of the Priſoner) offered to ſpeak: but the King having a Staff in his hand, held it up, and laid it upon the ſaid Mr. *Cook*'s ſhoulder two or three times, bidding him hold. Nevertheleſs, the Lord Preſident ordering him to go on, he ſaid:

Mr. *Cook*. My Lord, I am commanded to charge *Charles Stuart*, King of *England*, in the name of the Commons of *England*, with Treaſon and High Miſdemeanours; I deſire the ſaid Charge may be read.

The ſaid Charge being delivered to the Clerk of the Court, the Lord Preſident ordered it ſhould be read; but the King bid him hold. Nevertheleſs, being commanded by the Lord Preſident to read it, the Clerk begun, and the Priſoner ſat down again in his Chair, looking ſometimes on the High Court, ſometimes up to the Galleries; and having riſen again, and turned about to behold the Guards and Spectators, ſat down, looking very ſternly, and with a Countenance not at all moved, till theſe words, *viz.* Charles Stuart *to be a Tyrant and Traytor*, &c. were read; at which he laughed, as he ſat, in the face of the Court.

The Charge being read, the Lord Preſident replied:

Ld Preſident. Sir, You have now heard your Charge, containing ſuch Matter as appears in it; you find, that in the Cloſe of it, it is prayed to the Court, in the behalf of the Commons of *England*, that you anſwer to your Charge. The Court expects your Anſwer.

King. I would know by what Power I am called hither; I was not long ago in the Iſle of *Wight*, how I came there, is a longer Story than I think is fit at this time for me to ſpeak of; but there I enter'd into a Treaty with both Houſes of Parliament, with as much publick Faith as it's poſſible to be had of any People in the world. I treated there with a number of honourable Lords and Gentlemen, and treated honeſtly and uprightly; I cannot ſay but they did very nobly with me, we were upon the concluſion of the Treaty. Now I would know by what Authority, I mean lawful; there are many unlawful Authorities in the World, Thieves and Robbers by the Highways; but I would know by what Authority I was brought from thence, and carried from place to place, and I know not what: and when I know what lawful Authority, I ſhall anſwer. Remember I am your King, your lawful King, and what Sins you bring upon your heads, and the Judgment of God upon this Land; think well upon it, I ſay, think well upon it, before you go further from one Sin to a greater: therefore let me know by what lawful Authority I am ſeated here, and I ſhall not be unwilling to anſwer. In the mean time, I ſhall not betray my Truſt; I have a Truſt committed to me by God, by old and lawful Deſcent, I will not betray it, to anſwer to a new unlawful Authority: therefore reſolve me that, and you ſhall hear more of me.

Ld Preſident. If you had been pleaſed to have obſerved what was hinted to you by the Court, at your firſt coming hither, you would have known by what Authority; which Authority requires you, in the name of the People of *England*, of which you are elected King, to anſwer them.

King. No Sir, I deny that.

Ld Preſident. If you acknowledge not the Authority of the Court, they muſt proceed.

King. I do tell them ſo, *England* was never an Elective Kingdom, but an Hereditary Kingdom for near theſe thouſand Years; therefore let me know by what Authority I am called hither: I do ſtand more for the Liberty of my People, than any here that come to be my pretended Judges; and therefore let me know, by what lawful Authority I am ſeated here, and I will anſwer it; otherwiſe I will not anſwer it.

Ld Preſident. Sir, How really you have managed your Truſt, is known: your way of Anſwer is to interrogate the Court, which beſeems not you in this Condition. You have been told of it twice or thrice.

King. Here is a Gentleman, Lieutenant-Colonel *Cobbet*; ask him, if he did not bring me from the Iſle of *Wight* by force. I do not come here as ſubmitting to the Court: I will ſtand as much for the Privilege of the Houſe of Commons, rightly underſtood, as any Man here whatſoever. I ſee no Houſe of Lords here, that may conſtitute a Parliament; and the King too ſhould have been. Is this the bringing of the King to his Parliament? Is this the bringing an end to the Treaty in the publick Faith of the World? Let me ſee a legal Authority warranted by the Word of God the Scriptures, or warranted by the Conſtitutions of the Kingdom, and I will anſwer.

Ld Preſident. Sir, You have propounded a Queſtion, and have been anſwered. Seeing you will not anſwer, the Court will conſider how to proceed: in the mean time, thoſe that brought you hither, are to take charge of you back again. The Court deſires to know, whether this be all the Anſwer you will give, or no.

King. Sir, I deſire that you would give me, and all the World, Satisfaction in this: let me tell you, it is not a ſlight thing you are about. I am ſworn to keep the Peace, by that Duty I owe to God and my Country, and I will do it to the laſt Breath of my Body; and therefore you ſhall do well to ſatisfy firſt God, and then the Country, by what Authority you do it: if you do it by an uſurped Authority, you cannot anſwer it. There is a God in Heaven, that will call you, and all that give you Power, to account. Satisfy me in that, and I will anſwer; otherwiſe I betray my Truſt, and the Liberties of the People: and therefore think of that, and then I ſhall be willing. For I do avow, that it is as great a Sin to withſtand lawful Authority, as it is to ſubmit to a tyrannical, or any other ways unlawful Authority: and therefore ſatisfy me that, and you ſhall receive my Anſwer.

Ld Preſident. The Court expects you ſhould give them a final Anſwer, their purpoſe is to adjourn to Monday next, if you do not ſatisfy yourſelf, tho we do tell you our Authority; we are ſatisfied with our Authority, and it is upon God's Authority and the Kingdom's, and that Peace you ſpeak of will be kept in the doing of Juſtice, and that's our preſent Work.

King. For anſwer, let me tell you, you have ſhewn no lawful Authority to ſatisfy any reaſonable Man.

Ld

Ld Preſident. That is, in your Apprehenſion; we are ſatisfied that are your Judges.

King. 'Tis not my Apprehenſion, nor yours neither, that ought to decide it.

Ld Preſident. The Court hath heard you, and you are to be diſpoſed of as they have commanded.

The Court adjourns to the Painted-Chamber, on Monday at Ten of the clock in the Forenoon, and thence hither.

It is to be obſerved, That as the Charge was reading againſt the King, the Head of his Staff fell off, which he wonder'd at; and ſeeing none to take it up, he ſtoops for it himſelf.

As the King went away, facing the Court, he ſaid, I do not fear that, (meaning the Sword.) The People in the Hall, as he went down the Stairs, cry'd out, ſome, *God ſave the King*, and moſt for *Juſtice*.

At the High Court of Juſtice ſitting in Weſtminſter-Hall, *Monday* Jan. 22. 1648.

OYes made; Silence commanded; the Court call'd, and anſwer'd to their Names.

Silence commanded upon pain of Impriſonment, and the Captain of the Guard to apprehend all ſuch as make diſturbance.

Upon the King's coming in, a Shout was made.

Command given by the Court to the Captain of the Guard, to fetch and take into his cuſtody thoſe who make any diſturbance.

Mr. Sollicitor. May it pleaſe your Lordſhip, my Lord Preſident; I did at the laſt Court, in the behalf of the Commons of *England*, exhibit and give into this Court a Charge of High Treaſon, and other high Crimes againſt the Priſoner at the Bar; whereof I do accuſe him in the name of the People of *England*: and the Charge was read unto him, and his Anſwer required. My Lord, He was not then pleaſed to give an Anſwer, but inſtead of anſwering, did there diſpute the Authority of this high Court. My humble Motion to this high Court in behalf of the Kingdom of *England*, is, That the Priſoner may be directed to make a poſitive Anſwer, either by way of Confeſſion or Negation; which if he ſhall refuſe to do, that the Matter of the Charge may be taken *pro confeſſo*, and the Court may proceed according to Juſtice.

Ld Preſident. Sir, You may remember at the laſt Court you were told the Occaſion of your being brought hither, and you heard a Charge read againſt you, containing a Charge of High Treaſon and other high Crimes againſt this Realm of *England*: you heard likewiſe, that it was prayed in the behalf of the People, that you ſhould give an Anſwer to that Charge, that thereupon ſuch Proceedings might be had, as ſhould be agreeable to Juſtice. You were then pleaſed to make ſome Scruples concerning the Authority of this Court, and knew not by what Authority you were brought hither; you did divers times propound your Queſtions, and were as often anſwer'd, That it was by Authority of the Commons of *England* aſſembled in Parliament, that did think fit to call you to account for thoſe high and capital Miſdemeanours wherewith you were then charged. Since that the Court hath taken into conſideration what you then ſaid, they are fully ſatisfied with their own Authority, and they hold it fit you ſhould ſtand ſatisfied with it too; and they do require it, that you do give a poſitive and particular Anſwer to this Charge that is exhibited againſt you: they do expect you ſhould either confeſs or deny it; if you deny, it is offer'd in the behalf of the Kingdom to be made good againſt you: their Authority they do avow to the whole World, that the whole Kingdom are to reſt ſatisfied in, and you are to reſt ſatisfied with it. And therefore you are to loſe no more time, but to give a poſitive Anſwer thereunto.

King. When I was here laſt, 'tis very true, I made that Queſtion; and truly if it were only my own particular Caſe, I would have ſatisfied myſelf with the Proteſtation I made the laſt time I was here againſt the Legality of this Court, and that a King cannot be try'd by any ſuperiour Juriſdiction on Earth: but it is not my Caſe alone, it is the Freedom and the Liberty of the People of *England*; and do you pretend what you will, I ſtand more for their Liberties. For if Power without Law may make Laws, may alter the fundamental Laws of the Kingdom, I do not know what Subject he is in *England*, that can be ſure of his Life, or any thing that he calls his own: therefore when that I came here, I did expect particular Reaſons to know by what Law, what Authority you did proceed againſt me here. And therefore I am a little to ſeek what to ſay to you in this particular, becauſe the Affirmative is to be proved, the Negative often is very hard to do: but ſince I cannot perſuade you to do it, I ſhall tell you my Reaſons as ſhort as I can.

My Reaſons why in Conſcience and the Duty I owe to God firſt, and my People next, for the Preſervation of their Lives, Liberties, and Eſtates, I conceive I cannot anſwer this, till I be ſatisfied of the Legality of it.

All Proceedings againſt any Man whatſoever——

Ld Preſident. Sir, I muſt interrupt you, which I would not do, but that what you do is not agreeable to the Proceedings of any Court of Juſtice: You are about to enter into Argument, and diſpute concerning the Authority of this Court, before whom you appear as a Priſoner, and are charged as an high Delinquent; if you take upon you to diſpute the Authority of the Court, we may not do it, nor will any Court give way unto it: you are to ſubmit unto it, you are to give a punctual and direct Anſwer, whether you will anſwer your Charge or no, and what your Anſwer is.

King. Sir, By your favour, I do not know the Forms of Law; I do know Law and Reaſon, tho I am no Lawyer profeſs'd, but I know as much Law as any Gentleman in *England*; and therefore (under favour) I do plead for the Liberties of the People of *England* more than you do: And therefore if I ſhould impoſe a Belief upon any Man, without Reaſons given for it, it were unreaſonable; but I muſt tell you, that that Reaſon that I have, as thus informed, I cannot yield unto it.

Ld Preſident. Sir, I muſt interrupt you, you may not be permitted: you ſpeak of Law and Reaſon, it is fit there ſhould be Law and Reaſon, and there is both againſt you. Sir, the Vote of the Commons of *England* aſſembled in Parliament, it is the Reaſon of the Kingdom, and they are theſe that have given to that Law, according to which you ſhould have ruled and reign'd. Sir, you are not to diſpute our Authority, you are told it again by the Court. Sir, it will be taken notice of, that you ſtand in contempt of the Court, and your Contempt will be recorded accordingly.

King.

King. I do not know how a King can be a Delinquent; but by any Law that ever I heard of, all Men (Delinquents, or what you will) let me tell you they may put in Demurrers againſt any Proceeding as legal: and I do demand that, and demand to be heard with my Reaſons; if you deny that, you deny Reaſon.

Ld Preſident. Sir, you have offer'd ſomething to the Court; I ſhall ſpeak ſomething unto you, the Senſe of the Court. Sir, neither you nor any Man are permitted to diſpute that Point; you are concluded, you may not demur to the Juriſdiction of the Court: if you do, I muſt let you know, that they over-rule your Demurrer; they ſit here by the Authority of the Commons of *England*, and all your Predeceſſors and you are reſponſible to them.

King. I deny that, ſhew me one Precedent.

Ld Preſident. Sir, you ought not to interrupt while the Court is ſpeaking to you. This Point is not to be debated by you, neither will the Court permit you to do it; if you offer it by way of Demurrer to the Juriſdiction of the Court, they have conſidered of their Juriſdiction, they do affirm their own Juriſdiction.

King. I ſay Sir, by your favour, that the Commons of *England* was never a Court of Judicature; I would know how they came to be ſo.

Ld Preſident. Sir, you are not to be permitted to go on in that Speech and theſe Diſcourſes.

Then the Clerk of the Court read as followeth:

Charles Stuart, *King of* England, *You have been accuſed on the behalf of the Peeple of* England *of High Treaſon, and other high Crimes; the Court have determined that you ought to anſwer the ſame.*

King. I will anſwer the ſame, ſo ſoon as I know by what Authority you do this.

Ld Preſident. If this be all that you will ſay, then Gentlemen you that brought the Priſoner hither, take charge of him back again.

King. I do require that I may give in my Reaſons why I do not anſwer, and give me time for that.

Ld Preſident. Sir, 'tis not for Priſoners to require.

King. Priſoners! Sir, I am not an ordinary Priſoner.

Ld Preſident. The Court hath conſidered of their Juriſdiction, and they have already affirmed their Juriſdiction; if you will not anſwer, we ſhall give order to record your Default.

King. You never heard my Reaſon yet.

Ld Preſident. Sir, your Reaſons are not to be heard againſt the higheſt Juriſdiction.

King. Shew me that Juriſdiction where Reaſon is not to be heard.

Ld Preſident. Sir, we ſhew it you here, the Commons of *England*; and the next time you are brought, you will know more of the Pleaſure of the Court; and, it may be, their final Determination.

King. Shew me where ever the Houſe of Commons was a Court of Judicature of that kind.

Ld Preſident. Serjeant, take away the Priſoner.

King. Well, Sir, remember that the King is not ſuffer'd to give in his Reaſons for the Liberty and Freedom of all his Subjects.

Ld Preſident. Sir, you are not to have liberty to uſe this Language: How great a Friend you have been to the Laws and Liberties of the People, let all *England* and the World judge.

King. Sir, under favour it was the Liberty, Freedom, and Laws of the Subject, that ever I took——defended myſelf with Arms; I never took up Arms againſt the People, but for the Laws.

Ld Preſident. The Command of the Court muſt be obey'd; no Anſwer will be given to the Charge.

King. Well, Sir!

And ſo he was guarded forth to Sir *Robert Cotton's* Houſe.

Then the Court adjourned to the Painted Chamber on Tueſday at Twelve a clock, and from thence they intend to adjourn to *Weſtminſter-Hall*; at which time all Perſons concerned are to give their Attendance.

At the High Court of Juſtice ſitting in Weſtminſter-Hall, *Tueſday* Jan. 23. 1648.

OYes made, Silence commanded, the Court called, ſeventy three Perſons preſent.

The King comes in with his Guard, looks with an auſtere Countenance upon the Court, and ſits down.

The ſecond O Yes made, and Silence commanded.

Mr. Cook, *Sollicitor-General.* May it pleaſe your Lordſhip, my Lord Preſident; This is now the third time, that by the great Grace and Favour of this High Court, the Priſoner hath been brought to the Bar before any Iſſue joined in the Cauſe. My Lord, I did at the firſt Court exhibit a Charge againſt him, containing the higheſt Treaſon that ever was wrought upon the Theatre of *England*; That a King of *England*, truſted to keep the Law, that had taken an Oath ſo to do, that had Tribute paid him for that end, ſhould be guilty of a wicked Deſign to ſubvert and deſtroy our Laws, and introduce an Arbitrary and Tyrannical Government, in defiance of the Parliament and their Authority, ſet up his Standard for War againſt his Parliament and People: and I did humbly pray, in the behalf of the People of *England*, that he might ſpeedily be required to make an Anſwer to the Charge.

But, my Lord, inſtead of making any Anſwer, he did then diſpute the Authority of this High Court. Your Lordſhip was pleaſed to give him a further Day, to conſider, and to put in his Anſwer; which Day being yeſterday, I did humbly move, that he might be required to give a direct and poſitive Anſwer, either by denying or confeſſion of it: but, my Lord, he was then pleaſed for to demur to the Juriſdiction of the Court; which the Court did then over-rule, and command him to give a direct and poſitive Anſwer. My Lord, Beſides this great Delay of Juſtice, I ſhall now humbly move your Lordſhip for ſpeedy Judgment againſt him. My Lord, I might preſs your Lordſhip upon the whole, that according to the known Rules of the Law of the Land, That if a Priſoner ſhall ſtand as contumacious in contempt, and ſhall not put in an iſſuable Plea, Guilty or Not Guilty of the Charge given againſt him, whereby he may come to a fair Tryal; That as by an implicit Confeſſion, it may be taken *pro confeſſo*, as it hath been done to thoſe who have deſerved more Favour than the Priſoner at the Bar has done. But beſides, my Lord, I ſhall humbly preſs your Lordſhip upon the whole Fact. The Houſe of Commons, the Supreme Authority and Juriſdiction of the Kingdom, they have declared, That it is notorious, that the Matter of the Charge is true, as it is in truth, my Lord, as clear as Chryſtal, and as the Sun that ſhines at

Noon-day: which if your Lordſhip and the Court be not ſatisfied in, I have notwithſtanding, on the People of *England*'s behalf, ſeveral Witneſſes to produce. And therefore I do humbly pray, and yet I muſt confeſs it is not ſo much I, as the innocent Blood that hath been ſhed, the Cry whereof is very great for Juſtice and Judgment; and therefore I do humbly pray, that ſpeedy Judgment be pronounced againſt the Priſoner at the Bar.

Ld Preſident. Sir, You have heard what is moved by the Counſel on the behalf of the Kingdom againſt. Sir, You may well remember, and if you do not, the Court cannot forget what dilatory Dealings the Court hath found at your hands. You were pleaſed to propound ſome Queſtions, you have had your Reſolution upon them. You were told over and over again, That the Court did affirm their own Juriſdiction; that it was not for you, nor any other Man, to diſpute the Juriſdiction of the ſupreme and higheſt Authority of *England*, from which there is no Appeal, and touching which there muſt be no Diſpute: yet you did perſiſt in ſuch Carriage, as you gave no manner of Obedience, nor did you acknowledge any Authority in them, nor the High Court that conſtituted this Court of Juſtice.

Sir, I muſt let you know from the Court, that they are very ſenſible of theſe Delays of yours, and that they ought not, being thus authorized by the ſupreme Court of *England*, to be thus trifled withal; and that they might in Juſtice, if they pleaſed, and according to the Rules of Juſtice, take advantage of theſe Delays, and proceed to pronounce Judgment againſt you: yet nevertheleſs they are pleaſed to give direction, and on their behalfs I do require you, that you make a poſitive Anſwer unto this Charge that is againſt you, Sir, in plain terms, for Juſtice knows no reſpect of Perſons; you are to give your poſitive and final Anſwer in plain *Engliſh*, whether you be guilty or not guilty of theſe Treaſons laid to your charge.

The King, after a little Pauſe, ſaid,

King. When I was here yeſterday, I did deſire to ſpeak for the Liberties of the People of *England*; I was interrupted: I deſire to know yet whether I may ſpeak freely or not.

Ld Preſident. Sir, You have had the Reſolution of the Court upon the like Queſtion the laſt day, and you were told, that having ſuch a Charge of ſo high a nature againſt you, and your Work was, that you ought to acknowledge the Juriſdiction of the Court, and to anſwer to your Charge. Sir, If you anſwer to your Charge, which the Court gives you leave now to do, tho they might have taken the advantage of your Contempt; yet if you be able to anſwer to your Charge, when you have once anſwered, you ſhall be heard at large, make the beſt Defence you can. But, Sir, I muſt let you know from the Court, as their Commands, that you are not to be permitted to iſſue out into any other Diſcourſes, till ſuch time as you have given a poſitive Anſwer concerning the matter that is charged upon you.

King. For the Charge, I value it not a ruſh, it is the Liberty of the People of *England* that I ſtand for. For me to acknowledge a new Court that I never heard of before, I that am your King, that ſhould be an Example to all the People of *England* for to uphold Juſtice, to maintain the old Laws; indeed I do not know how to do it. You ſpoke very well the firſt Day that I came here, (on Saturday) of the Obligations that I had laid upon me by God, to the maintenance of the Liberties of my People: the ſame Obligation you ſpake of, I do acknowledge to God that I owe to him, and to my People, to defend as much as in me lies the antient Laws of the Kingdom: therefore until that I may know that this is not againſt the fundamental Laws of the Kingdom, by your favour I can put in no particular * Charge. If you will give me time, I will ſhew you my Reaſons why I cannot do it, and this——

* *This is as the King expreſſed, but I ſuppoſed he meant Anſwer.*

Here being interrupted, he ſaid,

By your favour, you ought not to interrupt me: how I came here I know not, there's no Law for it to make your King your Priſoner. I was in a Treaty upon the publick Faith of the Kingdom, that was the known——two Houſes of Parliament that was the Repreſentative of the Kingdom; and when that I had almoſt made an end of the Treaty, then I was hurried away, and brought hither: and therefore——

Here the Lord Preſident ſaid, Sir, you muſt know the Pleaſure of the Court.

King. By your favour, Sir.

Ld Preſident. Nay, Sir, by your favour, you may not be permitted to fall into thoſe Diſcourſes; you appear as a Delinquent, you have not acknowledged the Authority of the Court, the Court craves it not of you; but once more they command you to give your poſitive Anſwer——Clerk, Do your Duty.

King. Duty, Sir!

The Clerk reads.

Charles Stuart, *King of* England, *you are accuſed in the behalf of the Commons of* England *of divers high Crimes and Treaſons, which Charge hath been read unto you; the Court now requires you to give your poſitive and final Anſwer, by way of Confeſſion or Denial of the Charge.*

King. Sir, I ſay again to you, ſo that I might give ſatisfaction to the People of *England* of the Clearneſs of my Proceeding, not by way of Anſwer, not in this way, but to ſatisfy them that I have done nothing againſt that Truſt that hath been committed to me, I would do it: but to acknowledge a new Court, againſt their Privileges, to alter the fundamental Laws of the Kingdom, Sir you muſt excuſe me.

Ld Preſident. Sir, this is the third time that you have publickly diſown'd this Court, and put an affront upon it: How far you have preſerv'd the Privileges of the People, your Actions have ſpoke it; but truly, Sir, Mens Intentions ought to be known by their Actions, you have written your Meaning in bloody Characters throughout the whole Kingdom. But, Sir, you underſtand the Pleaſure of the Court.——Clerk, Record the Default.——And Gentlemen, you that took charge of the Priſoner, take him back again.

King. I will only ſay this one word more to you; If it were only my own Particular, I would not ſay any more, nor interrupt you.

Ld Preſident. Sir, you have heard the Pleaſure of the Court, and you are (notwithſtanding you will not underſtand it) to find that you are before a Court of Juſtice.

Then the King went forth with his Guard, and Proclamation was made, That all Perſons which had then appeared, and had further to do at the Court, might depart into the Painted Chamber; to which place the Court did forthwith adjourn, and intended to meet in *Weſtminſter-Hall* by Ten of the clock next Morning.

Cryer. God bleſs the Kingdom of *England.*

Wedneſday,

Wedneſday, January 24th 1648.

THis Day it was expected the High-Court of Juſtice would have met in *Weſtminſter-Hall*, about Ten of the Clock; but at the time appointed one of the Uſhers, by Direction of the Court (then ſitting in the Painted-Chamber) gave notice to the People there aſſembled, That in regard the Court was then upon the Examination of Witneſſes, in relation to preſent Affairs, in the Painted-Chamber, they could not ſit there; but all Perſons appointed to be there, were to appear upon further Summons.

The Proceedings of the High-Court of Juſtice ſitting in Weſtminſter-Hall, *on Saturday the 27th of* January 1648.

OYes made; Silence commanded; the Court called: Serjeant *Bradſhaw* Lord Preſident (in a Scarlet Robe) with Sixty-eight other Members of the Court.

As the King comes in, a Cry made in the Hall for Execution, Juſtice, Execution.

King. I ſhall deſire a Word to be heard a little, and I hope I ſhall give no Occaſion of Interruption.

Ld Preſident. You may anſwer in your time, hear the Court firſt.

King. If it pleaſe you, Sir, I deſire to be heard, and I ſhall not give any Occaſion of Interruption, and it is only in a word: a ſudden Judgment——

Ld Preſident. Sir, you ſhall be heard in due time, but you are to hear the Court firſt.

King. Sir, I deſire, it will be in order to what I believe the Court will ſay; and therefore, Sir, an haſty Judgment is not ſo ſoon recall'd.

Ld Preſident. Sir, you ſhall be heard before the Judgment be given, and in the mean time you may forbear.

King. Well, Sir, ſhall I be heard before the Judgment be given?

Ld Preſident. Gentlemen, it is well known to all, or moſt of you here preſent, that the Priſoner at the Bar hath been ſeveral times convented and brought before the Court to make anſwer to a Charge of Treaſon, and other high Crimes exhibited againſt him in the Name of the People of * *England*; to which Charge being required to anſwer, he hath been ſo far from obeying the Commands of the Court by ſubmitting to their Juſtice, as he began to take upon him to offer Reaſoning and Debate unto the Authority of the Court, and of the higheſt Court that conſtituted them to try and judge him: but being over-ruled in that, and required to make his Anſwer, he was ſtill pleaſed to continue contumacious, and to refuſe to ſubmit or anſwer. Hereupon the Court, that they may not be wanting to themſelves, to the Truſt repoſed in them, nor that any Man's Wilfulneſs prevent Juſtice, they have thought fit to take the Matter into their Conſideration; they have conſidered of the Charge, they have conſidered of the Contumacy, and of that Confeſſion, which in Law doth ariſe upon that Contumacy: They have likewiſe conſidered of the Notoriety of the Fact charg'd upon this Priſoner, and upon the whole matter they are reſolved, and have agreed upon a Sentence to be now pronounc'd againſt this Priſoner: But in reſpect he doth deſire to be heard, before the Sentence be read and pronounc'd, the Court hath reſolved that they will hear him. Yet, Sir, thus much I muſt tell you before-hand, which you have been minded of at other Courts, that if that you have to ſay, be to offer any Debate concerning Juriſdiction, you are not to be heard in it; you have offered it formerly, and you have indeed ſtruck at the Root, that is, the Power and the Supreme Authority of the Commons of *England*, which this Court will not admit a Debate of; and which indeed is an irrational thing in them to do, being a Court that acts upon Authority derived from them, that they ſhould preſume to judge upon their Superior, from whom there is no Appeal. But, Sir, if you have any thing to ſay in defence of your ſelf concerning the Matter charged, the Court hath given me in command to let you know they will hear you.

* *Here a malignant Lady interrupted the Court, ſaying, Not half the People; but ſhe was ſoon ſilenced.*

King. Since that I ſee that you will not hear any thing of Debate concerning that which I confeſs I thought moſt material for the Peace of the Kingdom, and for the Liberty of the Subject, I ſhall wave it; I ſhall ſpeak nothing to it, but only I muſt tell you, that this many a-day all things have been taken away from me, but that that I call more dear to me than my Life, which is my Conſcience and my Honour: And if I had reſpect to my Life more than the Peace of the Kingdom, the Liberty of the Subject, certainly I ſhould have made a particular Defence for my ſelf; for by that at leaſtwiſe I might have delayed an ugly Sentence, which I believe will paſs upon me. Therefore certainly, Sir, as a Man that hath ſome Underſtanding, ſome Knowledge of the World, if that my true Zeal to my Country had not overborne the Care that I have of my own Preſervation, I ſhould have gone another way to work than that I have done. Now, Sir, I conceive, that an haſty Sentence once paſs'd, may ſooner be repented than recalled; and truly, the ſelf-ſame Deſire that I have for the Peace of the Kingdom, and the Liberty of the Subject, more than my own Particular, does make me now at laſt deſire, that having ſomething for to ſay that concerns both, I deſire before Sentence be given, that I may be heard in the Painted-Chamber before the Lords and Commons. This Delay cannot be prejudicial to you, whatſoever I ſay; if that I ſay no Reaſon, thoſe that hear me muſt be Judges; I cannot be Judge of that that I have: if it be Reaſon, and really for the Welfare of the Kingdom, and the Liberty of the Subject, I am ſure on't, very well 'tis worth the hearing; therefore I do conjure you, as you love that that you pretend, I hope it's real, the Liberty of the Subject, the Peace of the Kingdom, that you will grant me the hearing before any Sentence be paſt. I only deſire this, that you will take this into your Conſideration, it may be you have not heard of it before-hand; if you will, I'll retire, and you may think of it: but if I cannot get this Liberty, I do here proteſt, that ſo fair Shews of Liberty and Peace, are pure Shews, and not otherwiſe, than that you will not hear your King.

Ld Preſident. Sir, you have now ſpoken.

King. Yes, Sir.

Ld Preſident. And this that you have ſaid is a further declining of the Juriſdiction of this Court, which was the thing wherein you were limited before.

King. Pray excuſe me, Sir, for my Interruption, becauſe you miſtake me; it is not a declining of it,

you do judge me before you hear me ſpeak: I ſay it will not, I do not decline it, though I cannot acknowledge the Juriſdiction of the Court; yet, Sir, in this give me leave to ſay, I would do it, though I did not acknowledge it in this, I do proteſt it is not the declining of it, ſince I ſay, if that I do ſay any thing, but that that is for the Peace of the Kingdom, and the Liberty of the Subject, then the Shame is mine. Now I deſire that you will take this into your Conſideration; if you will, I'll withdraw.

Ld Preſident. Sir, this is not altogether new that you have moved unto us, not altogether new to us, though the firſt time in Perſon you have offered it to the Court. Sir, you ſay you do not decline the Juriſdiction of the Court.

King. Not in this that I have ſaid.

Ld Preſident. I underſtand you well, Sir, but nevertheleſs that which you have offered, ſeems to be contrary to that Saying of yours; for the Court are ready to give a Sentence: It is not as you ſay, That they will not hear your King; for they have been ready to hear you, they have patiently waited your Pleaſure for three Courts together, to hear what you would ſay to the Peoples Charge againſt you, to which you have not vouchſafed to give any Anſwer at all. Sir, this tends to a further Delay; truly, Sir, ſuch Delays as theſe, neither may the Kingdom, nor Juſtice well bear; you have had three ſeveral Days to have offered in this kind what you would have pleaſed. This Court is founded upon that Authority of the Commons of *England*, in whom reſts the ſupreme Juriſdiction; that which you now tender, is to have another Juriſdiction, and a co-ordinate Juriſdiction. I know very well you expreſs your ſelf, Sir, that notwithſtanding that you would offer to the Lords and Commons in the Painted-Chamber, yet nevertheleſs you would proceed on here, I did hear you ſay ſo. But, Sir, that you would offer there, whatever it is, it muſt needs be in delay of the Juſtice here; ſo as if this Court be reſolved, and prepared for the Sentence, this that you offer they are not bound in juſtice to grant: But, Sir, according to that you ſeem to deſire, and becauſe you ſhall know the further Pleaſure of the Court upon that which you have moved, the Court will withdraw for a time.

King. Shall I withdraw?

Ld Preſident. Sir, you ſhall know the Pleaſure of the Court preſently. The Court withdraws for half an Hour into the Court of Wards.

Serjeant at Arms. The Court gives Command, that the Priſoner be withdrawn; and they give order for his Return again.

The Court withdraws for half an Hour, and returns.

Ld Preſident. Serjeant at Arms, ſend for your Priſoner.

Sir, you were pleaſed to make a motion here to the Court to offer a Deſire of yours, touching the propounding of ſomewhat to the Lords in the Painted-Chamber, for the Peace of the Kingdom: Sir, you did, in effect, receive an Anſwer before the Court adjourned; truly, Sir, their Withdrawing and Adjournment was *pro formâ tantum*; for it did not ſeem to them that there was any Difficulty in the thing: they have conſidered of what you have moved, and have conſidered of their own Authority, which is founded, as hath been often ſaid, upon the ſupreme Authority of the Commons of *England* aſſembled in Parliament: The Court acts according to their Commiſſion. Sir, the Return I have to you from the Court, is this; That they have been too much delayed by you already, and this that you now offer, hath occaſioned ſome little further Delay; and they are Judges appointed by the higheſt Judges; and Judges are no more to delay, than they are to deny Juſtice: they are good Words in the great old Charter of *England*; *Nulli negabimus, nulli vendemus, nulli deferemus Juſtitiam.* There muſt be no Delay; but the truth is, Sir, and ſo every Man here obſerves it, that you have much delayed them in your Contempt and Default, for which they might long ſince have proceeded to Judgment againſt you; and notwithſtanding what you have offered, they are reſolved to proceed to Puniſhment, and to Judgment, and that is their unanimous Reſolution.

King. Sir, I know it is in vain for me to diſpute, I am no Sceptick for to deny the Power that you have; I know that you have Power enough: Sir, I confeſs, I think it would have been for the Kingdom's Peace, if you would have taken the pains for to have ſhewn the Lawfulneſs of your Power; for this Delay that I have deſired, I confeſs it is a Delay, but it is a Delay very important for the Peace of the Kingdom; for it is not my Perſon that I look on alone, it is the Kingdom's Welfare, and the Kingdom's Peace; it is an old Sentence, That we ſhould think on long before we have reſolved of great Matters ſuddenly. Therefore, Sir, I do ſay again, that I do put at your doors all the Inconveniency of an haſty Sentence. I confeſs I have been here now, I think, this Week; this Day eight Days was the Day I came here firſt, but a little Delay of a Day or two further may give Peace; whereas an haſty Judgment may bring on that Trouble and perpetual Inconveniency to the Kingdom, that the Child that is unborn may repent it: and therefore again, out of the Duty I owe to God, and to my Country, I do deſire that I may be heard by the Lords and Commons in the Painted-Chamber, or any other Chamber that you will appoint me.

Ld Preſident. Sir, you have been already anſwered to what you even now moved, being the ſame you moved before, ſince the Reſolution and the Judgment of the Court in it: and the Court now requires to know whether you have any more to ſay for your ſelf, than you have ſaid, before they proceed to Sentence?

King. I ſay this, Sir, That if you will hear me, if you will give but this Delay, I doubt not but I ſhall give ſome Satisfaction to you all here, and to my People after that; and therefore I do require you, as you will anſwer it at the dreadful Day of Judgment, that you will conſider it once again.

Ld Preſident. Sir, I have received Direction from the Court.

King. Well, Sir.

Ld Preſident. If this muſt be re-enforced, or any thing of this nature, your Anſwer muſt be the ſame; and they will proceed to Sentence, if you have nothing more to ſay.

King. Sir, I have nothing more to ſay, but I ſhall deſire, that this may be entred what I have ſaid.

Ld Preſident. The Court then, Sir, hath ſomething elſe to ſay to you; which, although I know it will be very unacceptable, yet notwithſtanding they are willing, and are reſolved to diſcharge their Duty.

Sir, You ſpeak very well of a precious Thing that you call Peace: And it had been much to be wiſhed that God had put it into your Heart, that you had as effectually and really endeavoured and

ſtudied

ſtudied the Peace of the Kingdom, as now in Words you ſeem to pretend: But, as you were told the other Day, Actions muſt expound Intentions; yet Actions have been clean contrary. And truly, Sir, it doth appear plainly enough to them, that you have gone upon very erroneous Principles: The Kingdom hath felt it to their Smart; and it will be no Eaſe to you to think of it: For, Sir, you have held your ſelf, and let fall ſuch Language, as if you had been no ways ſubject to the Law, or that the Law had not been your Superior. Sir, the Court is very well ſenſible of it, and I hope ſo are all the underſtanding People of *England*, that the Law is your Superior; that you ought to have ruled according to the Law; you ought to have done ſo. Sir, I know very well your pretence hath been that you have done ſo; but, Sir, the Difference hath been who ſhall be the Expoſitors of this Law: Sir, whether you and your Party, out of Courts of Juſtice, ſhall take upon them to expound Law, or the Courts of Juſtice, who are the Expounders? nay, the Sovereign and the High Court of Juſtice, the Parliament of *England*, that are not only the higheſt Expounders, but the ſole Makers of the Law? Sir, for you to ſet your ſelf with your ſingle Judgment, and thoſe that adhere unto you, to ſet your ſelf againſt the higheſt Court of Juſtice, that is not Law. Sir, as the Law is your Superior, ſo truly, Sir, there is ſomething that is ſuperior to the Law, and that is indeed the Parent or Author of the Law, and that is the People of *England*: For, Sir, as they are thoſe that at the firſt (as other Countries have done) did chuſe to themſelves this Form of Government, even for Juſtice ſake, that Juſtice might be adminiſter'd, that Peace might be preſerved; ſo, Sir, they gave Laws to their Governors, according to which they ſhould govern: and if thoſe Laws ſhould have proved inconvenient or prejudicial to the Publick, they had a Power in them, and reſerved to themſelves, to alter as they ſhall ſee cauſe. Sir, it is very true, what ſome of your ſide have ſaid, *Rex non habet parem in regno*, ſo they: This Court will ſay the ſame, while King, that you have not your Peer in ſome Senſe, for you are *major ſingulis*; but they will aver again that you are *minor univerſis*. And the ſame Author tells you, that *in exhibitione juris*, there you have no Power; but in *quaſi minimus*. This we know to be Law, *Rex habet ſuperiorem, Deum & Legem, etiam & Curiam*; and ſo ſays the ſame Author. And truly, Sir, he makes bold to go a little further, *Debent ei ponere frænum*, They ought to bridle him. And, Sir, we know very well the Stories of old: Thoſe Wars that were called the Barons War, when the Nobility of the Land did ſtand out for the Liberty and Property of the Subject, and would not ſuffer the Kings that did invade to play the Tyrants freer, but called them to account for it; we know that Truth, that they did *frænum ponere*. But, Sir, if they do forbear to do their Duty now, and are not ſo mindful of their own Honour, and the Kingdom's Good, as the Barons of *England* of old were, certainly the Commons of *England* will not be unmindful of what is for their Preſervation, and for their Safety; *Juſtitiæ fruendi cauſa Reges conſtituti ſunt*. This we learn; The End of having Kings, or any other Governors, it's for the enjoying of Juſtice; that's the End. Now, Sir, if ſo be the King will go contrary to that End, or any other Governor will go contrary to the End of his Government; Sir, he muſt underſtand that he is but an Officer in Truſt, and he ought to diſcharge that Truſt; and they are to take order for the Animadverſion and Puniſhment of ſuch an offending Governor.

This is not Law of yeſterday, Sir, (ſince the Time of the Diviſion betwixt you and your People) but it is Law of old. And we know very well the Authors and the Authorities that do tell us what the Law was in that Point upon the Election of Kings, upon the Oath that they took unto their People: And if they did not obſerve it, there were thoſe Things called Parliaments; the Parliaments were they that were to adjudge (the very Words of the Author) the Plaints and Wrongs done of the King and the Queen, or their Children; ſuch Wrongs eſpecially, when the People could have no where elſe any Remedy. Sir, that hath been the People of *England*'s Caſe: They could not have their Remedy elſewhere but in Parliament.

Sir, Parliaments were ordained for that Purpoſe, to redreſs the Grievances of the People; that was their main End. And truly, Sir, if ſo be that the Kings of *England* had been rightly mindful of themſelves, they were never more in Majeſty and State than in the Parliament: But how forgetful ſome have been, Stories have told us; we have a miſerable, a lamentable, a ſad Experience of it. Sir, by the old Laws of *England*, I ſpeak theſe Things the rather to you, becauſe you were pleaſed to let fall the other Day, You thought you had as much Knowledge in the Law as moſt Gentlemen in *England*: It is very well, Sir. And truly, Sir, it is very fit for the Gentlemen of *England* to underſtand that Law under which they muſt live, and by which they muſt be governed. And then, Sir, the Scripture ſays, *They that know their Maſter's Will, and do it not*: What follows? The Law is your Maſter, the Acts of Parliament.

The Parliaments were to be kept antiently, we find in our old Author, twice in the Year, that the Subject upon any occaſion might have a ready Remedy and Redreſs for his Grievance. Afterwards, by ſeveral Acts of Parliament in the Days of your Predeceſſor, *Edward* the Third, they ſhould have been once a Year. Sir, what the Intermiſſion of Parliaments hath been in your Time, it is very well known, and the ſad Conſequences of it; and what in the Interim, inſtead of theſe Parliaments, hath been by you by an high and arbitrary Hand introduced upon the People, that likewiſe hath been too well known and felt. But when God by his Providence had ſo far brought it about, that you could no longer decline the calling of a Parliament, Sir, yet it will appear what your ends were againſt the antient and your native Kingdom of *Scotland*: The Parliament of *England* not ſerving your ends againſt them, you were pleaſed to diſſolve it. Another great Neceſſity occaſioned the calling of this Parliament; and what your Deſigns, and Plots, and Endeavours all along hath been, for the cruſhing and confounding of this Parliament, hath been very notorious to the whole Kingdom. And truly, Sir, in that you did ſtrike at all; that had been a ſure way to have brought about that that this Charge lays upon you, Your Intention to ſubvert the Fundamental Laws of the Land: For the great Bulwark of the Liberties of the People is the Parliament of *England*; and to ſubvert and root up that, which your Aim hath been to do, certainly at one Blow you had confounded the Liberties and the Property of *England*.

Truly,

Truly, Sir, it makes me call to mind; I cannot forbear to expreſs it; for, Sir, we muſt deal plainly with you, according to the Merits of your Cauſe, ſo is our Commiſſion: It makes me call to mind, (theſe Proceedings of yours) that that we read of a great *Roman* Emperor, by the way let us call him a great *Roman* Tyrant, *Caligula*, that wiſhed that the People of *Rome* had had but one Neck, that at one Blow he might cut it off. And your Proceedings hath been ſomewhat like to this: For the Body of the People of *England* hath been (and where elſe) repreſented but in the Parliament; and could you have but confounded that, you had at one Blow cut off the Neck of *England*. But God hath reſerved better Things for us, and hath pleaſed for to confound your Deſigns, and to break your Forces, and to bring your Perſon into Cuſtody, that you might be reſponſible to Juſtice.

Sir, we know very well that it is a Queſtion much on your ſide preſs'd, By what Precedent we ſhall proceed? Truly, Sir, for Precedents, I ſhall not upon theſe occaſions inſtitute any long Diſcourſe; but it is no new Thing to cite Precedents almoſt of all Nations, where the People (when Power hath been in their hands) have made bold to call their Kings to account; and where the Change of Government hath been upon occaſion of the Tyranny and Miſgovernment of thoſe that have been placed over them. I will not ſpend Time to mention either *France*, or *Spain*, or the Empire, or other Countries; Volumes may be written of it. But truly, Sir, that of the Kingdom of *Arragon*, I ſhall think ſome of us have thought upon it, where they have the Juſtice of *Arragon*, that is, a Man, *tanquam in medio poſitus*, betwixt the King of *Spain* and the People of the Country; that if Wrong be done by the King, he that is the King of *Arragon*, the Juſtice, hath Power to reform the Wrong; and he is acknowledged to be the King's Superior, and is the grand Preſerver of their Privileges, and hath proſecuted Kings upon their Miſcarriages.

Sir, what the Tribunes of *Rome* were heretofore, and what the *Ephori* were to the *Lacedemonian* State, we know, that is the Parliament of *England* to the *Engliſh* State: And though *Rome* ſeemed to loſe its Liberty when once the Emperors were; yet you ſhall find ſome famous Acts of Juſtice even done by the Senate of *Rome*; that great Tyrant of his Time, *Nero*, condemned and judged by the Senate. But truly, Sir, to you I ſhould not need to mention theſe foreign Examples and Stories: If you look but over *Tweed*, we find enough in your native Kingdom of *Scotland*: If we look to your firſt King *Fergufius*, that your Stories make mention of, he was an elective King: He died, and left two Sons, both in their Minority; the Kingdom made choice of their Uncle, his Brother, to govern in the Minority. Afterwards, the elder Brother giving ſmall Hopes to the People that he would rule or govern well, ſeeking to ſupplant that good Uncle of his that governed then juſtly, they ſet the elder aſide, and took to the younger. Sir, if I ſhould come to what your Stories make mention of; you know very well you are the hundred and ninth King of *Scotland*; For not to mention ſo many Kings as that Kingdom, according to their Power and Privilege, have made bold to deal withal, ſome to baniſh, and ſome to impriſon, and ſome to put to death, it would be too long; and, as one of your own Authors ſays, it would be too long to recite the manifold Examples that your own Stories make mention of. *Reges, &c.* (ſay they) we do create; we created Kings at firſt: *Leges, &c.* we impoſed Laws upon them. And as they are choſen by the Suffrages of the People at the firſt; ſo upon juſt occaſion, by the ſame Suffrages they may be taken down again. And we will be bold to ſay, that no Kingdom hath yielded more plentiful Experience than that your native Kingdom of *Scotland* hath done, concerning the Depoſition and the Puniſhment of their offending and tranſgreſſing Kings, *&c.*

It is not far to go for an Example near you: Your Grandmother ſet aſide, and your Father, an Infant, crowned. And the State did it here in *England*: Here hath not been a want of ſome Examples. They have made bold (the Parliament and the People of *England*) to call their Kings to account: There are frequent Examples of it in the *Saxons* Time, the Time before the Conqueſt. Since the Conqueſt there want not ſome Precedents neither; King *Edward* the Second, King *Richard* the Second, were dealt with ſo by the Parliament, as they were depoſed and deprived. And truly, Sir, whoever ſhall look into their Stories, they ſhall not find the Articles that are charged upon them, to come near to that Height and Capitalneſs of Crimes that are laid to your Charge; nothing near.

Sir, you were pleaſed to ſay the other Day wherein they diffent; and I did not contradict it. But take all together, Sir; If you were as the Charge ſpeaks, and no otherwiſe, admitted King of *England*: but for that you were pleaſed then to alledge, how that almoſt for a thouſand Years theſe Things have been, Stories will tell you, if you go no higher than the time of the Conqueſt; if you do come down ſince the Conqueſt, you are the twenty fourth King, from *William* called the Conqueror, you ſhall find one half of them to come merely from the State, and not merely upon the Point of Deſcent. It were eaſy to be inſtanced to you; but Time muſt not be loſt that way. And truly, Sir, what a grave and learned Judge ſaid in his Time, and well known to you, and is ſince printed for Poſterity, That although there was ſuch a Thing as a Deſcent many times, yet the Kings of *England* ever held the greateſt Aſſurance of their Titles, when it was declared by Parliament. And, Sir, your Oath, the Manner of your Coronation, doth ſhew plainly, that the Kings of *England*, although it's true, by the Law the next Perſon in Blood is deſigned, yet if there were juſt Cauſe to refuſe him, the People of *England* might do it. For there is a Contract and a Bargain made between the King and his People, and your Oath is taken: And certainly, Sir, the Bond is reciprocal; for as you are the Liege Lord, ſo they Liege Subjects. And we know very well that hath been ſo much ſpoken of, *Ligeantia eſt duplex.* This we know now, The one Tie, the one Bond, is the Bond of Protection that is due from the Sovereign; the other is the Bond of Subjection that is due from the Subject. Sir, if this Bond be once broken, farewel Sovereignty; *Subjectio trahit, &c.*

Theſe Things may not be denied, Sir: I ſpeak it rather, and I pray God it may work upon your Heart, that you may be ſenſible of your Miſcarriages. For whether you have been, as by your Office you ought to be, a Protector of *England*, or the Deſtroyer of *England*, let all *England* judge, or all the World, that hath look'd upon it. Sir, though you have it by Inheritance in the way that is ſpoken of, yet it muſt not be denied that your Office was an Office of Truſt, and indeed an Office of the higheſt Truſt, lodged in any ſingle Perſon:

ſon: For as you were the grand Adminiſtrator of Juſtice, and others were, as your Delegates, to ſee it done throughout your Realms; if your greateſt Office were to do Juſtice, and preſerve your People from Wrong, and inſtead of doing that, you will be the great Wrong-doer your ſelf; if inſtead of being a Conſervator of the Peace, you will be the grand Deſturber of the Peace, ſurely this is contrary to your Office, contrary to your Truſt. Now, Sir, if it be an Office of Inheritance, as you ſpeak of, your Title by Deſcent, let all Men know that great Offices are ſeizable and forfeitable, as if you had it but for a Year, and for your Life. Therefore, Sir, it will concern you to take into your ſerious Conſideration your great Miſcarriages in this kind.

Truly, Sir, I ſhall not particularize the many Miſcarriages of your Reign whatſoever, they are famouſly known: It had been happy for the Kingdom, and happy for you too, if it had not been ſo much known, and ſo much felt, as the Story of your Miſcarriages muſt needs be, and hath been already.

Sir, that that we are now upon, by the Command of the higheſt Court, hath been and is to try and judge you for theſe great Offences of yours. Sir, the Charge hath called you Tyrant, a Traytor, a Murderer, and a publick Enemy to the Commonwealth of *England.* Sir, it had been well if that any of all theſe Terms might rightly and juſtly have been ſpared, if any one of them at all.

King. Ha!

Ld Preſident. Truly, Sir, We have been told, *Rex eſt dum bene regit, Tyrannus qui populum opprimit:* And if ſo be that be the Definition of a Tyrant, then ſee how you come ſhort of it in your Actions, whether the higheſt Tyrant, by that way of arbitrary Government, and that you have ſought for to introduce, and that you have ſought to put, you were putting upon the People? Whether that was not as high an Act of Tyranny as any of your Predeceſſors were guilty of, nay, many Degrees beyond it?

Sir, the Term Traytor cannot be ſpared. We ſhall eaſily agree it muſt denote and ſuppoſe a Breach of Truſt; and it muſt ſuppoſe it to be done by a Superior. And therefore, Sir, as the People of *England* might have incurred that reſpecting you, if they had been truly guilty of it, as to the Definition of Law; ſo on the other ſide, when you did break your Truſt to the Kingdom, you did break your Truſt to your Superior: For the Kingdom is that for which you were truſted. And therefore, Sir, for this Breach of Truſt, when you are called to account, you are called to account by your Superiors. *Minimus ad majorem in judicium vocat.* And, Sir, the People of *England* cannot be ſo far wanting to themſelves, which God having dealt ſo miraculouſly and glorioufly for; they having Power in their hands, and their great Enemy, they muſt proceed to do Juſtice to themſelves, and to you: For, Sir, the Court could heartily deſire that you would lay your Hand upon your Heart, and conſider what you have done amiſs, that you would endeavour to make your Peace with God. Truly, Sir, theſe are your High Crimes, Tyranny and Treaſon.

There is a third Thing too, if thoſe had not been, and that is Murder, which is laid to your Charge. All the bloody Murders that have been committed ſince this Time that the Diviſion was betwixt you and your People, muſt be laid to your Charge, that have been acted or committed in theſe late Wars. Sir, it is an heinous and crying Sin: And truly, Sir, if any Man will ask us what Puniſhment is due to a Murderer, let God's Law, let Man's Law ſpeak. Sir, I will preſume that you are ſo well read in Scripture, as to know what God himſelf hath ſaid concerning the ſhedding of Man's Blood: *Gen. 9. Numb. 35.* will tell you what the Puniſhment is: And which this Court, in behalf of the whole Kingdom, are ſenſible of, of that innocent Blood that has been ſhed, whereby indeed the Land ſtands ſtill defiled with that Blood; and, as the Text hath it, it can no way be cleanſed but with the ſhedding of the Blood of him that ſhed this Blood. Sir, we know no Diſpenſation from this Blood in that Commandment, *Thou ſhalt do no Murder:* We do not know but that it extends to Kings as well as to the meaneſt Peaſants, the meaneſt of the People; the Command is univerſal. Sir, God's Law forbids it; Man's Law forbids: Nor do we know that there is any manner of Exception, not even in Man's Laws, for the Puniſhment of Murder in you. 'Tis true, that in the Caſe of Kings every private Hand was not to put forth it ſelf to this Work, for their Reformation and Puniſhment: But, Sir, the People repreſented having Power in their hands, had there been but one wilful Act of Murder by you committed, had Power to have convented you, and to have puniſhed you for it.

But then, Sir, the Weight that lies upon you in all thoſe reſpects that have been ſpoken, by reaſon of your Tyranny, Treaſon, Breach of Truſt, and the Murders that have been committed; ſurely, Sir, it muſt drive you into a ſad Conſideration concerning your eternal Condition. As I ſaid at firſt, I know it cannot be pleaſing to you to hear any ſuch Things as theſe are mentioned unto you from this Court, for ſo we do call our ſelves, and juſtify our ſelves to be a Court, and a high Court of Juſtice, authorized by the higheſt and ſolemneſt Court of the Kingdom, as we have often ſaid: And although you do yet endeavour what you may to diſcourt us, yet we do take Knowledge of our ſelves to be ſuch a Court as can adminiſter Juſtice to you; and we are bound, Sir, in Duty to do it. Sir, all I ſhall ſay before the reading of your Sentence, it is but this; The Court does heartily deſire that you will ſeriouſly think of thoſe Evils that you ſtand guilty of. Sir, you ſaid well to us the other Day, You wiſhed us to have God before our Eyes. Truly, Sir, I hope all of us have ſo: That God that we know is a King of Kings, and Lord of Lords; that God with whom there is no reſpect of Perſons; that God that is the Avenger of innocent Blood: We have that God before us; that God that does beſtow a Curſe upon them that withhold their Hands from ſhedding of Blood which is in the caſe of guilty Malefactors, and that do deſerve Death: That God we have before our Eyes. And were it not that the Conſcience of our Duty hath called us unto this Place, and this Imployment, Sir, you ſhould have had no Appearance of a Court here. But, Sir, we muſt prefer the Diſcharge of our Duty unto God, and unto the Kingdom, before any other Reſpect whatſoever. And although at this time many of us, if not all of us, are ſeverely threaten'd by ſome of your Party, what they intend to do, Sir, we do here declare, That we ſhall not decline or forbear the doing of our Duty in the Adminiſtration of Juſtice, even to you, according to the Merit of your Offence, although God ſhould permit thoſe Men to effect all that bloody Deſign

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in hand againſt us. Sir, we will ſay, and we will declare it, as thoſe Children in the fiery Furnace, that would not worſhip the golden Image that *Nebuchadnezzar* had ſet up, *That their God was able to deliver them from that Danger that they were near unto:* But yet if he would not do it, yet notwithſtanding that they would not fall down and worſhip the Image. We ſhall thus apply it: That though we ſhould not be delivered from thoſe bloody Hands and Hearts that conſpire the Overthrow of the Kingdom in general, of us in particular, for acting in this great Work of Juſtice, though we ſhould periſh in the Work, yet by God's Grace, and by God's Strength, we will go on with it. And this is all our Reſolutions. Sir, I ſay for your ſelf, we do heartily wiſh and deſire that God would be pleaſed to give you a Senſe of your Sins, that you would ſee wherein you have done amiſs, that you may cry unto him, that God would deliver you from Blood-guiltineſs. A good King was once guilty of that particular Thing, and was clear otherwiſe, ſaving in the matter of *Uriah.* Truly, Sir, the Story tells us that he was a repentant King; and it ſignifies enough that he had died for it, but that God was pleaſed to accept of him, and to give him his Pardon, *Thou ſhalt not die, but the Child ſhall die: Thou haſt given Cauſe to the Enemies of God to blaſpheme.*

King. I would deſire only one Word before you give Sentence; and that is, That you would hear me concerning thoſe great Imputations that you have laid to my Charge.

Ld Preſident. Sir, You muſt give me now leave to go on; for I am not far from your Sentence, and your Time is now paſt.

King. But I ſhall deſire you will hear me a few Words to you: For truly, whatever Sentence you will put upon me in reſpect of thoſe heavy Imputations, that I ſee by your Speech you have put upon me; Sir, It is very true, that -----

Ld Preſident. Sir, I muſt put you in mind: Truly, Sir, I would not willingly, at this time eſpecially, interrupt you in any thing you have to ſay, that is proper for us to admit of; but, Sir, you have not owned us as a Court, and you look upon us as a ſort of People met together; and we know what Language we receive from your Party.

King. I know nothing of that.

Ld Preſident. You diſavow us as a Court; and therefore for you to addreſs your ſelf to us, not acknowledging us as a Court to judge of what you ſay, it is not to be permitted. And the truth is, all along, from the firſt time you were pleaſed to diſavow and diſown us, the Court needed not to have heard you one Word: For unleſs they be acknowledged a Court, and ingaged, it is not proper for you to ſpeak. Sir, we have given you too much Liberty already, and admitted of too much Delay, and we may not admit of any farther. Were it proper for us to do, we ſhould hear you freely, and we ſhould not have declined to hear you at large, what you could have ſaid or proved on your behalf, whether for totally excuſing, or for in part excuſing thoſe great and heinous Charges that in whole or in part are laid upon you. But, Sir, I ſhall trouble you no longer, your Sins are of ſo large a Dimenſion, that if you do but ſeriouſly think of them, they will drive you to a ſad Conſideration of it, and they may improve in you a ſad and ſerious Repentance: And that the Court doth heartily wiſh that you may be ſo penitent for what you have done amiſs, that God may have Mercy, at leaſt wiſe, upon your better Part: Truly, Sir, for the other, it is our Parts and Duties to do that that the Law preſcribes. We are not here *jus dare*, but *jus dicere.* We cannot be unmindful of what the Scripture tells us, *For to acquit the Guilty is of equal Abomination, as to condemn the Innocent:* We may not acquit the Guilty. What Sentence the Law affirms to a Traytor, Tyrant, a Murderer, and a publick Enemy to the Country, that Sentence you are now to hear read unto you; and that is the Sentence of the Court.

The Lord Preſident commands the Sentence to be read; make an *O yes*, and command Silence while the Sentence is read.

O yes made: Silence commanded.

The Clerk read the Sentence, which was drawn up in Parchment:

WHereas the Commons of England *in Parliament had appointed them an High Court of Juſtice, for the Trying of* Charles Stuart, *King of* England, *before whom he had been three times convented; and at the firſt time a Charge of High Treaſon, and other Crimes and Miſdemeanors, was read in the behalf of the Kingdom of* England, *&c.*

Here the Clerk read the Charge.

Which Charge being read unto him, as aforeſaid, he the ſaid *Charles Stuart* was required to give his Anſwer: But he refuſed ſo to do; and ſo expreſs'd the ſeveral Paſſages at his Tryal in refuſing to anſwer.

For all which Treaſons and Crimes this Court doth adjudge, That the ſaid Charles Stuart, *as a Tyrant, Traytor, Murderer, and a publick Enemy, ſhall be put to Death, by the ſevering his Head from his Body.*

After the Sentence read, the Lord Preſident ſaid,

This Sentence now read and publiſhed, it is the Act, Sentence, Judgment, and Reſolution of the whole Court.

Here the Court ſtood up, as aſſenting to what the Preſident ſaid.

King. Will you hear me a Word, Sir?

Ld Preſident. Sir, you are not to be heard after the Sentence.

King. No, Sir?

Ld Preſident. No, Sir; by your favour, Sir. Guard, withdraw your Priſoner.

King. I may ſpeak after the Sentence - - - - -

By your Favour, Sir, I may ſpeak after the Sentence ever.

By your Favour, (Hold!) the Sentence, Sir - - -

I ſay, Sir, I do - - - - -

I am not ſuffered for to ſpeak: Expect what Juſtice other People will have.

O Yes: All manner of Perſons that have any thing elſe to do, are to depart at this time, and to give their Attendance in the *Painted-Chamber*; to which Place this Court doth forthwith adjourn it ſelf.

Then the Court roſe, and the King went with his Guard to Sir *Robert Cotton*'s, and from thence to *Whitehall.*

The Speech Cook *design'd to have delivered, if the King had pleaded.*

May it please your Lordship,

MY Lord President, and this High Court, erected for the most Comprehensive, Impartial, and Glorious Piece of Justice, that ever was acted and executed upon the Theatre of *England*, for the trying and judging of *Charles Stuart*, whom God in his Wrath gave to be a King to this Nation, and will, I trust, in great Love, for his notorious Prevarications and Blood-guiltiness, take him away from us: He that hath been the Original of all Injustice, and the principal Author of more Mischiefs to the Free-born People of this Nation, than the best Arithmetician can well enumerate, stands now to give an account of his Stewardship, and to receive the Good of Justice, for all the Evil of his Injustice and Cruelty. Had he ten thousand Lives, they could not all satisfy for the numerous, horrid, and barbarous Massacres of Myriads, and Legions of innocent Persons, which by his Commands, Commissions, and Procurements, (or at least all the World must needs say, which he might have prevented; and he that suffers any Man to be kill'd, when he may save his Life without danger of his own, is a Murderer) have been cruelly slain, and inhumanly murdered, in this renowned *Albion*: *Anglia* hath been made an *Akeldama*, and her younger Sister *Ireland* a Land of Ire and Misery. And yet this hard-hearted Man, as he went out of the Court down the stairs, *Jan.* 22. said (as some of his Guard told me and others) That he was not troubled for any of the Blood that hath been shed, but for the Blood of one Man, (peradventure he meant *Strafford.*) He was no more affected with a List that was brought into *Oxford* of five or six thousand slain at *Edgehill*, than to read one of *Ben. Johnson*'s Tragedies. You Gentlemen Royalists that fought for him, if ye had lost your Lives for his sake, you see he would have no more pitied you by his own confession, than you do a poor Worm: and yet what Heart but would cleave, if it were a Rock; melt, if it were Ice; break, if it were a Flint; or dissolve, if it were a Diamond, to consider that so much precious Protestant Blood should be shed in these three Kingdoms, so many gallant valiant Men of all Sorts and Conditions to be sacrificed and lose their Lives, and many of them to die so desperately in regard of their eternal Conditions; and all this merely and only for the satisfying and fulfilling of one Man's sinful Lust and wicked Will? A good Shepherd is he that lays down his Life, or ventures it to save the Sheep; but for one to be so proudly wedded to his own Conceits, as so maliciously to oppose his private Opinion against the publick Judgment and Reason of State, and to make head against the Parliament, who acknowledged him to be Head thereof, so far as to give him the Honour of the Royal Assent, in settling the Militia and Safety of the People: I say, for a Protestant Prince, so beloved at home, and feared abroad, that in love and by gentle means might have had any thing from the Parliament, for him to occasion the shedding of so much Blood for a pretended Prerogative, as hereafter will appear nothing in effect but to fix and perpetuate an absolute Tyranny; I can say no less, *But, O* Lucifer, *from whence art thou faln!* and what Hereticks are they in Politicks, that would have had such a Man to live? Much more, that think his Actions to have merited Love and Praise from Heaven and Earth. But now to dissect the Charge.

I. That the Kings of *England* are trusted with a limited Power to govern by Law, the whole Stream and Current of legal Authorities run so limpid and clear, that I should but weary those that know it already, and trouble those that need not know the particular Cases; for it is one of the Fundamentals of Law, That the King is not above the Law, but the Law above the King. I could easily deraign it from 1 *Edw.* 3. to the Jurisdiction of Courts, That the King has no more Power or Authority, than what by Law is concredited and committed to him: but the most famous Authority is *Fortescue*, Chancellor to *Henry* VI. (and therefore undoubtedly would not clip his Master's Prerogative) who most judicially takes a difference between a Government wholly Regal and Seignoral, as in *Turkey*, *Russia*, *France*, *Spain*, *&c.* and a Government Politick and Mix'd, where the Law keeps the Beam even between Sovereignty and Subjection, as in *England*, *Denmark*, *Sweden*, and *Poland*. The first, where the Edict of a Prince makes the Law, resembles an impetuous Inundation of the Waters, whereby the Corn and Hay, and other Fruits of the Earth are spoiled, as when it is Midwinter at Midsummer; the latter is like a sweet smooth Stream, running by the pleasant Fields and Meadows. That by the Law of *England* the King ought not to impose any thing upon the People, or take any thing away from them to the value of a Farthing, but by common Consent in Parliaments or National Meetings; and that the People of common Right and by several Statutes ought to have Parliaments yearly, or oftner if need be, for the redress of publick Grievances, and for the enacting of good and wholesome Laws, and repealing of old Statutes of *Oneri* which are prejudicial to the Nation: And that the King hath not by Law so much Power as a Justice of Peace, to commit any Man to Prison for any Offence whatsoever, because all such matters were committed to proper Courts and Officers of Justice: And if the King by his verbal Command send for any Person to come before him, if the Party refused to attend, and the Messenger endeavouring to force him, they fell to blows; if the Messenger killed the Party sent for, this by the Law is Murder in him, but if he killed the Messenger, this was justifiable in him, being in his own defence, so as to sue forth a Pardon of course: These and many other Cases of like nature are so clear and well known, that I will not presume to multiply Particulars.

That the King took an Oath at his Coronation to preserve the Peace of the Nation, to do Justice to all, and to keep and observe the Laws which the People have, himself confesses: And it was charged upon the late Archbishop, that he emasculated the Oath, and left out very material Words; *Which the People shall chuse*: which certainly he durst not have done, without the King's special Command. And it seems to me no light Presumption, that from that very day he had a Design to alter and subvert the fundamental Laws, and to introduce an Arbitrary and Tyrannical Government. But tho there had been no Oath, yet by special Office and Duty of his Place every King

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of *England* is obliged to act for the People's Good: for all Power, as it is originally in the People (he muſt needs be extreme ignorant, malicious, or a Self-deſtroyer, that ſhall deny it) ſo it is given forth for their Preſervation, nothing for their Deſtruction. For a King to rule by Luſt, and not by Law, is a Creature that was never of God's making, not of God's Approbation, but his Permiſſion: and tho ſuch Men are ſaid to be Gods on Earth, 'tis in no other ſenſe than the Devil is called the God of this World. It ſeems that one Paſſage which the King would have offered to the Court, (which was not permitted him to diſpute the Supreme Authority in the Nation; and ſtanding mute, the Charge being for High Treaſon, it is a Conviction in Law) was, That 1 *Sam.* 8. is a Copy of the King's Commiſſion, by virtue whereof, he as King might rule and govern as he liſt; that he might take the Peoples Sons, and appoint them for himſelf, for his Chariots, and to be his Horſemen, and take their Daughters to be his Confectionaries, and take their Fields, and Vine-yards, and Olive-yards, even the beſt of them, and their goodlieſt Young-men, and their Aſſes, and give them to his Officers, and to his Servants; which indeed is a Copy and Pattern of an abſolute Tyrant and abſolute Slaves, where the People have no more than the Tyrant will afford them. The Holy Spirit in that Chapter does not inſinuate what a good King ought to do, but what a wicked King would preſume to do. Beſides, *Saul* and *David* had extraordinary Callings, but all juſt Power is now derived from and conferred by the People: yet in the Caſe of *Saul* it is obſervable, that the People, out of pride to be like other Nations, deſired a King, and ſuch a King as the Heathens had, which were all Tyrants: for they that know any thing in Hiſtory, know that the firſt four Monarchs were all Tyrants at firſt, till they gained the Peoples Conſent. *Nimrod* the great Hunter was *Ninus* that built *Nineveh*, the firſt Tyrant and Conqueror that had no Title; and ſo were all Kingdoms, which are not Elective till the Peoples ſubſequent Conſent; and tho it be by Deſcent, yet 'tis a Continuation of a Conqueſt; till the People conſent and voluntarily ſubmit to a Government, they are but Slaves, and in reaſon they may free themſelves if they can. In *France* the King begins his Reign from the Day of his Coronation: The Archbiſhop asks the People, if he ſhall be King; the twelve Peers, or ſome that perſonate them, ſay, Yes: They girt the Sword about him, then he ſwears to defend the Laws. And is any thing more natural than to keep an Oath? And tho vertuous Kings have prevailed with the People to make their Crowns Hereditary, yet the Coronation ſhews the Shell that the Kernel hath been in. *Samuel* was a good Judge, and there was nothing could be objected againſt him, therefore God was diſpleaſed at their inordinate Deſire of a King: and it ſeems to me, that the Lord declares his diſlike of all ſuch Kings as the Heathens were, that is, Kings with an unlimited Power, that are not tied to Laws; for he gave them a King in his Wrath, therein dealing with them as the wiſe Phyſician with the diſtempered and impatient Patient, who deſiring to drink Wine, tells him the Danger of Inflammation; yet Wine he will have, and the Phyſician conſidering a little Wine will do but little hurt, rather than his Patient by fretting ſhould take greater hurt, preſcribes a little White-Wine: wherein the Phyſician doth not approve his drinking of Wine, but of two Evils chuſeth the leaſt. The Jews would have a King for Majeſty and Splendour, like the Heathens; God permits this, he approves it not: it ſeems to me, that the Lord renounces the very Genus of ſuch Kings as are there mentioned, and the old word *Conning* (by contraction King) does not ſignify Power or Force to do what he will, but a knowing, wiſe, diſcreet Man, that opens the Peoples Eyes, and does not lead them by the Noſes, but governs them with Wiſdom and Diſcretion for their own Good. Therefore, Gentlemen-Royaliſts, be not ſo mad as to miſconſtrue either the Oaths of Allegiance or Supremacy, or any League or Covenant, that any Man ſhould ſwear to give any one leave to cut his throat; the true meaning is, that the King of *England* was Supreme in this Land, in oppoſition to the Pope, or any other Prince or Potentate, as the words of the Oath do import, *That no foreign State, Prince, or Potentate*, &c. In caſe of any foreign Invaſion, the King was by Law to be Generaliſſimo, to command the People for their own Safety; and ſo it was expounded by the Parliament in 13 *Eliz.* which for ſome Reaſon of State was not permitted to be printed with the Statutes. Beſides, God told thoſe Kings whom he had formerly anointed, what their Duty was; not to exalt themſelves overmuch above their Brethren, to delight themſelves in the Law of God: Out of which I infer, that the *Turks*, *Tartars*, *Muſcovites*, *French*, *Spaniards*, and all People that live at the beck and nod of Tyrannical Men, may and ought to free themſelves from that Tyranny, if, and when, they can; for ſuch Tyrants that ſo domineer with a Rod of Iron, do not govern by God's permiſſive Hand of Approbation or Benediction, but by the permiſſive Hand of his Providence, ſuffering them to ſcourge the People, for Ends beſt known to himſelf, until he open a way for the People to work out their own Enfranchiſements.

But before I ſpeak of the War, it will be neceſſary for the Satisfaction of rational Men, to open and prove the King's wicked Deſign, wherewith he ſtands charged. Now that he had from the beginning of his Reign ſuch a Deſign and Endeavour ſo to tear up the Foundations of Government, that Law ſhould be no Protection to any Man's Perſon or Eſtate, will clearly appear by what follows.

1. By his not taking the Oath ſo fully as his Predeceſſors did, that ſo when the Parliament ſhould tender good Laws to him for the Royal Aſſent, he might readily anſwer that he was not by Oath obliged to confirm or corroborate the ſame.

2. By his diſhonourable and perfidious Dealing with the People at his Coronation, when he ſet forth a Proclamation, That in regard of the Infection then ſpread through the Kingdom, he promiſed to diſpenſe with thoſe Knights, that by an old Statute were to attend at the Coronation, who were thereby required not to attend; but did notwithſtanding within a few Months after take advantage of their abſence, and raiſed a vaſt Sum of Money out of their Eſtates at the Council-Table: where they pleading the ſaid Proclamation for their Juſtification, they were anſwered that the Law of the Land was above any Proclamation; like that Tyrant, that when he could not by Law execute a Virgin, commanded her to be deflowred, and then put to death.

3. By his altering the Patents and Commiſſions to the Judges, which having heretofore had their Places granted to them ſo long as they ſhould behave

have themſelves well therein, he made them but during pleaſure; that if ſo the Judges ſhould not declare the Law to be as he would have it, he might with a wet Finger remove them, and put in ſuch as ſhould not only ſay, but ſwear, if need were, That the Law was as the King would have it. For when a Man ſhall give five or ten thouſand Pounds for a Judge's Place, during the King's Pleaſure, and he ſhall the next day ſend to him to know his Opinion of a Difference in Law between the King and Subject; and it ſhall be intimated unto him, That if he do not deliver his Opinion for the King, he is likely to be removed out of his Place the next day: which, if ſo, he knows not how to live, but muſt rot in a Priſon for the Money which he borrowed to buy his Place; as was well known to be ſome of their Caſes, who underhand and cloſely bought great Places, to elude the Danger of the Statute; whether this was not too heavy a Temptation for the Shoulders of moſt Men to bear, is no hard matter to determine. So as upon the matter, that very Act of his made the King at the leaſt a potential Tyrant; for when that ſhall be Law which a King ſhall declare himſelf, or which ſhall be declared by thoſe whom he chuſes, this brings the People to the very next Step to Slavery.

But that which doth irrefragably prove the Deſign, was his reſtleſs Deſire to deſtroy Parliaments, or to make them uſeleſs: And for that, who knows not but that there were three or four National Meetings in Parliament in the firſt four Years of his Reign, which were called for Supply, to bring Money into his Coffers, in point of Subſidies, rather than for any Benefit to the People, as may appear by the few good Laws that were then made? But that which is moſt memorable, is the untimely diſſolving of the Parliament in 4 *Car.* when Sir *John Elliot* and others (who managed a Conference with the Houſe of Peers concerning the Duke of *Buckingham*, who, amongſt other things, was charged concerning the Death of King *James*) were committed cloſe Priſoners to the Tower, where he loſt his Life by cruel Indurance; which I may not paſs over without a ſpecial Animadverſion: For ſure there is no Turk or Heathen but will ſay, that if he were any way guilty of his Father's Death, let him die for it.

I would not willingly be ſo injurious to the honeſt Reader, as to make him buy that again which he hath formerly met with in the Parliament's Declaration or elſewhere; in ſuch a caſe a marginal Reference may be ſufficient. Nor would I herein be ſo preſumptuous as to prevent any thing that happily may be intended in any Declaration for more general Satisfaction; but humbly to offer a Student's Mite, which ſatisfies my ſelf, with Submiſſion to better Judgments.

How the King firſt came to the Crown, God and his own Conſcience beſt knew. It was well known and obſerved at Court, that a little before he was a profeſſed Enemy to the Duke of *Buckingham*; but inſtantly upon the Death of King *James*, took him into ſuch ſpecial Protection, Grace and Favour, that upon the matter he divided the Kingdom with him. And when the Earl of *Briſtol* had exhibited a Charge againſt the ſaid Duke, the 13th Article whereof concerned the Death of King *James*, he inſtantly diſſolved that Parliament, that ſo he might protect the Duke from the Juſtice thereof, and would never ſuffer any legal Enquiry to be made for his Father's Death. The Rabbins obſerve, that that which ſtuck moſt with *Abraham* about God's Command to ſacrifice *Iſaac*, was this: *Can I not be obedient, unleſs I be unnatural? What will the Heathens ſay, when they hear I have killed my only Son?* What will an *Indian* ſay to this Caſe? A King hath all Power in his hand to do Juſtice: There is one accuſed upon ſtrong Preſumptions, at the leaſt, for poiſoning that King's Father; the King protects him from Juſtice: whether do you believe that himſelf had any hand in his Father's Death? Had the Duke been accuſed for the Death of a Beggar, he ought not to have protected him from a judicial Tryal. We know that by Law it is no leſs than Miſpriſion of Treaſon to conceal a Treaſon; and to conceal a Murder, ſtrongly implies a Guilt thereof, and makes him a kind of Acceſſary to the Fact. He that hath no Nature to do juſtice to his own Father, could it ever be expected that he ſhould do juſtice to others? Was he fit to continue a Father to the People, who was without natural Affection to his own Father? Will he love a Kingdom, that ſhewed no Love to himſelf, unleſs it was, that he durſt not ſuffer Inquiſition to be made for it? But I leave it as a Riddle, which at the Day of Judgment will be expounded and unriddled; for ſome Sins will not be made manifeſt till that Day, with this only, That had he made the Law of God his Delight, and ſtudied therein Night and Day, as God commanded his Kings to do; or had he but ſtudied Scripture half ſo much as *Ben. Johnſon* or *Shakeſpear*, he might have learnt, That when *Amaziah* was ſettled in the Kingdom, he ſuddenly did juſtice upon thoſe Servants which had killed his Father *Joaſh*: he did not, by any pretended Prerogative, excuſe or protect them, but delivered them up into the Hands of that Juſtice which the Horridneſs of the Fact did undoubtedly demerit. 2 King. 12. 20. *and* 14. 1, 5.

That Parliament (4 *Car.*) proving ſo abortive, the King ſets forth a Proclamation, That none ſhould preſume to move him to call Parliaments, for he knew how to raiſe Monies enough without the Help of Parliaments; therefore in 12 Years refuſeth to call any. In which Interval and Intermiſſion, how he had oppreſſed the People by Incroachments and Uſurpations upon their Liberties and Properties; and what vaſt Sums of Money he had forcibly exacted and exhauſted by illegal Patents and Monopolies of all ſorts, I refer the Reader to that moſt judicious and full *Declaration of the State of the Kingdom*, publiſhed in the beginning of this Parliament. That Judgment of Ship-money did, upon the matter, formalize the People abſolute Slaves, and him an abſolute Tyrant: For if the King may take from the People, in caſe of Neceſſity, and himſelf ſhall be Judge of that Neceſſity, then cannot any Man ſay that he is worth 6 *d.* for if the King ſay that he hath need of that 6 *d.* then by Law he muſt have it. I mean that great *Nimrod*, that would have made all *England* a Foreſt; and the People, which the Biſhop calls his Sheep, to be his Veniſon to be hunted at his pleaſure. 27 Mar. 5 Car.

Nor does the common Objection, *That the Judges and evil Counſellors, and not the King, ought to be reſponſible for ſuch Male-Adminiſtrations, Injuſtice and Oppreſſion*, bear the weight of a Feather in the Ballance of right Reaſon. For, 1ſt, Who made ſuch wicked and corrupt Judges? Were they not his own Creatures? And ought not every Man to be accountable for the Works of his own Hands? He that does not hinder the doing of evil, if it lies in his power to prevent it, is guilty of it as a Commander thereof. He that ſuffered thoſe black Stars

to inflict ſuch barbarous Cruelties, and unheard-of Puniſhments, as Brandings, ſlitting of Noſes, *&c.* upon honeſt Men, to the Diſhonour of the Proteſtant Religion, and Diſgrace of the Image of God ſhining in the Face of Man, he well deſerved to have been ſo ſerved. But, 2ly, he had the Benefit of thoſe illegal Fines and Judgments. I agree, That if a Judge ſhall oppreſs *I. S.* for the Benefit of *I. D.* the King ought not to anſwer for this, but the Judge, unleſs he protect the Judge againſt the Complaint of *I. S.* and in that caſe he makes himſelf guilty of it. But when an unjuſt Judgment is given againſt *I. S.* for the King's Benefit, and the Fine to come immediately into his Coffers; he that receives the Money, muſt needs be preſumed to conſent to the Judgment. But, 3ly, mark a *Machiavel*-Policy; *Call no Parliaments to queſtion the Injuſtice and Corruption of Judges for the Peoples Relief; and make your own Judges, and let that be the Law that they declare; whether it be reaſonable or unreaſonable, it is no matter.*

But then how came it to paſs that we had any more Parliaments? Had we not a gracious King to call a Parliament when there was ſo much need of it, and to paſs ſo many gracious Acts to put down the *Star-Chamber*, &c? Nothing leſs; it was not any voluntary free Act of Grace, not the leaſt Ingredient or Tincture of Love or good Affection to the People, that called the ſhort Parliament in 40. but to ſerve his own turn againſt the *Scots*, whom he then had deſigned to enſlave; and thoſe ſeven Acts of Grace which the King paſs'd, were no more than his Duty to do, nor half ſo much, but giving the People a Taſte of their own Griſts; and he diſſents with them about the Militia, which commanded all the reſt: he never intended thereby any more Good and Security to the People, than he that ſtealing the Gooſe, leaves the Feathers behind him. But to anſwer the Queſtion, thus it was:

The King being wholly given up to be led by the Counſels of a Jeſuited Party, who endeavoured to throw a Bone of Diſſenſion among us, that they might caſt in their Net into our troubled Waters, and catch more Fiſh: For St. *Peter's* See perſuaded the King to ſet up a new Form of Prayer in *Scotland*, and laid the Bait ſo cunningly, that whether they ſaw it or not, they were undone: If they ſaw the Myſtery of Iniquity couched in it, they would reſiſt, and ſo merit Puniſhment for rebelling; if they ſwallowed it, it would make way for worſe. Well, they ſaw the Poiſon, and refuſed to taſte it. The King makes War, and many that loved Honour and Wealth more than God, aſſiſted him; down he went with an Army, but his Treaſure waſted in a ſhort time: fight they would not, for fear of an After-reckoning. Some Commanders propound, that they ſhould make their Demands, and the King grants all, comes back to *London*, and burns the Pacification, ſaying, it was counterfeit: They reaſſume their Forces, he raiſes a ſecond War againſt them, and was neceſſitated to call a Parliament, offering to lay down Ship-money for twelve Subſidies. They refuſe; the King in high Diſpleaſure breaks off the Parliament, and in a Declaration commands them not to think of any more Parliaments, for he would never call another.

There was a King of *Egypt* that cruelly oppreſs'd the People; they poor Slaves complaining to one another, he feared a Riſing, and commanded that none ſhould complain upon pain of cruel Death. Spies being abroad, they often met, but durſt not ſpeak, but parted with Tears in their Eyes; which declared that they had more to utter, but durſt not: This ſtruck him to greater Fears, he commanded that none ſhould look upon one another's Eyes at parting; therefore their Griefs being too great to be ſmothered, they fetch'd a deep Sigh when they parted, which moved them ſo much to compaſſionate one another's Wrongs, that they ran in and killed the Tyrant. The long hatching *Iriſh* Treaſon was now ripe, and therefore it was neceſſary that *England* and *Scotland* ſhould be in Combuſtion, leſt we might help the *Iriſh* Proteſtants. Well, the *Scots* get *Newcaſtle*, he knew they would truſt him no more, he had ſo often broke with them, therefore no hopes to get them out by a Treaty. Many Lords and the City petition for a Parliament; the King was at ſuch a Neceſſity, that yield he muſt to that which he moſt abhorred, God had brought him to ſuch a ſtrait; he that a few Months before aſſumed the Power of God, commanding Men not to think of Parliaments, to reſtrain the free Thoughts of the Heart of Man, was conſtrained to call one, which they knew he would break off when the *Scots* were ſent home; therefore got a Confirmation of it, that he ſhould not diſſolve it without the Conſent of both Houſes, of which he had no hopes, or by force, which he ſuddenly attempted; and the *Engliſh* Army in the North, was to have come up to confound the Parliament and this rebellious and diſloyal City, as the King called it; and for their pains was promiſed Thirty Thouſand Pounds and the Plunder, as by the Examinations of Colonel *Goring*, *Legg*, &c. doth moſt fully appear.

And here by the way, I cannot but commend the City-Malignants; he calls them Rebels, they call him a gracious King: He, by his Proclamation at *Oxford*, prohibits all Commerce and Intercourſe of Trade between this populous City (the Life and Intereſt whereof conſiſts in Trade, without which many Thouſands cannot ſubſiſt) and other Parts of the Kingdom: ſtill they do Good againſt Evil, and petitioning him ſo often to cut their Throats, are troubled at nothing ſo much as that they are not reduced to that former and a worſe Bondage than when there was a Lord Warden made in the City, and the King ſent for as much of their Eſtates as he pleaſed. But ſurely the *Oxfordſhire* Men are more to be commended; for when the King had commanded by his Proclamation, That what Corn, Hay, and other Proviſion in the County of *Oxford*, could not be fetch'd into the ſaid City for his Gariſon, ſhould be conſumed and deſtroyed by Fire, for fear it ſhould fall into the hands of the Parliament's Friends; (a Cruelty not to be parallel'd by any Infidel, Heathen, or Pagan King; nor to be precedented amongſt the moſt avowed and profeſſed Enemies, much leſs from a King to his Subjects) they reſolved never to truſt him any more.

Darlingrub.

15 April, 20 Car.

But the great Queſtion will be, What hath been the true Ground and Occaſion of the War? Which unleſs I clear, and put it out of queſtion, as the Charge imports, I ſhall fall ſhort of what I chiefly aim at, *viz. That the King ſet up his Standard of War, for the Advancement and Upholding of his perſonal Intereſt, Power, and pretended Prerogative, againſt the publick Intereſt of common Right, Peace and Safety:* and thus I prove it.

1. He fought for the *Militia* by Sea and Land, to have it at his abſolute Diſpoſe, and to juſtify and maintain his illegal Commiſſions of Array; and this

this he pretended was his Birthright by the Law of *England:* which if it were ſo, then might he by the ſame Reaſon command all the Money in the Kingdom; for he that carries the Sword, will command the Purſe.

2. The next thing that he pretended to fight for, was his Power to call Parliaments when he pleaſed, and diſſolve them when he liſt; if they will ſerve his turn, then they may ſit by a Law to inſlave the People; ſo that the People had better chuſe all the Courtiers and King's Favourites at firſt, than to trouble themſelves with ludibrious Elections, to aſſemble the Freeholders together, to their great Labour and Expence both of Time and Coin; and thoſe which are choſen Knights and Burgeſſes, to make great Preparations, to take long Journies to *London* themſelves and their Attendants, to ſee the King and Lords in their Parliament-Robes ride in State to the Houſe, and with *Domitian*, to catch Flies. And no ſooner ſhall there be any Breathings, or a Spirit of Juſtice ſtirring and diſcovered in the Houſe of Commons, but the King ſends the Black-Rod, and diſſolves the Parliament, and ſends them back again as wiſe as they were before, but not with ſo much Money in their Purſes, to tell Stories to the Freeholders of the Bravery of the King and Lords.

3. Well, but if this be too groſs, and that the People begin to murmur and clamour for another Parliament, then there goes out another Summons, and they meet, and ſit for ſome time, but to as much purpoſe as before; for when the Commons have preſented any Bill for Redreſs of a publick Grievance, then the King hath ſeveral Games to play to make all fruitleſs: As, firſt, his own negative Voice, that if Lords and Commons are both agreed, then he will adviſe; which (I know not by what ſtrange Doctrine) hath been of late conſtrued to be a plain Denial: though, under favour, at the firſt it was no more but to allow him two or three Days time to conſider of the Equity of the Law; in which time if he could convince them of the Injuſtice of it, then ought he by his Oath and by Law to conſent to it.

4. But if by this means the King had contracted hard Thoughts from the People, and that not only the Commons, but many of the Lords, that have the ſame noble Blood running in their Veins, as thoſe *Engliſh* Barons, whoſe Swords were the chief Inſtruments that purchaſed *Magna Charta*; then, that the King might be ſure to put ſome others between him and the People's Hatred, the next Prerogative that he pretended to have, was to be the ſole Judge of Chivalry, to have the ſole Power of conferring Honours, to make as many Lords as he pleaſed, that ſo he might be ſure to have two againſt one, if the Houſe of Commons (by reaſon of the Multitude of Burgeſſes, which he likewiſe pretended a Power to make as many Borough-Towns and Corporations as he pleaſed) were not pack'd alſo. And this is that glorious Privilege of the *Engliſh* Parliaments, ſo much admired for juſt nothing: For if this pretended Prerogative might ſtand for Law, as was challenged by his Adherents, never was there a purer Cheat put upon any People, nor a more ready way to enſlave them, than by Privilege of Parliament; being juſt ſuch a Mockery of the People, as that Mock-Parliament at *Oxford* was, where the King's Conſent muſt be the Figure, and the Repreſentative ſtand for a Cypher.

5. But then out of Parliament the People are made to believe, that the King hath committed all Juſtice to the Judges, and diſtributed the Execution thereof into ſeveral Courts; and that the King cannot ſo much as impriſon a Man, or impoſe any thing upon, nor take any thing away from the People, as by Law he ought not to do: But now ſee what Prerogative he challenges.

1. If the King have a mind to have any publick-ſpirited Man removed out of the way, this Man is killed, the Murderer known, a Letter comes to the Judge, and it may be, it ſhall be found but Manſlaughter; if it be found Murder, the Man is condemned, but the King grants him a Pardon, which the Judges will allow, if the Word *Murder* be in it: But becauſe it is too groſs to pardon Murder, therefore the King ſhall grant him a Leaſe of his Life for ſeven Years, and then renew it (like a Biſhop's Leaſe) as he did to Major *Prichard*, who was lately juſticed; who being a Servant to the Earl of *Lindſey*, murdered a Gentleman in *Lincolnſhire*, and was condemned, and had a Leaſe of his Life from the King, as his own Friends have credibly told me.

2. For matter of Liberty: The King or any Courtier ſends a Man to Priſon; if the Judge ſet him at liberty, then put him out of his place; a Temptation too heavy for thoſe that love Money and Honour more than God, to bear: therefore any Judgment that is given between the King and a Subject, 'tis not worth a Ruſh; for what will not Money do?

Next, he challenges a Prerogative to enhance and debaſe Monies, which by Law was allowed him, ſo far as to ballance Trade, and no further; that if Gold went high beyond Sea, it might not be cheap here, to have it all bought up and tranſported: but under colour of that, he challenges a Prerogative, That the King may by Proclamation make Leather current, or make a Sixpence go for Twenty Shillings, or Twenty Shillings for a Sixpence. Which, not to mention any thing of the Project of Farthings or Braſs Money, he that challenges ſuch a Prerogative, is a potential Tyrant: For if he may make my Twelve-pence in my Pocket worth but Two-pence, what Property hath any Man in any thing that he enjoys?

Another Prerogative pretended was, That the King may avoid any Grant; and ſo may cozen and cheat any Man by a Law. The Ground whereof is, That the King's Grants ſhall be taken according to his Intention; which, in a ſober Senſe, I wiſh that all Mens Grants might be ſo conſtrued according to their Intentions, expreſs'd by Word or Writing: But by this means, it being hard to know what the King intended, his Grants have been like the Devil's Oracles, taken in any contrary Senſe for his own Advantage.

1. *Rep.* In the famous Caſe of *Altonwood's* there is vouched the Lord *Lovel's* Caſe: That the King granted Lands to the Lord *Lovel*, and his Heirs Males, not for Service done, but for a valuable Conſideration of Money paid. The Patentee well hoped to have enjoyed the Land not only during his Life, but that his Heirs Males, at leaſt of his Body, ſhould have likewiſe enjoyed it: But the Judges finding, it ſeems, that the King was willing to keep the Money, and have his Land again, (for what other Reaſon, no mortal Man can fathom) reſolved that it was a void Grant, and that nothing paſſed to the Patentee. I might inſtance in many Caſes of like nature, throughout all the Reports. As one once made his boaſt, That he never made or paſt any Patent or Charter from the Crown, but he reſerved one ſtarting Hole or other, and knew how

how to avoid it; and so merely to cozen and defraud the poor Patentee. So that now put all these Prerogatives together, 1. The Militia by Sea and Land: 2. A Liberty to call Parliaments when he pleased; and to adjourn, prorogue, or dissolve them at pleasure: 3. A negative Voice, that the People cannot save themselves without him, and must cut their own Throats, if commanded so to do: 4. The Nomination and Making of all the Judges, that, upon peril of the Loss of their Places, must declare the Law to be as he pleases: 5. A Power to confer Honours upon whom, and how he pleases; a covetous base Wretch for five or ten thousand Pounds to be courted, who deserves to be carted: 6. To pardon Murderers, whom the Lord says shall not be pardoned: 7. To set a Value and Price of Moneys as he pleases; that if he be to pay ten thousand Pounds, he may make Leather by his Proclamation to be current that day, or five Shillings to pass for twenty Shillings; and if to receive so much, twenty Shillings to pass for five Shillings: And lastly, A legal Theft to avoid his own Grants: I may boldly throw the Gantlet, and challenge all the *Machiavels* in the World to invent such an exquisite Platform of Tyrannical Domination, and such a perfect Tyranny, without Maim or Blemish, as this is, and that by a Law, which is worst of all. But the truth is, these are no legal Prerogatives, but Usurpations, Incroachments, and Invasions upon the People's Rights and Liberties: And this easily effected, without any great Depth of Policy; for 'tis but being sure to call no Parliaments, or make them useless, and make the Judges Places profitable, and place Avarice upon the Bench, and no doubt but the Law shall sound as the King would have it. But let me thus far satisfy the ingenuous Reader, That all the Judges in *England* cannot make one Case to be Law that is not Reason, no more than they can prove a Hair to be white that is black; which if they should so declare or adjudge, it is a mere Nullity: For Law must be Reason adjudged, where Reason is the *Genus*; and the Judgment in some Court makes the *Differentiæ*. And I never found that the fair Hand of the Common Law of *England* ever reached out any Prerogative to the King above the meanest Man, but in three Cases; 1. In Matters of Honour and Pre-eminence to his Person; and in Matters of Interest: That he should have Mines Royal of Gold and Silver, in whose Land soever they were discovered; and Fishes Royal, as Sturgeons and Whales, in whose Streams or Water soever they were taken, which very rarely happened; or to have Tythes out of a Parish that no body else could challenge: For says the Law, *The most noble Persons are to have the most noble Things.* 2. To have his Patents freed from Deceit, that he be not overreached or cozened in his Contracts, being imployed about the great and arduous Affairs of the Kingdom. 3. His Rights to be freed from Incursion of Time, not to be bound up by any Statute of Nonclaim: For indeed Possession is a vain Plea, when the Matter of Right is in question; for Right can never die: And some such honourable Privileges of mending his Plea, or suing in what Court he will; and some such Prerogatives, of a middle indifferent Nature, that could not be prejudicial to the People. But that the Law of *England* should give the King any such vast, immense, precipitating Power, or any such God-like State, That he ought not to be accountable for wicked Actions, or Male-administrations and Misgovernment, as he hath challenged and averred in his Answer to the Petition of Right, or any such Principles of Tyranny; which are as inconsistent with the People's Liberties and Safety as the Ark and *Dagon*, Light and Darkness, in an intensive degree; is a most vain and irrational Thing to imagine. And yet that was the Ground of the War, as himself often declared; and that would not have half contented him, if he had come in by the Sword. But some rational Men object, How can it be Murder, say they, for the King to raise Forces against the Parliament, since there is no other way of determining Differences between the King and his Subjects, but by the Sword? For the Law is no competent Judge between two supreme Powers; and then if it be only a contending for each other's Right, where is the Malice that makes the killing of a Man Murder? Take the Answer thus: First, How is it possible to imagine two supreme Powers in one Nation, no more than two Suns in one Firmament? If the King be supreme, the Parliament must be subordinate: If they supreme, then he subordinate. But then it is alledged, That the King challenged a Power only co-ordinate, that the Parliament could do nothing without him, nor he without them. Under favour, two Powers co-ordinate is as absurd as the other: For though in quiet Times the Commons have waited upon the King, and allowed him a negative Voice in Matters of less Concernment, where Delay could not prove dangerous to the People; yet when the Com- shall vote that the Kingdom is in danger, unless the Militia be so and so settled, now if he will not agree to it, they are bound in Duty to do it themselves. And 'tis impossible to imagine that ever any Man should have the Consent of the People to be their King upon other Conditions, (without which no Man ever had Right to wear the Diadem:) For Conquest makes a Title amongst Wolves and Bears, but not amongst Men.

When the first Agreement was concerning the Power of Parliaments, if the King should have said, Gentlemen, are you content to allow me any negative Voice, that if you vote the Kingdom to be in danger, unless such an Act pass, if I refuse to assent, shall nothing be done in that Case? Surely no rational Man but would have answered, May it please your Majesty, we shall use all dutiful Means to procure your Royal Assent: But if you still refuse, we must not sit still, and see our selves ruin'd; we must and will save our selves, whether you will or no. And will any Man say that the King's Power is diminished, because he cannot hurt the People? Or that a Man is less in Health that hath many Physicians to attend him? God is omnipotent, that cannot sin; and all Power is for the People's Good: But a Prince may not say that is for the People's Good, which they see and feel to be for their Hurt. And as for the Malice, the Law implies that; as when a Thief sets upon a Man to rob him, he hath no Spite to the Man, but Love to the Money: But it is an implied Malice, that he will kill the People unless they will be Slaves.

Q. *But by what Law is the King condemned?*

Resp. By the Fundamental Law of this Kingdom, by the general Law of all Nations, and the unanimous Consent of all rational Men in the World, written in every Man's Heart with the Pen of a Diamond in Capital Letters, and a Character so legible, that he that runs may read, *viz.* That when any Man is intrusted with the Sword for the Protection and Preservation of the People, if this Man shall imploy it to their Destruction, which was put into his Hand for their Safety, by the Law of that Land he becomes an Enemy to that People, and deserves

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the moſt exemplary and ſevere Puniſhment that can be invented. And this is the firſt neceſſary Fundamental Law of every Kingdom, which by intrinſical Rules of Government muſt preſerve it ſelf. And this Law needed not be expreſs'd, That if a King become a Tyrant, he ſhall die for it; 'tis ſo naturally implied. We do not uſe to make Laws which are for the Preſervation of Nature; that a Man ſhould eat, and drink, and buy himſelf Clothes, and enjoy other natural Comforts: No Kingdom ever made any Laws for it. And as we are to defend our ſelves naturally, without any written Law, from Hunger and Cold, ſo from outward Violence. Therefore, if a King would deſtroy a People, 'tis abſurd and ridiculous to ask by what Law he is to die. And this Law of Nature is the Law of God, written in the fleſhly Tables of Mens Hearts; that, like the elder Siſter, hath a prerogative Right of Power before any poſitive Law whatſoever: And this Law of Nature is an undubitable Legiſlative Authority of it ſelf, that hath a ſuſpenſive Power over all human Laws. If any Man ſhall by expreſs Covenant, under Hand and Seal, give Power to another Man to kill him, this is a void Contract, being deſtructive to Humanity. And by the Law of *England* any Act or Agreement againſt the Laws of God or Nature, is a mere Nulity: For as Man hath no hand in the making of the Laws of God or Nature, no more hath he power to marr or alter them. If the Pilot of a Ship be drunk, and running upon a Rock; if the Paſſengers cannot otherwiſe prevent it, they may throw him into the Sea to cool him. And this Queſtion hath received Reſolution this Parliament. When the Militia of an Army is committed to a General, 'tis not with any expreſs Condition that he ſhall not turn the Mouths of his Cannons againſt his own Soldiers; for that is ſo naturally and neceſſarily implied, that it's needleſs to be expreſs'd: Inſomuch, as if he did attempt or command ſuch a Thing againſt the Nature of his Truſt and Place, it did *ipſo facto* eſtate the Army in a Right of Diſobedience; unleſs any Man be ſo groſly ignorant, to think that Obedience binds Men to cut their own Throats, or their Companions. Nor is this any Secret of the Law which hath lain hid from the beginning, and now brought out to bring him to Juſtice; but that which is connatural with every Man, and innate in his Judgment and Reaſon, and is as antient as the firſt King, and an epidemical binding Law in all Nations in the World: For when many Families agree, for the Preſervation of Human Society, to inveſt any King or Governor with Power and Authority; upon the acceptance thereof, there is a mutual Truſt and Confidence between them, that the King ſhall improve his Power for their Good, and make it his Work to procure their Safeties, and they to provide for his Honour; which is done to the Commonwealth in him, as the Sword and Enſigns of Honour, carried before the Lord Mayor, are for the Honour of the City. Now, as when any one of this People ſhall compaſs the Death of the Governor, ruling well, this is a Treaſon puniſhable with Death, for the Wrong done to the Community, and *Anathema* be to ſuch a Man; ſo when he or they that are truſted to fight the People's Battels, and to procure their Welfare, ſhall prevaricate, and act to the inſlaving or deſtroying of the People, who are their Liege Lords, and all Governors are but the People's Creatures, and the Work of their Hands, to be accountable as their Stewards, (and it not ſenſleſs for the Veſſel to ask the Potter by what Law he calls it to account?) this is High Treaſon with a Witneſs, and far more tranſcendent than in the former Caſe; becauſe the King was paid for his Service, and the Dignity of the Perſon does increaſe the Offence. For a great Man of noble Education and Knowledge to betray ſo great a Truſt, and abuſe ſo much Love as the Parliament ſhewed to the King, by petitioning him as good Subjects, praying him as good Chriſtians, adviſing him as good Counſellors, and treating with him as the great Counſel of the Kingdom, with ſuch infinite Care and Tenderneſs of his Honour, (a Courſe which God's People did not take with *Rehoboam*; they never petitioned him, but adviſed him; he refuſed their Counſel, and hearkened to young Counſellors, and they cry, *To thy Tents, O Iſrael:* and made quick and ſhort Work of it;) after all this, and much more Longanimity and Patience (which God exerciſes towards Man to bring him to Repentance) from the Lord to the Servant, for him not only to ſet up a Standard of War, in defiance of his dread Sovereign the People, (for ſo they truly were in Nature, though Names have befooled us) but to perſiſt ſo many Years in ſuch cruel Perſecutions; who with a Word of his Mouth might have made a Peace: If ever there were ſo ſuperlative a Treaſon, let the *Indians* judge. And whoſoever ſhall break and violate ſuch a Truſt and Confidence, *Anathema Maranatha* be unto them.

Com. E. Leiceſter's Caſe.

Q. *But why was there not a written Law to make it Treaſon for the King to deſtroy the People, as well as for a Man to compaſs the King's Death?*

Reſp. Becauſe our Anceſtors did never imagine, that any King of *England* would have been ſo deſperately mad, as to levy a War againſt the Parliament and People; as in the common Inſtance of Paricide, the *Romans* made no Law againſt him that ſhould kill his Father, thinking no Child would be ſo unnatural to be the Death of him who was the Author of his Life: But when a Child came to be accuſed for Murder, there was a more cruel Puniſhment inflicted, than for other Homicides; for he was thrown into the Sea in a great Leather Barrel, with a Dog, a Jackanapes, a Cock, and a Viper, ſignificant Companions for him, to be deprived of all the Elements, as in my *Poor Man's Caſe, fol.* 10. Nor was there any Law made againſt Parents that ſhould kill their Children; yet if any Man was ſo unnatural, he had an exemplary Puniſhment.

Obj. *But is it not a Maxim in Law, That the King can do no Wrong?*

Reſp. For any Man to ſay ſo, is Blaſphemy againſt the great God of Truth and Love: For only God cannot err; becauſe what he wills is right, becauſe he wills it. And 'tis a ſad thing to conſider how learned Men, for unworthy Ends, ſhould uſe ſuch Art to ſubdue the People, by Tranſportation of their Senſes, as to make them believe that the Law is, That the King can do no Wrong.

Firſt, for Law; I do aver it with Confidence, but in all Humility, that there is no ſuch Caſe to be found in Law, That if the King rob, or murder, or commit ſuch horrid Extravagancies, that it is no Wrong. Indeed the Caſe is put in *Hen.* 7. by a Chief Judge, That *if the King kill a Man, 'tis no Felony, to make him ſuffer Death*; that is, to be meant in ordinary Courts of Juſtice. But there is no doubt but the Parliament might try the King, or appoint others to judge him for it. We find Caſes in Law, that the King hath been ſued even in Civil Actions.

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In 43 *Edw.* 3. 22. it is resolved, That all manner of Actions did lie against the King, as against any Lord; and 24 *Edw.* 3. 23. *Wilby* a learned Judge said, That there was a Writ *Præcipe Henrico Regi Angliæ.*

Indeed *E.* 1. did make an Act of State, That Men should sue to him by Petition; but this was not agreed unto in Parliament: *Thelwall, tit. Roye Digest of Writs,* 71. But after, when Judges Places grew great, the Judges and Bitesheeps began to sing Lullaby, and speak *Placentia* to the King, that *my Lord the King is an Angel of Light:* now Angels are not responsible to Men, but God, therefore not Kings. And the Judges, they begin to make the King a God, and say, That by Law his Stile is *Sacred Majesty,* tho he swears every hour; and *Gracious Majesty,* tho gracious Men be the chief Objects of his Hatred; and that the King hath an Omnipotency and Omnipresence.

But I am sure there is no Case in Law, That if the King levy a War against the Parliament and People, that it is not Treason. Possibly that Case in *H.* 7. may prove, That if the King should in his passion kill a Man, this shall not be Felony to take away the King's Life; for the Inconveniency may be greater to the People, by putting a King to death for one Offence and Miscarriage, than the Execution of Justice upon him can advantage them. But what's this to a levying of War against a Parliament? Never any Judge was so devoid of Understanding, that he denied that to be Treason. But suppose a Judge that held his Place at the King's pleasure did so, I am sure never any Parliament said so. But what if there had in dark Times of Popery been an Act made, That the King might murder, ravish, burn and perpetrate all Mischiefs, and play Reaks with impunity; will any Man that hath but Wit enough to measure an Ell of Cloth, or to tell Twenty, say, That this is an Obligation for Men to stand still, and suffer a Monster to cut their throats, and grant Commission to rob at *Suters-Hill*; as such and no better are all legal Thefts and Oppressions. The Doctor says, That a Statute against giving an Alms to a poor Man is void: He is no Student, I mean, was never bound Prentice to Reason, that says, A King cannot commit Treason against the People.

Obj. *But are there not Negative Words in the Statute of* 25 Edw. 3. *That nothing else shall be construed to be Treason, but what is there express'd?*

Ref. That Statute was intended for the Peoples Safety, that the King's Judges should not make Traytors by the dozens, to gratify the King or Courtiers; but it was never meant, to give liberty to the King to destroy the People; and though it be said, That the King and Parliament only may declare Treason, yet no doubt if the King will neglect his Duty, it may be so declared without him; for when many are obliged to do any service, if some of them fail, the rest must do it.

Obj. *But is there any Precedent, that ever any Man was put to death that did not offend against some written Law? For where there is no Law, there is no Transgression.*

Ref. 'Tis very true, where there is neither Law of God, nor Nature, nor positive Law, there can be no Transgression; and therefore that Scripture is much abused, to apply it only to Laws positive. For,

1. *Ad ea quæ frequentius, &c.* 'Tis out of the Sphere of all earthly Law-givers to comprehend and express all particular Cases that may possibly happen, but such as are of most frequent concurrence; Particulars being different, like the several Faces of Men different from one another, else Laws would be too tedious: and as Particulars occur, rational Men will reduce them to general Reasons of State, so as every thing may be adjudged for the Good of the Community.

2. The Law of *England* is *Lex non scripta,* and we have a Direction in the Epistle to the 3 *Rep.* That when our Law-Books are silent, we must repair to the Law of Nature and Reason. *Hollingshed,* and other Historians, tell us, That in 20 *H.* 8. the Lord *Hungerford* was executed for Buggery, for which there was then no positive Law to make it Felony: and before any Statute against Witchcraft, many Witches have been hanged in *England,* because it is Death by God's Law. If any *Italian* Mountebank should come over hither, and give any Man Poison that should lie in his Body above a Year and a Day, and then kill him, as it is reported they can give a Man Poison that shall consume the Body in three Years; will any make scruple or question to hang up such a Rascal? At *Naples,* the great Treasurer of Corn being intrusted with many thousand Quarters at three Shillings the Bushel, for the common Good, finding an opportunity to sell it for five Shillings the Bushel to foreign Merchants, enriched himself exceedingly thereby; and Corn growing suddenly dear, the Council call'd him to account for it, who proffered to allow three Shillings for it, as it was delivered into his custody, and hoped thereby to escape: but for so great a Breach of Trust, nothing would content the People but to have him hang'd; and tho there was no positive Law for it, to make it Treason, yet it was resolved by the best Politicians, that it was Treason to break so great a Trust by the Fundamental Constitution of the Kingdom, and that for so great an Offence he ought to die, that durst presume to inrich himself by that which might endanger the Lives of so many Citizens; for as Society is natural, so Governours must of necessity, and in all reason provide for the Preservation and Sustenance of the meanest Member, he that is but as the little Toe of the Body Politick.

But concerning *Ireland,* where there were no less than 152000 Men, Women, and Children, most barbarously and satanically murdered in the first four Months of the Rebellion, as appeared by substantial Proofs, at the *King's-Bench,* at the Tryal of *Macguire*; if the King had a hand, or but a little-finger in that Massacre, every Man will say, Let him die the death: but how shall we be assured of that? How can we know the Tree, better than by its Fruits? For my own particular, I have spent many serious Thoughts about it, and I desire in doubtful Cases to give Charity the upper hand; but I cannot in my Conscience acquit him of it. Many strong Presumptions, and several Oaths of honest Men, that have seen the King's Commission for it, cannot but amount to a clear proof. If I meet a Man running down stairs with a bloody Sword in his hand, and find a Man stabbed in the Chamber, tho I did not see this Man run into the Body by that Man which I met, yet if I were of the Jury, I durst not but find him guilty of the Murder; and I cannot but admire that any Man should deny that for him, which he durst never deny for himself. How often was that monstrous Rebellion laid in his dish? and yet he durst never absolutely deny it. Never was Bear so unwillingly brought to the stake, as he was to declare against the Rebels; and when he did once call them

them Rebels, he would ſuffer but forty Copies to be printed, and thoſe to be ſent to him ſeal'd: and he hath ſince above forty times called them his Subjects, and his good Subjects; and ſent to *Ormond* to give ſpecial Thanks to ſome of theſe Rebels, as *Muskerry* and *Plunket*: (which I am confident, by what I ſee of his Height of Spirit and undaunted Reſolution at his Tryal and ſince, acting the laſt part anſwerable to the former part of his Life; he would rather have loſt his Life, than to have ſent Thanks to two ſuch incarnate Devils, if he had not been as guilty as themſelves.) Queſtionleſs if the King had not been guilty of that Blood, he would have made a thouſand Declarations againſt thoſe Blood-hounds and Hell-hounds, that are not to be named but with Fire and Brimſtone, and have ſent to all Princes in the world for Aſſiſtance againſt ſuch accurſed Devils in the ſhape of Men: but he durſt not offend thoſe Fiends and Fire-brands; for if he had, I verily believe they would ſoon have produced his Commiſſion under his Hand and Seal of *Scotland* at *Edinburgh*, 1641. a Copy whereof is in the Parliament's hands, atteſted by Oath, diſperſed by Copies in *Ireland*, which cauſed the general Rebellion.

Obj. *He did not give Commiſſion to kill the* Engliſh, *but to take their Forts, Caſtles, Towns and Arms, and come over and help him.*

And is it like all this could be effected without the Slaughter of the poor *Engliſh*? Did the King ever call them Rebels, but in forty Proclamations wrung out of him by force, by the Parliament's Importunity? murdering the Proteſtants was ſo acceptable to him! And with this Limitation, That none ſhould be publiſhed without his further Directions, as appears under *Nichols*'s Hand, now in the Parliament's cuſtody. But the *Scots* were proclaimed Rebels before they had killed a Man, or had an Army, and a Prayer againſt them enjoined in all Churches; but no ſuch matter againſt the *Iriſh*.

Well, when the Rebels were worſted in *Ireland*, the King makes war here to protect them, which but for his fair Words had been prevented; often calling God to witneſs, he would as ſoon raiſe war on his own Children: and Men from Popiſh Principles aſſiſt him. Well! we fought in jeſt, and were kept between winning and loſing: The King muſt not be too ſtrong, leſt he revenge himſelf; nor the Parliament too ſtrong, for the Commons would rule all; till *Naſeby* Fight, that then the King could keep no more Days of Thankſgiving ſo well as we. Then he makes a Ceſſation in *Ireland*, and many *Iriſh* came over to help him: *Engliſh* came over with Papiſts, who had ſcarce wiped their Swords ſince they had killed their Wives and Children, and had their Eſtates.

But thus I argue; The Rebels knew that the King had proclaimed them Traitors, and forty Copies were printed; and the firſt Clauſe of an Oath enjoined by the General Council of Rebels, was, *To bear true Faith and Allegiance to King* Charles, *and by all means to maintain his Royal Prerogative, againſt the Puritans in the Parliament of* England. Now is any Man ſo weak in his Intellectuals, as to imagine, That if the Rebels had without the King's Command or Conſent murdered ſo many Proteſtants, and he thereupon had really proclaimed them Rebels, that they would after this have taken a new Oath to have maintained his Prerogative? No, thoſe bloody Devils had more Wit than to fight in jeſt. If the King had once in good earneſt proclaimed them Rebels, they would have burnt their Scabbards, and would not have ſtiled themſelves the King's and Queen's Army, as they did. And truly, that which the King ſaid for himſelf, That he would have adventured himſelf, to have gone in perſon into *Ireland* to ſuppreſs that Rebellion, is but a poor Argument to inforce any Man's Belief, that he was not guilty of the Maſſacre: for it makes me rather think, that he had ſome hopes to have returned in the head of 20 or 30000 Rebels, to have deſtroy'd this Nation. For when the Earl of *Leiceſter* was ſent by the Parliament to ſubdue the Rebels, did not the King hinder him from going? And were not the Clothes and Proviſions which were ſent by the Parliament for the Relief of the poor Proteſtants there, ſeiz'd upon by his Command, and his Men of War; and ſold or exchanged for Arms and Ammunition to deſtroy this Parliament? And does not every Man know, That the Rebels in *Ireland* gave Letters of Mart for taking the Parliament's Ships, but freed the King's, as their very good Friends? And I have often heard it credibly reported, that the King ſhould ſay, That nothing more troubled him, but that there was not as much Proteſtant Blood running in *England* and *Scotland*, as in *Ireland*. And when that horrid Rebellion begun to break forth, how did the Papiſts here triumph and boaſt, that they hoped e'er long to ſee *London* Streets run down in Blood? And yet I do not think, that the King was a Papiſt, or that he deſigned to introduce the Pope's Supremacy in Spiritual Things into this Kingdom: but thus it was; A Jeſuitical Party at Court was too prevalent in his Counſels, and ſome mungrel Proteſtants, that leſs hated the Papiſts than the Puritans, by the Queen's Mediation joined all together to deſtroy the Puritans; hoping that the Papiſts, and the *Laodicean* Proteſtant would agree well enough together. And laſtly, if it be ſaid, That if the King and the Rebels were never fallen out, what need had *Ormond* to make a Pacification or Peace with them by the King's Commiſſion, under the Great Seal of *Ireland*? Truly there hath been ſo much Daubing, and ſo little Plain-dealing, that I wonder how there comes to be ſo many Beggars.

Concerning the betraying of *Rochel*, to the inſlaving of the Proteſtant Party in *France*, I confeſs, I heard ſo much of it, and was ſo ſhamefully reproached for it in *Geneva*, and by the Proteſtant Miniſters in *France*, that I could believe no leſs than that the King was guilty of it. I have heard fearful Exclamations from the *French* Proteſtants againſt the King and the late Duke of *Buckingham*, for the betraying of *Rochel*. And ſome of the Miniſters told me ten Years ſince, That God would be revenged of the wicked King of *England*, for betraying *Rochel*. And I have often heard *Deodati* ſay, concerning *Henry* IV. of *France*, That the Papiſts had his Body, but the Proteſtants had his Heart and Soul; but for the King of *England*, the Proteſtants had his Body, but the Papiſts had his Heart: Not that I think he did believe Tranſubſtantiation, but I verily believe, that he loved a Papiſt better than a Puritan.

The Duke of *Roan*, who was an honeſt gallant Man, and the King's Godfather, would often ſay, That all the Blood which was ſhed in *Dauphine*, would be caſt upon the King of *England*'s ſcore. For thus it was: The King ſent a Letter to the *Rochellers* by Sir *William Beecher*, to aſſure them, That he would aſſiſt them to the uttermoſt againſt the *French* King, for the Liberty of their Religion; conditionally, That they would not make any

Peace without him: and *Mountague* was ſent into *Savoy*, and to the Duke of *Roan*, to aſſure them from the King, That 30000 Men ſhould be ſent out of *England*, to aſſiſt them againſt the *French* King, in three Fleets; one to land in the Iſle of *Rhee*, a ſecond in the River of *Bourdeaux*, and a third in *Normandy*. Whereupon the Duke of *Roan* being General for the Proteſtants, not ſuſpecting that the *French* durſt aſſault him in *Dauphine*, (becauſe the King of *England* was ready to invade him, as he had promiſed) drew out his Army upon diſadvantage: whereupon the *French* King employ'd all his Army into *Dauphine* againſt the Proteſtants, who were forced to retreat, and the Duke of *Roan* to fly to *Geneva*, and the Proteſtants to accept of Peace upon very hard Conditions, to ſtand barely at the King's devotion for their Liberties, without any cautionary Towns of Aſſurance, as formerly they had; being ſuch a Peace, as the Sheep make with the Wolves, when the Dogs are diſmiſs'd. And the Proteſtants have ever ſince cry'd out to this very day, It is not the *French* King that did us wrong, for then we could have borne it; but it was the King of *England*, a profeſs'd Proteſtant, that betray'd us. And when I have many times intreated *Deodati* and others, to have a good opinion of the King, he would anſwer me, That we are commanded to forgive our Enemies, but not to forgive our Friends.

There is a *French* Book printed about two Years ſince, called *Memoires du Monſieur de Roan*, where the King's horrid Perfidiouſneſs, and deep Diſſimulation, is very clearly unfolded and diſcovered. To inſtance but in ſome Particulars: The King having ſolemnly engaged to the *Rochellers*, that he would hazard all the Forces he had in his three Kingdoms, rather than they ſhould periſh; did in order thereunto, to gain Credulity with them, ſend out eight Ships to Sea, commanded by Sir *John Pennington*, to aſſiſt the *Rochellers* as was pretended, but nothing leſs intended; for *Pennington* aſſiſted the *French* King againſt the *Rochellers*, which made Sir *Ferdinando Gorge* to go away with the *Great Neptune*, in deteſtation of ſo damnable a Plot: and the *Engliſh* Maſters and Owners of Ships refuſing to lend their Ships to deſtroy the *Rochellers*, whom with their Souls they deſired to relieve, *Pennington* in a mad ſpite ſhot at them.

Soubiſe being Agent here in *England* for the *French* Proteſtants, acquainted the King how baſely *Pennington* had dealt, and that the *Engliſh* Ships had mowed down the *Rochel* Ships like Graſs, not only to the great danger and loſs of the *Rochellers*, but to the eternal diſhonour of this Nation, ſcandal of our Religion, and diſadvantage of the general Affairs of all the Proteſtants in *Chriſtendom*. The King ſeems to be diſpleaſed, and ſays, What a Knave is this *Pennington!* but whether it was not feigned, let all the World judge. But the thing being ſo plain, ſaid *Soubiſe* to the King, Sir, why did the *Engliſh* Ships aſſiſt the *French* King, and thoſe that would not, were ſhot at by your Admiral? The *French* Proteſtants are no Fools; how can I make them believe that you intend their Welfare? The King was much put to it for a ready Anſwer, but at laſt thus it was patch'd up; That the *French* King had a deſign to be revenged of *Genoa* for ſome former Affront, and that the King lent him eight *Engliſh* Ships to be employed for *Genoa*; and that ſailing towards *Genoa*, they met with ſome of the *Rochellers* accidentally, and that the *Engliſh* did but look on, and could not help it, not having any Commiſſion to fight at that preſent: wherein the *Rochellers* might and would have declined a Sea-fight, if they had not expected our aſſiſtance. But ſtill the poor Proteſtants were willing rather to blame *Pennington* than the King; who in great ſeeming Zeal, being Surety for the laſt Peace between the *French* King and his Proteſtant Subjects, ſends *Devick* to the Duke of *Roan*, to aſſure him, That if *Rochel* were not ſpeedily ſet at liberty, (which the *French* King had beſieged, contrary to his Agreement) he would employ his whole Strength, and in his own perſon ſee it perform'd. Which being not done, then the King ſends the Duke of *Buckingham* to the Iſle of *Rhee*, and gives new hopes of better Succeſs to *Soubiſe*; commanding the Admiral and Officers in the Fleet, in *Soubiſe*'s hearing, to do nothing without his Advice. But when the Duke came to land at the Iſle of *Rhee*, many gallant *Engliſhmen* loſt their Lives, and the Duke brought back 300 Tuns of Corn from the *Rochellers*, which he had borrowed of them, pretending a Neceſſity for the *Engliſhmen*, which was but feign'd, knowing it was a City impregnable, ſo long as they had Proviſion within. I confeſs the *Rochellers* were not wiſe, to lend the Duke their Corn, conſidering how they had been dealt with. But what a baſe thing was it ſo to betray them, and to ſwear unto them, That they ſhould have Corn enough ſent from *England*, before they wanted it! And for a long time, God did miraculouſly ſend them in a new kind of Fiſh, which they never had before. But when the Duke came to Court, he made the honeſt *Engliſh* believe, that *Rochel* would ſuddenly be relieved, and that there was not the leaſt danger of the loſs of it: but Secretary *Cook*, an honeſt underſtanding Gentleman, and the only Friend at Court to the *Rochellers*, labouring to improve his Power to ſend ſome Succour to *Rochel*, was ſuddenly ſent away from Court upon ſome ſleeveleſs Errand, or as ſome ſay to *Portſmouth*, under colour of providing Corn for *Rochel*; but the Duke ſoon after went thither, and ſaid, His Life upon it, *Rochel* is ſafe enough. And the next day, *Soubiſe* being at *Portſmouth*, he preſs'd the Duke of *Buckingham* moſt importunately to ſend Relief to *Rochel* then or never. The Duke told him, that he had juſt then heard good News of the victualling of *Rochel*, which he was going to tell the King: which *Soubiſe* making doubt of, the Duke affirmed it by an Oath; and having the words in his mouth, he was ſtabb'd by *Felton*, and inſtantly died. The poor *Rochellers* ſeeing themſelves ſo betray'd, exclaim'd of the *Engliſh*, and were conſtrained thro Famine to ſurrender the City; yet new Aſſurances came from the King to the Duke of *Roan*, that he ſhould never be abandoned, and that he ſhould not be diſmay'd nor aſtoniſh'd for the Loſs of *Rochel*.

But *Soubiſe* ſpoke his mind freely at Court, that the *Engliſh* had betray'd *Rochel*, and that the Loſs of that City was the apparent Perdition and Loſs of thirty two Places of Strength from the *French* Proteſtants in *Languedoc*, *Piedmont*, and *Dauphine*: therefore it was thought fit that he ſhould have a Fig given him to ſtop his mouth. Well, not long after, two Capuchins were ſent into *England* to kill honeſt *Soubiſe*, and the one of them diſcovered the other. *Soubiſe* rewarded the Diſcoverer, and demanded Juſtice here againſt the other, who was a Priſoner; but by what means you may eaſily imagine, that aſſaſſinate Raſcal, inſtead of being whipt, or receiving ſome more ſevere Puniſhment, was releaſed, and ſent back into *France* with Money in his Purſe: and one of the Meſſengers that

was

was ſent from *Rochel* to complain of thoſe abominable Treacheries, was taken here; and, as the Duke of *Roan* writes, was hanged for ſome pretended Felony or Treaſon: And much more to this purpoſe may be found in the Duke of *Roan*'s Memorials. But yet I know many wiſe, ſober Men do acquit the King from the Guilt of the Loſs of *Rochel*, and lay it upon the Duke, as if it were but a Loſs of his Reputation. They ſay that the Duke of *Buckingham* agitated his Affairs neither for Religion, nor the Honour of his Maſter; but only to ſatisfy his Paſſion in certain fooliſh Vows which he made in *France*, enter'd upon a War: and that the Buſineſs miſcarried through Ignorance, and for want of Underſtanding to manage ſo difficult a Negotiation, he being unfit to be an Admiral or a General.

I confeſs that for many Years I was of that Opinion, and thought that the King was ſeduced by evil Counſel; and ſome thought that *Buckingham* and others ruled him as a Child, and durſt do what they liſt: But certainly he was too politick and ſubtile a Man to be ſwayed by any thing but his own Judgment. Since *Naſeby* Letters, I ever thought him Principal in all Tranſactions of State, and the wiſeſt about him but Acceſſaries: He never acted by any implicit Faith in State-matters, the proudeſt of them all durſt never croſs him in any Deſign, when he had once reſolved upon it. Is any Man ſo ſoft-brained to think that the Duke or *Pennington* durſt betray *Rochel* without his Command? Would not he have hanged them up at their Return, if they had wilfully tranſgreſſed his Commands? A thouſand ſuch Excuſes made for him, are but like *Iriſh* Quagmires, that have no ſolid Ground or Foundation in Reaſon: He was well known to be a great Student in his younger Days, that his Father would ſay, He muſt make him a Biſhop. He had more Learning and Dexterity in State-Affairs undoubtedly, than all the Kings in Chriſtendom: If he had had Grace anſwerable to his ſtrong Parts, he had been another *Solomon*; but his Wit and Knowledge proved like a Sword in a Mad-man's Hand; he was a Stranger to the Work of Grace and the Spirit of God: And all thoſe *Meanders* in State, his ſerpentine Turnings and Windings, have but brought him to Shame and Confuſion. But I am fully ſatisfied, none of his Council durſt ever adviſe him to any thing, but what they knew before he reſolved to have done; and that they durſt as well take a Bear by the Tooth, as do, or conſent to the doing of any thing, but what they knew would pleaſe him; they did but hew and ſquare the Timber, he was the Maſter-Builder that gave the Form to every Architecture: and being ſo able and judicious to diſcern of every Man's Merits, never think that the Duke or *Pennington*, or any Judge or Officer, did ever any thing for his Advantage without his Command, againſt Law or Honour.

Upon all which Premiſes, may it pleaſe your Lordſhip, I do humbly demand and pray the Juſtice of this High Court; and yet not I, but the innocent Blood that hath been ſhed in theſe three Kingdoms, demands Juſtice againſt him: This Blood is vocal, and cries aloud, and yet ſpeaks no better, but much louder than the Blood of *Abel*; for what Proportion hath the Blood of that righteous Man, to the Blood of ſo many Thouſands? If King *Ahab* and Queen *Jezabel*, for the Blood of one righteous *Naboth*, (who would not ſell his Inheritance for the full Value) were juſtly put to death; what Puniſhment does he deſerve, that is guilty of the Blood of Thouſands, and fought for a pretended Prerogative, that he might have any Man's Eſtate that he liked, without paying for it? This Blood hath long cried, How long Parliament, how long Army, will ye forbear to avenge our Blood? Will ye not do Juſtice upon the capital Author of all Injuſtice? When will ye take the proud Lion by the Beard, that defies you with imperious Exultations? What's the Houſe of Commons? What's the Army? As *Pharaoh* ſaid, *Who is the Lord? And who is* Moſes? I am not accountable to any Power on Earth; thoſe that were murdered at *Brainford*, knock'd on the Head in the Water, and thoſe honeſt Souls that were kill'd in cold Blood at *Bolton* and *Leverpool* in *Lancaſhire*, at *Bartomley* in *Cheſhire*, and many other Places, their Blood cries Night and Day for Juſtice againſt him; their Wives and their Children cry, Juſtice upon the Murderer, or elſe give us our Fathers and Huſbands again: Nay, ſhould the People be ſilent, the very Stones and Timber of the Houſes would cry for Juſtice againſt him. But, my Lord, before I pray Judgment, I humbly crave leave to ſpeak to two Particulars. 1. Concerning the Priſoner. When I conſider what he was, and how many Prayers have been made for him, though I know that all the World cannot reſtore him, nor ſave his Life, becauſe God will not forgive his temporal Puniſhment; yet if God in him will be pleaſed to add one Example more to the Church, of his unchangeable Love to his Elect in Chriſt, not knowing but that he may belong to the Election of Grace; I am troubled in my Spirit, in regard of his eternal Condition, for fear that he ſhould depart this Life without Love and Reconciliation to all thoſe Saints whom he hath ſcorned, under the notion of Presbyterians, Anabaptiſts, Independents and Sectaries. It cannot be denied, but that he hath ſpent all his Days in unmeaſurable Pride; that during his whole Reign he hath deported himſelf as a God, been depended upon, and adored as God; that hath challenged and aſſumed an Omnipotent Power, an earthly Omnipotence, that with the Breath of his Mouth hath diſſolved Parliaments; his *Non placet* hath made all the Counſels of that Supreme Court to become Abortives. *Non curo* hath been his Motto, who inſtead of being honoured as good Kings ought to be, and no more, hath been idolized and adored, as our good God only ought to be. A Man that hath ſhot all his Arrows againſt the Upright in the Land, hated Chriſt in his Members, ſwallowed down Unrighteouſneſs, as the Ox drinks Water; eſteemed the Needy as his Footſtool, cruſh'd honeſt publick-ſpirited Men, and grieved when he could not afflict the Honeſt more than he did; counted it the beſt Art and Policy to ſuppreſs the Righteous, and to give way to his Courtiers ſo to gripe, grind, oppreſs and over-reach the free People of the Land, that he might do what he liſt (the Remembrance whereof would pierce his Soul, if he knew the Preciouſneſs of it) but all Sins to an infinite Mercy, are equally pardonable: therefore my Prayer for this poor Wretch ſhall be, That God would ſo give him Repentance to Life, that he may believe in that Chriſt, whom he hath impriſoned, perſecuted, and murdered in the Saints; That he which hath lived a Tyrant, and hated nothing ſo much as Holineſs, may die a Convert, and in Love to the Saints in *England*; that ſo the Tears of the Oppreſſed and the Afflicted, may not be as ſo many fiery ſtinging Serpents, cauſing an eternal Deſpairing, continual Horror to this miſerable Man, when all Tyrants ſhall be aſtoniſh'd,

and innocent Blood will affright more than twelve Legions of Devils. All the Hurt that I wish to him, is, That he may look the Saints in the face with Comfort; for the Saints must judge the World: And however it may be, he or his Adherents may think it a brave *Roman* Spirit, not to repent of any thing, nor express any Sorrow for any Sin, though never so horrid, taking more care and fear not to change their Countenance upon the Scaffold, than what shall become of them after Death; yet I beseech your Lordship, that I may tell him and all the Malignants now living, but this; *Charles Stuart*, unless you depart this Life in Love and Reconciliation to all those Saints and godly Men, whom you have either ignorantly or maliciously opposed, mock'd, and persecuted, and still scorn and jeer at, as Hereticks and Sectaries, there is no more Hopes for you ever to see God in Comfort, than for me to touch the Heavens with my Finger, or with a Word to annihilate this great Building, or for the Devil to be saved; which he might be, if he could love a Saint as such. No, Sir, it will be too late for you to say to those Saints, whom you have defied, Give me some of your Holiness, that I may behold God's angry Countenance: You can expect no Answer, but, Go buy, Sir, of those Soul-hucksters, your Bishops, which fed you with Chaff and Poison; and now you must feed upon Fire and Brimstone to all Eternity.

2. Concerning my self, I bear no more Malice to the Man's Person, than I do to my dear Father; but I hate that cursed Principle of Tyranny, that has so long lodged and harboured within him, which has turned our Waters of Law into Blood. And therefore, upon that malignant Principle, I hope this High-Court (which is an Habitation of Justice, and a Royal Palace of Principles of Freedom) will do speedy Justice; That this Lion which has devoured so many Sheep, may not only be removed out of the way, but that this Iron Scepter, which has been lifted up to break this poor Nation in pieces like a Potter's Vessel, may be wrested out of the Hands of Tyrants; That my honourable Clients (for whom I am an unworthy Advocate) the People of *England*, may not only taste, but drink abundantly of those sweet Waters of that Well of Liberty, which this renowned Army hath digg'd with their Swords, which was stop'd by the *Philistines*, the fierce *Jew*, and uncircumcised *Canaanite*; the Hopes whereof made me readily hearken to the Call to this Service, as if it had been immediately from Heaven, being fully satisfied, that the Prisoner was long since condemned to die by God's Law, (which being more noble and antient than any Law of Man, if there had been a Statute that he should not die, yet he ought to be put to death notwithstanding;) and that this High-Court was but to pronounce the Sentence and Judgment written against him. And though I might have been sufficiently discouraged, in respect that my Reason is far less than others of my Profession; yet considering that there are but two things desirable, to make a dumb Man eloquent, namely, a good Cause, and good Judges; the first whereof procures the Justice of Heaven, and the second, Justice upon Earth: and thinking that happily God might make use of one mean Man at the Bar, amongst other Learned Counsel, that more of his mind might appear in it, (for many times the less there is of Man, the more God's Glory does appear; and hitherto very much of the Mind of God hath appeared in this Action) I went as cheerfully about it, as to a Wedding. And that the Glory of this Administration may be wholly given to God, I desire to observe, to the Praise of his great Name, the Work of God upon my own Spirit, in his gracious Assistance and Presence with me, as a Return of Prayer, and Fruit of Faith; believing that God never calls to the acting of any thing so pleasing to him, as this most excellent Court of Justice is; but he is present with the Honourable Judges, and those that wait upon them. I have been sometimes of Counsel against Felons and Prisoners, but I never moved the Court to proceed to Judgment against any Felon, or to keep any Man in Prison, but I trembled at it in my Thoughts, as thinking it would be easier to give an account of Mercy and Indulgence, than of any thing that might look like Rigour: but now my Spirits are quite of another temper, and I hope it is Meat and Drink to good Men, to have Justice done; and Recreation to think what Benefit this Nation will receive by it.

And now, my Lord, I must, as the truth is, conclude him guilty of more transcendent Treasons, and enormous Crimes, than all the Kings in this part of the World have ever been. And as he that would picture *Venus*, must take the Eyes of one, the Cheeks of another beautiful Woman, and so other Parts, to make a compleat Beauty; so to delineate an absolute Tyrant, the Cruelty of *Richard* the Third, and all the Subtilty, Treachery, deep Dissimulation, abominable Projects, and dishonourable Shifts that ever were separately in any that swayed the *English* Scepter, conspired together to make their Habitation in this whited Wall. Therefore I humbly pray, That as he has made himself a Precedent in committing such horrid Acts, which former Kings and Ages knew not, and have been afraid to think of, That your Lordship and this High-Court, out of your sublime Wisdoms, and for Justice-sake, would make him an Example for other Kingdoms for the time to come, that the Kings of the Earth may hear and fear, and do no more so wickedly; that he which would not be a Pattern of Vertue, and Example of Justice in his Life, may be a Precedent of Justice to others by his Death.

A true Copy of the Journal of the High Court of Juſtice, for the Tryal of King CHARLES, *as it was read in the Houſe of Commons, and atteſted under the Hand of* Phelps, *Clerk to that Court: Taken by* J. Nalſon, *LL. D.* January *the 4th,* 1683. *To which are added, by Mr.* Nalſon, *ſeveral Particulars that are omitted by* Phelps.

An Act of the Commons of *England*, aſſembled in Parliament, for erecting of a High Court of Juſtice, for the Trying and Judging of *Charles Stuart* King of *England*.

WHereas it is notorious, That Charles Stuart, *the now King of* England, *not content with thoſe many Encroachments which his Predeceſſors had made upon the People in their Rights and Freedoms, hath had a wicked Deſign totally to ſubvert the Antient and Fundamental Laws and Liberties of this Nation, and in their place to introduce an Arbitrary and Tyrannical Government; and that beſides all other evil Ways and Means to bring this Deſign to paſs, he hath proſecuted it with Fire and Sword, levied and maintained a cruel War in the Land, againſt the Parliament and Kingdom, whereby the Country hath been miſerably waſted, the publick Treaſure exhauſted, Trade decayed, thouſands of People murdered, and infinite other Miſchiefs committed: For all which high and treaſonable Offences, the ſaid* Charles Stuart *might long ſince juſtly have been brought to exemplary and condign Puniſhment. Whereas alſo, the Parliament well hoping that the Reſtraint and Impriſonment of his Perſon, after it had pleaſed God to deliver him into their hands, would have quieted the Diſtempers of the Kingdom, did forbear to proceed judicially againſt him; but found by ſad Experience, that ſuch their Remiſſneſs ſerved only to encourage him and his Complices in the Continuance of their evil Practices, and in raiſing of new Commotions, Rebellions and Invaſions: for Prevention therefore of the like or greater Inconveniences, and to the end no Chief Officer or Magiſtrate whatſoever may hereafter preſume traitorouſly and maliciouſly to imagine or contrive the Enſlaving or Deſtroying of the* Engliſh *Nation, and to expect Impunity for ſo doing; Be it ordained, and enacted by the Commons in Parliament, and it is hereby ordained and enacted by Authority thereof, That* Thomas *Lord* Fairfax; Oliver Cromwell, Henry Ireton, *Eſquires*; *Sir* Hardreſs Waller, *Knight*; Philip Skippon, Valentine Wauton, Thomas Harriſon, Edward Whaley, Thomas Pride, Iſaac Ewer, Richard Ingoldsby, Henry Mildmay, *Eſquires*; *Sir* Thomas Honywood, Thomas *Lord* Grey *of* Grooby, Philip *Lord* Liſle, William *Lord* Mounſon; *Sir* John Danvers, *Sir* Thomas Maleverer *Baronet*; *Sir* John Bourchier, *Sir* James Harrington, *Sir* William Allanſon, *Sir* Henry Mildmay, *Sir* Thomas Wroth, *Knights*; Sir William Maſham, *Sir* John Barrington, *Sir* William Brereton, *Baronets*; Robert Wallop, William Heveningham, *Eſquires*; Iſaac Pennington, Thomas Atkins, Rowland Wilſon, *Aldermen of the City of* London; *Sir* Peter Wentworth *Knight of the Bath*; Henry Martin, William Purefoy, Godfrey Boſvile, John Trenchard, Herbert Morley, John Berkſtead, Matthew Thomlinſon, John Blackiſtone, Gilbert Millington, *Eſquires*; *Sir* William Conſtable *Baronet*; Edmond Ludlow, John Lambert, John Hutchinſon *Eſquires*; *Sir* Arthur Hazlerig, *Sir* Michael Liveſey, *Baronets*; Richard Salwey, Humphry Salwey, Robert Tichbourn, Owen Roe, Robert Manwaring, Robert Lilbourn, Adrian Scroop, Richard Dean, John Okey, Robert Overton, John Huſon, John Desborough, William Goff, Robert Duckenfield, Cornelius Holland, John * Carey, *Eſquires*; *Sir* William Armyn *Baronet*; John Jones *Eſq*; Miles Corbet, Francis Allen, Thomas Liſter, Benjamin Weſton, Peregrine Pelham, John Gourdon, *Eſquires*; Francis Thorp *Serjeant at Law*; John Nutt, Thomas Challoner, Algernon Sidney, John Anlaby, John Moore, Richard Darley, William Say, John † Aldred, John Fagg, James Nelthrop, *Eſquires*; *Sir* William Roberts, *Knight*; Francis Laſtels, Alexander Rigby, Henry Smith, Edmond Wild, James Challoner, Joſias Berners, Dennis Bond, Humphrey Edwards, Gregory Clement, John Fry, Thomas Wogan, *Eſquires*; *Sir* Gregory Norton *Baronet*; John Bradſhaw *Serjeant at Law*, Edmond Harvey, John Dove, John Ven, *Eſquires*; John Fowks *Alderman of the City of* London; Thomas Scot *Eſq*; Thomas Andrews *Alderman of the City of* London; William Cawley, Abraham Burrell, Anthony Stapeley, Roger Gratwick, John Downs, Thomas Horton, Thomas Hammond, George Fenwick, *Eſquires*; Robert Nicholas *Serjeant at Law*; Robert Reynolds, John Liſle, Nicholas Love, Vincent Potter, *Eſquires*; *Sir* Gilbert Pickering *Bar.* John Weaver, Roger Hill, John Lenthall, *Eſquires*; *Sir* Edward Bainton; John Corbet, Thomas Blunt, Thomas Boon, Auguſtine Garland, Auguſtine Skinner, John Dixwell, George Fleetwood, Simon Meyne, James Temple, Peter Temple, Daniel Blagrave, *Eſquires*; *Sir* Peter Temple, *Knight and Baronet*; Thomas Wayte, John Brown, John Lowry, *Eſquires*; *ſhall be, and are hereby appointed and required to be Commiſſioners and Judges for the Hearing, Trying and Adjudging of the ſaid* Charles Stuart.*

* This ought to be Carew.

† Alured.

And

And the ſaid Commiſſioners, or any twenty, or more of them, ſhall be and are hereby authorized and conſtituted an High Court of Juſtice, to meet and ſit at ſuch convenient Time and Place as by the ſaid Commiſſioners, or the major part of twenty, or more of them, under their Hands and Seals, ſhall be appointed and notified by publick Proclamation in the great Hall or Palace-yard at Weſtminſter; *and to adjourn from time to time, and from place to place, as the ſaid High Court, or major part thereof meeting, ſhall hold fit; and to take order for the charging of him the ſaid* Charles Stuart *with the Crimes and Treaſons above mentioned, and for the receiving of his perſonal Anſwer thereunto; and for the Examination of Witneſſes upon Oath, which the Court hath hereby Authority to adminiſter, or otherwiſe, and taking any other Evidence concerning the ſame, and thereupon: or in default of ſuch Anſwer, to proceed to final Sentence, according to Juſtice and the Merit of the Cauſe; and ſuch final Sentence to execute, or cauſe to be executed, ſpeedily and impartially. And the ſaid Court is hereby authorized and required to appoint and direct all ſuch Officers, Attendants, and other Circumſtances, as they, or the major part of them, ſhall in any ſort judge neceſſary or uſeful for the orderly and good managing of the Premiſes. And* Thomas *Lord* Fairfax, *the General, and all Officers and Soldiers under his Command, and all Officers of Juſtice, and other well-affected Perſons, are hereby authorized and required to be aiding and aſſiſting unto the ſaid Court in the due Execution of the Truſt hereby committed. Provided, That this Act, and the Authority hereby granted, do continue in force for the ſpace of one Month, from the making hereof, and no longer.*

Hen. Scobell, *Cler. Parl. Dom. Com.*

In purſuance of which ſaid Act, the Houſe of Commons ordered as followeth, *viz.*

Die Sabbati, 6 Jan. 1648.

ORdered by the Commons aſſembled in Parliament, That the Commiſſioners nominated in the Act, for erecting of an High Court of Juſtice for the trying and judging of *Charles Stuart*, King of *England*, do meet on Monday next, at Two of the clock in the Afternoon, in the *Painted Chamber*.

By virtue of which ſaid recited Act, and of the ſaid Order grounded thereupon, the Commiſſioners whoſe Names are here under written, met on Monday the ſaid 8th Day of *January*, 1648. in the ſaid *Paimed Chamber*, at *Weſtminſter*; where the ſaid Act was openly read, and the Court called.

Commiſſioners preſent.

Thomas Lord *Fairfax.*
Oliver Cromwell Eſq;
Henry Ireton Eſq;
Sir *Hardreſs Waller.*
Valentine Wauton.
Edward Whaley.
Thomas Pride.
Iſaac Ewers.
Sir *Gregory Norton* Bar.
Peter Temple Eſq;
John Ven Eſq;
Thomas Challoner Eſq;
Henry Marten Eſq;
John Berkſtead Eſq;
Gilbert Millington Eſq;
Richard Deane Eſq;
Cornelius Holland Eſq;
John Jones Eſq;
John Alured Eſq;
Henry Smith Eſq;
John Liſle Eſq;
James Temple Eſq;
Adrian Scroope Eſq;
Edmond Ludlow Eſq;
John Huſon Eſq;
Thomas Harriſon Eſq;
Nicholas Love Eſq;
Tho. Ld *Grey* of *Grooby.*
Sir *John Danvers.*
Sir *Tho. Maleverer* Bar.
Sir *John Bourchier.*
Sir *Henry Mildmay.*
James Challoner Eſq;
Gregory Clement Eſq;
John Fry Eſq;
Auguſtine Garland Eſq;
Daniel Blagrave Eſq;
Robert Tichbourne Eſq;
Will. Heveningham Eſq;
William Purefoy Eſq;
John Blakiſtone Eſq;
William Lord *Mounſon.*
John Okey Eſq;
John Carew Eſq;
Peregrine Pelham Eſq;
Francis Laſſells Eſq;
John Downes Eſq;
John Brown Eſq;
John Hutchinſon Eſq;
Miles Corbet Eſq;
Humphrey Edwards Eſq;
Edmond Harvey Eſq;
William Goff Eſq;

The Commiſſioners of the Court being, as aforeſaid, met, and informing themſelves of the Tenor of their Commiſſion, they accordingly appoint the ſaid Court to be holden in the ſame Place on Wedneſday the 10th of the ſaid Month of *January*; and ordered Proclamation thereof to be made in the great Hall at *Weſtminſter* by *Edward Dendy*, Serjeant at Arms; authorizing him thereunto by Precept, under their Hands and Seals, in theſe Words following, *viz.*

BY virtue of an Act of the Commons of *England*, aſſembled in Parliament, for erecting of an High Court of Juſtice for the trying and judging of *Charles Stuart*, King of *England*, we, whoſe Names are hereunder written, (being Commiſſioners, amongſt others nominated in the ſaid Act) do hereby appoint, That the High Court of Juſtice, mentioned in the ſaid Act, ſhall be holden in the *Painted Chamber*, in the Palace of *Weſtminſter*, on Wedneſday the 10th Day of this inſtant *January*, by One of the clock in the Afternoon. And this we do appoint to be notified by publick proclaiming hereof in the great Hall at *Weſtminſter* to-morrow, being the 9th Day of this inſtant *January*, betwixt the Hours of Nine and Eleven in the Forenoon. In Teſtimony whereof, we have hereunto ſet our Hands and Seals this 8th Day of *January*, *Anno Domini* 1648.

We the Commiſſioners, whoſe Names are hereunto ſubſcribed, do hereby authorize and appoint *Edward Dendy*, Serjeant at Arms, to cauſe this to be proclaimed, according to the Tenor thereof, and to make due Return of the ſame, with this Precept, to the ſaid Court, at the Time and Place above-mentioned.

Sealed and ſubſcribed by

William Monſon.
Tho. Grey.
Oliver Cromwell.
Gregory Norton.
Henry Ireton.
H. Edwards.
John Hutchinſon.
Har. Waller.
William Conſtable.
John Liſle.
Henry Martin.
Valentine Wauton.
John Blakiſtone.
Gilbert Millington.
Adrian Scroope.
James Temple.
James Challoner.
Thomas Hariſon.
John Jones.
John Huſon.
Peregr. Pelham.
Edmond Ludlow.
John Berkſtead.
Peter Temple.
Edw. Whaley.
John Okey.
Rob. Tichbourn.
Thomas Pride.
Henry Smith.
Thomas Maleverer.
Thomas Challoner.
John Fry.
John Bourchier.
John Carew.
Aug. Garland.
Richard Deane.
Daniel Blagrave.

Which

Which ſaid Precept is thus returned on the Backſide, *viz.* I have cauſed due Proclamation to be made hereof, according to the Tenor of the Precept within written.

E. Dendy, Serjeant at Arms.

And in order to the more regular and due Proceedings of the ſaid Court, they nominate Officers; and accordingly choſe Mr. *Aske*, Dr. *Doriſlaus*, Mr. *Steel*, and Mr. *Cook*, Counſel, to attend the ſaid Court; Mr. *Greaves* and Mr. *John Phelps* Clerks; to whom Notice thereof was ordered to be given.

Mr. *Edward Walford*, Mr. *John Powell*, Mr. *John King*, Mr. *Phineas Payne*, and Mr. *Hull*, are choſen Meſſengers to attend this Court.

January 9. 1648. according to the Precept of the 8th Inſtant, Serjeant *Dendy* made Proclamation for the Sitting of the ſaid Court in the Manner following, *viz.*

About Ten of the clock of the ſame Day the ſaid Serjeant, being attended with ſix Trumpets, and a Guard of two Troops of Horſe, himſelf with them on horſeback, bearing his Mace, rideth into the Middle of *Weſtminſter-Hall*, (the Court of *Chancery* then ſitting at a general Seal) where, after the ſaid Trumpet ſounding, (the Drums then likewiſe beating in the *Palace-Yard*) he cauſeth the ſaid Precept to be openly read: which being done, the Houſe of Commons, at the ſame time ſitting, order as followeth;

Die Martis, 9 Jan. 1648.

ORdered by the Commons aſſembled in Parliament, That the ſame Proclamation that was made this Morning in *Weſtminſter-Hall*, touching the Tryal of the King, be made at the *Old Exchange*, and in *Cheapſide* forthwith, and in the ſame manner; and that Serjeant *Dendy*, the Serjeant at Arms, do proclaim the ſame accordingly; and that the Guard that lieth in *Paul's* do ſee the ſame done.

In purſuance whereof, Serjeant *Dendy* about Twelve of the clock of the ſame Day, accompanied with ten Trumpets, and two Troops of Horſe, drawn out for that purpoſe in *Paul's* Church-Yard, himſelf mounted, bearing his Mace, they all march from thence unto the *Old Exchange*, *London*; where, after the Trumpets had ſounded, he maketh Proclamation as he had done before in *Weſtminſter-Hall*: and from thence they immediately march to *Cheapſide*, making the like Proclamation there alſo, in manner as aforeſaid. During all which Time, the Streets are throng'd with Spectators, without the leaſt Violence, Injury, or Affront, publickly done or offered.

Mercurii, 10 Jan. 1648. *Painted Chamber.*

Commiſſioners preſent.

Oliver Cromwell Eſq;
Henry Ireton Eſq;
Sir *Hardreſs Waller* Knt.
Valentine Wauton Eſq;
Edward Whaley Eſq;
Thomas Harriſon Eſq;
Thomas Pride Eſq;
Sir *Thomas Maleverer* Bar.
James Challoner.
Sir *John Danvers.*
John Fry.
Sir *Gregory Norton.*
Auguſtine Garland.
Peter Temple.
Daniel Blagrave.
John Ven.
Henry Martin.
William Pureſoy.
John Blackiſtone.
Gilbert Millington.
Edmond Ludlow.
John Hutchinſon.
John Corbet.
Robert Tichbourne Eſq;
Owen Roe Eſq;
John Deane Eſq;
John Huſon Eſq;
Cornelius Holland Eſq;
John Carew Eſq;
Thomas Liſter Eſq;
Sir *Henry Mildmay* Knt.
Thomas Challoner Eſq;
Peregrine Pelham Eſq;
John Moor Eſq;
William Say Eſq;
Francis Laſſells Eſq;
Henry Smith Eſq;
Thomas Scot Eſq;
Nicholas Love Eſq;
Vincent Potter Eſq;
Adrian Scroope Eſq;
John Dixwell Eſq;
John Liſle Eſq;
John Okey Eſq;
John Berkſtead Eſq;

The Court being ſat in the Place aforeſaid, began to take into Conſideration the Manner and Order that they intended to obſerve at the King's Tryal, and appointed two Uſhers of the Court; *viz.* Mr. *Edward Walford* and Mr. *Vowell*; and Mr. *Litchman* was choſen a Meſſenger of this Court.

John Bradſhaw, Serjeant at Law, a Commiſſioner of this Court, was then choſen Preſident of the ſaid Court; who being abſent, Mr. *Say*, one of the Commiſſioners then preſent, was appointed Preſident *pro tempore*, and until the ſaid Serjeant *Bradſhaw* ſhould attend the ſaid Service. The ſaid Mr. *Say* accordingly took his Place, and gave the Thanks of this Court to Mr. *Garland*, one of the Commiſſioners of this Court, for his great Pains by him formerly taken about the Buſineſs of this Court.

The Court were informed of the great and important Imployment that at preſent lay upon Mr. *Greaves*, in the behalf of the Commonwealth, from which he cannot be ſpared, without Prejudice to the Publick; and it was therefore moved in his behalf that he might be excuſed from attending the Service of one of the Clerks of the ſaid Court; which the Court admitted as a ſufficient Excuſe: And thereupon Mr. *Andrew Broughton* was named and appointed one of the Clerks of this Court, with *John Phelps*. The ſaid *John Phelps* being then ſent for by a Meſſenger of the Court, and accordingly making his Appearance, was commanded to attend the ſaid Service; who attended the ſame accordingly. And a Meſſenger of the Court was ſent to ſummon the ſaid Mr. *Broughton*.

Mr. *Aske*, Mr. *Steel*, Dr. *Doriſlaus*, and Mr. *Cook*, are appointed Counſel in the behalf of the Commonwealth, to prepare and proſecute the Charge againſt the King, according to the Act of the Commons aſſembled in Parliament in that behalf; and, in particular, the Court did appoint Mr. *Steel* Attorney, and Mr. *Cook* Sollicitor, to take care thereof. And the Act for conſtituting the ſaid Court was ordered to be tranſcribed, and delivered to the ſaid Counſel; which was done accordingly.

Mr. *Love*, Mr. *Liſle*, Mr. *Millington*, Mr. *Garland*, Mr. *Marten*, Mr. *Tho. Challoner*, Sir *John Danvers*, and Sir *Henry Mildmay*, or any two of them, are appointed a Committee, to conſider of all Circumſtances in matter of Order and Method for the carrying on and managing the King's Tryal; and for that purpoſe to adviſe with the Counſel aſſigned to prove the Charge againſt the King, and to make Report therein the next Sitting: And the Care of the Buſineſs is particularly recommended to Mr. *Love*.

Edward Dendy, Serjeant at Arms, made return of the Precept of the 8th Inſtant, for proclaiming the Sitting of the Court; which was received: The ſaid Serjeant *Dendy* having proclaimed the ſame by the

the Sound of Trumpet in *Weſtminſter-Hall*, as alſo at the *Old Exchange*, and in *Cheapſide*.

Edward Dendy, Serjeant at Arms, is appointed Serjeant at Arms to attend the ſaid Court: Mr. *John King* is appointed Cryer of the ſaid Court.

The Court having thus made Preparations for the ſaid Tryal, (during all which Time they ſat private) the Doors are now opened for all Parties, that had any thing to do there, to give their Attendance.

Three Proclamations being made by the Cryer, the Act for conſtituting the ſaid Court was openly read, and the Court called: The Commiſſioners preſent were as before named.

The Commiſſioners that were abſent were ordered to be ſummoned to attend the ſaid Service; and Summons were iſſued forth accordingly.

The Court adjourned it ſelf till Friday, *Jan.* 12. at Two of the clock in the Afternoon, to the ſame Place.

Jan. 12. 1648.

AT which Time the Commiſſioners preſent were as after named.

Die Veneris, 12 Jan. 1648. *Painted Chamber.*

Commiſſioners preſent.

Oliver Cromwell Eſq;
Sir *John Danvers*.
Thomas Hammond Eſq;
Peregrine Pelham Eſq;
Herbert Morley Eſq;
James Temple Eſq;
William Say Eſq;
John Huſon Eſq;
Sir *John Bourchier*, Knt.
John Bradſhaw, Serj. at Law.
Gilbert Millington Eſq;
John Moor Eſq;
John Brown Eſq;
John Fry Eſq;
Sir *Hardreſs Waller* Knt.
Adrian Scroope Eſq;
Thomas Challoner Eſq;
Thomas Pride Eſq;
John Liſle Eſq;
Owen Roe Eſq;
Thomas Scot Eſq;
John Jones Eſq;
John Carew Eſq;
John Fagg Eſq;
Henry Marten Eſq;
John Blackiſtone Eſq;
John Dove Eſq;
Henry Smith Eſq;
John Ven Eſq;
John Downs Eſq;
Nicholas Love Eſq;
Thomas Harriſon Eſq;
John Berkſtead Eſq;

With divers more.

Serjeant *Bradſhaw*, upon ſpecial Summons, attended this Court, being one of the Commiſſioners thereof. And being, according to former Order, called to take his Place of Preſident of the ſaid Court, made an earneſt Apology for himſelf to be excuſed; but therein not prevailing, in obedience to the Commands and Deſires of this Court, he ſubmitted to their Order, and took place accordingly. And thereupon the ſaid Court ordered concerning him as followeth, *viz. That* John Bradſhaw, *Serjeant at Law, who is appointed Preſident of this Court, ſhould be called by the Name, and have the Title of* Lord Preſident, *and that as well without as within the ſaid Court, during the Commiſſion and Sitting of the ſaid Court.* Againſt which Title, he preſſed much to be heard to offer his Exceptions; but was therein over-ruled by the Court.

Mr. *Andrew Broughton* attended according to former Order: And it was thereupon again ordered, That *Andrew Broughton* and *John Phelps*, Gent. be, and they are hereby conſtituted Clerks of the ſaid Court, and enjoined to give their Attendance from time to time accordingly.

ORdered, That the Counſel aſſigned, or ſuch as they or any of them ſhall appoint, ſhall have Power to ſearch for all Records and Writings concerning the King's Tryal, and to take into their Cuſtody, or order the producing of all ſuch Records and Papers, or Copies thereof, by any Clerk, or other Perſon whatſoever, at or before the ſaid Tryal, as they ſhall judge requiſite; the ſaid Counſel giving a Note under their Hands of their Receipt of all ſuch Original Books and Papers, which they ſhall ſo take into their Cuſtody. And that the ſaid Counſel ſhall have Power to ſend for ſuch Perſon or Perſons at or before the ſaid Tryal, and to appoint, by Writing under their Hands, their Attendance for the Service of the State in this Buſineſs, as they ſhall think requiſite, requiring all Perſons concerned to yield Obedience thereunto at their Perils.

Sir *Hardreſs Waller* Knight, and Colonel *Harriſon*, are ordered to deſire the Lord General from time to time to appoint ſufficient Guards, to attend and guard the ſaid Court during their Sitting.

ORdered, That Col. *Tichbourne*, Col. *Roe*, Mr. *Blackiſtone*, and Mr. *Fry*, Members of this Court, ſhall and do make Preparations for the Tryal of the King, *That it may be performed in a Solemn Manner:* And that they take care for other neceſſary Proviſions and Accommodations in and about that Tryal; and are to appoint and command ſuch Workmen in and to their Aſſiſtance, as they ſhall think fit.

Mr. *Love* reporteth from the Committee appointed *Jan.* 10. inſtant, to conſider of the Circumſtances in Matters of Order for Tryal of the King: And it is thereupon ordered, That in managing the Proceedings in open Court, at the Time of the King's Tryal, none of the Court do ſpeak but the Preſident and Counſel; and in caſe of any Difficulty ariſing to any one, that he ſpeak not to the Matter openly, but deſire the Preſident that the Court may pleaſe to adviſe. By which Order it is not intended that any of the Commiſſioners be debarred, at the Examination of any Witneſs, to move the Lord Preſident to propound ſuch Queſtion to the Witneſs, as ſhall be thought meet for the better diſquiſition and finding out of the Truth.

Ordered, That there ſhall be a Marſhal to attend this Court, if there be Cauſe.

Ordered, That the Lord Preſident and Counſel do manage the Tryal againſt the King, according to Inſtructions to be given them by the Court; and that the Committee for conſidering of all Circumſtances for the managing of the King's Tryal, do conſider of Rules and Inſtructions in that behalf; and are to conſult with the Counſel, and addreſs themſelves to the Lord Preſident for Advice in the Premiſes.

Ordered, That the Counſel do bring in the Charge againſt the King on Monday next.

The Committee for conſidering of the Circumſtances of Order for the King's Tryal, together with Sir *Hardreſs Waller*, Col. *Whaley*, Mr. *Scot*, Col. *Tichbourne*, Col. *Harriſon*, Lieut. Gen. *Cromwell*, and Col. *Deane*, are appointed to conſider of the Place for trying the King, and make Report tomorrow in the Afternoon; and are to meet tomorrow Morning in the Inner-Court of Wards,

at

at Nine of the clock: And who elſe of the Court pleaſe may be there.

The Court adjourned it ſelf till the Morrow in the Afternoon, at Two of the clock.

Sabbati, 13 Jan. 1648.

PRoclamation being made, and all Parties concerned required to give Attendance, the Court is called openly.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Oliver Cromwell Eſq;
Henry Ireton Eſq;
Sir *Hardreſs Waller* Knt.
Edward Whalley Eſq;
Thomas Pride Eſq;
Iſaac Ewer Eſq;
Sir *John Danvers.*
Sir *Gregory Norton.*
William Purefoy Eſq;
John Blackiſtone Eſq;
Gilbert Millington Eſq;
Sir *William Conſtable* Bar.
John Hutchinſon Eſq;
William Goffe Eſq;
Cornelius Holland Eſq;
John Carew Eſq;
Thomas Challoner Eſq;
Algernon Sidney Eſq;
William Say Eſq;
John Fagg Eſq;
Francis Laſſels Eſq;
Valentine Wauton Eſq;
Henry Smith Eſq;
Humphrey Edwards Eſq;
John Fry Eſq;
Sir *Thomas Maleverer* Bar.
William Heveningham Eſq;
John Dove Eſq;
John Venn Eſq;
Thomas Scot Eſq;
John Downes Eſq;
Adrian Scroope Eſq;
John Liſle Eſq;
Auguſtine Garland Eſq;
John Dixwell Eſq;
Daniel Blagrave Eſq;
John Brown Eſq;
John Deane Eſq;
John Berkſtead Eſq;
Iſaac Ewer Eſq;
Robert Lilbourn Eſq;
Thomas Hammond Eſq;
Edward Whalley Eſq;
Thomas Pride Eſq;
Thomas Ld *Grey* of *Grooby.*
William Ld *Mounſon.*
Sir *John Danvers.*
Sir *John Maleverer* Bar.
Sir *Thomas Wroth.*
Robert Wallop Eſq;
Henry Martin Eſq;
William Purefoy Eſq;
Gilbert Millington Eſq;
Edmond Ludlow Eſq;
John Hutchinſon Eſq;
Adrian Scroope Eſq;
John Okey Eſq;
John Huſon Eſq;
Peregrine Pelham Eſq;
Thomas Challoner Eſq;
John Moor Eſq;
John Alured Eſq;
Henry Smith Eſq;
James Challoner Eſq;
Humphrey Edwards Eſq;
Vincent Potter Eſq;
Auguſtine Garland Eſq;
James Temple Eſq;
Daniel Blagrave Eſq;
John Blackiſtone Eſq;
Oliver Cromwell Eſq;
Robert Tichbourne Eſq;
John Jones Eſq;
John Downes Eſq;
Sir *Hardreſs Waller.*
Thomas Horton Eſq;
Henry Ireton Eſq;
Algernon Sidney Eſq;
Peter Temple Eſq;
Nicholas Love Eſq;
Valentine Wauton Eſq;
John Liſle Eſq;
John Venn Eſq;
Cornelius Holland Eſq;
Thomas Scot Eſq;
Sir *William Conſtable* Bar.
Herbert Morley Eſq;
Miles Corbet Eſq;
John Fry Eſq;
William Goff Eſq;
John Fagg Eſq;
John Carew Eſq;
Sir *Henry Mildmay.*
Sir *Gregory Norton*, Bar.

Fifty eight Commiſſioners preſent.

Here the Court ſit private.

The Counſel attended, and preſented to the Court the Draught of a Charge againſt the King. Which being read, the Court appointed Commiſſary-General *Ireton*, Mr. *Millington*, Mr. *Martin*, Col. *Harvey*, Mr. *Challoner*, Col. *Harriſon*, Mr. *Miles Corbet*, Mr. *Scot*, Mr. *Love*, Mr. *Liſle*, Mr. *Say*, or any three of them to be a Committee; to whom the Counſel might reſort, for their further Advice concerning any thing of Difficulty in relation to the Charge againſt the King: Who were likewiſe with the Counſel to compare the Charge againſt him with the Evidence, and to take care for the preparing and fitting the Charge for the Court's more clear Proceedings in the Buſineſſes; as likewiſe to adviſe of ſuch general Rules as are fit for the expediting the Buſineſs of the ſaid Court, and to meet the Morrow Morning at Eight of the clock in the *Queen's-Court.*

Col. *Ludlow*, Col. *Purefoy*, Col. *Hutchinſon*, Col. *Scroope*, Col. *Deane*, Col. *Whalley*, Col. *Huſon*, Col. *Pride*, Sir *Hardreſs Waller*, Sir *William Conſtable*, together with the Committee for making Preparations for the King's Tryal, or any three of them, are appointed a Committee to conſider of the Manner of bringing the King to the Court at his Tryal, and of the Place where he ſhall be kept, and lodge at, during his ſaid Tryal; and to take conſideration of the ſecure Sitting of the ſaid Court, and placing the Guards that ſhall attend it, and are to meet to-morrow Morning, at Eight of the clock, in the Inner *Star-Chamber.*

The Court taking notice of the Nearneſs of *Hilary*-Term, and Neceſſity they apprehended of adjourning it in regard of the King's Tryal, thereupon were of Opinion, That it is fit that a Fortnight of the ſaid Term be adjourned: And Mr. *Liſle* is deſired to move the Houſe therein.

Three Proclamations.

The Court adjourned it ſelf till Wedneſday next, at Eight in the Morning.

The Court being to make further Preparations for the King's Tryal, ſit private. The Serjeant at Arms is authorized to employ ſuch other Meſſengers as ſhall be needful for the Service of the Court, giving in their Names to the Clerks of this Court.

Ordered, That the Serjeant at Arms do ſearch and ſecure the Vaults under the *Painted Chamber*, taking ſuch Aſſiſtance therein from the Soldiery as ſhall be needful.

Mr. *Garland* reporteth from the Committee for conſidering of the Place for the King's Tryal: And the Court thereupon ordered, That the ſaid Tryal of the King ſhall be in *Weſtminſter-Hall*; That the Place for the King's Tryal ſhall be where the Courts of *King's-Bench* and *Chancery* ſit in *Weſtminſter-Hall*; and that the Partitions between the ſaid Two Courts be therefore taken down; and that the Committee for making Preparations for the King's Tryal are to take care thereof accordingly.

The Court adjourned it ſelf till Monday at Two of the clock in the Afternoon to this Place.

Lunæ, 15 Jan. 1648.

THREE Proclamations are made, and all Parties concerned are required to give Attendance.

The Court is called openly.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Mercurii, 17 Jan. 1648.

THREE Proclamations are made, and all Parties concerned are required to give Attendance.

The Court is called.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

Oliver Cromwell Esq;	*William Goffe.*
Edward Whalley Esq;	*John Carew.*
Tho. Ld *Grey* of *Grooby.*	*Thomas Pride.*
Sir *John Danvers.*	*Francis Allen.*
Sir *Tho. Maleverer* Bar.	*Peregrine Pelham.*
Sir *Hardress Waller.*	*John Moor.*
John Blackistone Esq;	*Francis Lassels.*
John Berkstead Esq;	*Henry Smith.*
Sir *William Constable.*	*James Challoner.*
John Hutchinson.	*Humphrey Edwards.*
Robert Tichbourne.	*John Fry.*
Owen Roe.	Sir *Gregory Norton.*
Adrian Scroope.	*John Venn.*
Richard Deane.	*William Cawley.*
John Okey.	*Thomas Horton.*
John Huson.	*Thomas Hammond.*
Augustine Garland.	*Isaac Ewers.*
Simon Meyne.	*Cornelius Holland.*
Peter Temple.	Sir *John Bourchier.*
John Brown.	*Edmond Ludlow.*
Thomas Scot.	*Edmond Harvey.*
Thomas Lister.	*Edmond Wild.*
John Jones.	*Thomas Heath.*
Vincent Potter.	*William Heveningham.*
Daniel Blagrave.	*Henry Martin.*
William Say.	*William Purefoy.*
Nicholas Love.	*John Liste.*
Robert Lilbourne.	

Fifty six Commissioners present.

Ordered, That the Commissioners of this Court, who have not hitherto appeared, be summoned by Warrants under the Hands of the Clerks of this Court, to give their personal Attendance at this Court, to perform the Service to which they are, by Act of the Commons of *England* assembled in Parliament, appointed and required.

Ordered, That the Serjeant at Arms attending this Court, or his Deputy, do forthwith summon all the aforesaid Commissioners making default, who reside or dwell within twenty Miles of *London.*

Particular Warrants to every one of them were accordingly issued forth for their Attendance.

Upon Report made by Col. *Hutchinson*, from the Committee to consider of the Manner of bringing the King to Tryal, *&c.* the Court order as followeth, *viz.*

Ordered, That Sir *Robert Cotton's* House be the Place where the King shall lodge during his Tryal.

That the Chamber in Sir *Robert Cotton's* House, next the Study there, shall be the King's Bed-Chamber.

That the great Chamber, before the said Lodging-Chamber, be for the King's Dining-Room; and that a Guard, consisting of thirty Officers, and other choice Men, do always attend the King, who are to attend him at his Lodging above Stairs; and that two of the said Thirty do always attend in his Bed-Chamber.

That a Place for a Court of Guard, for 200 Foot-Soldiers, be built in Sir *Robert Cotton's* Garden, near the Water-side.

That ten Companies of Foot be constantly upon the Guards, for securing Sir *Robert Cotton's* House; and those Companies to be quartered in the Court of *Requests*, the *Painted Chamber*, and other necessary Places thereabouts.

That the Passage that cometh out of the Old Palace into *Westminster-Hall* be made up at the Entrance of the said Passage, next the said Guard.

That the top of the Stairs at the Court of *Wards* Door have a Cross-Bar made to it.

That the King be brought out of Sir *Robert Cotton's* House to his Tryal the lower way into *Westminster-Hall*, and so brought to the Bar in the Face of the Court, attended by the aboveaid Guard above Stairs.

That two Rails, of about forty Foot distance from the Place where this Court shall sit in *Westminster-Hall*, be made cross the said Hall: For the effectual and substantial doing whereof, this Court do refer it to the Care of the Committee appointed to consider of the Manner of bringing the King to Tryal; who are likewise to take care for raising the Floor in such part of the Hall as they shall think fit, for placing of the Guards. And that a Rail, or Rails, from the Court down to the Hall-Gate, be made, in such manner as they shall think fit, on the *Common-Pleas* side, to keep the People from the Soldiers.

That there be Guards set upon the Leads, and other Places that have Windows to look into the Hall.

That the General be desired from time to time to send and appoint convenient Guards of Horse, for the convenient Sitting of the Court.

That twenty Officers, or other Gentlemen, do attend upon the Lord President from time to time, to and from this Court, through *Westminster-Hall.*

That the Officers of the Ordnance do send unto this Court 200 Halberts, or Partizans, lying within the Tower of *London*, for the arming of the Guards that are to attend this Court.

That at the Time of the Tryal of the King, the Commissioners do, before their Sitting in the Court, meet in the *Exchequer-Chamber*, and do from thence come up to the Hall into the Court.

That all Back-doors from the House called *Hell* be stopp'd up during the King's Tryal.

That Lodgings be prepared for the Lord President at Sir *Abraham Williams's* House, in the New *Palace-Yard*, during the Sitting of this Court; and that all Provisions and Necessaries be provided for his Lordship.

That Sir *Henry Mildmay*, Mr. *Holland*, and Mr. *Edwards*, do take care for providing all Provisions and Necessaries for the King, during his Tryal.

That Sir *Henry Mildmay*, Mr. *Holland*, and Mr. *Edwards*, do likewise take care for all Necessaries for the Lord President.

Ordered, That the Committee for considering of the Manner of bringing the King to Tryal, do consider what Habits the Officers of this Court shall have; who are to advise with some Heralds at Arms therein, and concerning the ordering of the said Officers.

That a Sword be carried before the Lord President at the Tryal of the King.

That *John Humphreys* Esq; do bear the Sword before the Lord President.

That a Mace, or Maces, together with a Sword, be likewise carried before the Lord President.

This

This Court doth adjourn it ſelf to Three of the clock in the Afternoon.

Jan. 17. 1648. *Poſt Meridiem.*

Three Proclamations. The Court is cleared of Strangers; and they ſit private.

The Charge againſt the King is preſented by the Counſel, and ordered to be recommitted to the Committee appointed for Advice with the Counſel concerning the Charge againſt the King, who are to contract the ſame, and fit it for the Court's proceeding thereupon, according to the Act of Parliament in that behalf. And the ſame Committee are likewiſe to take care for the King's coming to *Weſtminſter* to Tryal, at ſuch Time as to them ſhall ſeem meet; and Lieutenant-General *Cromwell* is added to the ſaid Committee. And the Counſel are to attend this Court with the ſaid Charge to-morrow at Two of the clock in the Afternoon. And thereupon

Ordered, That the Committee for conſidering of the Manner of bringing the King to Tryal do meet to-morrow Morning, at Eight of the clock, in the *Exchequer-Chamber.*

The Court adjourned it ſelf till the Morrow at Two of the clock in the Afternoon, to the ſame Place.

Jovis, 18 Jan. 1648.

THREE Proclamations made.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Oliver Cromwell.
Edward Whalley.
Tho. Ld *Grey* of *Grooby.*
Sir *John Danvers.*
Sir *Tho. Maleverer* Bar.
Sir *Hardreſs Waller.*
John Berkſtead.
John Blackiſtone.
Sir *William Conſtable.*
John Hutchinſon.
Robert Tichbourne.
Cornelius Holland.
John Moor.
Richard Deane.
John Okey.
Thomas Hammond.
John Carew.
William Ld *Mounſon.*
John Huſon.
Thomas Pride.
William Cawley.
Henry Smith.
Peter Temple.
Thomas Wogan.
George Fleetwood.
Francis Laſſels.
Adrian Scroope.
Peregrine Pelham.
John Fry.
Sir *Gregory Norton.*
Humphrey Edwards.
John Venn.
William Purefoy.
Simon Meyne.
John Brown.
Herbert Morley.

Here the Court ſit private.

Col. *Tichbourne*, one of the Commiſſioners of this Court, informeth the Court, That he was with Mr. *Steel*, Attorney of this Court, and found him in his Bed very ſick; and by reaſon thereof not like, as yet, to attend the Service of this Court, according to former Order. And deſired him, the ſaid Colonel, to ſignify, That he, the ſaid Mr. *Steel*, no way declineth the Service of the ſaid Court, out of any Diſaffection to it; but profeſſeth himſelf to be ſo clear in the Buſineſs, that if it ſhould pleaſe God to reſtore him, he ſhould manifeſt his good Affection to the ſaid Cauſe; and that it is an Addition to his Affliction, that he cannot attend this Court, to do that Service that they have expected from him, and as he deſires to perform.

The Court adjourned itſelf till to-morrow Two of the clock in the Afternoon.

Veneris, 19 Jan. 1648.

THREE Proclamations. The Court called openly.

The Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident.

Henry Ireton.
Sir *Hardreſs Waller* Kt.
Thomas Harriſon.
Edward Whalley.
Iſaac Ewers.
William Lord *Mounſon.*
Sir *John Danvers.*
Sir *Thomas Maleverer* Bar.
Sir *John Bourchier* Kt.
William Heveningham.
William Purefoy.
John Berkſtead.
John Blackiſtone.
Gilbert Millington.
John Hutchinſon.
Sir *Michael Liveſey* Kt.
Robert Tichbourne.
Owen Roe.
Robert Lilbourne.
Adrian Scroope.
Richard Deane.
John Huſon.
Cornelius Holland.
John Jones.
Peregrine Pelham.
Thomas Challoner.
Algernon Sidney.
William Say.
Francis Laſſels.
Henry Smith.
Humphrey Edwards.
John Fry.
Sir *Gregory Norton* Bar.
John Dove.
Thomas Scot.
William Cawley.
Thomas Horton.
John Liſle.
Nicholas Love.
Vincent Potter.
John Dixwell.
Simon Meyne.
Peter Temple.
John Brown.
John Okey.
William Goffe.
John Carew.

Here the Court ſat private.

Col. *Hutchinſon* reporteth from the Committee appointed to conſider of the Habits of the Officers; and it is thereupon

Ordered, That three Gowns be provided for three Uſhers, and three Clokes for three Meſſengers of this Court.

Mr. *Millington* reporteth from the Committee for Advice with the Counſel concerning the Charge againſt the King, that the Counſel have perfected the Charge, and are ready to preſent it. He likewiſe reporteth the Draught of an Order, whereby the Charge may, by the Command of this Court, be exhibited, together with a Form of Words, the Effect whereof the Committee think fit to be pronounced by him that this Court ſhall appoint ſo to exhibit the ſaid Charge: which ſaid Order and Form of Words the Court have with ſome Alterations agreed unto, as followeth.

It is Ordered, That Mr. Attorney, and in his abſence Mr. Sollicitor, do in the behalf of the People of *England* exhibit and bring into this Court a Charge of High Treaſon, and other High Crimes, againſt *Charles Stuart* King of *England*, and charge him thereupon in the behalf aforeſaid.

The Form of Words are as followeth:

My Lord,

According to an Order of this High Court to me directed for that purpoſe, I do, in the name and on the behalf of the People of England, *exhibit and bring*

into this Court a Charge of High Treaſon, and other High Crimes, whereof I do accuſe Charles Stuart *King of* England, *here preſent. And I do, in the name and on the behalf aforeſaid, deſire the ſaid Charge may be received accordingly, and due Proceedings had thereupon.*

The Counſel likewiſe, according to Mr. *Millington's* Report, preſent a Draught of the Charge againſt the King; which was read the firſt, and ſecond, and third time, and referred back to the ſaid Counſel, to make ſome ſmall Amendments as to the Form thereof.

Ordered, That Commiſſary-General *Ireton*, Col. *Whalley*, Col. *Harriſon*, Sir *Hardreſs Waller*, or any two of them, do appoint the thirty Perſons that are by Order of the 17th Inſtant to attend the King, and the twenty that are to attend the Lord Preſident.

Ordered, That the Serjeant at Arms do ſecure Mr. *Squibb's* Gallery by ſuch ways and means as he ſhall conceive meet.

The Court adjourned itſelf till Nine of the clock to-morrow Morning.

Sabbati, 20 Jan. 1648.

THREE Proclamations, and Attendance commanded.

Ordered, That Sir *Henry Mildmay* be deſired to deliver unto *John Humphreys* Eſq; the Sword of State in his cuſtody; which ſaid Sword the ſaid Mr. *Humphreys* is to bear before the Lord Preſident of this Court.

The Court being ſat as aforeſaid, before they engaged in further Buſineſs, the Serjeant at Arms of the Houſe of Commons came thither, and acquainted the Court, that the Houſe wanted their Members that were of that Court; the Court thereupon adjourned till Twelve of the clock the ſame day.

The Court accordingly met at Twelve of the clock. Three Proclamations made.

Painted Chamber, 20 Jan. 1648.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Tho. Ld *Grey* of *Grooby*.
Henry Martin.
Oliver Cromwell.
Henry Ireton.
Auguſtine Garland.
Thomas Challoner.
Nicholas Love.
William Cawley.
John Venn.
William Pureſoy.
John Berkſtead.
James Challoner.
Peter Temple.
Tho. Harriſon.
Robert Tichbourne.
John Hutchinſon.
Sir *Gregory Norton.*
Sir *Tho. Maleverer* Bar.
Daniel Blagrave.
Owen Roe.
Thomas Wogan.
William Say.
Francis Laſſels.
John Jones.
Sir *John Bourchier.*
John Carew.
John Downes.
John Fry.
Sir *Michael Liveſey.*
Sir *John Danvers.*
Mr. *Millington.*
Sir *Hardreſs Waller.*
John Blackiſtone.
John Huſon.
Humphrey Edwards.
Iſaac Pennington, Alderman of *London.*
John Brown.
Edw. Whalley.
John Okey.
Thomas Pride.
Adrian Scroope.
Valentine Wauton.
Tho. Hammond.
James Temple.
Peregrine Pelham.
Thomas Liſter.
Edmond Ludlow.
Simon Meyne.
Thomas Scot.
Edmond Harvey.
William Lord *Mounſon.*
Henry Smith.
Sir *William Conſtable.*
Iſaac Ewers.
Sir *Henry Mildmay.*
Anthony Stapely.

Here the Court ſat private.

Ordered, That the Form and Method of the Court's proceeding unto, and in the reading of the Commiſſion by which they ſit, ſending for, and bringing in the Priſoner to the Bar, acquainting him in brief with the Cauſe of his bringing thither, receiving and reading the Charge, and demanding what the Priſoner ſays thereto, be referred to the Diſcretion of the Lord Preſident: as alſo, That in caſe the Priſoner ſhall in Language or Carriage towards the Court be inſolent, outrageous, or contemptuous, that it be left to the Lord Preſident to reprehend him therefore, and admoniſh him of his Duty, or to command the taking away of the Priſoner; and if he ſee cauſe, to withdraw or adjourn the Court. But as to the Priſoner's putting off his Hat, the Court will not inſiſt upon it for this day; and that if the King deſire time to anſwer, the Lord Preſident is to give him time.

Ordered, upon the Lord Preſident's Deſire and Motion, That Mr. *Liſle* and Mr. *Say*, Commiſſioners of this Court, be Aſſiſtants to the Lord Preſident; and for that purpoſe, it is ordered, That they ſit near the Lord Preſident in Court.

Mr. Sollicitor preſented the Charge againſt the King ingroſſed in Parchment; which was read, and being by Mr. Sollicitor ſigned, was returned to him to be exhibited againſt the King, in his preſence in open Court. And thereupon the Court adjourned itſelf forthwith to the Great Hall in *Weſtminſter*.

The Manner of the Tryal of Charles Stuart, *King of* England.

ON Saturday, being the 20th Day of *January*, 1648. the Lord Preſident of the High Court of Juſtice, his two Aſſiſtants, and the reſt of the Commiſſioners of the ſaid Court, according to the Adjournment of the ſaid Court from the *Painted Chamber*, came to the Bench, or Place prepared for their Sitting, at the Weſt End of the Great Hall at *Weſtminſter*; divers Officers of the ſaid Court, one and twenty Gentlemen with Partizans, and a Sword and Mace, marching before them up into the Court, where the Lord Preſident, in a crimſon Velvet Chair fixed in the midſt of the Court, placed himſelf, having a Desk with a crimſon Velvet Cuſhion before him: the reſt of the Members placing themſelves on each ſide of him, upon ſeveral Seats or Benches prepared, and hung with Scarlet for that purpoſe. The Lord Preſident's two Aſſiſtants ſitting next of each ſide of him, and the two Clerks of the Court placed at a Table ſomewhat lower, and covered with a *Turkey* Carpet; upon which Table was alſo laid the Sword and Mace, the ſaid Guard of Partizans dividing themſelves on each ſide of the Court before them.

Three Proclamations are made, for all Perſons that were adjourned over thither, to draw near.

The

The Court being thus ſat, and Silence enjoined, the great Gate of the Hall was ſet open, to the intent that all Perſons (without exception) deſirous to ſee or hear, might come unto it: upon which the Hall was preſently filled, and Silence again ordered and proclaimed.

After Silence proclaimed as aforeſaid, the Act of the Commons of *England* aſſembled in Parliament, for erecting a High Court of Juſtice for trying and judging of *Charles Stuart* King of *England*, was openly read by one of the Clerks of the Court.

The Act being read, the Court was called; every Commiſſioner preſent, thereupon riſing to his Name.

Weſtminſter-Hall, Jan. 20. 1648.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident.

Oliver Cromwell.	*Richard Deane.*
Henry Ireton.	*John Okey.*
Sir *Hardreſs Waller.*	*John Huſon.*
Valentine Wauton.	*William Goffe.*
Thomas Harriſon.	*Cornelius Holland.*
Edward Whalley.	*John Carew.*
Thomas Pride.	*John Jones.*
Iſaac Ewer.	*Thomas Liſter.*
Tho. Ld *Grey* of *Grooby.*	*Peregrine Pelham.*
William Lord *Mounſon.*	*Francis Allen.*
Sir *John Danvers.*	*Thomas Challoner.*
Sir *Thomas Maleverer* Bar.	*John Moore.*
Sir *John Bourchier* Kt.	*William Say.*
Iſaac Pennington Alderman of *London.*	*John Alured.*
	Francis Laſſells.
Henry Martin.	*Henry Smith.*
William Purefoy.	*James Challoner.*
John Berkſtead.	*Humphrey Edwards.*
John Blackiſtone.	*Gregory Clement.*
Gilbert Millington.	*John Fry.*
Sir *William Conſtable* Bar.	Sir *Gregory Norton* Bar.
Edmond Ludlow.	*Edmond Harvey.*
John Hutchinſon.	*John Venn.*
Sir *Michael Liveſey* Bar.	*Thomas Scot.*
Robert Tichbourne.	*William Cawley.*
Owen Roe.	*Anthony Stapely.*
Robert Lilbourne.	*John Downs.*
Adrian Scroope.	*John Dixwell.*
Thomas Horton:	*Simon Meyne.*
Thomas Hammond.	*James Temple.*
John Liſle.	*Peter Temple.*
Nicholas Love.	*Daniel Blagrave.*
Vincent Potter.	*John Brown.*
Auguſtine Garland.	

This done, the Court command the Serjeant at Arms to ſend for the Priſoner: and thereupon, Col. *Thomlinſon*, who had the Charge of the Priſoner, within a quarter of an hour's ſpace brought him, attended by Col. *Hacker*, and two and thirty Officers with Partizans, guarding him to the Court, his own Servants immediately attending him.

Being thus brought up in the face of the Court, the Serjeant at Arms with his Mace receives him, and conducts him ſtraight to the Bar, having a crimſon Velvet Chair ſet before him. After a ſtern looking upon the Court, and the People in the Galleries on each ſide of him, he places himſelf in the Chair, not at all moving his Hat, or otherwiſe ſhewing the leaſt Reſpect to the Court; but preſently riſeth up again, and turns about, looking downwards upon the Guards placed on the left ſide, and on the Multitude of Spectators on the right ſide of the ſaid great Hall: the Guard that attended him, in the mean time dividing themſelves on each ſide the Court, and his own Servants following him to the Bar, ſtand on the left hand of the Priſoner.

The Priſoner having again placed himſelf in his Chair, with his Face towards the Court, and Silence being again ordered and proclaimed, the Lord Preſident in the name of the Court addreſſed himſelf to the Priſoner, acquainting him, That the Commons of *England* aſſembled in Parliament being deeply ſenſible of the Evils and Calamities that had been brought upon this Nation, and of the innocent Blood that had been ſpilt in it, which was fixed upon him as the principal Author of it, had reſolved to make Inquiſition for this Blood; and according to the Debt they did owe to God, to Juſtice, the Kingdom, and themſelves, and according to that Fundamental Power that reſted, and Truſt repoſed in them by the People, other Means failing through his Default, had reſolved to bring him to Tryal and Judgment; and had therefore conſtituted that Court of Juſtice, before which he was then brought, where he was to hear his Charge, upon which the Court would proceed according to Juſtice.

Hereupon Mr. *Cook*, Sollicitor for the Commonwealth, ſtanding within a Bar, with the reſt of the Counſel for the Commonwealth, on the right hand of the Priſoner, offered to ſpeak; but the Priſoner having a Staff in his hand, held it up, and ſoftly laid it upon the ſaid Mr. *Cook*'s ſhoulder two or three times, bidding him hold. Nevertheleſs, the Lord Preſident ordering him to go on, Mr. *Cook* did, according to the Order of the Court to him directed, in the name and on the behalf of the People of *England*, exhibit a Charge of High Treaſon, and other High Crimes, and did therewith accuſe the ſaid *Charles Stuart* King of *England*; praying in the name and on the behalf aforeſaid, that the Charge might be accordingly received and read, and due Proceedings had thereupon. And accordingly preferred a Charge in writing, which being received by the Court, and delivered to the Clerk of the Court, the Lord Preſident in the name of the Court ordered it ſhould be read.

But the King interrupting the reading of it, the Court notwithſtanding commanded the Clerk to read it; acquainting the Priſoner, that if he had any thing to ſay after, the Court would hear him: whereupon the Clerk read the Charge, the Tenour whereof is as followeth, *viz.*

A Charge of High Treaſon, and other High Crimes, exhibited to the High Court of Juſtice by John Cook *Eſq; Sollicitor-General, appointed by the ſaid Court, for and on the behalf of the People of* England, *againſt* Charles Stuart *King of* England.

'THAT he the ſaid *Charles Stuart* being admitted King of *England*, and therein truſted with a limited Power to govern by and according to the Laws of the Land, and not otherwiſe; and by his Truſt, Oath and Office, being obliged to uſe the Power committed to him, for the Good and Benefit of the People, and for the Preſervation of their Rights and Liberties: yet nevertheleſs, out of a wicked Deſign to erect and uphold in himſelf an Unlimited and Tyrannical Power to rule according to his Will, and to

'overthrow the Rights and Liberties of the Peo-
'ple; yea, to take away and make void the Foun-
'dations thereof, and of all Redreſs and Remedy of
'Miſgovernment, which by the Fundamental Con-
'ſtitutions of this Kingdom were reſerved on the
'People's behalf, in the Right and Power of fre-
'quent and ſucceſſive Parliaments or National
'Meetings in Council; he the ſaid *Charles Stuart*,
'for accompliſhment of ſuch his Deſigns, and for
'the protecting of himſelf and his Adherents in
'his and their wicked Practices, to the ſame ends,
'hath traitorouſly and maliciouſly levied War a-
'gainſt the preſent Parliament, and the People
'therein repreſented. Particularly, upon or about
'the thirtieth Day of *June*, in the Year of our
'Lord 1642, at *Beverley* in the County of *York*;
'and upon or about the thirtieth Day of *July* in
'the Year aforeſaid, in the County of the City
'of *York*; and upon or about the four and twen-
'tieth Day of *Auguſt* in the ſame Year, at the
'County of the Town of *Nottingham*, where, and
'when he ſet up his Standard of War; and alſo on
'or about the twenty third Day of *October*, in the
'ſame Year, at *Edge-Hill* and *Keynton-Field*, in the
'County of *Warwick*; and upon or about the thir-
'tieth Day of *November* in the ſame Year, at
'*Brentford* in the County of *Middleſex*; and upon
'or about the thirtieth Day of *Auguſt*, in the Year
'of our Lord 1643, at *Caverſham-Bridge* near *Rea-*
'*ding* in the County of *Berks*; and upon or about
'the thirtieth Day of *October* in the Year laſt men-
'tioned, at or near the City of *Glouceſter*; and
'upon or about the thirtieth Day of *November* in
'the Year laſt mentioned, at *Newbury* in the Coun-
'ty of *Berks*; and upon or about the thirty firſt
'Day of *July* in the Year of our Lord 1644, at
'*Cropredy-Bridge* in the County of *Oxon*; and upon
'or about the thirtieth Day of *September* in the laſt
'Year mentioned, at *Bodmyn* and other Places near
'adjacent in the County of *Cornwall*; and upon or
'about the thirtieth Day of *November* in the Year
'laſt mentioned, at *Newbury* aforeſaid; and upon
'or about the eighth Day of *June*, in the Year of
'our Lord 1645, at the Town of *Leiceſter*; and
'alſo upon the fourteenth Day of the ſame Month
'in the ſame Year, at *Naſeby-Field* in the County
'of *Northampton*: At which ſeveral Times and
'Places, or moſt of them, and at many other Pla-
'ces in this Land, at ſeveral other Times within
'the Years afore-mentioned, and in the Year 1646,
'he the ſaid *Charles Stuart* hath cauſed and pro-
'cured many Thouſands of the free People of this
'Nation to be ſlain; and by Diviſions, Parties,
'and Inſurrections within this Land, by Invaſions
'from foreign Parts, endeavoured and procured
'by him, and by many other evil Ways and Means,
'he the ſaid *Charles Stuart* hath not only main-
'tained and carried on the ſaid War both by Land
'and Sea, during the Years before-mentioned, but
'alſo hath renewed or cauſed to be renewed the
'ſaid War againſt the Parliament and good Peo-
'ple of this Nation, in this preſent Year 1648, in
'the Counties of *Kent*, *Eſſex*, *Surrey*, *Suſſex*, *Mid-*
'*dleſex*, and many other Places of *England* and
'*Wales*; and alſo by Sea. And particularly, he
'the ſaid *Charles Stuart* hath for that purpoſe given
'Commiſſion to his Son the Prince, and others;
'whereby, beſides Multitudes of other Perſons,
'many ſuch as were by the Parliament intruſted
'and employ'd for the Safety of the Nation, (be-
'ing by him or his Agents corrupted to the be-
'traying of their Truſt, and revolting from the
'Parliament) have had Entertainment and Com-
'miſſion for the continuing and renewing of War
'and Hoſtility againſt the ſaid Parliament and
'People, as aforeſaid. By which cruel and unna-
'tural Wars by him the ſaid *Charles Stuart* levied,
'continued and renewed as aforeſaid, much inno-
'cent Blood of the free People of this Nation hath
'been ſpilt, many Families have been undone, the
'publick Treaſury waſted and exhauſted, Trade
'obſtructed and miſerably decay'd, vaſt Expence
'and Damage to the Nation incurred, and many
'parts of this Land ſpoiled, ſome of them even
'to deſolation. And for further Proſecution of his
'ſaid evil Deſigns, he the ſaid *Charles Stuart* doth
'ſtill continue his Commiſſions to the ſaid Prince,
'and other Rebels and Revolters both *Engliſh* and
'Foreigners, and to the Earl of *Ormond*, and to
'the *Iriſh* Rebels and Revolters aſſociated with
'him; from whom further Invaſions upon this
'Land are threatned, upon the procurement and
'on the behalf of the ſaid *Charles Stuart*.

'All which wicked Deſigns, Wars, and evil
'Practices of him the ſaid *Charles Stuart*, have been
'and are carried on for the advancement and up-
'holding of a perſonal Intereſt of Will and Power,
'and pretended Prerogative to himſelf and his Fa-
'mily, againſt the publick Intereſt, common Right,
'Liberty, Juſtice and Peace of the People of this
'Nation, by and for whom he was intruſted as
'aforeſaid.

'By all which it appeareth, that he the ſaid
'*Charles Stuart* hath been, and is the Occaſioner,
'Author, and Continuer of the ſaid unnatural,
'cruel and bloody Wars, and therein guilty of all
'the Treaſons, Murders, Rapines, Burnings,
'Spoils, Deſolations, Damages and Miſchiefs to
'this Nation acted and committed in the ſaid
'Wars, or occaſioned thereby.

'And the ſaid *John Cook* by Proteſtation ſaving,
'on the behalf of the ſaid People of *England*, the
'liberty of exhibiting at any time hereafter any
'other Charge againſt the ſaid *Charles Stuart*, and
'alſo of replying to the Anſwers which the ſaid
'*Charles Stuart* ſhall make to the Premiſes, or any
'of them, or any other Charge that ſhall be ſo
'exhibited; doth for the ſaid Treaſons and
'Crimes, on the behalf of the ſaid People of *Eng-*
'*land*, impeach the ſaid *Charles Stuart*, as a Ty-
'rant, Traytor, Murderer, and a publick and
'implacable Enemy to the Commonwealth of *Eng-*
'*land*; and pray that the ſaid *Charles Stuart*, King
'of *England*, may be put to anſwer all and every
'the Premiſes; and that ſuch Proceedings, Exa-
'minations, Tryals, Sentences and Judgments may
'be thereupon had, as ſhall be agreeable to Juſtice.

Subſcribed, *John Cook.*

The Priſoner, while the Charge was reading, ſat down in his Chair, looking ſometimes on the High Court, and ſometimes on the Galleries; and roſe again, and turned about to behold the Guards and Spectators, and after ſat down, looking very ſternly, and with a Countenance not at all moved, till theſe words, *viz.* Charles Stuart *to be a Tyrant, Traytor*, &c. were read; at which he laughed, as he ſat, in the face of the Court.

The Charge being read, the Lord Preſident, in the name of the Court, demanded the Priſoner's Anſwer thereto.

But the Priſoner declining that, fell into a Diſcourſe of the late Treaty in the Iſle of *Wight*, and demanded, by what lawful Authority he was brought from the Iſle thither? upbraiding the

Court

Court with the many unlawful Authorities in the World, inſtancing in Robbers and Takers of Purſes; pleading his Kingſhip, and thereby a Truſt committed to him by God, by Deſcent, which he ſhould betray, together with the Liberties of the People, in caſe he ſhould anſwer to an unlawful Power, which he charged the Court to be, and that they were raiſed by an Uſurped Power; and affirmed, that he ſtood more for the Liberties of the People, than any of the Judges there ſitting: and again demanded, by what Authority he was brought thither?

To which it was replied by the Court, That had he been pleaſed to have obſerved what was declared to him by the Court at his firſt coming, and the Charge which he had heard read unto him, he might have informed himſelf by what Authority he was brought before them; namely, by the Authority of the Commons of *England* aſſembled in Parliament, on the behalf of the People of *England:* and did therefore again ſeveral times adviſe him to conſider of a better Anſwer; which he refuſed to do, but perſiſted in his Contumacy. Whereupon the Court at length told him, That they did expect from him a poſitive Anſwer to the Charge; affirming their Authority, and giving him to underſtand, that they were upon God's and the Kingdom's Errand, and that the Peace ſtood for, would be better had and kept when Juſtice was done, and that was their preſent Work: and adviſed him ſeriouſly to conſider what he had to do at his next Appearance; which was declared ſhould be upon Monday following, and ſo remanded him to his former Cuſtody.

The Priſoner all the time having kept on his Hat, departed, without ſhewing any the leaſt Reſpect to the Court: but going out of the Bar, ſaid, *He did not fear that Bill*; pointing to the Table where the Sword and Charge lay.

The Priſoner being withdrawn, three Proclamations were made, and the Court adjourned itſelf to the *Painted Chamber* on Monday Morning then next, at Nine of the clock; declaring, that from thence they intended to adjourn to the ſame place again.

But that the Reader may have the intire Relation of this deplorable Tragedy, I have from the moſt Authentick Prints inſerted at large the interlocutory Paſſages between the King and *Bradſhaw*, of which Mr. *Phelps* in his Journal gives only a ſuccinct Account; which take as follows.

His Majeſty with his wonted Patience heard all theſe Slanders and Reproaches, ſitting in the Chair, and looking ſometimes on the pretended Court, ſometimes up to the Galleries; and riſing again, turned about to behold the Guards and Spectators: then he ſat down, with a majeſtick and unmoved Countenance, and ſometimes ſmiling, eſpecially at thoſe words, *Tyrant*, *Traytor*, and the like.

Alſo the ſilver Head of his Staff happened to fall off, at which he wondered; and ſeeing none to take it up, he ſtooped for it himſelf.

The Charge being read, *Bradſhaw* began:

Sir, You have now heard your Charge read, containing ſuch Matters as appear in it; you find, that in the Cloſe of it, it is prayed to the Court, in the behalf of the Commons of *England*, that you anſwer to your Charge. The Court expects your Anſwer.

King. I would know by what Power I am called hither; I was not long ago in the Iſle of *Wight*, how I came there, is a longer Story than I think is fit at this time for me to ſpeak of; but there I enter'd into a Treaty with both Houſes of Parliament, with as much publick Faith as it's poſſible to be had of any People in the world. I treated there with a number of honourable Lords and Gentlemen, and treated honeſtly and uprightly; I cannot ſay but they did very nobly with me, we were upon a concluſion of the Treaty. Now I would know by what Authority, I mean lawful; there are many unlawful Authorities in the World, Thieves and Robbers by the Highways; but I would know by what Authority I was brought from thence, and carried from place to place, and I know not what: and when I know by what lawful Authority, I ſhall anſwer. Remember I am your King, your lawful King, and what Sins you bring upon your heads, and the Judgment of God upon this Land; think well upon it, I ſay, think well upon it, before you go further from one Sin to a greater: therefore let me know by what lawful Authority I am ſeated here, and I ſhall not be unwilling to anſwer. In the mean time, I ſhall not betray my Truſt; I have a Truſt committed to me by God, by old and lawful Deſcent, I will not betray it, to anſwer to a new unlawful Authority: therefore reſolve me that, and you ſhall hear more of me.

Bradſhaw. If you had been pleaſed to have obſerved what was hinted to you by the Court, at your firſt coming hither, you would have known by what Authority; which Authority requires you, in the name of the People of *England*, of which you are elected King, to anſwer.

King. No Sir, I deny that.

Bradſhaw. If you acknowledge not the Authority of the Court, they muſt proceed.

King. I do tell them ſo, *England* was never an Elective Kingdom, but an Hereditary Kingdom for near theſe thouſand Years; therefore let me know by what Authority I am called hither: I do ſtand more for the Liberty of my People, than any here that come to be my pretended Judges; and therefore let me know by what lawful Authority I am ſeated here, and I will anſwer it; otherwiſe I will not anſwer it.

Bradſhaw. Sir, How really you have managed your Truſt, is known: your way of Anſwer is to interrogate the Court, which beſeems not you in this Condition. You have been told of it twice or thrice.

King. Here is a Gentleman, Lieutenant-Colonel *Cobbet*; ask him, if he did not bring me from the Iſle of *Wight* by force. I do not come here as ſubmitting to the Court: I will ſtand as much for the Privilege of the Houſe of Commons, rightly underſtood, as any Man here whatſoever. I ſee no Houſe of Lords here, that may conſtitute a Parliament; and the King too ſhould have been. Is this the bringing of the King to his Parliament? Is this the bringing an end to the Treaty in the publick Faith of the World? Let me ſee a legal Authority warranted by the Word of God the Scriptures, or warranted by the Conſtitutions of the Kingdom, and I will anſwer.

Bradſhaw. Sir, You have propounded a Queſtion, and have been anſwered. Seeing you will not anſwer, the Court will conſider how to proceed: in the mean time, thoſe that brought you hither, are to take charge of you back again. The Court deſires to know, whether this be all the Anſwer you will give, or no.

King.

King. Sir, I desire that you would give me, and all the World, Satisfaction in this: let me tell you, it is not a slight thing you are about. I am sworn to keep the Peace, by that Duty I owe to God and my Country, and I will do it to the last Breath of my Body; and therefore you shall do well to satisfy first God, and then the Country, by what Authority you do it: if you do it by an usurped Authority, you cannot answer it. There is a God in Heaven, that will call you, and all that give you Power, to account. Satisfy me in that, and I will answer; otherwise I betray my Trust, and the Liberties of the People: and therefore think of that, and then I shall be willing. For I do avow, that it is as great a Sin to withstand lawful Authority, as it is to submit to a tyrannical, or any other ways unlawful Authority: and therefore satisfy God and me, and all the World in that, and you shall receive my Answer. I am not afraid of that Bill.

Bradshaw. The Court expects you should give them a final Answer, their purpose is to adjourn to Monday next: if you do not satisfy yourself, tho we do tell you our Authority; we are satisfied with our Authority, and it is upon God's Authority and the Kingdom's, and that Peace you speak of will be kept in the doing of Justice, and that's our present Work.

King. For answer, let me tell you, you have shewn no lawful Authority to satisfy any reasonable Man.

Bradshaw. That is, in your Apprehension; we are satisfied that are your Judges.

King. 'Tis not my Apprehension, nor yours neither, that ought to decide it.

Bradshaw. The Court hath heard you, and you are to be disposed of as they have commanded.

So commanding the Guard to take him away, his Majesty only replied, *Well, Sir!*

And at his going down, pointing with his Staff toward the (*a*) Ax, he said, *I do not fear that.*

As he went down the stairs, the People in the Hall cry'd out, *God save the King!* notwithstanding some were set there by the Faction to lead the Clamour for Justice. [*Thus far* Nalson.]

Painted Chamber, 22 Jan. 1648.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

William Say.	*Thomas Harrison.*
John Downs.	*Edmond Harvey.*
Edward Whalley.	*John Hutchinson.*
Francis Allen.	*Oliver Cromwell.*
Sir *Thomas Maleverer* Bar.	*Tho.* Ld *Grey* of *Grooby.*
Valentine Wauton.	Sir *Gregory Norton* Bar.
Peter Temple.	*Robert Wallop.*
John Fry.	*James Temple.*
Thomas Scot.	*Owen Roe.*
Henry Smith.	*Richard Deane.*
Thomas Pride.	*William Goffe.*
Augustine Garland.	*Francis Lassells.*
John Venn.	*Edmond Ludlow.*
Sir *John Bourchier.*	*William Cawley.*
William Purefoy.	*Gilbert Millington.*
Sir *William Constable* Bar.	Sir *Hardress Waller.*
Is. Pennington Ald. of *Lond.*	*Anthony Stapely.*
John Jones.	Sir *Michael Livesey.*
Nicholas Love.	*John Berkstead.*
John Carew.	*Peregrine Pelham.*
Tho. Andrews Ald. of *Lon.*	*John Downes.*
Isaac Ewers.	*Adrian Scroope.*
John Huson.	*John Dixwell.*
Cornelius Holland.	*John Moore.*
Humphrey Edwards.	*Robert Tichbourne.*
Vincent Potter.	*James Challoner.*
John Okey.	*Gregory Clement.*
John Blackistone.	*William* Lord *Mounson.*
Thomas Hammond.	*Henry Martin.*
Daniel Blagrave.	*Thomas Challoner.*
William Heveningham.	

Sixty Two Commissioners present.

Here the Court sit private.

Ordered, That the Committee for nominating the Officers of this Court, together with the Committee for nominating the Guards, do consider of an Allowance for Diet of the Officers, and what other Satisfaction they shall have for their Service.

Col. *Harvey* informeth the Court, That he was desired to signify unto this Court, in the behalf of Mr. *John Corbet*, Member of this Court, that his Absence is not from any Disaffection to the Proceedings of this Court, but in regard of other especial Employment that he hath in the Service of the State.

Here the Court considered of the King's Carriage on the Saturday before, and of all that had then passed on the Court's behalf, and approved thereof, as agreeing to their Sense and Directions. And perceiving what the King aimed at, *viz.* to bring in question (if he could) the Jurisdiction of the Court, and the Authority whereby they sat; and considering that he had not in the interim acknowledged them in any sort to be a Court, or in any Judicial Capacity to determine of his Demand and Plea, and that through their sides he intended to wound (if he might be permitted) the Supreme Authority of the Commons of *England*, in their Representative, the Commons assembled in Parliament; after Advice with their Counsel learned in both Laws, and mature Deliberation had of the Matter,

Resolved, That the Prisoner should not be suffered to bring these things in question which he aimed at, touching that Highest Jurisdiction; whereof they might not make themselves Judges, and from which there was no Appeal. And therefore order and direct, *viz.*

Ordered, That in case the King shall again offer to fall into that Discourse, the Lord President do let him know, That the Court have taken into consideration his Demands of the last Day, and that he ought to rest satisfied with this Answer, *That the Commons of* England *assembled in Parliament have constituted this Court, whose Power may not, nor should be permitted to be disputed by him, and that they were resolved he should answer his Charge.*

That in case he shall refuse to answer, or acknowledge the Court, the Lord President do let him know, that the Court will take it as a Contumacy, and that it shall be so recorded.

That in case he shall offer to answer with a *Saving* notwithstanding of his pretended Prerogative, that the Lord President do in the name of the

(*a*) *This must be a Mistake, for there was no Ax there; but it is* Bill *in* Phelps's *Journal: which* Bill *was the* Charge, *which the King meant, when now, as also before, he said,* He did not fear that Bill.

Court

Court refuſe his Proteſt, and require his poſitive Anſwer to the Charge.

That in caſe the King ſhall demand a Copy of the Charge, that he ſhall then declare his Intention to anſwer; and that declaring ſuch his Intention, a Copy be granted unto him.

That in caſe the King ſhall ſtill perſiſt in his Contempt, the Lord Preſident do give command to the Clerk to demand of the King in the name of the Court, in theſe words following, *viz.*

Charles Stuart, *King of* England, *you are accuſed in behalf of the People of* England, *of divers High Crimes and Treaſons, which Charge hath been read unto you; the Court requires you to give a poſitive Anſwer, whether you confeſs or deny the Charge; having determined, that you ought to anſwer the ſame.*

Ordered, That the Commiſſioners ſhall be called in open Court, at the Court's ſitting in the Hall, and that the Names of ſuch as appear ſhall be recorded.

Hereupon the Court forthwith adjourned it ſelf into *Weſtminſter-Hall.*

Weſtminſter-Hall, 22 Jan. 1648. *poſt Merid.*

The Commiſſioners coming from the *Painted-Chamber*, take their place in the publick Court in *Weſtminſter-Hall*, as on Saturday before; and being ſat, and the Hall-Door ſet open, three Proclamations were made for all Perſons that were adjourned over to this time, to give their Attendance, and for all Perſons to keep ſilence, upon pain of Impriſoment: The Court is thereupon called.

Commiſſioners preſent.

John Bradſhaw Serjeant at Law, Lord Preſident of this Court.

William Say.
John Liſle.
Oliver Cromwell.
Henry Ireton.
Sir *Hardreſs Waller.*
Valentine Wauton.
Tho. Harriſon.
Edward Whalley.
Thomas Pride.
Iſaac Ewers.
Tho. Ld *Grey* of *Grooby.*
William Ld *Mounſon.*
Sir *John Danvers.*
Sir *Tho. Maleverer* Bar.
Sir *John Bourchier* Kt.
Edmond Ludlow.
John Huſon.
William Goffe.
Cornelius Holland.
John Carew.
Robert Lilbourne.
John Jones.
Francis Allen.
Peregrine Pelham.
Thomas Challoner.
John Moore.
John Alured.
Francis Laſſels.
Henry Smith.
James Challoner.
Gregory Clement.
John Fry.
Thomas Wogan.
Peter Temple.
Robert Wallop.
William Heveningham.
Iſaac Pennington Ald. of *London.*
Henry Martin.
William Purefoy.
John Berkſtead.
William Tomlinſon.
John Blackiſtone.
Gilbert Millington.
Sir *William Conſtable* Bar.
Sir *Michael Liveſey* Bar.
Robert Tichbourne.
Owen Roe.
Adrian Scroope.
John Deane.
John Okey.
John Hutchinſon.
Sir *Gregory Norton* Bar.
Edmond Harvey.
John Venn.
Thomas Scot.
Tho. Andrews Ald. of *Lond.*
William Cawley.
Anthony Stapeley.
John Downs.
Thomas Horton.
Thomas Hammond.
Nicholas Love.
Vincent Potter.
Sir *Gilbert Pickering* Bar.
Auguſtine Garland.
John Dixwell.
James Temple.
Daniel Blagrave.
Humphrey Edwards.

Seventy Commiſſioners preſent.

The Court being called, the Serjeant is commanded to fetch his Priſoner.

The King is again brought Priſoner to the Bar, as on Saturday before: Proclamation is made for Silence, whilſt Pleas of the Commonwealth were in hand; and Order given to the Captain of the Guard to take into his Cuſtody ſuch as ſhould diſturb the Court.

Mr. Sollicitor moved the Court, that the Priſoner might give a poſitive Anſwer to his Charge, or otherwiſe that the Court would take the Matter of it *pro confeſſo*, and proceed thereupon according to Juſtice. Which being preſſed by the Court upon the Priſoner, and their Judgment again made known unto him, That he was to anſwer his Charge, otherwiſe his Contumacy would be recorded:

The Priſoner, that notwithſtanding, ſtill inſiſted upon his former Plea, and that the Court had no Power, nor the Commons of *England*, who had conſtituted it, to proceed againſt him. Upon which the Clerk of the Court, by command, and according to former Order, required his Anſwer in the Form preſcribed: and the Priſoner ſtill refuſing to ſubmit thereto, his Default and Contempt were again recorded, the Priſoner remanded, and the Court adjourned it ſelf till the next Day, being Tueſday, at Twelve of the clock, to the *Painted Chamber*; withal, giving notice, That from thence they intended to adjourn to this Place again.

[Sunday having been ſpent in Faſting and ſeditious Preaching, according to the Mode of theſe impious Hypocrites, who uſed to preface Rebellion and Murder with the Appearance of Religion, the illuſtrious Sufferer was (as is before in *Phelps*'s Journal related) placed before the infamous Tribunal, where their mercenary Sollicitor *Cook* opened the Tragick Scene thus, diſplaying his Talents of Impudence and Treaſon. *Nalſon.*]

Cook. May it pleaſe your Lordſhip, my Lord Preſident; I did at the laſt Court, in the behalf of the Commons of *England*, exhibit and give into this Court a Charge of High Treaſon, and other high Crimes againſt the Priſoner at the Bar; whereof I do accuſe him in the name of the People of *England*: and the Charge was read unto him, and his Anſwer required. My Lord, He was not pleaſed to give an Anſwer, but inſtead of anſwering, did there diſpute the Authority of this high Court. My humble Motion to this high Court in the behalf of the Kingdom of *England*, is, That the Priſoner may be directed to make a poſitive Anſwer, either by way of Confeſſion or Negation; which if he ſhall refuſe to do, that then the Matter of Charge may be taken *pro confeſſo*, and the Court may proceed according to Juſtice.

Bradſhaw. Sir, You may remember at the laſt Court you were told the Occaſion of your being brought hither, and you heard a Charge read againſt you, containing a Charge of High Treaſon and other high Crimes againſt this Realm of *England*: you heard likewiſe, that it was prayed in the behalf of the People, that you ſhould give an Anſwer to that Charge, that thereupon ſuch Proceedings might be had, as ſhould be agreeable to Juſtice. You were then pleaſed to make ſome Scruples concerning the Authority of this Court, and knew not by what Authority you were brought hither; you did divers times propound your Queſtions, and were as often anſwer'd, That it was by Authority of the Commons of *England* aſſembled in Parliament, that did think fit to call you to account for

thoſe high and capital Miſdemeanours wherewith you were then charged. Since that, the Court hath taken into conſideration what you then ſaid, they are fully ſatisfied with their own Authority, and they hold it fit you ſhould ſtand ſatisfied with it too; and they do require it, that you do give a poſitive and particular Anſwer to this Charge that is exhibited againſt you: they do expect you ſhould either confeſs or deny it; if you deny, it is offer'd in the behalf of the Kingdom to be made good againſt you: their Authority they do avow to the whole World, that the whole Kingdom are to reſt ſatisfied in, and you are to reſt ſatisfied with it. And therefore you are to loſe no more time, but to give a poſitive Anſwer thereunto.

King. When I was here laſt, 'tis very true, I made that Queſtion; and if it were only my own particular Caſe, I would have ſatisfied myſelf with the Proteſtation I made the laſt time I was here againſt the Legality of this Court, and that a King cannot be try'd by any ſuperiour Juriſdiction on Earth: but it is not my Caſe alone, it is the Freedom and the Liberty of the People of *England*; and do you pretend what you will, I ſtand more for their Liberties. For if Power without Law may make Laws, may alter the fundamental Laws of the Kingdom, I do not know what Subject he is in *England*, that can be ſure of his Life, or any thing that he calls his own: therefore when that I came here, I did expect particular Reaſons to know by what Law, what Authority you did proceed againſt me here. And therefore I am a little to ſeek what to ſay to you in this particular, becauſe the Affirmative is to be proved, the Negative often is very hard to do: but ſince I cannot perſuade you to do it, I ſhall tell you my Reaſons as ſhort as I can.

My Reaſons why in Conſcience and the Duty I owe to God firſt, and my People next, for the Preſervation of their Lives, Liberties, and Eſtates, I conceive I cannot anſwer this, till I be ſatisfied of the Legality of it.

All Proceedings againſt any Man whatſoever——

Bradſhaw. Sir, I muſt interrupt you, which I would not do, but that what you do is not agreeable to the Proceedings of any Court of Juſtice: You are about to enter into Argument, and diſpute concerning the Authority of this Court, before whom you appear as a Priſoner, and are charged as an high Delinquent; if you take upon you to diſpute the Authority of the Court, we may not do it, nor will any Court give way unto it: you are to ſubmit unto it, you are to give a punctual and direct Anſwer, whether you will anſwer your Charge or no, and what your Anſwer is.

King. Sir, By your favour, I do not know the Forms of Law; I do know Law and Reaſon, tho I am no Lawyer profeſs'd, but I know as much Law as any Gentleman in *England*; and therefore (under favour) I do plead for the Liberties of the People of *England* more than you do: And therefore if I ſhould impoſe a Belief upon any Man, without Reaſons given for it, it were unreaſonable; but I muſt tell you, that by that Reaſon that I have, as thus informed, I cannot yield unto it.

Bradſhaw. Sir, I muſt interrupt you, you may not be permitted: you ſpeak of Law and Reaſon, it is fit there ſhould be Law and Reaſon, and there is both againſt you. Sir, the Vote of the Commons of *England* aſſembled in Parliament, it is the Reaſon of the Kingdom, and they are theſe too that have given that Law, according to which you ſhould have ruled and reign'd. Sir, you are not to diſpute our Authority, you are told it again by the Court. Sir, it will be taken notice of, that you ſtand in contempt of the Court, and your Contempt will be recorded accordingly.

King. I do not know how a King can be a Delinquent; but by any Law that ever I heard of, all Men (Delinquents, or what you will) let me tell you they may put in Demurrers againſt any Proceeding as legal: and I do demand that, and demand to be heard with my Reaſons; if you deny that, you deny Reaſon.

Bradſhaw. Sir, you have offer'd ſomething to the Court; I ſhall ſpeak ſomething unto you, the Senſe of the Court. Sir, neither you nor any Man are permitted to diſpute that Point; you are concluded, you may not demur to the Juriſdiction of the Court: if you do, I muſt let you know, that they over-rule your Demurrer; they ſit here by the Authority of the Commons of *England*, and all your Predeceſſors and you are reſponſible to them.

King. I deny that, ſhew me one Precedent.

Bradſhaw. Sir, you ought not to interrupt while the Court is ſpeaking to you. This Point is not to be debated by you, neither will the Court permit you to do it; if you offer it by way of Demurrer to the Juriſdiction of the Court, they have conſidered of their Juriſdiction, they do affirm their own Juriſdiction.

King. I ſay Sir, by your favour, that the Commons of *England* was never a Court of Judicature; I would know how they came to be ſo.

Bradſhaw. Sir, you are not to be permitted to go on in that Speech and theſe Diſcourſes.

Then the Clerk of the Court read,

Charles Stuart, *King of* England, *You have been accuſed on the behalf of the People of* England *of High Treaſon, and other high Crimes; the Court have determined that you ought to anſwer the ſame.*

King. I will anſwer the ſame, ſo ſoon as I know by what Authority you do this.

Bradſhaw. If this be all that you will ſay, then Gentlemen you that brought the Priſoner hither, take charge of him back again.

King. I do require that I may give in my Reaſons why I do not anſwer, and give me time for that.

Bradſhaw. Sir, 'tis not for Priſoners to require.

King. Priſoners! Sir, I am not an ordinary Priſoner.

Bradſhaw. The Court hath conſidered of their Juriſdiction, and they have already affirmed their Juriſdiction; if you will not anſwer, we will give order to record your Default.

King. You never heard my Reaſon yet.

Bradſhaw. Sir, your Reaſons are not to be heard againſt the higheſt Juriſdiction.

King. Shew me that Juriſdiction where Reaſon is not to be heard.

Bradſhaw. Sir, we ſhew it you here, the Commons of *England*; and the next time you are brought, you will know more of the Pleaſure of the Court; and, it may be, their final Determination.

King. Shew me where ever the Houſe of Commons was a Court of Judicature of that kind.

Bradſhaw. Serjeant, take away the Priſoner.

King. Well, Sir, remember that the King is not ſuffer'd to give in his Reaſons for the Liberty and Freedom of all his Subjects.

Bradshaw. Sir, you are not to have liberty to use this Language: How great a Friend you have been to the Laws and Liberties of the People, let all *England* and the World judge.

King. Sir, under favour it was the Liberty, Freedom, and Laws of the Subject, that ever I took——defended myself with Arms; I never took up Arms against the People, but for the Laws.

Bradshaw. The Command of the Court must be obey'd; no Answer will be given to the Charge.

King. Well, Sir!

Then *Bradshaw* ordered the Default to be recorded, and the Contempt of the Court; and that no Answer would be given to the Charge.

The King was guarded forth to Sir *Robert Cotton's* House.

The Court adjourned to the *Painted Chamber* on Tuesday at Twelve of the clock, and from thence they intend to adjourn to *Westminster-Hall*; at which time all Persons concerned, are to give their Attendance.

His Majesty not being suffered to deliver his Reasons against the Jurisdiction of their pretended Court, by word of Mouth, thought fit to leave them in Writing to the more impartial Judgment of Posterity, as followeth:

'HAving already made my Protestations, not only against the Illegality of this pretended Court, but also, *That no earthly Power can justly call Me* (who am your King) *in question, as a Delinquent*; I would not any more open my Mouth upon this Occasion, more than to refer my self to what I have spoken, were I in this case alone concerned: But the Duty I owe to God in the Preservation of the true Liberty of my People, will not suffer me at this time to be silent. For how can any free-born Subject of *England*, call Life, or any Thing he possesseth, his own, if Power without Right, daily make new, and abrogate the old Fundamental Law of the Land, which I now take to be the present Case? Wherefore, when I came hither, I expected that you would have endeavoured to have satisfied me concerning these Grounds which hinder me to answer to your pretended Impeachment: But since I see that nothing I can say will move you to it (though *Negatives* are not so naturally proved as *Affirmatives*) yet I will shew you the Reason why I am confident you cannot judge me, nor indeed the meanest Man in *England*: For I will not (like you) without shewing a Reason, seek to impose a Belief upon my Subjects.

'There is no Proceeding just against any Man, but what is warranted either by God's Laws, or the municipal Laws of the Country where he lives. Now I am most confident, this Day's Proceeding cannot be warranted by God's Law; for, on the contrary, the Authority of Obedience unto Kings, is clearly warranted, and strictly commanded both in the Old and New Testament; which, if denied, I am ready instantly to prove.

Hereabout I was stop'd, and not suffered to speak any more concerning Reasons.

'And for the Question now in hand, there it is said, That *where the Word of a King is, there is Power; and who may say unto him, What dost thou?* Eccl. 8. 4. Then for the Law of this Land, I am no less confident, that no learned Lawyer will affirm, That *an Impeachment can lie against the King, they all going in his Name*: And one of their Maxims is, That *the King can do no wrong*. Besides, the Law upon which you ground your Proceedings, must be either old or new; if old, shew it; if new, tell what Authority, warranted by the Fundamental Laws of the Land, hath made it, and when. But how the House of Commons can erect a Court of Judicature, which was never one it self, (as is well known to all Lawyers) I leave to God and the World to judge. And it were full as strange, that they should pretend to make Laws without King or Lords House, to any that have heard speak of the Laws of *England*.

'And admitting, but not granting, That the People of *England*'s Commission could grant your *pretended Power*, I see nothing you can shew for that; for certainly you never asked the Question of the *tenth Man* in the Kingdom: and in this way you manifestly wrong even the *poorest Ploughman*, if you demand not his free Consent; nor can you pretend any Colour for this your *pretended Commission*, without the Consent at least of the major Part of every Man in *England*, of whatsoever Quality or Condition, which I am sure you never went about to seek; so far are you from having it. Thus you see that I speak not for my own Right alone, as I am your *King*, but also for the true Liberty of all *my Subjects*; which consists not in the *Power of Government*, but in *living under such Laws, such a Government*, as may give themselves the best Assurance of their Lives, and Property of their Goods. Nor in this must or do I forget the *Privileges* of both Houses of Parliament, which this Day's Proceedings do not only violate, but likewise occasion the greatest Breach of their publick Faith, that (I believe) ever was heard of: with which I am far from charging the two Houses; for all *pretended Crimes* laid against me, bear date long before this Treaty at *Newport*, in which I having concluded as much as in me lay, and hopefully expecting the Houses Agreement thereunto, I was suddenly surprized, and hurried from thence as a Prisoner: upon which account I am against my Will brought hither; where, since I am come, I cannot but, to my power, defend the antient Laws and Liberties of this Kingdom, together with my own just Right. Then, for any thing I can see, the Higher House is totally excluded. And for the House of Commons, it is too well known that the major Part of them are detained or deterred from sitting; so as, if I had no other, this were sufficient for me to protest against the Lawfulness of your pretended Court. Besides all this, the Peace of the Kingdom is not the least in my Thoughts; and what hopes of Settlement is there, so long as Power reigns without Rule or Law, changing the whole Frame of that Government, under which this Kingdom hath flourished for many hundred Years? (Nor will I say what will fall out, in case this lawless unjust Proceeding against me, do go on.) And believe it, the Commons of *England* will not thank you for this Change; for they will remember how happy they have been of late Years under the Reign of Queen *Elizabeth*, the King my Father, and my Self, until the beginning of these unhappy Troubles, and will have cause to doubt that they shall never be so happy under any new. And by this time it will be too sensibly evident, that the Arms I took up, were only to defend the Fundamental Laws of this Kingdom, against those who

'have ſuppoſed my Power hath totally changed 'the antient Government.

'Thus having ſhewed you briefly the Reaſons 'why I cannot ſubmit to your pretended Authori- 'ty, without violating the Truſt which I have 'from God for the Welfare and Liberty of my 'People; I expect from you either clear Reaſons 'to convince my Judgment, ſhewing me that I am 'in an Error, (and then truly I will anſwer) or 'that you will withdraw your Proceedings.'

This I intended to ſpeak in Weſtminſter-Hall *on Monday,* January *the* 22*d; but, againſt Reaſon, was hindred to ſhew my Reaſons.*

Martis, 23 Jan. 1648. *Painted Chamber.*

THree Proclamations are made, and all Parties concerned, required to give their Attendance.

Commiſſioners Preſent:

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

John Liſle.
William Say.
Sir *James Harrington* Kt.
Francis Allen.
Henry Martin.
Thomas Scot.
Sir *Hardreſs Waller.*
Edmond Whalley.
John Venn.
Richard Deane.
John Huſon.
Tho. Ld *Grey* of *Grooby.*
William Pureſoy.
Daniel Blagrave.
Iſaac Pennington Ald. of *London.*
Thomas Harriſon.
Adrian Scroope.
Robert Lilbourne.
Sir *Gregory Norton.*
Cornelius Holland.
William Cawley.
Auguſtine Garland.
Nicholas Love.
Thomas Hammond.
John Moore.
Edmond Harvey.
Thomas Pride.
Henry Smith.
Thomas Challoner.
Miles Corbet.
John Okey.
Sir *William Conſtable* Bar.
Gilbert Millington.
Humphrey Edwards.
Anthony Stapeley.
Robert Tichbourne.
Sir *John Danvers.*
Simon Meyne.
Vincent Potter.
Oliver Cromwell.
Edmond Ludlow.
John Blackiſtone.
Sir *Henry Mildmay.*
John Hutchinſon.
Peter Temple.
Henry Ireton.
Sir *Michael Livеſey* Bar.
John Jones.
James Temple.
Iſaac Ewers.
Sir *John Bourchier.*
John Fry.
Sir *Tho. Maleverer* Bar.
Gregory Clement.
John Carew.
Thomas Andrews Ald. of *London.*
John Dixwell.
Sir *Gilbert Pickering* Bar.
William Heveningham.
Valentine Wauton.
John Downes.
Owen Roe.

Sixty-three Commiſſioners preſent.

Here the Court ſat private.

And taking into Conſideration the Proceeding of the laſt Court the laſt Day, fully approved of what in their behalf had been then ſaid and done; and likewiſe taking into Conſideration the Demeanour of the King at the ſaid Court, have notwithſtanding reſolved to try him once more, whether he will own the Court; and to that purpoſe,

Ordered, That the Lord Preſident do acquaint the King, in caſe he ſhall continue contumacious, that he is to expect no further time; and that the Lord Preſident do therefore in the Name of the Court require his poſitive and final Anſwer; and if he ſhall ſtill perſiſt in his Obſtinacy, that the Lord Preſident give command to the Clerk to read as followeth, *viz.*

Charles Stuart, *King of* England, *you are accuſed on the behalf of the People of* England *of divers high Crimes and Treaſons, which Charge hath been read unto you; the Court now requires you to give your final and poſitive Anſwer, by way of Confeſſion or Denial of the Charge.*

Nevertheleſs, if the King ſhould ſubmit to anſwer, and deſire a Copy of his Charge, that it be granted him by the Lord Preſident; notwithſtanding giving him to know, That the Court might in Juſtice forthwith proceed to Judgment for his former Contumacy and Failure to anſwer; and that he be required to give his Anſwer to the ſaid Charge the next day at One of the clock in the Afternoon. Whereupon the Court adjourned to *Weſtminſter-Hall* forthwith.

Weſtminſter-Hall, 23 Jan. 1648. *poſt Merid.*

THree Proclamations being made, and Attendance and Silence commanded, as formerly, the Court is thereupon called.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Oliver Cromwell.
Henry Ireton.
Sir *Hardreſs Waller.*
Valentine Wauton.
Thomas Harriſon.
Edward Whalley.
Thomas Pride.
Iſaac Ewers.
Henry Martin.
William Pureſoy.
John Berkſtead.
John Blackiſtone.
Gilbert Millington.
Sir *William Conſtable* Bar.
Edmond Ludlow.
John Hutchinſon.
Sir *Michael Livеſey* Bar.
Robert Tichbourne.
Owen Roe.
Robert Lilbourne.
Adrian Scroope.
Richard Deane.
John Okey.
John Huſon.
William Goffe.
Cornelius Holland.
John Carew.
John Jones.
Miles Corbet.
Francis Allen.
Peregrine Pelham.
Thomas Challoner.
John Moore.
William Say.
John Dixwell.
Sir *Henry Mildmay* Kt.
Tho. Ld *Grey* of *Grooby.*
William Lord *Mounſon.*
Sir *John Danvers.*
Sir *Tho. Maleverer* Bar.
Sir *John Bourchier* Knt.
Sir *James Harrington* Kt.
Robert Wallop.
William Heveningham.
Iſaac Pennington Ald. of *London.*
John Alured.
Henry Smith.
James Temple.
Peter Temple.
Daniel Blagrave.
Humphrey Edwards.
Gregory Clement.
John Fry.
Thomas Wogan.
Sir *Gregory Norton.*
Edmond Harvey.
John Venn.
Thomas Scot.
Thomas Andrews Ald. of *London.*
William Cawley.
Anthony Stapeley.
John Downs.
Thomas Horton.
Thomas Hammond.
John Liſle.
Nicholas Love.
Vincent Potter.
Sir *Gilbert Pickering* Bar.
Auguſtine Garland.
Simon Meyne.

Seventy-one Commiſſioners preſent.

The Court being called, the Serjeant is required to ſend for the Priſoner, who was accordingly brought to the Bar, where he took his Seat as formerly. Proclamation is thereupon made for Silence,

while

while the Pleas of the Commonwealth are in hand, and the Captain of the Guard commanded by Proclamation to take into cuſtody all that ſhall diſturb the Proceedings of the Court.

Mr. Sollicitor *Cook* addreſſing himſelf to the Court, repeated the former Delays and Contempts of the Priſoner, ſo as that no more needed on his part, but to demand Judgment; yet offered, notwithſtanding the Notoriety of the Facts charged, mentioned in the Commons Act appointing the Tryal, to prove the Truth of the ſame by Witneſſes, if thereto required: and therefore pray'd, and yet (he ſaid) not ſo much he, as the innocent Blood that had been ſhed, the Cry whereof was very great, that a ſpeedy Sentence and Judgment might be pronounced againſt the Priſoner at the Bar according to Juſtice.

Hereupon the Court putting the Priſoner in mind of former Proceedings, and that although by the Rules of Juſtice, if advantage were taken of his paſt Contempts, nothing would remain but to pronounce Judgment againſt him, they had nevertheleſs determined to give him leave to anſwer his Charge; which, as was told him in plain terms, (for Juſtice knew no Reſpect of Perſons) was to plead *Guilty* or *Not Guilty* thereto.

To which he made anſwer as formerly, That he would not acknowledge the Juriſdiction of the Court, and that it was againſt the Fundamental Laws of the Kingdom; that there was no Law to make a King a Priſoner; that he had done nothing againſt his Truſt; and iſſued out into ſuch-like Diſcourſes.

Upon which, the Court's Reſolution was again remembred to him, and he told, That he had now the third time publickly diſowned and affronted the Court; That how good a Preſerver he had been of the Fundamental Laws, and Freedoms of the People, his Actions had ſpoken; That Mens Intentions were uſed to be ſhewed by their Actions, and that he had written his Meaning in bloody Characters throughout the Kingdom; and that he ſhould find at laſt, though at preſent he would not underſtand it, that he was before a Court of Juſtice.

Hereupon, in the manner appointed, the Clerk in the name of the Court demanding the Priſoner's Anſwer to his Charge, and the ſame refuſed, the Default was recorded, the Priſoner remanded, and the Court adjourned to the *Painted Chamber*.

Painted Chamber.

The Court, according to their former Adjournment from *Weſtminſter-Hall*, came together from thence into the *Painted Chamber*, where they ſat privately, and ordered as followeth:

Ordered, That no Commiſſioner ought, or ſhall depart from the Court, without the ſpecial Leave of the ſaid Court.

This Court took into conſideration the managing of the Buſineſs of the Court this day in the Hall, and the King's Refuſal to anſwer, notwithſtanding he had been three ſeveral times demanded and required thereunto; and have thereupon fully approved of what on the Court's part had then paſſed; and reſolved,

That notwithſtanding the ſaid Contumacy of the King, and Refuſal to plead, which in Law amounts to a ſtanding mute, and tacit Confeſſion of the Charge, and notwithſtanding the Notoriety of the Fact charged, the Court would nevertheleſs however examine Witneſſes, for the further and clearer Satisfaction of their own Judgments and Conſciences; the Manner of whoſe Examination was referred to further Conſideration the next ſitting, and Warrants were accordingly iſſued forth for ſummoning of Witneſſes.

Mr. *Peters* moveth the Court as a Meſſenger from the King, *viz.* That the King deſires he might ſpeak with his Chaplains that came unto him privately; but the Houſe of Commons having taken that into their conſideration, the Court conceived it not proper for them to intermeddle therein.

The Court adjourned itſelf till Nine of the clock to-morrow Morning, to this place.

What paſſed in the Hall more at large than is related by Phelps *in this Day's Tranſactions, ſee in the following Diſcourſe.*

The King being brought in by the Guard, looks with a majeſtick Countenance upon his pretended Judges, and ſits down.

After the ſecond *O Yes*, and Silence commanded, *Cook* began more inſolently:

Cook. May it pleaſe your Lordſhip, my Lord Preſident; This is now the third time, that, by the great Grace and Favour of this High Court, the Priſoner hath been brought to the Bar, before any Iſſue joined in the Cauſe. My Lord, I did at the firſt Court exhibit a Charge againſt him, containing the higheſt Treaſon that ever was wrought upon the Theatre of *England*; That a King of *England*, truſted to keep the Law, that had taken an Oath ſo to do, that had Tribute paid him for that end, ſhould be guilty of a wicked Deſign to ſubvert and deſtroy our Laws, and introduce an Arbitrary and Tyrannical Government, in the defiance of the Parliament and their Authority, ſet up his Standard for War againſt the Parliament and People: and I did humbly pray, in the behalf of the People of *England*, that he might ſpeedily be required to make an Anſwer to the Charge.

But, my Lord, inſtead of making any Anſwer, he did then diſpute the Authority of this High Court. Your Lordſhip was pleaſed to give him a further Day, to conſider, and to put in his Anſwer; which Day being yeſterday, I did humbly move, that he might be required to give a direct and poſitive Anſwer, either by denying or confeſſion of it: but, my Lord, he was then pleaſed for to demur to the Juriſdiction of the Court; which the Court did then over-rule, and command him to give a direct and poſitive Anſwer. My Lord, Beſides this great Delay of Juſtice, I ſhall now humbly move your Lordſhip for ſpeedy Judgment againſt him. My Lord, I might preſs your Lordſhip upon the whole, that according to the known Rules of the Law of the Land, That if a Priſoner ſhall ſtand as contumacious in contempt, and ſhall not put in an iſſuable Plea, Guilty or Not Guilty of the Charge given againſt him, whereby he may come to a fair Tryal; that as by an implicit Confeſſion, it may be taken *pro confeſſo*, as it hath been done to thoſe who have deſerved more Favour than the Priſoner at the Bar has done. But beſides, my Lord, I ſhall humbly preſs your Lordſhip upon the whole Fact. The Houſe of Commons, the Supreme Authority and Juriſdiction of the Kingdom, they have declared, That it is notorious, that the Matter of the Charge is true, as it is in truth, my Lord, as clear as Chryſtal, and as the Sun that ſhines at Noon-

Noon-day: which if your Lordſhip and the Court be not ſatisfied in, I have notwithſtanding, on the People of *England*'s behalf, ſeveral Witneſſes to produce. And therefore I do humbly pray, (and yet I muſt confeſs it is not ſo much I, as the innocent Blood that hath been ſhed, the Cry whereof is very great for Juſtice and Judgment; and therefore I do humbly pray) that ſpeedy Judgment be pronounced againſt the Priſoner at the Bar.

Bradſhaw went on in the ſame ſtrain:

Sir, You have heard what is moved by the Counſel on the behalf of the Kingdom againſt you. Sir, You may well remember, and if you do not, the Court cannot forget what dilatory Dealings the Court hath found at your hands. You were pleaſed to propound ſome Queſtions, you have had your Reſolution upon them. You were told over and over again, That the Court did affirm their own Juriſdiction; that it was not for you, nor any other Man, to diſpute the Juriſdiction of the ſupreme and higheſt Authority of *England*, from which there is no Appeal, and touching which there muſt be no Diſpute: yet you did perſiſt in ſuch Carriage, as you gave no manner of Obedience, nor did you acknowledge any Authority in them, nor the High Court that conſtituted this Court of Juſtice.

Sir, I muſt let you know from the Court, that they are very ſenſible of theſe Delays of yours, and that they ought not, being thus authorized by the ſupreme Court of *England*, to be thus trifled withal; and that they might in Juſtice, if they pleaſed, and according to the Rules of Juſtice, take advantage of theſe Delays, and proceed to pronounce Judgment againſt you: yet nevertheleſs they are pleaſed to give direction, and on their behalfs I do require you, that you make a poſitive Anſwer unto this Charge that is againſt you, Sir, in plain terms, (for Juſtice knows no reſpect of Perſons;) you are to give your poſitive and final Anſwer in plain *Engliſh*, whether you be guilty or not guilty of theſe Treaſons laid to your charge.

The King, after a little Pauſe, ſaid,

When I was here yeſterday, I did deſire to ſpeak for the Liberties of the People of *England*; I was interrupted: I deſire to know yet whether I may ſpeak freely or not.

Bradſhaw. Sir, You have had the Reſolution of the Court upon the like Queſtion the laſt day, and you were told, that having ſuch a Charge of ſo high a nature againſt you, your Work was, that you ought to acknowledge the Juriſdiction of the Court, and to anſwer to your Charge. Sir, If you anſwer to your Charge, which the Court gives you leave now to do, tho they might have taken the advantage of your Contempt; yet if you be able to anſwer to your Charge, when you have once anſwered, you ſhall be heard at large, make the beſt Defence you can. But, Sir, I muſt let you know from the Court, as their Commands, that you are not to be permitted to iſſue out into any other Diſcourſes, till ſuch time as you have given a poſitive Anſwer concerning the matter that is charged upon you.

King. For the Charge, I value it not a ruſh, it is the Liberty of the People of *England* that I ſtand for. For me to acknowledge a new Court that I never heard of before, I that am your King, that ſhould be an Example to all the People of *England* for to uphold Juſtice, to maintain the old Laws; indeed I know not how to do it. You ſpoke very well the firſt Day that I came here, (on Saturday) of the Obligations that I had laid upon me by God, to the maintenance of the Liberties of my People: the ſame Obligation you ſpake of, I do acknowledge to God that I owe to him, and to my People, to defend as much as in me lies the antient Laws of the Kingdom. Therefore until that I may know that this is not againſt the fundamental Laws of the Kingdom, by your favour I can put in no particular Anſwer. If you will give me time, I will ſhew you my Reaſons why I cannot do it, and this——

Here being interrupted, he ſaid,

By your favour, you ought not to interrupt me: how I came here I know not, there's no Law for it to make your King your Priſoner. I was in a Treaty upon the publick Faith of the Kingdom, that was the known——two Houſes of Parliament that was the Repreſentative of the Kingdom; and when that I had almoſt made an end of the Treaty, then I was hurried away, and brought hither: and therefore——

Bradſhaw. Sir, you muſt know the Pleaſure of the Court.

King. By your favour, Sir.

Bradſhaw. Nay, Sir, by your favour, you may not be permitted to fall into thoſe Diſcourſes; you appear as a Delinquent, you have not acknowledged the Authority of the Court, the Court craves it not of you: but once more they command you to give your poſitive Anſwer——Clerk, Do your Duty.

King. Duty, Sir!

The Clerk reads:

Charles Stuart, *King of* England, *you are accuſed, in the behalf of the Commons of* England, *of divers High Crimes and Treaſons; which Charge hath been read unto you: The Court now requires you to give your poſitive and final Anſwer, by way of Confeſſion or Denial of the Charge.*

King. Sir, I ſay again to you, ſo that I might give ſatisfaction to the People of *England* of the Clearneſs of my Proceeding, not by way of Anſwer, not in this way, but to ſatisfy them that I have done nothing againſt that Truſt that hath been committed to me, I would do it: but to acknowledge a new Court, againſt their Privileges, to alter the fundamental Laws of the Kingdom, Sir you muſt excuſe me.

Bradſhaw. Sir, this is the third time that you have publickly diſown'd this Court, and put an affront upon it: How far you have preſerv'd the Privileges of the People, your Actions have ſpoke it; but truly, Sir, Mens Intentions ought to be known by their Actions, you have written your Meaning in bloody Characters throughout the whole Kingdom. But, Sir, you underſtand the Pleaſure of the Court.——Clerk, Record the Default.——And Gentlemen, you that took charge of the Priſoner, take him back again.

King. I will only ſay this one word more to you; If it were only my own Particular, I would not ſay any more, nor interrupt you.

Bradſhaw. Sir, you have heard the Pleaſure of the Court, and you are (notwithſtanding you will not underſtand it) to find that you are before a Court of Juſtice.

Then the King went forth with the Guard; and Proclamation was made, That all Perſons which had then appeared, and had further to do at the Court, might depart into the Painted Chamber; to which place the Court did forthwith adjourn,

and intended to meet at *Weſtminſter-Hall* by Ten of the clock next Morning.

Cryer. God bleſs the Kingdom of *England.*

Mercurii, 24 Jan. 1648. *Painted Chamber.*

THREE Proclamations made.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident.

Sir *Tho. Maleverer* Bar.
Thomas Scot.
Edw. Whalley.
John Carew.
Edmond Harvey.
Owen Roe.
John Blackiſtone.
William Pureſoy.
Henry Smith.
John Fry.
Francis Laſſels.
Daniel Blagrave.
Anthony Stapely.
Sir *Gregory Norton* Bar.
William Cawley.
Robert Tichbourne.
Henry Martin.
Oliver Cromwell.
Sir *John Danvers.*
John Moor.
Richard Deane.
Vincent Potter.
Thomas Horton.
Cornelius Holland.
John Berkſtead.
Tho. Ld *Grey* of *Grooby.*
John Huſon.
John Okey.
Gilbert Millington.
John Jones.
William Goffe.
Sir *John Bourchier.*
Iſaac Pennington, Alderman of *London.*
Simon Meyne.
Adrian Scroope.
John Dixwell.
Iſaac Ewers.
John Alured.
Peter Temple.
Peregrine Pelham.
Edmond Ludlow.
John Hutchinſon.
Thomas Pride.
William Heveningham.
Sir *William Conſtable.*
Francis Allen.

The Court took into conſideration the Manner how the Witneſſes ſhould be examined; and in regard the King hath not pleaded to Iſſue, and that this Examination was *ex abundanti* only, for the further Satisfaction of themſelves,

Reſolved, That the Witneſſes ſhall be examined to the Charge againſt the King, in the *Painted Chamber*, before the Court there.

Ordered, That Mr. *Millington* and Mr. *Tho. Challoner* do forthwith repair unto *John Brown* Eſq; Clerk of the Houſe of Peers, for ſuch Papers as are in his cuſtody, which are conducible for the Buſineſs and Service of this Court; and the ſaid Mr. *Brown* is required to ſend the ſaid Papers hither accordingly.

Witneſſes produced and ſworn in Court to give Evidence to the Charge againſt the King.

Henry Hartford.
Edward Roberts.
William Braynes.
Robert Lacy.
Robert Loades.
Samuel Morgan.
James Williams.
Michael Potts.
Giles Gryce.
William Arnop.
John Vinſon.
George Seely.
Tho. Ives.
James Crosby.
Tho. Rawlins.
Richard Blomfield.
John Thomas.
Samuel Lawſon.
John Pyneger.
George Cornewall.
Tho. Whittington.
William Jones.
Humphrey Browne.
Arthur Young.
David Evans.
Diogenes Edwards.
Robert Williams.
John Bennet.
Samuel Burden.

Col. *Horton*, Col. *Deane*, Col. *Okey*, Col. *Huſon*, Col. *Roe*, Col. *Tichbourne*, Col. *Whalley*, Col. *Thomlinſon*, Col. *Goffe*, Col. *Ewers*, Col. *Scroope*, Mr. *Love*, Mr. *Scot*, Mr. *Tho. Challoner*, Mr. *Millington*, and Sir *John Danvers*, or any three of them, are a Committee appointed to take the Examination of the ſaid Witneſſes now ſworn, whom the Clerks are to attend for that purpoſe.

The Court granted their Summons for ſummoning further Witneſſes, and adjourned itſelf till the Morrow at Nine of the clock in the Morning, to this place.

Jovis, 25 Jan. 1648. *Painted Chamber.*

The Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Richard Deane.
Sir *Hardreſs Waller.*
John Moor.
Peregrine Pelham.
John Huſon.
John Berkſtead.
Edward Whalley.
John Okey.
Edmond Harvey.
Adrian Scroope.
Henry Smith.
Thomas Scot.
William Cawley.
Gilbert Millington.
Thomas Challoner.
John Carew.
Sir *John Bourchier* Kt.
Sir *Thomas Maleverer* Bar.
Francis Allen.
Thomas Harriſon.
John Jones.
John Alured.
John Brown.
Iſaac Ewers.
Robert Tichbourne.
Auguſtine Garland.
Francis Laſſels.
John Dixwell.
Sir *Michael Liveſey* Bar.
John Venn.
Edmond Wild.
With divers others.

Here the Court ſat private.

The Court ordered, That the Marſhal-Gen. of this Army, or his Deputy, do bring forthwith Mr. *Holder* Priſoner at *Whitehall*, to the end that he may teſtify his Knowledge of all ſuch Matters as ſhall be propounded unto him concerning the Charge againſt the King.

Ordered, That the Dean's Houſe in *Weſtminſter-Abbey* be provided and furniſhed for the Lodging of the Lord Preſident and his Servants, Guards and Attendants; and a Committee are appointed to take care hereof accordingly.

Mr. *Henry Gouge* and Mr. *William Cuthbert*, Witneſſes produced to the Charge againſt the King, were ſworn and examined.

The Witneſſes ſworn in open Court, and after examined by the Committee appointed for that purpoſe the 24th Inſtant, were now in open Court called, and their reſpective Depoſitions were read to them: who did avow their ſaid ſeveral Depoſitions, and affirm what was ſo read unto them reſpectively was true, upon the Oaths they had taken.

The Court being informed, that Major *Fox*, being of the Guard attending the Lord Preſident, is arreſted, and committed to the Keeper of *Ludgate*;

Ordered, That the ſaid Keeper do forthwith bring the ſaid Major before this Court, and attend this Court in Perſon himſelf.

Mr. *Holder* being brought before this Court according to the Order of this Day, and his Oath tendred unto him, to give Evidence to ſuch Matters as ſhould be propounded unto him concerning the Charge againſt the King; the ſaid Mr. *Holder* deſired to be ſpared from giving Evidence againſt the King.

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Whereupon, the Commiſſioners finding him already a Priſoner, and perceiving that the Queſtions intended to be asked him, tended to accuſe himſelf, thought fit to wave his Examination, and remanded him (and accordingly did ſo) to the Priſon from whence he was brought.

The Depoſitions taken *ut ſupra*, are as followeth, *viz.*

Jan. 25. 1648.

William Cuthbert of *Patrington* in *Holderneſs* Gent. aged 42 Years, or thereabouts, ſworn and examined, ſaith, That he, this Deponent, living at *Hull-Bridge* near *Beverley*, in *July* 1642, did then hear that Forces were raiſed, about three thouſand Foot, for the King's Guard under Sir *Robert Strickland*.

* Holderneſs is in the County of York.

And this Deponent further ſaith, That about the ſecond of *July* 1642, he ſaw a Troop of Horſe come to *Beverley*, being the Lord's-Day, about Four or Five of the clock in the Afternoon, called the Prince's Troop; Mr. *James Nelthorp* being then Major of the ſaid Town.

And this Deponent further ſaith, That he did ſee that Afternoon the ſaid Troop march from *Beverley* aforeſaid into *Holderneſs*, where they received Ammunition brought up by the River *Humber* unto them.

And this Deponent further ſaith, That the ſame Night, being Sunday, three came about three hundred Foot-Soldiers, (ſaid to be Sir *Robert Strickland*'s Regiment) under the Command of Lieutenant-Col. *Duncombe*, and call'd the King's Guard, unto this Deponent's Houſe, call'd *Hull-Bridge*, near *Beverley*, about Midnight, and broke open, entred, and poſſeſſed themſelves of the ſaid Houſe; and that the Earl of *Newport*, the Earl of *Carnarvan*, and divers others came that Night thither to the ſaid Forces: And that the ſame Night (as this Deponent was then informed) Sir *Tho. Gower*, then High Sheriff of the ſaid County, came thither, and left there a Warrant for ſtaying all Proviſions from going to *Hull* to Sir *John Hotham*; which ſaid Warrant was then delivered to this Deponent, being Conſtable, by Lieut. Col. *Duncombe*.

And this Deponent further ſaith, That he was by the ſaid Forces put out of his Houſe, and did with his Family go to *Beverley*; and that after that, *viz.* the Thurſday following, to this Deponent's beſt remembrance, he did ſee the King come to *Beverley*, to the Lady *Gee*'s Houſe there; where he, this Deponent, did often ſee the King, with Prince *Charles* and the Duke of *York*: and that the Trained-Bands were then raiſed in *Holderneſs*; who were raiſed (as was generally reported) by the King's Command.

And this Deponent further ſaith, That the Night after the ſaid Forces had, as aforeſaid, poſſeſſed themſelves of this Deponent's Houſe, Col. *Legard*'s Houſe was plunder'd by them, being upon a Monday; which aforeſaid Entry of this Deponent's Houſe, was the firſt * Act of Hoſtility that was committed in thoſe parts.

* Sir John Hotham's keeping Hull as a Garriſon againſt the King, which was before this, was, it ſeems, no Act of Hoſtility, in this perjur'd Villain's account.

And this Deponent further ſaith, That after the ſaid Sir *Robert Strickland*'s ſaid Company was gone from *Hull-Bridge*, having continued there about ten days, there then came to the ſaid Houſe Col. *Wivel*, with about ſeven hundred Foot-Soldiers, who then took up his Quarters at *Hull-Bridge* aforeſaid. And this Deponent further ſaith, That the Warrant he now produceth to this Court, is the ſame original Warrant aforeſaid ſpoken of.

And this Deponent further ſaith, That the General's Name of the ſaid Forces that were there, and raiſed as aforeſaid, was the Earl of *Lindſey*; and that this Deponent was brought before him the ſaid General, in the name of the King's Lord General, for holding Intelligence with Sir *John Hotham*, then Governour of *Hull*; and becauſe it was then informed to the ſaid General, that he this Deponent had Proviſions of Corn to ſend over unto *Ireland*, which he this Deponent was forbidden by the ſaid General to ſend unto *Ireland*, or any place elſe, without his or the King's Direction or Warrant firſt had in that behalf.

The aforeſaid Warrant, mentioned in the Depoſition of the ſaid *William Cuthbert*, is as followeth:

'IT is his Majeſty's Command, that you do not 'ſuffer any Victuals or Proviſion, of what ſort 'ſoever, to be carried into the Town of *Hull* 'without his Majeſty's ſpecial Licence firſt ob-'tained. And of this you are not to fail at your 'Peril.

Dated at Beverley, 3 Julii, 1642.

Tho. Gower, Vi. Co.

To all Head-Conſtables and Conſtables in the Eaſt-Riding *of the County of* York, *and to all other his Majeſty's Loyal Subjects.*

John Bennet of *Harwood*, in the County of *York*, Glover, ſworn and examined, ſaith, That he being a Soldier under the King's Command, the firſt day that the King's Standard was ſet up at *Nottingham*, which was about the middle of Summer laſt was ſix Years, he this Examinant did work at *Nottingham*; and that he did ſee the King within the Caſtle of *Nottingham*, within two or three days after the ſaid Standard was ſo ſet up; and that the ſaid Standard did fly the ſame day that the King was in the ſaid Caſtle, as aforeſaid: and this Deponent did hear that the King was at *Nottingham* the ſame day that the ſaid Standard was firſt ſet up, and before.

And this Deponent further ſaith, That he this Deponent, and the Regiment of which he then was, had their Colours then given them; and Sir *William Penyman* being the Colonel of the ſaid Regiment, the ſaid Sir *William Penyman* was preſent with his ſaid Regiment at that time.

And this Deponent further ſaith, That there was then there the Earl of *Lindſey*'s Regiment, who had then their Colours given them, and that the ſaid Earl of *Lindſey* was then alſo proclaimed there the King's General; and that it was proclaimed then there likewiſe in the King's name, at the head of every Regiment, that the ſaid Forces ſhould fight againſt all that came to oppoſe the King, or any of his Followers; and in particular, againſt the Earl of *Eſſex*, the Lord *Brooke*, and divers others: and that they the ſaid Earl of *Eſſex*, the Lord *Brooke*, and divers others, were then proclaimed Traytors; and that the ſame Proclamations were printed, and diſperſed by the Officers of the Regiments throughout every Regiment.

And this Deponent further ſaith, That the ſaid Standard was advanced upon the higheſt Tower of *Nottingham*-Caſtle; and that he this Deponent did

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ſee the King often in *Nottingham* at that time that the ſaid Forces continued at *Nottingham* as aforeſaid, they continuing there for the ſpace of one Month; and that the Drums for raiſing Volunteers to fight under the King's Command, were then beaten all the ſaid County over, and divers other Forces were raiſed there.

And this Deponent further ſaith, That he did take up Arms under the King's Command as aforeſaid, for fear of being plunder'd; Sir *William Penyman* giving out, that it were a good deed to fire the ſaid Town, becauſe they would not go forth in the King's Service: and that this Deponent's Father did thereupon command him this Deponent to take up Arms as aforeſaid, and that divers others (as they did confeſs) did then alſo take up Arms for the King for fear of being plundered.

And this Deponent further ſaith, That in or about the Month of *October* 1642, he did ſee the King at *Edge-Hill* in *Warwickſhire*; where he ſitting on horſeback while his Army was drawn up before him, * did ſpeak to the Colonel of every Regiment that paſſed by him, that he would have them ſpeak to their Soldiers to encourage them to ſtand it, and to fight againſt the Lord of *Eſſex*, the Lord *Brooke*, Sir *William Waller*, and Sir *William Balfour*.

* *How is it poſſible this Fellow could ſwear the King ſpoke this to every Colonel, ſeeing it was as they paſſed by? and when his Colonel was paſſed by, he could hear no more.* Nalſ.

And this Deponent ſaith, That he did ſee many ſlain at the Fight at *Edge-Hill*, and that afterwards he did ſee a Liſt brought in unto *Oxford*, of the Men which were ſlain in that Fight; by which it was reported, that there were ſlain 6559 Men.

And this Deponent further ſaith, Afterwards, in or about the Month of *November* 1642, he did ſee the King in the head of his Army at *Hounſlow-Heath* in *Middleſex*, Prince *Rupert* then ſtanding by him. And he this Deponent did then hear the King encourage ſeveral Regiments of *Welſhmen* (then being in the Field) which had run away at *Edge-Hill*, ſaying unto them, That he did hope they would regain their Honour at *Brentford*, which they had loſt at *Edge-Hill*.

William Brayne of *Wixhall* in the County of *Salop* Gent. being ſworn and examined, depoſeth, That about *Auguſt* in the Year 1642, this Deponent ſaw the King at *Nottingham*, while the Standard was ſet up, and the Flag flying; and that he this Deponent much about the ſame time marched with the King's Army from *Nottingham* to *Derby*, the King himſelf being then in the Army: And about *September* the ſaid Year, he this Deponent was put upon his Tryal at *Shrewsbury* as a Spy, before Sir *Robert Heath*, and other Commiſſioners of *Oyer* and *Terminer*, the King then being in perſon in *Shrewſbury*.

Henry Hartford of *Stratford* upon *Avon*, in *Warwickſhire*, ſworn and examined, depoſeth, That about Corn-Harveſt in the Year 1642, this Deponent ſaw the King in *Nottingham*-Caſtle, while the Standard was ſet upon one of the Towers of the ſaid Caſtle, and the Flag flying.

And he further ſaith and depoſeth, That he this Deponent ſaw the King the ſame Year about the Month of *November* in *Brentford* Town on horſeback, with a great many Commanders about him, on a Sunday Morning, when on the Saturday Night before there were a great many of the Parliament's Forces ſlain by the King's Forces in the ſaid Town.

Robert Lacy of the Town and County of *Nottingham* Painter, ſworn and examined, depoſeth, That he this Deponent, in Summer-time in the Year 1642, by Order from my Lord *Beaumont* did paint the Standard-Pole which was ſet up on the top of the old Tower of *Nottingham*-Caſtle. And he further ſaith, That he ſaw the King in the Town of *Nottingham* divers times while the Standard was up there, and the Flag flying; and the King did lie at the Houſe of my Lord of *Clare* in *Nottingham* Town, and that he this Deponent did then and there ſee the King many times.

Edward Roberts of *Biſhops-Caſtle* in the County of *Salop* Ironmonger, ſworn and examined, ſaith and depoſeth, That he this Deponent ſaw the King in *Nottingham* Town while the Standard was ſet upon the High Tower in *Nottingham* Caſtle.

And he further ſaith, That he ſaw the King at the head of the Army at *Shrewsbury*, upon the March towards *Edge-Hill*, and that he likewiſe ſaw the King in the Rear of his Army in *Keynton-Field*; and likewiſe ſaw the King upon the Sunday Morning at *Brentford*, after the Fight upon the Saturday next before, in the ſaid Town.

Robert Loads of *Cottam* in *Nottinghamſhire* Tiler, ſworn and examined, ſaith, That he this Deponent about *October* in the Year 1642, ſaw the King in the Rear of his Army in *Keynton-Field* upon a Sunday, where he ſaw many ſlain on both ſides.

And he further ſaith, That he ſaw the King in *Cornwal* in his Army, near the Houſe of my Lord *Mohun*, about *Leſtithiel*, about Corn-Harveſt 1644.

Samuel Morgan of *Wellington* in Com. *Salop* Felt-maker, ſworn and examined, depoſeth, That he this Deponent upon a Sunday Morning in *Keynton-Field* ſaw the King upon the top of *Edge-Hill* in the head of the Army, ſome two hours before the Fight, which happened after *Michaelmas* on a Sunday the Year 1642. And he this Deponent ſaw many Men killed on both ſides in the ſame time and place.

And he further ſaith, That in the Year 1644, he this Deponent ſaw the King in his Army near *Cropredy-Bridge*, where he ſaw the King light off his Horſe, and draw up the Body of his Army in perſon himſelf.

James Williams of *Roſs* in *Herefordſhire* Shoemaker, ſworn and examined, depoſeth, That he this Deponent, about *October*, the Year 1642, ſaw the King in *Keynton-Field*, below the Hill in the Field with his Sword drawn in his hand; at which time and place there was a great Fight, and many kill'd on both ſides.

And he further depoſeth, That he ſaw the King at *Brentford* on a Sunday in the Forenoon, in *November* the Year aboveſaid, while the King's Army was in the ſaid Town, and round about it.

John Pyneger of the Pariſh of *Hainer* in the County of *Derby* Yeoman, aged 37 Years or thereabout, ſworn and examined, ſaith, That about *Auguſt* 1642, he the Deponent ſaw the King's Standard flying upon one of the Towers of *Nottingham* Caſtle; and that upon the ſame day he ſaw the

King in *Thurland-Houſe*, being the Earl of *Clare*'s Houſe in *Nottingham*, in the Company of Prince *Rupert*, Sir *John Digby*, and other Perſons, both Noblemen and others; and that the King had at the ſame time in the ſaid Town, a Train of Artillery, and the ſaid Town was then full of the King's Soldiers.

Samuel Lawſon of *Nottingham*, Malſter, aged thirty Years, or thereabouts, ſworn and examined, ſaith, That about *Auguſt*, 1642. he this Deponent ſaw the King's Standard brought forth of *Nottingham* Caſtle, borne upon divers Gentlemens Shoulders, who (as the Report was) were Noblemen; and he ſaw the ſame by them carried to the Hill cloſe adjoining to the Caſtle, with a Herald before it, and there the ſaid Standard was erected with great Shoutings, Acclamations, and Sound of Drums and Trumpets; and that when the ſaid Standard was ſo erected, there was a Proclamation made; and that he this Deponent ſaw the King preſent at the erecting thereof. And this Deponent further ſaith, That the ſaid Town was then full of the King's Soldiers, of which ſome quartered in this Deponent's Houſe; and that when the King with his ſaid Forces went from the ſaid Town, the Inhabitants of the ſaid Town were forced to pay a great Sum of Money to the King's Army, being threatned, that in caſe they ſhould refuſe to pay it, the ſaid Town ſhould be plundred.

Arthur Young, Citizen and Barber-Chirurgeon of *London*, being aged twenty-nine Years, or thereabouts, ſworn and examined, ſaith, That he this Deponent was preſent at the Fight at *Edge-Hill*, between the King's Army and the Parliament's, in *October* 1642. and he did then ſee the King's Standard advanced, and flying in his Army in the ſaid Fight. And that he this Deponent did then take the King's ſaid Standard in that Battel from the King's Forces, which was afterwards taken from him by one *Middleton*, who was afterwards made a Colonel.

Thomas Whittington of the Town and County of *Nottingham*, Shoemaker, aged twenty-two Years, ſworn and examined, ſaith, That he this Deponent ſaw the King in the Town of *Nottingham* the ſame day that his Stamdard was firſt ſet up in *Nottingham*-Caſtle, being about the beginning of *Auguſt*, 1642. and that the King then went from his Lodgings at *Thurland-Houſe* towards the ſaid Caſtle; and that he this Deponent ſaw him ſeveral times, about that time, in *Nottingham*, there being divers Soldiers at that time in the ſaid Town, who were called by the Name of *the King's Soldiers*.

And this Deponent further ſaith, That he ſaw the King's Standard flying upon the Old Tower in the ſaid Caſtle.

John Thomas of *Llangollen*, in the County of *Denbigh*, Husbandman, aged twenty-five Years, or thereabouts, ſworn and examined, ſaith, That he ſaw the King at *Brentford* in the County of *Middleſex*, on a Saturday-Night at Twelve of the clock, ſoon after *Edge-Hill* Fight, attended with Horſe and Foot Soldiers, the King being then on horſeback, with his Sword by his Side; and this Deponent then heard the King ſay to the ſaid Soldiers, as he was riding through the ſaid Town, Gentlemen, you loſt your Honour at *Edge-Hill*, I hope you will regain it again here; or Words to that effect.

And this Deponent further ſaith, That there were ſome Skirmiſhes between the King's Army and the Parliament's Army, at the ſame time, both before and after the King ſpake the ſaid Words; and that many Men were ſlain on both ſides.

Richard Blomfield, Citizen and Weaver of *London*, aged thirty-five Years, or thereabouts, ſworn and examined, ſaith, That at the Defeat of the Earl of *Eſſex*'s Army in *Cornwall*, he this Deponent was there, it being at the latter end of the Month of *Auguſt*, or beginning of *September*, 1644. at which time, he this Deponent ſaw the King at the Head of his Army, near *Foy*, on horſeback: And further, he ſaith, That he did then ſee divers of the Lord of *Eſſex*'s Soldiers plundered, contrary to Articles then lately made, near the Perſon of the King.

William Jones of *Uske* in the County of *Monmouth*, Husbandman, aged twenty-two Years, or thereabouts, ſworn and examined, ſaith, That he this Deponent did ſee the King within two Miles of *Naſeby-Field*, the King then coming fromwards *Harborough*, marching in the Head of his Army, towards *Naſeby-Field* where the Fight was; and that he this Deponent did then ſee the King ride up to the Regiment which was Col. *St. George*'s, and there the Deponent did hear the King ask the Regiment, *Whether they were willing to fight for him?* To which the Soldiers made an Acclamation, crying, *All, All.*

And this Deponent further ſaith, That he ſaw the King in *Leiceſter* with his Forces, the ſame Day that the King's Forces had taken it from the Parliament's Forces.

And this Deponent further ſaith, That he ſaw the King in his Army that beſieged *Glouceſter*, at the time of the ſaid Siege.

Humphrey Browne of *Whitſondine* in the County of *Rutland*, Husbandman, aged twenty-two Years or thereabouts, ſworn and examined, ſaith, That at ſuch time as the Town of *Leiceſter* was taken by the King's Forces, being in or about *June*, 1645. *Newark-Fort* in *Leiceſter* aforeſaid was ſurrendered to the King's Forces, upon Compoſition, that neither Clothes nor Money ſhould be taken away from any of the Soldiers of that Fort, which had ſo ſurrendered, nor any Violence offered to them; and that as ſoon as the ſaid Fort was upon ſuch Compoſition ſo ſurrender'd as aforeſaid, the King's Soldiers, contrary to the Articles, fell upon the Soldiers of the ſaid Fort, ſtrip'd, cut and wounded many of them: whereupon one of the King's Officers rebuking ſome of thoſe that did ſo abuſe the ſaid Parliament's Soldiers, this Deponent did then hear the King reply, *I do not care if they cut them three times more, for they are mine Enemies*, or Words to that effect: And that the King was then on horſeback, in bright Armour, in the ſaid Town of *Leiceſter*.

David Evans of *Abergenny*, in the County of *Monmouth*, Smith, aged about twenty-three Years, ſworn and examined, ſaith, That about half an Hour before the Fight at *Naſeby*, about Midſummer in *June* 1645, he ſaw the King marching up to the Battel in the Head of his Army, being about half a Mile from the Place where the ſaid Battel was fought.

Diogenes Edwards of *Carſton*, in the County of *Salop*, Butcher, aged twenty-one Years, or thereabouts, ſworn and examined, ſaith, That in *June* 1645, he this Deponent ſaw the King in the Head of his Army, an Hour and a half before the Fight in *Naſeby-Field*, marching up to the Battel, being then a Mile and a half from the ſaid Field: And this Deponent ſaith, That he did afterwards, the ſame Day, ſee many ſlain at the ſaid Battel.

Giles Gryce of *Wellington*, in *Shropſhire*, Gent. ſworn and examined, depoſeth, That he this Deponent ſaw the King in the Head of his Army at *Cropredy*-Bridge, with his Sword drawn in his Hand that Day, when the Fight was againſt Sir *William Waller*, on a Friday, as this Deponent remembreth, in the Year 1644, about the Month of *July*. And he further ſaith,

That he ſaw the King in the ſame Summer, in *Cornwall*, in the Head of his Army, about *Leſtithiel*, at ſuch time as the Earl of *Eſſex* was there with his Army. And he further ſaith,

That he alſo ſaw the King in the Head of his Army at the ſecond Fight near *Newberry*. And further ſaith,

That he ſaw the King in the Front of the Army in *Naſeby-Field*, having Back and Breaſt on. And he further ſaith,

That he ſaw the King in the Head of the Army, at what time the Town of *Leiceſter* was ſtormed, and ſaw the King ride into the Town of *Leiceſter*, after the Town was taken; and he ſaw a great many Men killed on both ſides at *Leiceſter*, and many Houſes plundered.

John Vinſon of *Damorham*, in the County of *Wilts*, Gent. ſworn and examined, ſaith, That he did ſee the King at the firſt *Newberry*-Fight, about the Month of *September* 1643, in the Head of his Army, where this Deponent did ſee many ſlain on both ſides. This Deponent alſo ſaith,

That he did ſee the King at the ſecond Battel at *Newberry*, about the Month of *Nov.* 1644. where the King was at the Head of his Army in compleat Armour, with his Sword drawn; and this Deponent did then ſee the King lead up Col. *Tho. Howard*'s Regiment of Horſe, and did hear him make a Speech to the Soldiers, in the Head of that Regiment, to this effect; that is to ſay, *That the ſaid Regiment ſhould ſtand to him that Day, for that his Crown lay upon the Point of the Sword; and if he loſt that Day, he loſt his Honour and his Crown for ever.* And that this Deponent did ſee many ſlain on both ſides at that Battel. This Deponent further ſaith,

That he did ſee the King in the Battle at *Naſeby-Field* in *Northamptonſhire*, on or about the Month of *June*, 1645. where the King was then compleatly armed with Back, Breaſt and Helmet, and had his Sword drawn, where the King himſelf, after his Party was routed, did rally up the Horſe, and cauſed them to ſtand; and at that time this Deponent did ſee many ſlain on both ſides.

George Seeley of *London*, Cordwainer, ſworn and examined, ſaith, That he did ſee the King at the Head of a Brigade of Horſe, at the Siege of *Glouceſter*, and did alſo ſee the King at the firſt Fight at *Newberry*, about the Month of *September*, 1643. where the King was at the Head of a Regiment of Horſe; and that there were many ſlain at that Fight on both ſides. This Deponent alſo ſaith,

That he did ſee the King at the ſecond Fight at *Newberry*, which was about *November*, 1644. where the King was in the middle of his Army.

John Moore of the City of *Cork* in *Ireland*, Gent. ſworn and examined, ſaith, That at the laſt Fight at *Newberry*, about the Month of *November*, 1644. he this Deponent did ſee the King in the middle of the Horſe, with his Sword drawn; and that he did ſee abundance of Men at that Fight ſlain upon the Ground, on both ſides. This Deponent alſo ſaith,

That he did ſee the King ride into *Leiceſter* before a Party of Horſe the ſame Day that *Leiceſter* was taken by the King's Forces, which was about the Month of *June*, 1645.

This Deponent further ſaith, That he did ſee the King, before the Fight at *Leiceſter*, at *Cropredy-Bridge*, in the midſt of a Regiment of Horſe; and that he did ſee many ſlain at the ſame time, when the King was in the Fight at *Cropredy-Bridge*.

And laſtly, this Deponent ſaith, That he did ſee the King at the Head of a Regiment of Horſe at *Naſeby*-Fight, about the Month of *June*, 1645. where he did ſee abundance of Men cut, ſhot and ſlain.

Thomas Ives of *Boyſet*, in the County of *Northampton*, Husbandman, ſworn and examined, ſaith, That he did ſee the King in his Army at the firſt Fight in *Newberry* in *Berkſhire*, in the Month of *September*, 1643. and that he did ſee many ſlain at that Fight; he this Deponent and others, with a Party of Horſe, being commanded to face the Parliament's Forces, whilſt the Foot did fetch off the Dead.

He ſaith alſo, That he did ſee the King advance with his Army to the Fight at *Naſeby-Field* in *Northamptonſhire*, about *June*, 1645. and that he did again at that Fight ſee the King come off with a Party of Horſe after that his Army was routed in the Field; and that there were many Men ſlain on both Parts, at that Battel at *Naſeby*.

Thomas Rawlins of *Hanſlop*, in the County of *Bucks*, Gent. ſworn and examined, ſaith, That he did ſee the King near *Foy* in *Cornwall*, in or about the Month of *July*, 1644. at the Head of a Party of Horſe; and this Deponent did ſee ſome Soldiers plunder after the Articles of Agreement made between the King's Army and the Parliament's Forces; which Soldiers were ſo plundered by the King's Party not far diſtant from the Perſon of the King.

Thomas Read of *Maidſtone*, in the County of *Kent*, Gent. ſworn and examined, ſaith, That preſently after the laying down of Arms in *Cornwall*, between *Leſtithiel* and *Foy*, in or about the latter end of the Month of *Auguſt*, or the beginning of *September* 1644. he this Deponent did ſee the King in the Head of a Guard of Horſe.

James Crosby of *Dublin* in *Ireland*, Barber, ſworn and examined, ſaith, That at the firſt Fight at *Newberry*, about the time of Barley-Harveſt, 1643. he this Deponent did ſee the King riding from *Newberry-Town*, accompanied with divers Lords and Gentlemen, towards the place where his Forces were then fighting with the Parliament's Army.

Samuel Burden of *Lyneham*, in the County of *Wilts*, Gent. ſworn and examined, ſaith, That he this Deponent was at *Nottingham* in or about the Month of *Auguſt*, 1642. at which time he ſaw a Flag fly-

ing upon the Tower of *Nottingham-Caſtle*; and that the next day afterwards he did ſee the King at *Nottingham*, when the ſaid Flag was ſtill flying; which Flag this Deponent then heard was the King's Standard.

He ſaith alſo, That he did afterwards ſee the King at *Cropredy-Bridge* in the Head of his Army, in a Fallow-Field there; and did ſee the King in purſuit of Sir *William Waller*'s Army, being then routed, which was about the Month of *July*, 1644. and at that time this Deponent did ſee many People ſlain upon the Ground.

And further this Deponent ſaith, That in or about the Month of *November*, 1644. he did ſee the King at the laſt Fight at *Newberry*, riding up and down the Field from Regiment to Regiment, whilſt his Army was there fighting with the Parliament's Forces; and this Deponent did ſee many Men ſlain at that Battel, on both ſides.

Michael Potts of *Sharpereton*, in the County of *Northumberland*, Vintner, ſworn and examined, depoſeth, That he, this Deponent, ſaw the King in the Head of the Army in the Fields about a Mile and a half from *Newberry-Town*, upon the Heath, the Day before the Fight was, it being about Harveſt-tide in the Year 1643.

And he further ſaith, That he ſaw the King on the Day after, when the Fight was, ſtanding near a great Piece of Ordnance in the Fields.

And he further ſaith, That he ſaw the King in the ſecond *Newberry*-Fight in the Head of his Army, being after or about *Michaelmas*, 1644.

And he further ſaith, That he ſaw a great many Men ſlain at both the ſaid Battels.

And he further ſaith, That he ſaw the King in the Head of his Army near *Cropredy-Bridge* in the Year 1644.

And he further ſaith, That he ſaw the King in the Head of his Army in *Cornwall*, near *Leſtithiel*, while the Earl of *Eſſex* lay there with his Forces about the middle of Harveſt, 1644.

George Cornwal of *Aſton*, in the County of *Hereford*, Ferry-man, aged fifty Years, or thereabouts, ſworn and examined, ſaith, That he, this Deponent, did ſee the King near *Cropredy-Bridge*, about the time of mowing of Corn, 1644. in the Van of the Army there, and that he drew up his Army upon a Hill, and faced the Parliament's Army; and that there was thereupon a Skirmiſh between the King's and the Parliament's Army, where he this Deponent ſaw divers Perſons ſlain on both ſides.

The Examination of Henry Gooche *of* Grays-Inn *in the County of* Middleſex, *Gent. ſworn and examined.*

This Deponent ſaith, That upon or about the thirtieth Day of *September* laſt, he, this Deponent, was in the *Iſle of Wight*, and had Acceſs unto and Diſcourſe with the King, by the means of the Lord Marquiſs of *Hertford* and Commiſſary *Morgan*: where this Deponent told the King, That his Majeſty had many Friends; and that ſince his Majeſty was pleaſed to juſtify the Parliament's firſt taking up Arms, the moſt of the *Presbyterian* Party, both Soldiers and others, would ſtick cloſe to him. To which the King anſwered thus, That he would have all his old Friends know, that though for the preſent he was contented to give the Parliament leave to call their own War what they pleaſed, yet that he neither did at that time, nor ever ſhould decline the Juſtice of his own Cauſe.

And this Deponent told the King, That his Buſineſs was much retarded, and that neither Col. *Thomas* nor any other could proceed to Action, through want of Commiſſion.

The King anſwered, That he being upon a Treaty, would not diſhonour himſelf; but that if he, this Deponent, would take the pains to go over to the Prince, his Son, (who had full Authority from him) he the ſaid Deponent, or any for him, ſhould receive whatſoever Commiſſions ſhould be deſired; and to that purpoſe he would appoint the Marquiſs of *Hertford* to write to his Son in his Name: and was pleaſed to expreſs much Joy and Affection, that his good Subjects would engage themſelves for his Reſtauration.

Robert Williams of the Pariſh of *St. Martins*, in the County of *Cornwall*, Husbandman, aged twenty-three Years, or thereabouts, ſworn and examined, ſaith, That he, this Deponent, did ſee the King marching in the Head of his Army about *September*, 1644. a Mile from *Leſtithiel* in *Cornwall*, in Armour, with a ſhort Coat over it unbuttoned.

And this Deponent further ſaith, That he ſaw him after that in *St. Auſtell Downs*, drawing up his Army.

And this Deponent ſaith, He did after that ſee the King in the Head of his Army near *Foy*, and that the Earl of *Eſſex* and his Army did then lie within one Mile and a half of the King's Army.

The Witneſſes being examined as aforeſaid, the Court adjourned for an Hour.

25 Jan. 1648. *poſt Merid.*

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Daniel Blagrave.	Sir *Tho. Maleverer* Bar.
John Okey.	*Adrian Scroope.*
Henry Martin.	*Henry Smith.*
John Carew.	*Anthony Stapeley.*
Thomas Horton.	*John Huſon.*
Sir *Michael Liveſey* Bar.	Sir *William Conſtable* Bar.
Owen Roe.	*John Berkſtead.*
Sir *John Bourchier* Knt.	Sir *John Danvers.*
Thomas Scot.	*Edmond Whalley.*
John Moore.	*Thomas Waite.*
Oliver Cromwell.	*William Purefoy.*
William Goffe.	*Thomas Pride.*
Richard Deane.	*John Fry.*
Cornelius Holland.	*John Blackiſtone.*
Thomas Harriſon.	Sir *Hardreſs Waller* Kt.
Robert Lilbourne.	*John Venn.*
John Downes.	*Robert Tichbourne.*
Edmond Ludlow.	*Humphrey Edwards.*
Peregrine Pelham.	*Peter Temple.*
Sir *Henry Mildmay.*	*Vincent Potter.*
John Jones.	*William Cawley.*
Valentine Wauton.	*Iſaac Ewers.*
Sir *Gregory Norton* Bar.	

Richard Price of *London*, Scrivener, was produced a Witneſs to the Charge againſt the King; who being ſworn and examined, ſaith,

That upon occaſion of ſome tampering by the King's Agents with the *Independents* in and about *London*, to draw them from the Parliament's Cauſe to the King's Party; and this being diſcovered by ſome of thoſe ſo tampered with, unto ſundry Members of the Committee of Safety, who directed a carrying

rying on of a ſeeming Compliance with the King; he, this Deponent, did travel to *Oxford* in *January* 1643, having a ſafe Conduct under the King's Hand and Seal, which he this Deponent knoweth to be ſo; for that the King did own it when he was told that this Deponent was the Man that came to *Oxon* with that ſafe Conduct.

And this Deponent alſo ſaith, That after ſundry Meetings between him and the Earl of *Briſtol*, about the drawing of the *Independents* unto the King's Cauſe againſt the Parliament, the Subſtance of the Diſcourſe at which Meetings, the ſaid Earl told this Deponent, was communicated to the King; he, this Deponent, was by the ſaid Earl brought to the King to confer further about that Buſineſs; where the King declared, That he was very ſenſible that the *Independents* had been the moſt active Men in the Kingdom for the Parliament againſt him: And thereupon perſuaded this Deponent to uſe all means to expedite their turning to him and his Cauſe. And for their better Encouragement, the King promiſed in the Word of a King, That if they, the *Independents*, would turn to him, and be active for him againſt the Parliament, as they had been active for them againſt him, then he would grant them whatſoever Freedom they would deſire. And the King did then refer this Deponent unto the Earl of *Briſtol*, for the further proſecuting of the ſaid Buſineſs.

And the ſaid Earl thereupon (this Deponent being withdrawn from the King) did declare unto this Deponent, and willed him to impart the ſame unto the *Independents* for their better Encouragement, That the King's Affairs proſpered well in *Ireland*; That the *Iriſh* Subjects had given the Rebels (meaning the Parliament's Forces) a great Defeat; That the King had ſent the Lord *Byron* with a ſmall Party towards *Cheſhire*, and that he was greatly multiplied, and had a conſiderable Army, and was then before *Namptwich*, and would be ſtrengthened with more Soldiers out of *Ireland*, which were come and expected daily. And when this Deponent was to depart out of *Oxford*, four ſafe Conducts with Blanks in them, for the inſerting of what Names this Deponent pleaſed, were delivered to him, under the King's Hand and Seal. And one *Ogle* was ſent out of *Oxon* with this Deponent, to treat about the delivering up of *Aliſbury* to the King, it being then a Gariſon for the Parliament, and at the ſame time *Oxford* was a Gariſon for the King.

Several Papers and Letters of the King's, under his own Hand, and of his own Writing, and other Papers are produced, and read in open Court.

Mr. *Thomas Challoner* alſo reporteth ſeveral Papers and Letters of the King's writing, and under the King's own Hand.

After which the Court ſat private.

The Court taking into Conſideration the whole Matter in charge againſt the King, paſſed theſe *Votes* following, as preparatory to the Sentence againſt the King, but ordered that they ſhould not be binding finally to conclude the Court; *viz.*

Reſolved, upon the whole Matter, That this Court will proceed to Sentence of Condemnation againſt *Charles Stuart*, King of *England*.

Reſolved, *&c.* That the Condemnation of the King ſhall be for a Tyrant, Traytor and Murderer.

That the Condemnation of the King, ſhall be likewiſe for being a publick Enemy to the Commonwealth of *England*.

That this Condemnation ſhall extend to Death.

Memorandum, *The laſt forementioned Commiſſioners were preſent at theſe Votes.*

The Court being then moved concerning the Depoſition and Deprivation of the King before, and in order to that part of his Sentence which concerned his Execution, thought fit to defer the Conſideration thereof to ſome other time; and ordered the Draught of a Sentence grounded upon the ſaid Votes, to be accordingly prepared by Mr. *Scot*, Mr. *Martin*, Col. *Harriſon*, Mr. *Liſle*, Mr. *Say*, Commiſſary Gen. *Ireton* and Mr. *Love*, or any three of them, with a Blank for the Manner of his Death.

Ordered, That the Members of this Court, who are in or about *London*, and are not now preſent, be ſummoned to attend the Service of this Court tomorrow at One of the clock in the Afternoon: for whom Summons were iſſued forth accordingly.

The Court adjourned it ſelf till the Morrow at One of the clock in the Afternoon.

Veneris, 26 Jan. 1648. *poſt Merid.*
Painted Chamber.

THREE Proclamations. The Court called.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Oliver Cromwell.
Henry Ireton.
Sir *Hardreſs Waller.*
Valentine Wauton.
Thomas Harriſon.
Edward Whalley.
Thomas Pride.
Iſaac Ewers.
Tho. Ld *Grey* of *Grooby.*
Sir *John Danvers.*
Sir *Henry Mildmay* Kt.
William Heveningham.
Henry Martin.
William Pureſoy.
John Blackiſtone.
Gilbert Millington.
Sir *William Conſtable* Bar.
Edmond Ludlow.
John Hutchinſon.
Sir *Michael Liveſey* Bar.
Robert Tichbourne.
Owen Roe.
Adrian Scroope.
John Dixwell.
Simon Meyne.
Peter Temple.
Thomas Waite.
Cornelius Holland.
Thomas Scot.
Francis Allen.
Richard Deane.
John Okey.
John Huſon.
John Carew.
John Jones.
Miles Corbet.
William Goffe.
Peregrine Pelham.
John Moore.
William Lord *Mounſon.*
Humphrey Edwards.
Thomas Wogan.
Sir *Gregory Norton.*
John Dove.
John Venn.
William Cawley.
Anthony Stapeley.
John Downs.
Thomas Horton.
Thomas Hammond.
John Liſle.
Nicholas Love.
Auguſtine Garland.
George Fleetwood.
James Temple.
Daniel Blagrave.
John Browne.
Henry Smith.
John Berkſtead.
Sir *Tho. Maleverer* Bar.
Vincent Potter.

Sixty-two Commiſſioners preſent.

Here the Court ſat private.

The Draught of a Sentence againſt the King, is, according to the Votes of the 25th Inſtant, prepared; and after ſeveral Readings, Debates and Amendments, by the Court thereupon,

Reſolved, *&c.* That this Court do agree to the Sentence now read.

That

That the ſaid Sentence ſhall be engroſſed.

That the King be brought to *Weſtminſter* to-morrow to receive his Sentence.

The Court adjourned it ſelf till the morrow at Ten of the clock in the Morning to this Place; the Court giving notice, That they then intended to adjourn from thence to *Weſtminſter-Hall.*

Sabbati, 27 Jan. 1648. *Painted Chamber.*

THREE Proclamations being made, the Court is thereupon called.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident.

Oliver Cromwell.
Henry Ireton.
Sir *Hardreſs Waller.*
Valentine Wauton.
Thomas Harriſon.
Edward Whalley.
Thomas Pride.
Iſaac Ewers.
Tho. Ld *Grey* of *Grooby.*
Sir *John Danvers.*
Sir *Tho. Maleverer* Bar.
Sir *John Bourchier* Kt.
William Heveningham.
Henry Martin.
William Purefoy.
John Berkſtead.
Matthew Tomlinſon.
John Blackiſtone.
Gilbert Millington.
Sir *William Conſtable* Bar.
Edmond Ludlow.
John Hutchinſon.
Sir *Michael Liveſey* Bar.
Robert Tichbourne.
Owen Roe.
Robert Lilbourne.
Adrian Scroope.
Richard Deane.
John Okey.
Auguſtine Garland.
George Fleetwood.
James Temple.
Daniel Blagrave.
John Browne.
John Huſon.
William Goffe.
Cornelius Holland.
John Carew.
John Jones.
Miles Corbet.
Francis Allen.
Peregrine Pelham.
Thomas Challoner.
John Moor.
William Say.
John Alured.
Henry Smith.
Humphrey Edwards.
Gregory Clement.
Thomas Wogan.
Sir *Gregory Norton* Bar.
Edmond Harvey.
John Venn.
Thomas Scot.
Thomas Andrews Ald. of *London.*
William Cawley.
Anthony Stapeley.
John Downes.
Thomas Horton.
Thomas Hammond.
John Liſle.
Nicholas Love.
Vincent Potter.
John Dixwell.
Simon Meyne.
Peter Temple.
Thomas Waite.

The Sentence agreed on, and ordered by this Court the 26th Inſtant to be ingroſſed, being accordingly ingroſſed, was read.

Reſolved, That the Sentence now read, ſhall be the Sentence of this Court for the Condemnation of the King, which ſhall be read and publiſhed in *Weſtminſter-Hall* this Day.

The Court hereupon conſidered of certain Inſtructions for the Lord Preſident, to manage the Buſineſs of this Day in *Weſtminſter-Hall*; and ordered,

That the Lord Preſident do manage what Diſcourſe ſhall happen between him and the King, according to his Diſcretion, with the Advice of his two Aſſiſtants: and that in caſe the King ſhall ſtill perſiſt in excepting againſt the Court's Juriſdiction, to let him know that the Court do ſtill affirm their Juriſdiction.

That in caſe the King ſhall ſubmit to the Juriſdiction of the Court, and pray a Copy of the Charge, that then the Court do withdraw and adviſe.

That in caſe the King ſhall move any thing elſe worth the Court's Conſideration, the Lord Preſident, upon Advice of his ſaid Aſſiſtants, do give order for the Court's withdrawing to adviſe.

That in caſe the King ſhall not ſubmit to anſwer, and there happen no ſuch Cauſe of withdrawing, that then the Lord Preſident do command the Sentence to be read; but that the Lord Preſident ſhould hear the King ſay what he would before the Sentence, and not after.

And thereupon it being further moved, Whether the Lord Preſident ſhould uſe any Diſcourſe or Speeches to the King, as in the Caſe of other Priſoners to be condemned, was uſual before the publiſhing of the Sentence, received general Directions to do therein as he ſhould ſee cauſe, and to preſs what he ſhould conceive moſt ſeaſonable and ſuitable to the Occaſion. And it was further directed, That after the Reading of the Sentence, the Lord Preſident ſhould declare, That the ſame was the Sentence, Judgment and Reſolution of the whole Court, and that the Commiſſioners ſhould thereupon ſignify their Conſent by ſtanding up.

The Court forthwith adjourned it ſelf to *Weſtminſter-Hall.*

Weſtminſter-Hall, 27 Jan. 1648. *poſt Merid.*

The Lord Preſident and the reſt of the Commiſſioners come together from the *Painted Chamber* to *Weſtminſter-Hall*, according to their Adjournment, and take their Seats there, as formerly; and three Proclamations being made for Attendance and Silence, the Court is called.

Commiſſioners preſent.

John Bradſhaw Serjeant at Law, Lord Preſident of this Court.

John Liſle.
William Say.
Oliver Cromwell.
Henry Ireton.
Sir *Hardreſs Waller* Kt.
Sir *John Bourchier* Kt.
William Heveningham.
Iſaac Pennington Ald. of *London.*
Henry Martin.
William Purefoy.
John Berkſtead.
Matthew Tomlinſon.
John Blackiſtone.
Gilbert Millington.
Sir *William Conſtable* Bar.
Edmond Ludlow.
John Hutchinſon.
Sir *Michael Liveſey* Bar.
Robert Tichbourne.
Owen Roe.
Robert Lilbourne.
Adrian Scroope.
Richard Deane.
John Okey.
John Huſon.
William Goffe.
Cornelius Holland.
John Carew.
John Jones.
Miles Corbet.
Francis Allen.
Peregrine Pelham.
Daniel Blagrave.
Valentine Wauton.
Tho. Harriſon.
Edward Whalley.
Thomas Pride.
Iſaac Ewers.
Tho. Ld *Grey* of *Grooby.*
Sir *John Danvers.*
Sir *Tho. Maleverer* Bar.
John Moore.
John Alured.
Henry Smith.
Humphrey Edwards.
Gregory Clement.
Thomas Wogan.
Sir *Gregory Norton* Bar.
Edmond Harvey.
John Venn.
Thomas Scot.
Thomas Andrews Ald. of *London.*
William Cawley.
Anthony Stapeley.
John Downs.
Thomas Horton.
Thomas Hammond.
Nicholas Love.
Vincent Potter.
Auguſtine Garland.
John Dixwell.
George Fleetwood.

Simon

Simon Meyne. *Peter Temple.*
James Temple. *Thomas Waite.*

Sixty ſeven Commiſſioners preſent.

The Priſoner is brought to the Bar, and Proclamation is again (as formerly) made for Silence; and the Captain of the Guard ordered to take into his Cuſtody all ſuch as ſhould diſturb the Court.

The Preſident ſtood up with an Intention of Addreſs to the People, and not to the Priſoner, who had ſo often declined the Juriſdiction of the Court; which the Priſoner obſerving, moved he might be heard before Judgment given. Whereof he received Aſſurance from the Court, and that he ſhould be heard after he had heard them firſt.

Whereupon the Court proceeded, and remember'd the great Aſſembly then preſent of what had formerly paſſed betwixt the Court and the Priſoner; the Charge againſt him in the Name of the People of *England* exhibited to them, being a Court conſtituted by the ſupreme Authority of *England*; his Refuſal three ſeveral Days and Times to own them as a Court, or to anſwer to the Matter of his Charge; his thrice recorded Contumacy, and other his Contempts and Defaults in the precedent Courts. Upon which the Court then declared, That they might not be wanting to themſelves, or to the Truſt repoſed in them; and that no Man's Wilfulneſs ought to ſerve him to prevent Juſtice; and that they had therefore thought fit to take the Subſtance of what had paſſed into their ſerious Conſideration, to wit, the Charge and the Priſoner's Contumacy, and the Confeſſion which in the Law doth ariſe upon that Contumacy, the Notoriety of the Fact charged, and other the Circumſtances material in the Cauſe: And upon the whole matter, had reſolved and agreed upon a Sentence then ready to be pronounced againſt the Priſoner. But that in regard of his Deſire to be further heard, they were ready to hear him as to any thing material, which he would offer to their Conſideration before the Sentence given, relating to the Defence of himſelf, concerning the Matter charged; and did then ſignify ſo much to the Priſoner: Who made uſe of that Leave given only to proteſt his Reſpects to the Peace of the Kingdom, and Liberty of the Subject, and to ſay, That the ſame made him at laſt to deſire, that having ſomewhat to ſay that concerned both, he might before the Sentence given be heard in the *Painted Chamber* before the Lords and Commons; ſaying, It was fit to be heard, if it were Reaſon which he ſhould offer, whereof they were Judges. And preſſing that Point much, he was forthwith anſwered by the Court, and told,

That that which he moved was a declining of the Juriſdiction of the Court, whereof he had Caution frequently given him.

That it tended to further Delay, of which he had been too much guilty.

That the Court being founded (as often had been ſaid) upon the Authority of the Commons of *England*, in whom reſted the ſupreme Juriſdiction, the Motion tended to ſet up another, or a co-ordinate Juriſdiction, in Derogation of the Power whereby the Court ſat, and to the manifeſt Delay of their Juſtice; in which regard, he was told, they might forthwith proceed to Sentence: Yet for his further Satisfaction of the entire Pleaſure and Judgment of the Court upon what he had then ſaid, he was told, and accordingly it was declared, That the Court would withdraw half an Hour.

The Priſoner by command being withdrawn, the Court make their Receſs into the Room called the *Court of Wards*, conſidered of the Priſoner's Motion, and gave the Preſident Direction to declare their Diſſent thereto, and to proceed to the Sentence.

The Court being again ſet, and the Priſoner returned, was, according to their Direction, informed, That he had in effect received his Anſwer before the Court withdrew; and that their Judgment was (as to his Motion) the ſame to him before declared, That the Court acted, and were Judges, appointed by the higheſt Authority; and that Judges were not to delay, no more than to deny Juſtice: That they were good Words in the great old Charter of *England*, *Nulli negabimus, nulli vendemus, nulli deferemus Juſtitiam vel Rectum*: That their Duty called upon them to avoid further Delays, and to proceed to Judgment; which was their unanimous Reſolution.

Unto which the Priſoner replied, and inſiſted upon his former Deſires, confeſſing a Delay; but that it was important for the Peace of the Kingdom: and therefore preſſed again with much Earneſtneſs to be heard before the Lords and Commons.

In anſwer whereto, he was told by the Court, That they had before fully conſidered of his Propoſal, and muſt give him the ſame Anſwer to his renewed Deſires; and that they were ready to proceed to Sentence, if he had nothing more to ſay.

Whereunto he ſubjoined, He had no more to ſay; but deſired that might be enter'd which he had ſaid.

Hereupon, after ſome Diſcourſe uſed by the Preſident, for vindicating the Parliament's Juſtice, explaining the Nature of the Crimes of which the Priſoner ſtood charged, and for which he was to be condemned; and by way of Exhortation to the Priſoner, to a ſerious Repentance for his high Tranſgreſſions againſt God and the People, and to prepare for his eternal Condition:

The Sentence formerly agreed upon, and put down in Parchment-writing, *O Yes* being firſt made for Silence, was, by the Court's Command, ſolemnly pronounced and given. The Tenor whereof followeth:

'WHEREAS the Commons of *England*, aſ-
'ſembled in Parliament, have by their late
'Act, entitled, *An Act of the Commons of* England, *aſ-*
'ſembled in Parliament, for erecting of an High Court
'of Juſtice for the Trying and Judging of Charles
'Stuart, *King of* England, authorized and conſti-
'tuted us an High Court of Juſtice for the Trying
'and Judging of the ſaid *Charles Stuart*, for the
'Crimes and Treaſons in the ſaid Act mentioned:
'By virtue whereof the ſaid *Charles Stuart* hath been
'three ſeveral times convented before this High
'Court; where the firſt Day, being Saturday the
'20th of *Jan.* inſtant, in purſuance of the ſaid
'Act, a Charge of High Treaſon, and other High
'Crimes, was, in the behalf of the People of *Eng-*
'land, exhibited againſt him, and read openly
'unto him; wherein he was charged, That he,
'the ſaid *Charles Stuart*, being admitted King of
'England, and therein truſted with a limited
'Power to govern by and according to the Law of
'the Land, and not otherwiſe; and by his Truſt,
'Oath, and Office, being obliged to uſe the Power

'con-

'committed to him, for the Good and Benefit of 'the People, and for the Preſervation of their 'Rights and Liberties; yet nevertheleſs, out of a 'wicked Deſign to erect and uphold in himſelf an 'unlimited and tyrannical Power to rule according 'to his Will, and to overthrow the Rights and 'Liberties of the People, and to take away and 'make void the Foundations thereof, and of all 'Redreſs and Remedy of Miſgovernment, which 'by the Fundamental Conſtitutions of this King-'dom were reſerved on the People's behalf, in the 'Right and Power of frequent and ſucceſſive Par-'liaments, or national Meetings in Council, he, 'the ſaid *Charles Stuart*, for accompliſhment of ſuch 'his Deſigns, and for the protecting of himſelf and 'his Adherents in his and their wicked Practices, 'to the ſame End, hath traitorouſly and maliciouſ-'ly levied War againſt the preſent Parliament, and 'People therein repreſented, as with the Circum-'ſtances of Time and Place, is in the ſaid Charge 'more particularly ſet forth: And that he hath 'thereby cauſed and procured many Thouſands of 'the free People of this Nation to be ſlain; and 'by Diviſions, Parties, and Inſurrections within 'this Land, by Invaſions from foreign Parts, en-'deavoured and procured by him, and by many 'other evil Ways and Means, he, the ſaid *Charles* 'Stuart, hath not only maintained and carried on 'the ſaid War both by Sea and Land, but alſo 'hath renewed, or cauſed to be renewed, the ſaid 'War againſt the Parliament and good People of 'this Nation in this preſent Year 1648. in ſeveral 'Counties and Places in this Kingdom, in the 'Charge ſpecified; and that he hath for that pur-'poſe given his Commiſſion to his Son the Prince, 'and others, whereby, beſides Multitudes of other 'Perſons, many, ſuch as were by the Parliament in-'truſted and imployed for the Safety of this Na-'tion, being by him or his Agents corrupted, to 'the betraying of their Truſt, and revolting from 'the Parliament, have had Entertainment and 'Commiſſion for the continuing and renewing of 'the War and Hoſtility againſt the ſaid Parlia-'ment and People: And that by the ſaid cruel and 'unnatural War ſo levied, continued, and renew-'ed, much innocent Blood of the free People of 'this Nation hath been ſpilt, many Families un-'done, the publick Treaſure waſted, Trade ob-'ſtructed and miſerably decayed, vaſt Expence and 'Damage to the Nation incurred, and many Parts 'of the Land ſpoiled, ſome of them even to De-'ſolation: And that he ſtill continues his Commiſ-'ſion to his ſaid Son, and other Rebels and Revol-'ters, both *Engliſh* and Foreigners, and to the 'Earl of *Ormond*, and to the *Iriſh* Rebels and Re-'volters aſſociated with him, from whom further 'Invaſions upon this Land are threaten'd by his 'Procurement, and on his behalf: And that all the 'ſaid wicked Deſigns, Wars, and evil Practices, 'of him, the ſaid *Charles Stuart*, were ſtill carried 'on for the Advancement and Upholding of the 'Perſonal Intereſt of Will, Power, and pretended 'Prerogative to himſelf and his Family, againſt 'the publick Intereſt, Common Right, Liberty, 'Juſtice, and Peace of the People of this Nation: 'And that he thereby hath been and is the Occaſio-'ner, Author, and Contriver of the ſaid unnatural, 'cruel, and bloody Wars, and therein guilty of 'all the Treaſons, Murders, Rapines, Burnings, 'Spoils, Deſolations, Damage, and Miſchief to 'this Nation, acted and committed in the ſaid 'Wars, or occaſioned thereby. Whereupon the 'Proceedings and Judgment of this Court were 'prayed againſt him as a Tyrant, Traytor, and 'Murderer, and publick Enemy to the Common-'wealth, as by the ſaid Charge more fully appear-'eth. To which Charge, being read unto him as 'aforeſaid, he the ſaid *Charles Stuart* was required 'to give his Anſwer; but he refuſed ſo to do. 'And upon Monday the 22d Day of *Jan.* inſtant, 'being again brought before this Court, and there 'required to anſwer directly to the ſaid Charge, he 'ſtill refuſed ſo to do: Whereupon his Default 'and Contumacy was entered. And the next 'Day, being the third Time brought before the 'Court, Judgment was then prayed againſt him 'on the behalf of the People of *England* for his 'Contumacy, and for the Matters contained againſt 'him in the ſaid Charge, as taking the ſame for 'confeſt, in regard of his refuſing to anſwer 'thereto: Yet notwithſtanding, this Court (not 'willing to take advantage of his Contempt) did 'once more require him to anſwer to the ſaid 'Charge; but he again refuſed ſo to do. Upon 'which his ſeveral Defaults, this Court might 'juſtly have proceeded to Judgment againſt him, 'both for his Contumacy and the Matters of the 'Charge, taking the ſame for confeſt, as afore-'ſaid.

'Yet nevertheſs this Court, for their own clearer 'Information, and further Satisfaction, have thought 'fit to examine Witneſſes upon Oath, and take no-'tice of other Evidences touching the Matters 'contained in the ſaid Charge, which accordingly 'they have done.

'Now therefore upon ſerious and mature Deli-'beration of the Premiſes, and Conſideration had 'of the Notoriety of the Matters of Fact charged 'upon him, as aforeſaid, this Court is in Judg-'ment and Conſcience ſatisfied that he the ſaid 'Charles Stuart is guilty of levying War againſt the 'ſaid Parliament and People, and maintaining and 'continuing the ſame; for which in the ſaid Charge 'he ſtands accuſed, and by the general Courſe of his 'Government, Counſels, and Practices, before and 'ſince this Parliament began (which have been and 'are notorious and publick, and the Effects where-'of remain abundantly upon Record) this Court is 'fully ſatisfied in their Judgments and Conſciences 'that he hath been and is guilty of the wicked De-'ſigns and Endeavours in the ſaid Charge ſet forth; 'and that the ſaid War hath been levied, maintain-'ed, and continued by him, as aforeſaid, in Proſecu-'tion and for Accompliſhment of the ſaid Deſigns: 'And that he hath been and is the Occaſioner, 'Author, and Continuer of the ſaid unnatural, 'cruel, and bloody Wars, and therein guilty of 'High Treaſon, and of the Murders, Rapines, 'Burnings, Spoils, Deſolations, Damages, and 'Miſchief to this Nation, acted and committed 'in the ſaid War, and occaſioned thereby. For 'all which Treaſons and Crimes this Court doth 'adjudge, That he, the ſaid *Charles Stuart*, as a 'Tyrant, Traytor, Murderer, and publick Ene-'my to the good People of this Nation, ſhall be 'put to death by the ſevering his Head from his 'Body.'

This Sentence being read, the Preſident ſpake as followeth:

'The Sentence now read and publiſhed, is the 'Act, Sentence, Judgment, and Reſolution of the 'whole Court.'

Where-

Whereupon the whole Court ſtood up, and owned it.

The Priſoner being withdrawn, the Court adjourned it ſelf forthwith into the *Painted Chamber*.

The Court being ſat in the *Painted Chamber*, according to Adjournment from *Weſtminſter-Hall*, aforeſaid:

Painted Chamber.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident.

John Liſle.
William Say.
Oliver Cromwell.
Henry Ireton.
Sir *Hardreſs Waller.*
Thomas Waite.
Thomas Hariſon.
Edward Whalley
Thomas Pride.
Iſaac Ewers.
Tho. Ld *Grey* of *Grooby.*
Sir *John Danvers.*
Sir *Thomas Maleverer* Bar.
Sir *John Bourchier* Knt.
William Heveningham.
Iſaac Pennington, Ald. of *Lond.*
John Downes.
Henry Martin.
John Berkſtead.
Matthew Tomlinſon.
Gilbert Millington.
John Blackiſtone.
Sir *William Conſtable* Bar.
John Hutchinſon.
Sir *Michael Liveſey* Bar.
John Dixwell.
James Temple.
Thomas Andrews, Ald. of *Lond.*
Anthony Stapeley.
Thomas Hammond.
Peter Temple.
Edmond Ludlow.
Robert Tichbourne.
Nicholas Love.
Owen Roe.
Robert Lilbourne.
Adrian Scroope.
Richard Deane.
John Okey.
Simon Meyne.
John Huſon.
William Goffe.
Cornelius Holland.
John Carew.
John Jones.
Miles Corbet.
Francis Allen.
Peregrine Pelham.
Thomas Challoner.
John Moor.
John Alured.
Henry Smith.
Humphrey Edwards.
Gregory Clement.
Thomas Wogan.
Sir *Gregory Norton* Bar.
John Ven.
Thomas Scot.
Edmond Harvey.
William Cawley.
Thomas Horton.
Auguſtine Garland.
Daniel Blagrave.

Sixty four Commiſſioners preſent.

Sir *Hardreſs Waller*, Col. *Harriſon*, Commiſſary-Gen. *Ireton*, Col. *Deane*, and Col. *Okey*, are appointed to conſider of the Time and Place for the Execution of the Sentence againſt the King.

And then the Court adjourned it ſelf till Monday Morning at Eight of the clock to this Place.

The more full Account of this Day's Action, take as follows:

THE King being come in, in his wonted Poſture, with his Hat on, ſome of the Soldiers began to call for *Juſtice*, *Juſtice*, and *Execution*. But Silence being commanded, his Majeſty began:

I deſire a Word to be heard a little, and I hope I ſhall give no Occaſion of Interruption.

Bradſhaw anſwered, You may anſwer in your time, hear the Court firſt.

His Majeſty replied, If it pleaſe you, Sir, I deſire to be heard, and I ſhall not give any Occaſion of Interruption, and it is only in a word: a ſudden Judgment ——

Bradſhaw. Sir, you ſhall be heard in due time, but you are to hear the Court firſt.

King. Sir, I deſire, it will be in order to what I believe the Court will ſay; and therefore, Sir, an haſty Judgment is not ſo ſoon recall'd.

Bradſhaw. Sir, you ſhall be heard before the Judgment be given, and in the mean time you may forbear.

King. Well, Sir, ſhall I be heard before the Judgment be given?

Bradſhaw. Gentlemen, it is well known to all, or moſt of you here preſent, that the Priſoner at the Bar hath been ſeveral times convented and brought before this Court to make anſwer to a Charge of Treaſon, and other high Crimes exhibited againſt him in the Name of the People of * *England*; to which Charge being required to anſwer, he hath been ſo far from obeying the Commands of the Court by ſubmitting to their Juſtice, as he began to take upon him to offer Reaſoning and Debate unto the Authority of the Court, and of the higheſt Court that conſtituted them to try and judge him: but being over-ruled in that, and required to make his Anſwer, he was ſtill pleaſed to continue contumacious, and to refuſe to ſubmit to anſwer. Hereupon the Court, that they might not be wanting to themſelves, to the Truſt repoſed in them, nor that any Man's Wilfulneſs prevent Juſtice, they have thought fit to take the Matter into their Conſideration; they have conſidered of the Charge, they have conſidered of the Contumacy, and of that Confeſſion which in Law doth ariſe upon that Contumacy: They have likewiſe conſidered of the Notoriety of the Fact charg'd upon this Priſoner, and upon the whole matter they are reſolved, and are agreed upon a Sentence to be pronounc'd againſt this Priſoner: But in reſpect he doth deſire to be heard, before the Sentence be read and pronounc'd, the Court hath reſolved that they will hear him. Yet, Sir, thus much I muſt tell you before-hand, which you have been minded of at other Courts, that if that which you have to ſay, be to offer any Debate concerning the Juriſdiction, you are not to be heard in it; you have offered it formerly, and you have ſtruck at the Root, that is, the Power and Supreme Authority of the Commons of *England*, which this Court will not admit a Debate of; and which indeed is an irrational thing in them to do, being a Court that acts upon Authority derived from them. But, Sir, if you have any thing to ſay in defence of your ſelf concerning the Matter charged, the Court hath given me in command to let you know they will hear you.

* *Here a Lady interpos'd, ſaying, Not half the People; but was ſilenced with Threats.*

King. Since I ſee that you will not hear any thing of Debate concerning that which I confeſs I thought moſt material for the Peace of the Kingdom, and for the Liberty of the Subject, I ſhall wave it; I ſhall ſpeak nothing to it, but only I muſt tell you, that this many a-day all things have been taken away from me, but that that I call more dear to me than my Life, which is my Conſcience and my Honour: And if I had a reſpect to my Life more than the Peace of the Kingdom and the Liberty of the Subject, certainly I ſhould have made a particular Defence for my ſelf; for by that at leaſtwiſe I might have delayed an ugly Sentence, which I believe will paſs upon me. Therefore, certainly,

certainly, Sir, as a Man that hath ſome Underſtanding, ſome Knowledge of the World, if that my true Zeal to my Country had not overborne the Care that I have for my own Preſervation, I ſhould have gone another way to work than that I have done. Now, Sir, I conceive, that an haſty Sentence once paſs'd, may ſooner be repented of than recalled; and truly, the ſelf-ſame Deſire that I have for the Peace of the Kingdom, and the Liberty of the Subject, more than my own particular Ends, makes me now at laſt deſire, that I having ſomething to ſay that concerns both, before Sentence be given, that I may be heard in the Painted-Chamber before the Lords and Commons. This Delay cannot be prejudicial to you, whatſoever I ſay; if that I ſay no Reaſon, thoſe that hear me muſt be Judges; I cannot be Judge of that that I have: if it be Reaſon, and really for the Welfare of the Kingdom, and the Liberty of the Subject, I am ſure on't, 'tis very well worth the hearing; therefore I do conjure you, as you love that that you pretend, I hope it's real, the Liberty of the Subject, the Peace of the Kingdom, that you will grant me this hearing before any Sentence be paſt. I only deſire this, that you will take this into your Conſideration, it may be you have not heard of it before-hand; if you will, I'll retire, and you may think of it: but if I cannot get this Liberty, I do proteſt, that theſe fair Shews of Liberty and Peace, are pure Shews, and that you will not hear your King.

Bradſhaw. Sir, you have now ſpoken.

King. Yes, Sir.

Bradſhaw. And this that you have ſaid is a further declining of the Juriſdiction of this Court, which was the thing wherein you were limited before.

King. Pray excuſe me, Sir, for my Interruption, becauſe you miſtake me; it is not a declining of it, you do judge me before you hear me ſpeak: I ſay it will not, I do not decline it, though I cannot acknowledge the Juriſdiction of the Court; yet, Sir, in this give me leave to ſay, I would do it, though I did not acknowledge it: in this I do proteſt it is not the declining of it, ſince I ſay, if that I do ſay any thing, but that that is for the Peace of the Kingdom, and the Liberty of the Subject, then the Shame is mine. Now I deſire that you will take this into your Conſideration; if you will, I'll withdraw.

Bradſhaw. Sir, this is not altogether new that you have moved to us, not altogether new to us, though the firſt time in Perſon you have offered it to the Court. Sir, you ſay you do not decline the Juriſdiction of the Court.

King. Not in this that I have ſaid.

Bradſhaw. I underſtand you well, Sir, but nevertheleſs that which you have offered, ſeems to be contrary to that Saying of yours; for the Court are ready to give a Sentence: It is not as you ſay, That they will not hear their King; for they have been ready to hear you, they have patiently waited your Pleaſure for three Courts together, to hear what you would ſay to the Peoples Charge againſt you, to which you have not vouchſafed to give any Anſwer at all. Sir, this tends to a further Delay; truly, Sir, ſuch Delays as theſe, neither may the Kingdom, nor Juſtice well bear; you have had three ſeveral Days to have offered in this kind what you would have pleaſed. This Court is founded upon that Authority of the Commons of *England*, in whom reſts the ſupreme Juriſdiction; that which you now tender, is to have another Juriſdiction, and a co-ordinate Juriſdiction. I know very well you expreſs your ſelf, Sir, that notwithſtanding that you would offer to the Lords and Commons in the Painted-Chamber, yet nevertheleſs you would proceed on here, I did hear you ſay ſo. But, Sir, that you would offer there, whatever it is, muſt needs be in delay of the Juſtice here; ſo as if this Court be reſolved, and prepared for the Sentence, this that you offer they are not bound to grant. But, Sir, according to that you ſeem to deſire, and becauſe you ſhall know the further Pleaſure of the Court upon that which you have moved, the Court will withdraw for a time.

[This he did to prevent the Diſturbance of their Scene by one of their own Members, Col. *John Downes*, who could not ſtifle the Reluctance of his Conſcience, when he ſaw his Majeſty preſs ſo earneſtly for a ſhort Hearing: But declaring himſelf unſatisfied, forced them to yield to the King's Requeſt. *Nalſon.*]

King. Shall I withdraw?

Bradſhaw. Sir, you ſhall know the Pleaſure of the Court preſently.

The Court withdraws for half an Hour into the Court of Wards.

Serjeant at Arms, The Court gives Command, that the Priſoner be withdrawn; and they give order for his Return again.

[Then withdrawing into the Chamber of the *Court of Wards*, their Buſineſs was not to conſider of his Majeſty's Deſire, but to chide *Downes*, and with Reproaches and Threats to harden him to go through the Remainder of their Villany with them. *Nalſon.*]

Which done, they return; and being ſat, *Bradſhaw* commanded;

Serjeant at Arms, Send for your Priſoner.

Who being come, *Bradſhaw* proceeded:

Sir, you were pleaſed to make a motion here to the Court to offer a Deſire of yours, touching the propounding of ſomewhat to the Lords and Commons in the Painted-Chamber, for the Peace of the Kingdom: Sir, you did, in effect, receive an Anſwer before the Court adjourned; truly, Sir, their Withdrawing and Adjournment was *pro formâ tantum*; for it did not ſeem to them that there was any Difficulty in the thing: they have conſidered of what you have moved, and have conſidered of their own Authority, which is founded, as hath been often ſaid, upon the ſupreme Authority of the Commons of *England* aſſembled in Parliament: The Court acts according to their Commiſſion. Sir, the Return I have to you from the Court, is this; That they have been too much delayed by you already, and this that you now offer, hath occaſioned ſome little further Delay; and they are Judges appointed by the higheſt Authority; and Judges are no more to delay, than they are to deny Juſtice: they are good Words in the great old Charter of *England*; *Nulli negabimus, nulli vendemus, nulli deferemus Juſtitiam.* There muſt be no Delay; but the truth is, Sir, and ſo every Man here obſerves it,

it, that you have much delayed them in your Contempt and Default, for which they might long ſince have proceeded to Judgment againſt you; and notwithſtanding what you have offered, they are reſolved to proceed to Puniſhment, and to Judgment, and that is their unanimous Reſolution.

King. Sir, I know it is in vain for me to diſpute, I am no Sceptick for to deny the Power that you have; I know that you have Power enough: Sir, I muſt confeſs, I think it would have been for the Kingdom's Peace, if you would have taken the pains for to have ſhewn the Lawfulneſs of your Power; for this Delay that I have deſired, I confeſs it is a Delay, but it is a Delay very important for the Peace of the Kingdom; for it is not my Perſon that I look at alone, it is the Kingdom's Welfare, and the Kingdom's Peace; it is an old Sentence, That we ſhould think on long before we reſolve of great Matters ſuddenly. Therefore, Sir, I do ſay again, that I do put at your doors all the Inconveniency of a haſty Sentence. I confeſs I have been here now, I think, this Week; this Day eight Days was the Day I came here firſt, but a little Delay of a Day or two further may give Peace; whereas a haſty Judgment may bring on that Trouble and perpetual Inconveniency to the Kingdom, that the Child that is unborn may repent it: and therefore again, out of the Duty I owe to God, and to my Country, I do deſire that I may be heard by the Lords and Commons in the Painted-Chamber, or any other Chamber that you will appoint me.

Bradſhaw. Sir, you have been already anſwered to what you even now moved, being the ſame you moved before, ſince the Reſolution and the Judgment of the Court in it: and the Court now requires to know whether you have any more to ſay for your ſelf, than you have ſaid, before they proceed to Sentence.

King. I ſay this, Sir, That if you hear me, if you will give me but this Delay, I doubt not but I ſhall give ſome Satisfaction to you all here, and to my People after that; and therefore I do require you, as you will anſwer it at the dreadful Day of Judgment, that you will conſider it once again.

Bradſhaw. Sir, I have received Direction from the Court.

King. Well, Sir.

Bradſhaw. If this muſt be re-enforced, or any thing of this nature, your Anſwer muſt be the ſame; and they will proceed to Sentence, if you have nothing more to ſay.

King. Sir, I have nothing more to ſay, but I ſhall deſire, that this may be entred what I have ſaid.

Bradſhaw. The Court then, Sir, hath ſomething to ſay unto you; which, although I know it will be very unacceptable, yet notwithſtanding they are willing, and are reſolved to diſcharge their Duty.

[Then *Bradſhaw* went on in a long Harangue, endeavouring to juſtify their Proceedings, miſapplying Law and Hiſtory, and raking up and wreſting whatſoever he thought fit for his Purpoſe, alledging the Examples of former Treaſons and Rebellions, both at home and abroad, as authentick Proofs; and concluding, That the King was a Tyrant, Traytor, Murderer, and publick Enemy to the Commonwealth of *England.*

His Majeſty, having with his wonted Patience heard all theſe Reproaches, anſwered; *Nalſon.*]

I would deſire only one Word before you give Sentence; and that is, That you would hear me concerning thoſe great Imputations that you have laid to my Charge.

Bradſhaw. Sir, You muſt give me now leave to go on; for I am not far from your Sentence, and your Time is now paſt.

King. But I ſhall deſire you will hear me a few Words to you: For truly, whatever Sentence you will put upon me in reſpect of thoſe heavy Imputations, that I ſee by your Speech you have put upon me; Sir, It is very true, that -----

Bradſhaw. Sir, I muſt put you in mind: Truly, Sir, I would not willingly, at this time eſpecially, interrupt you in any thing you have to ſay, that is proper for us to admit of; but, Sir, you have not owned us as a Court, and you look upon us as a ſort of People met together; and we know what Language we receive from your Party.

King. I know nothing of that.

Bradſhaw. You diſavow us as a Court; and therefore for you to addreſs your ſelf to us, not to acknowledge us as a Court to judge of what you ſay, it is not to be permitted. And the truth is, all along, from the firſt time you were pleaſed to diſavow and diſown us, the Court needed not to have heard you one Word: For unleſs they be acknowledged a Court, and ingaged, it is not proper for you to ſpeak. Sir, we have given you too much Liberty already, and admitted of too much Delay, and we may not admit of any farther. Were it proper for us to do, we ſhould hear you freely, and we ſhould not have declined to have heard you at large, what you could have ſaid or proved on your behalf, whether for totally excuſing, or for in part excuſing thoſe great and heinous Charges that in whole or in part are laid upon you. But, Sir, I ſhall trouble you no longer, your Sins are of ſo large a Dimenſion, that if you do but ſeriouſly think of them, they will drive you to a ſad Conſideration, and they may improve in you a ſad and ſerious Repentance: And that the Court doth heartily wiſh that you may be ſo penitent for what you have done amiſs, that God may have Mercy, at leaſt wiſe, upon your better Part: Truly, Sir, for the other, it is our Parts and Duties to do that that the Law preſcribes. We are not here *jus dare*, but *jus dicere*, We cannot be unmindful of what the Scripture tells us, *For to acquit the Guilty is of equal Abomination, as to condemn the Innocent:* We may not acquit the Guilty. What Sentence the Law affirms to a Traytor, Tyrant, a Murderer, and a publick Enemy to the Country, that Sentence you are now to hear read unto you; and that is the Sentence of the Court.

Make an *O yes*, and command Silence while the Sentence is read.

Which done, the Clerk read the Sentence, drawn up in Parchment:

WHereas the Commons of England *in Parliament had appointed them an High Court of Juſtice, for the Tryal of* Charles Stuart, *King of* England, *before whom he had been three times convented; and at the firſt time a Charge of High Treaſon, and other Crimes and Miſdemeanors, was read in the behalf of the Kingdom of* England, *&c.*

Here the Charge was repeated.

Which Charge being read unto him, as aforeſaid, he the ſaid *Charles Stuart* was required to

give his Anſwer; but he refuſed ſo to do: Expreſſing the ſeveral Paſſages of his refuſing, in the former Proceedings.

For all which Treaſons and Crimes, this Court doth adjudge, That he the ſaid Charles Stuart, *as a Tyrant, Traytor, Murderer, and a publick Enemy, ſhall be put to Death, by the ſevering of his Head from his Body.*

Which being read, *Bradſhaw* added;

The Sentence now read and publiſhed, is the Act, Sentence, Judgment, and Reſolution of the whole Court.

To which they all expreſſed their Aſſent by ſtanding up, as was before agreed and ordered.

His Majeſty then ſaid, Will you hear me a Word, Sir?

Bradſhaw. Sir, you are not to be heard after the Sentence.

King. No, Sir?

Bradſhaw. No, Sir; by your favour, Sir. Guard, withdraw your Priſoner.

King. I may ſpeak after Sentence, by your Favour, Sir: I may ſpeak after Sentence, ever.

By your Favour, (Hold!) the Sentence, Sir---I ſay, Sir, I do-----

I am not ſuffered to ſpeak: Expect what Juſtice other People will have.

[His Majeſty being taken away by the Guard, as he paſſed down the ſtairs, the inſolent Soldiers ſcoffed at him, caſting the Smoke of their Tobacco (a thing very diſtaſteful unto him) in his face, and throwing their Pipes in his way; and one more inſolent than the reſt, ſpitting in his face, his Majeſty, according to his wonted heroick Patience, took no more notice of ſo ſtrange and barbarous an Indignity, than to wipe it off with his Handkerchief.

As he paſſed along, hearing the Rabble of Soldiers crying out, *Juſtice! Juſtice!* he ſaid, *Poor Souls, for a Piece of Money they would do ſo for their Commanders.*

Being brought firſt to Sir *Robert Cotton*'s, and thence to *Whitehall*, the Soldiers continued their brutiſh Carriage toward him, abuſing all that ſeemed to ſhew any Reſpect, or even Pity to him; not ſuffering him to reſt in his Chamber, but thruſting in, and ſmoking their Tobacco, and diſturbing his Privacy.

But through all theſe Tryals (unuſual to Princes) he paſſed with ſuch a calm and even Temper, that he let fall nothing unbeſeeming his former Majeſty and Magnanimity.

In the Evening, a Member of the Army acquainted the Committee with his Majeſty's Deſire, *That ſeeing they had paſſed a Sentence of Death upon him, and his Time might be nigh, he might ſee his Children; and Dr.* Juxon, *Biſhop of* London, *might be admitted to aſſiſt him in his private Devotions, and receiving the Sacrament.* Both which at length were granted.

And the next day, being Sunday, he was attended by the Guard to *St. James's*; where the Biſhop preached before him upon theſe words, *In the Day when God ſhall judge the Secrets of all Men by Jeſus Chriſt according to my Goſpel.* Nalſon.]

Lunæ, 29 Jan. 1648. *Painted Chamber.*

THREE Proclamations made. The Court is called.

Commiſſioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

Oliver Cromwell.	*Owen Roe.*
Henry Ireton.	*Adrian Scroope.*
Sir *Hardreſs Waller* Kt.	*Richard Deane.*
Valentine Wauton.	*John Okey.*
Tho. Harriſon.	*John Huſon.*
Edward Whalley.	*William Goffe.*
Thomas Pride.	*John Jones.*
Iſaac Ewers.	*Francis Allen.*
Richard Ingoldsby.	*Peregrine Pelham.*
Tho. Ld *Grey* of *Grooby.*	*John Anlaby.*
Sir *John Bourchier* Kt.	*William Say.*
Henry Martin.	*Henry Smith.*
William Pureſoy.	*Humphrey Edwards.*
John Berkſtead.	*John Venn.*
John Blackiſtone.	*Thomas Scot.*
Gilbert Millington.	*William Cawley.*
Sir *William Conſtable* Bar.	*Thomas Horton.*
Edmond Ludlow.	*John Liſle.*
John Hutchinſon.	*Nicholas Love.*
Sir *Michael Liveſey* Bar.	*Vincent Potter.*
James Temple.	*Auguſtine Garland.*
John Dixwell.	*Simon Meyne.*
Peter Temple.	*Daniel Blagrave.*
Robert Tichbourne.	

Forty Eight Commiſſioners preſent.

Upon Report made from the Committee for conſidering the Time and Place of the executing of the Judgment againſt the King, that the ſaid Committee have reſolved, That the open Street before *Whitehall* is a fit Place, and that the ſaid Committee conceive it fit that the King be there executed the Morrow, the King having already notice thereof: the Court approved thereof, and ordered a Warrant to be drawn for that purpoſe. Which ſaid Warrant was accordingly drawn and agreed unto, and ordered to be engroſſed; which was done, and ſigned and ſealed accordingly, as followeth, *viz.*

At the High Court of Juſtice for the Trying and Judging of Charles Stuart, *King of* England, *Jan.* 29. 1648.

'WHereas *Charles Stuart*, King of *England*, is 'and ſtandeth convicted, attainted and 'condemned of High Treaſon, and other High 'Crimes; and Sentence upon Saturday laſt was 'pronounced againſt him by this Court, to be put 'to death by the ſevering of his Head from his 'Body, of which Sentence, Execution yet re'maineth to be done: Theſe are therefore to will 'and require you to ſee the ſaid Sentence executed 'in the open Street before *Whitehall*, upon the 'Morrow, bing the thirtieth Day of this inſtant 'Month of *January*, between the Hours of Ten 'in the Morning, and Five in the Afternoon of 'the ſame Day, with full effect. And for ſo do'ing, this ſhall be your ſufficient Warrant. 'And 'theſe are to require all Officers, Soldiers and 'others, the good People of this Nation of *Eng'land*, to be aſſiſting unto you in this Service.

Given under our Hands and Seals.

To Col. Francis Hacker, *Col.* Hunks, *and Lieutenant-Col.* Phray, *and to every of them.*

Sealed

Sealed and Subscribed by

John Bradshaw.	*Richard Deane.*
Tho. Grey.	*Robert Tichbourne.*
Oliver Cromwell.	*Humphrey Edwards.*
Edward Whalley.	*Daniel Blagrave.*
Michael Livesey.	*Owen Roe.*
John Okey.	*William Purefoy.*
John Danvers.	*Adrian Scroope.*
John Bourchier.	*James Temple.*
Henry Ireton.	*Augustine Garland.*
Thomas Maleverer.	*Edmond Ludlow.*
John Blackistone.	*Henry Martin.*
John Hutchinson.	*Vincent Potter.*
William Goffe.	*William Constable.*
Thomas Pride.	*Richard Ingoldsby.*
Peter Temple.	*William Cawley.*
Thomas Harrison.	*John Berkstead*
John Huson.	*Isaac Ewers.*
Henry Smith.	*John Dixwell.*
Percgrine Pelham.	*Valentine Wauton.*
Simon Meyne.	*Gregory Norton.*
Thomas Horton.	*Thomas Challoner.*
John Jones.	*Thomas Wogan.*
John Moor.	*John Ven.*
Hardress Waller.	*Gregory Clement.*
Gilbert Millington.	*John Downes.*
George Fleetwood.	*Thomas Waite.*
John Alured.	*Thomas Scot.*
Robert Lilbourne.	*John Carew.*
William Say.	*Miles Corbet.*
Anthony Stapely.	

It was Ordered, That the Officers of the Ordnance within the Tower of *London*, or any other Officer or Officers of the Store within the said Tower, in whose hands or custody the bright Execution-Axe, for the executing Malefactors, is, do forthwith deliver unto *Edward Dendy* Esq; Serjeant at Arms attending this Court, or his Deputy or Deputies, the said Axe. And for their or either of their so doing, this shall be their Warrant.

Directed to Col. John White, *or any other Officer within the Tower of* London, *whom it concerneth.*

The Court adjourned till to-morrow Morning at Nine of the clock.

* *Mercurii*, 30 Jan. 1648. * *Martis.*

Painted Chamber.

Commissioners meet.

Ordered, That Mr. *Marshall*, Mr. *Nye*, Mr. *Caryl*, Mr. *Salway*, and Mr. *Dell* be desired to attend the King, to administer to him those Spiritual Helps as should be suitable to his present Condition. And Lieut. Col. *Goffe* is desired forthwith to repair unto them for that purpose.

Who did so, but after informed the Court, That the King being acquainted therewith, refused to confer with them; expressing, that he would not be troubled with them.

Ordered, That the Scaffold upon which the King is to be executed, be covered with Black.

The Warrant for Executing the King being accordingly delivered to those Parties to whom the same was directed, Execution was done upon him, according to the Tenour of the said Warrant, about Two of the clock in the Afternoon of the said Thirtieth of *January*.

The Tryal of James *Duke of* Hamilton, *and Earl of* Cambridge, Febr. 9. 1648. *as publish'd by Dr.* Burnett *in his Memoirs of the House of* Hamilton. *To which is added, Mr.* Steel's *Argument on the behalf of the Commonwealth, touching the Matter of Law.*

MR. *STEEL* and Mr. *Cook*, the Counsel for the People of *England*, did exhibit on the Ninth of *February*, being Friday, the following Charge:

That the Earl of Cambridge *about the 19th of* July *last, traitorously invaded this Nation in a hostile manner, and levied War to assist the King against the Kingdom and People of* England, *and had committed sundry Murders, Outrages, Rapines, Wastes, and Spoils, upon the said People; and particularly about the 20th of* August, *near* Preston, *did make War, join Battel, and fight against the Forces of the Parliament, and therein did murder and kill Colonel* Thornley *and others.*

To this the Duke put in the Declinatour and special Plea following, intending at last to answer the Charge, if the Plea was not sufficient: having first told the Court, he was better known by another Name than the Earl of *Cambridge*. His Plea consisted of three Heads: First, He pleaded this his undertaking that Employment was by Command of the Parliament, and Supreme Authority of the Kingdom of *Scotland*, for such Ends as he conceived were good and justifiable, and in no way derogatory to the Peace and Happiness of these Dominions: That he did earnestly endeavour to decline it, but that not being accepted of, he could not disobey their Commands without incurring the severest Censures. Secondly, That he

was

was born in *Scotland* before the Naturalization of his Father in *England*, therefore he conceived himself an Alien, and not triable in *England*. Thirdly, That he had render'd himself Prisoner upon Capitulation and Articles with those who had Major-General *Lambert*'s Commission; and that by these he was first a Prisoner of War; next, his Life and the Safety of his Person was secured to him by the Articles, which were signed by the Commissioners of both sides, before he was their Prisoner, and that they could fasten neither a Breach nor Non-performance on him. Upon this the Counsel of the People caused the Act of his Father's Naturalization to be read, and spake a little to aggravate and set out his Fact: but he desired a convenient time to procure Papers, Witnesses, and other Evidences material to his Plea, which he said was seldom denied to any in that condition; and it was well known to many there, how that since the beginning of this Parliament many Weeks were granted to an Eminent Man upon his Tryal, (by whom he meant the Earl of *Strafford*, who had time allowed him to send to *Ireland*.) The Court adjourned to the next day, without giving him any satisfactory Answer. But the Duke's Carriage and Discourse that day gained much on all the Spectators, being so serene and calm, that his very Enemies did applaud it.

Saturday the 10th, in the Evening, his Grace was again brought to the Bar, and he desired Counsel, which was granted; and it was referred to him, whether the Court or himself should name them: which he then passed over, and without much speaking on either side, the Court adjourned; notice being given him, that he must appear again on Tuesday the 13th. But no Order being issued forth for Counsel, some Counsel who were dealt with did decline the Employment.

Tuesday the 13th, his Grace being brought again to the Bar, desired a longer time, since notwithstanding serious means had been used, no Lawyer would be his Counsel without the Court's Orders. This was granted by the President after some Expostulation, and upon his Grace's Nomination, Mr. *Chute*, Mr. *Hales*, Mr. *Parsons*, and Dr. *Walker*, were assigned him for Counsel, to have free Access to him, in the presence and hearing of some of his Keepers, and to be ready against Thursday following to maintain his Plea: upon which, the Court adjourned till the 15th.

Thursday the 15th, his Grace being again brought before the Court, declared that their Order being offered to his Counsel, they all found themselves unable to plead for him, or to do what was otherwise fitting, and so had refused to come and speak with him at *St. James's*. The Court objected the time they had already granted, and alledged this was a mere Delay: but his Grace protested it was true, and offered one of his Servants to attest it. Dr. *Walker* in Court declared, he would not be of his Counsel, by reason of his Employment under the Parliament. His Grace desired a convenient time, as was usual in the like Cases, not only in respect of his Lawyers, but that he might send to *Scotland*, and other remote Places, for Witnesses and Evidences necessary for his Defence; since no Prejudice could come by that Delay, and this was denied to none in Tryal for Life, and had been granted to *Mac-Guire* and *Mac-Hun*, two *Irishmen*. But for his Counsel, the Court ordained, that any of the six he should name might be authorized to advise with him in private, and to speak in Court in the Matter of Law arising out of the Fact of the Plea, after the Matter of Fact was handled, which his Grace was to maintain next Saturday. And for the Time he craved, they said, he looked on the unreasonable Time was granted to *Strafford* and *Canterbury*, those grand Offenders, with whom he had been too familiar, as Precedents; but those were Precedents without a Precedent, and none were to expect the like at this time, especially since there were now so many Prisoners to be try'd.

Saturday the 17th, his Grace was brought to the Court with some Witnesses, his Counsel being near, but not present; and in order to the Parts of his Plea, he first produced Duplicates of the Commission, and Orders from the Parliament of *Scotland* and Committee of Estates there. The Court demanded Evidence for both. His Grace answered, Were Time granted, he would not only sufficiently prove these, but many other Points belonging to his Justification. But the Court answered, That unless they were presently attested *viva voce*, they would not suffer them to be read. Whereupon his Grace desired that his Servant Mr. *Lewis* might be examined, whose Testimony was accepted, and the Papers he produced were received for Evidences, and read. Next, the Declaration containing the Ends of the Engagement was read, and being proved by the same Witness, was left in Court with the former Papers. Then the Court upon his Grace's desire produced the original Articles of Capitulation, which were read; and Mr. *Cole* proved he saw them delivered to his Grace about Nine in the Morning, before the Lord *Gray* came in.

The Lord *Gray* deposed, That two several Summons, which were sent by him to his Grace to yield upon Mercy, were both answered negatively in respect of the Cessation and Treaty; That by a Letter from *Cromwell*, dated *Warrington August* 20. he was enjoined to pursue the *Scotish* Forces with all vigour; That he had received Letters from the *Staffordshire* Gentlemen with whom the Cessation begun, intimating that they had condescended to it, on purpose to gain a few days time to strengthen themselves, in regard the *Scots* were so numerous: and that he dispatched away *Wayte* and *Peters* that Morning in which the Treaty ended, to protest against it.

Peters was next examined, and answered, That going that Morning to protest, by Order from the Lord *Gray*, he came accidentally to the Duke, where he found the Hostages in his Chamber, and asked if he was willing to be the Lord *Gray*'s Prisoner, who answered, he could not, in regard of the Treaty; but if he were afterwards to be disposed of, he had rather be his Lordship's Prisoner than any other's, being of his Acquaintance: That he had seen the Summons, and the negative Answer to them; That this was about five in the Morning; and that *Wayte* and he went a part of the way towards the Place of Treaty, where he heard the Articles were concluded.

Lilburn was next examined, who deposed, That the Articles were signed by himself, and the other Treaties, about Five in the Morning, and were to be ratified by the Duke and *Lambert*; and that his own Meaning of preserving the Duke's Life (he knew not how the rest meant) was only to preserve him from the Violence of the Soldiers, and

and not from the Juſtice of the Parliament. At this *Peters* roſe up, expreſſing great diſlike of *Lilburn*'s Gloſs, ſaying, That much Tenderneſs was to be uſed where the Life of ſo eminent a Perſon was concerned: That he had ſeen many Articles of War, but had never heard of ſuch Ambiguity; and that it was clear by thoſe Articles the Duke held his Life ſecured, as well from the Parliament as the Soldiers; and wiſhed to God, that if their Commiſſioners had meant otherwiſe, it had been ſo expreſſed in the Articles, it being moſt neceſſary that Articles were in a Concernment of Life. The Preſident anſwered, You ſay well for the future, but it is now too late.

His Grace reſumed what had been ſaid, and ſpoke much on the Articles for weakening *Lilburn*'s Gloſs.

Next, the Governour and Marſhal of *Windſor* were examined about his Eſcape from *Windſor*-Caſtle. The Governour depoſed, That the Duke ſaid to him he needed not fear his Eſcape, he would be a true Priſoner, and not go away though the Gates were opened. The Marſhal ſaid, he only heard this from the Governour.

The Duke expreſſed a deep Reſentment of this Injury done him by the Governour, who wounded his Honour ſo much, which he valued above all earthly things; and did ſhew how unlike it was, that any ſuch thing was either demanded or granted, ſince that is only done for a little more Liberty, whereas he was all the while kept under ſtrict Guards; nor had he the liberty of walking in the Park, but was always guarded by two Keepers, the one lying all night in the Room next him, and the other every night locking the Door, and carrying the Key with him: That the Governour's Teſtimony in this matter was not to be received, he being a Party, and now in hazard for his Negligence, for he was told that if he eſcaped, he ſhould die for it; adding, that if he were not a Priſoner, he would deſire Right of the Governour for that Scandal caſt on him, and chuſe no other place for it but *Weſtminſter-Hall*. But to all this the Governour made no Reply; only the Preſident ſaid, that though he could not blame the Earl of *Cambridge* for what he ſaid, yet for all that the Governour was not to be diſcredited.

After this, the Duke ſpake a little to all the three Branches of his Plea, reſerving the fuller enlarging upon them to his Counſel. He inſiſted moſt on the Articles, which he doubted not were ſufficient to protect him: he deſired them to conſider, how ſacred Articles of War were reputed in all Places, and among all Nations, and how inviolably they were kept, all Princes and States being moſt careful to obſerve them, not only to Strangers, but to Subjects; having great regard to Articles, though only for Quarter, much more when there was a Capitulation for Life: adding the following Inſtances. *Eliſha* the Prophet would not ſuffer the King of *Iſrael* to kill the *Syrian* Captains, ſaying, *Wouldſt thou ſmite thoſe whom thou haſt taken captive with thy Sword and thy Bow?* The Blood of *Abner* lay on *Joab*'s head, who killed one that had the King's Safe-Conduct. The *Gibeonites* alſo, though they uſed *Joſhua* deceitfully, yet were preſerved according to the Articles given them; and not only *Saul*'s Houſe, but the whole Land ſuffer'd for the Violation of them. That Prince *Robert* and the Lord *Cottington*, tho excepted from Life or Pardon by Act of Parliament, were notwithſtanding that, upon the Articles of the Rendition of *Oxford*, permitted to go beyond Sea, and never queſtioned for Life: and the like Juſtice was done the Earl of *Briſtol* and the Lord *Paulet*, upon the Articles of the Surrender of *Exeter*, tho both were excepted from Pardon: And that the Lord *Fairfax* and the Officers of the Army were moſt careful to ſee Articles always kept, in which they judged their Honour deeply concerned, and had often written to the Parliament to that end; therefore he did not doubt the like Juſtice would be done him. By this time it was late, and the Preſident appointed Monday next for the Duke to finiſh his Plea in Matter of Fact, ordering his Counſel to be in the Court, for their better Information; and ſo they adjourned.

Monday the 19th, the Duke and his Counſel were brought to the Bar. Colonel *Wayte* was examined, who depoſed, That the Duke rendred himſelf to be the Lord *Gray*'s Priſoner, and deſired *Wayte* to protect him from the Multitude, who thereupon left a Guard at his going away. But during his Depoſition, *Peters* ſaid, *He lyes, he lyes!* And *Peters*, *Spencer*, and other Officers who were with *Wayte* at *Uxoxeter*, being examined, did totally falſify his Depoſition. Divers were alſo that day examined about the Place of the Duke's Birth, who all ſwore, they heard it always ſaid that he was born at *Hamilton*, and that it was not a thing to be doubted of. Others were examined about the ſigning of the Articles, who all witneſſed, that they were ſigned long before the Lord *Gray* came: and Major *Blackmore* deponed, That the Duke's being the Lord *Gray*'s Priſoner, was by an Agreement betwixt him and *Lambert*, whoſe Occaſions preſſed him to go ſuddenly Northward.

After this the Duke ſpake a little, to ſhew how little weight was to be laid on *Wayte*'s Teſtimony, which was ſo evidently diſproved. Next, his Counſel asked the Court's Directions how they ſhould proceed; and the Court anſwered, That after the Matter of Fact was handled, they might plead in Law upon all the parts of the Plea: and they told the Duke, by the next Wedneſday to finiſh his Evidence.

He deſired a Warrant for bringing ſome Gentlemen, then Priſoners in *Whitehall*, who were his material Witneſſes; but the Court adjourned, and promiſed to conſider of that Motion in the Painted Chamber; yet they granted it not.

Wedneſday the 21ſt, the Court ſat, and the Duke was brought to the Bar. Some were interrogated about the Time of his Birth, to prove him *Poſt-natus*; but it was not proved, one Perſon only ſwearing, that he heard him ſay he was ſome Years younger than the King. Evidence was alſo brought of his Conjunction with *Langdale*, which they accounted Treaſon; yet even that was not clearly proved, tho it was much laboured. Some Letters of his to *Langdale* had been taken, and were brought into Court: but as the Letters proved no Conjunction, ſo it did not appear that they were his Letters; only *Peters* aſſerted they were like his Hand. Then a Vote of the two Houſes was read, repealing a former Vote of ſetting an hundred thouſand Pounds *Sterling* upon him for Ranſom; and Proof was brought, that notwithſtanding Articles were given, yet ſome had been forced to take the Negative Oath; and thereby they ſtudied to evince, that the Parliament did not hold themſelves bound to ſtand to Articles.

After this, his Grace reſumed the Subſtance of all thoſe Evidences, and ſhewed that it was not proved

proved he was a *Poſt-natus*, nor that he joined with Sir *Marmaduke Langdale*, who neither received Orders nor the Word from him, but marched and quartered apart; and that tho he had done otherwiſe, it could not be criminal in him, ſince he had no Orders to the contrary from the Parliament of *Scotland*, but was commanded by them to join with all who would concur with him for proſecuting the Ends of the Engagement, of which Sir *Marmaduke* approving, he had no reaſon to refuſe Concurrence with him; neither could this be made Treaſon by the Law of *England*: of all which it ſeem'd the Parliament was once well-ſatisfied, ſince by a Vote they had fined him in an hundred thouſand Pound *Sterling*, as the Price of his Liberty; by which it appeared they look'd not on him as a Traytor, but as an Enemy who had Life granted him by Articles.

Upon this, the Court adjourned till Thurſday the 22d, and his Counſel were appointed to plead, and he was to cloſe his Evidence. The Duke was brought to the Bar, and by divers Witneſſes it was proved, that there was no Rendition made to the Lord *Gray*, but a plain Refuſal; and that the Treaty was ended, the Articles ſigned, and *Lambert* come up, before the Lord *Gray* came thither. There was alſo produced an Order of Parliament, made four Years before, That no Quarters ſhould be given to any of the *Iriſh* in Arms, which inferred that others might have them: and another Order was read of the 14th of *July* laſt, declaring all the *Scots* who entred *England* Enemies, and all the *Engliſh* and *Iriſh* who aſſiſted them Traytors; and with this he cloſed his Evidence. And ſince he was not to be ſuffered to ſpeak any more, he enlarged on all the parts of his Plea, and ſpake at length as follows.

That he was ſent by the Kingdom of *Scotland*, which was a free Kingdom, and independent on *England*; That he having had his Birth, Honour, and Fortune there, was bound to give obedience to their Orders; That for himſelf, he had lived much out of Buſineſs, and was ſeldom in publick Truſt in that Kingdom, nor very deſirous of any; but that being commanded to undertake the Charge of General, for Ends which he conceived lawful, and no way contrary to the Peace or Intereſt of *England*, he was obliged to follow their Orders: and that by ſome Papers emitted by the Parliament of *England* againſt that Expedition, they declared they look'd on it as a National Breach, whereby *Scotland* had violated their Leagues and Treaties with them, ſo that it was no private Act of his: That the entring of the *Scotiſh* Army into *England*, *Anno* 1640. was accounted no Invaſion nor Treaſon, but on the contrary was acceptable to this Kingdom, which gave a brotherly Aſſiſtance for it; and that the late unfortunate Army was deſigned fully for as good Ends, and would have been ſo look'd on had it proſpered. And for his joining with Sir *Marmaduke Langdale*, he anſwered it as was before ſet down. Therefore he being taken priſoner in ſuch a War, he conceived it without a Precedent that he ſhould be try'd for his Life, for ſerving his native Kingdom in an open War. As for his being an Alien, he referred that to his Counſel, but ſaid it was undeniable he was born in *Scotland*, nor was he proved a *Poſt-natus*; he was alſo born before his Father's Naturalization, and ſo not included in it, and his own Naturalization had been in agitation in the beginning of this Parliament: That his ſitting in Parliament did not conclude him an *Engliſh* Earl, for if queſtioned, he might probably have been expelled out of the Houſe of Peers, as his Countryman Mr. *Walter Stuart* was out of the Houſe of Commons; and that his being an Earl did not naturalize him, that being the King's ſingle Act, whereas Naturalization was only by Act of Parliament. As for the Articles, it was clear, that *Lambert* being a General Officer, commiſſionated by Parliament, was impowered to capitulate both by the Parliament and by *Cromwell*, the Lord *Gray* having no Authority from the Parliament, but only from *Cromwell*'s Letter: That he became the Lord *Gray*'s Priſoner only by *Lambert*'s Order, and that he made no Surrender till the Articles were ſigned and delivered: That tho the Lord *Gray* had proteſted againſt it, (and yet only an Intention to do it was proved) he was not concerned in it, nor bound to take notice of it, *Lambert* being the Parliament's Officer, and ſent againſt him by them. That Articles were to be expounded by their plain Meaning, and not by any mental Reſerves pretended by the Commiſſioners: That by the firſt Article, he was a Priſoner of War, and that it was ſeldom known that the Life of any ſuch was taken; and that by the ſecond Article, Life and Safety of Perſon were expreſly ſecured without any exception: That if Articles were now violated, it would make the Sequel of the Wars, if any more followed, a downright Butchery, ſince none would any more truſt to a Capitulation; which Miſchief he pray'd God to avert. That his Eſcape out of Priſon was no Breach, he being only bound by the Articles to deliver himſelf Priſoner, which he did, but not to continue ſo. And he concluded, That he was confident, had he no better Plea, his Articles were ſufficient, according to the Laws of all Nations, to preſerve his Life.

Then the Preſident asked him, if he had any thing to ſay as he was Earl of *Cambridge*? Whereupon he and his Counſel moved, That if what he had ſaid and proved was not ſatisfactory for the Averment of his Plea, he might anſwer the Charge exhibited, which he had not yet done. But to this, neither the Court nor their Counſel would yield, tho they gave no reaſon for it, ſave only that it imply'd a Deſire of Delay: but the reaſon, as was ſaid, was, That they knew had they yielded to that, the Charge had been overthrown, ſince the Law of *England* does not admit that to be Treaſon which they charged on him, that he had aſſiſted the King againſt the Kingdom and People by levying War. Then the Court told his Counſel, that Saturday was the longeſt time they allow'd them for performing their part: but the Counſel anſwered, That it was impoſſible for them to undertake it, and diſcharge their Conſciences to their Client, having ſo ſhort a time allow'd them; there being a neceſſity of ſearching divers Records for Precedents, which required a competent time, as had been allow'd in former Caſes. But the Court refuſed to promiſe it, only they ſaid they would take it into their conſideration. The Counſel inſiſted, and ſaid plainly, they declined the Employment on thoſe Terms, and would be forced to declare it.

Monday the 26th, the other two Officers that had ſigned the Capitulation for the Duke and his Troops, who had been ſent for a great way off, were examined; who agreed with the former Witneſſes in Matters of Fact, and alſo with *Lilburn*, that by ſigning the Articles, they only meant the

Duke

Duke ſhould be preſerved from the Violence of the Soldiers, and not from the Juſtice of the Parliament. Then the Counſel began to plead, and all four ſpoke on the ſeveral Heads of the Plea. Mr. *Heron* ſpoke curſorily and elegantly, but not very materially: Mr. *Parſons*, a young Man, ſpoke boldly, and to good purpoſe: Mr. *Chute* the Civilian ſpoke learnedly and home: and Mr. *Hales* (ſince the much-renowned Lord Chief Juſtice of the *King's-Bench*) elaborately and at length. The Heads of their Arguments follow.

The Duke being, as was granted, a born *Scotchman*, his Tye of Obligation and Subjection to that Kingdom was indiſpenſable and indiſſoluble; ſo that his late Employment could not be refuſed when laid on him by the Authority of that Kingdom, no more than a Native of *England*, living in it, can diſobey the Commands of this Parliament: whereas any Subjection the Duke owed the Parliament of *England* was only acquired, and diſpenſable. That ſince no Man can be a Subject of two Kingdoms, whatever Tye lay on him to the Kingdom of *England*, it was not to be put in competition with what he owed *Scotland*; it being a Maxim in Law, That *major Relatio trahit ad ſe minorem*, and that *Jus Originis nemo mutare poteſt*: That there was an Allegiance due to the King, and another to the Kingdom, and no Treaſon could be without a Breach of Faith and Allegiance due to them againſt whom it was committed, for theſe Kingdoms were two diſtinct Kingdoms; and tho the Allegiance due to the King was the ſame in both Kingdoms, yet that due to the Kingdoms was diſtinct: nor was the actual Adminiſtration of the Kingdoms in the King's Perſon, when the Duke got his Employment. Therefore as his Allegiance to the Kingdom of *Scotland* was antienter and ſtronger than any Tye that lay on him in *England*, ſo what he did by their Order might well make him an Enemy to this Kingdom, but could not infer Treaſon. *Yet all this of the Allegiance due to the Kingdom was founded on no Common or Statute Law, as Mr.* Hales *himſelf confeſſed afterwards: but he urged this well againſt thoſe who aſſerted it, it being the univerſally received Maxim at that time.*

That whether he was a *Poſt-natus* or *Ante-natus*, did not appear; but tho he were, it did not vary the Caſe, nor his Obligation to the Place of his Nativity: and ſo tho he were *Poſt-natus*, or accounted a Denizen by his Father's Naturalization, his Offence could not be Treaſon, but Hoſtility at moſt; and by that ſuppoſed Hoſtility, he could only loſe his Privilege of a Denizen, but could not be made a Traytor, there being no Precedent where ever any Man was attainted of Treaſon for a hoſtile Invaſion, and it was queſtionable if this Offence could amount to that. Nor could any Caſe be alledged, where one born in another Independent Kingdom, acting by a Commiſſion from that Kingdom, and reſiding there when he received his Commiſſion, and raiſing the Body of his Army in that Kingdom, and coming into this in an open hoſtile manner, was ever judged guilty of Treaſon. Naturalization was intended to be a Benefit, and not a Snare; ſo that one might well loſe it, but was not to be puniſhed for it. And ſo when *France* and *England* were under one Sovereign, divers of both Nations were naturalized in the other; yet when Hoſtility broke out betwixt them, many ſo naturalized fought on the ſide of their native Kingdom, for which none were put to death, tho divers were taken Priſoners. And in *Edward* the Third's time, tho he claimed *France* as his by his Right; yet when the Conſtable of *France* invaded *England*, and was taken Priſoner, he was not try'd, nor put to death, but ſent back to *France*, as being a Native of that Kingdom. And when *David Bruce* King of *Scotland* invaded this Kingdom, and was taken Priſoner, great Endeavours were uſed to find a legal Ground for his Tryal, he being Earl of *Huntingdon* in *England*; but this Plea was waved, for it was found that it could not be done juſtly, that being but a leſs Degree of Honour, tho King *Edward* claimed a kind of Homage from the Crown of *Scotland*. That if the Duke were on that account put to death, it might prove of ſad conſequence, in caſe there was War any more betwixt the Kingdoms; ſince moſt of the preſent Generation were *Poſt-nati*, and all would be ſo quickly: and yet if the Lord *Fairfax*, who was both a *Poſt-natus* and had his Honour in *Scotland*, were commanded to lead an Army thither, and being taken were put to death, it would be thought hard meaſure. For the Duke's Father's Naturalization, it was true, by the Statute of the 25th of *Edw.* 3. proviſion was made, that Children born without the Kingdom, whoſe Parents were then in the King's Allegiance, ſhould be Denizens: but the Duke was born before his Father's Naturalization, which can never reach him, none but the Iſſue after his Father's Naturalization being included within it; and the word *Hæres* in the Act is only a word of Limitation, and not of Creation: nor did his making uſe of the Aſſiſtance of ſome *Engliſh* Forces, make him a Traytor. It is true, if an *Engliſhman* conduct a foreign Army, or if a Foreigner come of his own head, or in a rebellious way, to aſſiſt an *Engliſh* Rebellion, it will amount to Treaſon: for the Act of ſuch an Alien is denominated from the Crime of thoſe he aſſiſts here, where he owed a local Obedience, which was the Caſe of *Shirley* the *Frenchman*, and of *Lopez*. But if an Alien come with a foreign Force, tho he make uſe of *Engliſh* Auxiliaries, that only infers a Hoſtility, but no Treaſon; and was the Caſe of the Lord *Harris* a *Scotchman*, 15 *Eliz.* and of *Perkin Warbeck*, both having *Engliſh* Help: and tho *Warbeck* was put to death, it was by no Civil Judicatory, but only by the Will of *Henry* the Seventh, who erected a Court-Martial for that purpoſe. The preſent Caſe was yet clearer, where the Alien had Authority from his native Kingdom, and was commanded by them to make uſe of *Engliſh* Help: ſo that tho *Langdale*'s aſſiſting the Duke did make himſelf a Traytor, yet the Duke's accepting of it only infers an Act of Hoſtility. And whereas it was objected, That the Parliament had already by their Act which conſtituted this Court for his Tryal, declared him a Traytor; it was not to be diſputed what the Parliament had power to do, but no Parliament had ever done the like before: and the Meaning of the Act muſt be, that he ſhould be try'd whether guilty of Treaſon or not, ſince if the Parliament have already declared him a Traytor, further Tryal was needleſs. And it was clear, the Parliament by their Act in *July* laſt, which declared all the *Scots* who entred *England* Enemies, conſidered not the Diſtinction of *Poſt-nati*, nor judged that inferred Treaſon, ſince moſt of them all were *Poſt-nati*; That many of the Officers of that Army, who had been taken Priſoners, tho clearly *Poſt-nati*, were ranſomed, others baniſhed, others ſtill in Priſon: why then ſhould the Imputation of Treaſon be faſtned on the Duke, when the reſt were uſed only as Enemies?

And for the Articles, they made it appear, they were the Publick Faith of the Kingdom, when given by Perſons publickly authorized, upon the obſerving of which inviolably, depended the whole Intercourſe of all Nations, and their mutual Confidence, which is founded on all States being bound by the Acts of their Publick Miniſters: That this was not a pure Rendition, but a Paction concluded upon Deliberation, wherein the Parliament loſt nothing, but on the contrary were Gainers: That the Parliament had ratified this upon the matter, by voting a hundred thouſand Pounds Sterling Fine, to be the Price of the Duke's Liberty; That the ſecret Senſe the Treaters pretended, was not to be conſidered, ſince all Compacts are to be underſtood according to the clear Meaning of the Words, and the univerſal Senſe of Mankind, who look on Articles wherein Life is granted, as a ſufficient Security, not only from the Soldiers, but from the Civil Powers; and that theſe Treaters, when the Articles were agreed, ſhould have made known their ſecret Meaning, otherwiſe it was not to be regarded. And it was a moſt dangerous Precedent to admit of collateral Averments of ſecret Meanings againſt expreſs Words, much more in a Caſe of Life, and yet much more in Military Agreements, wherein the Concernments of Armies and Nations were included, and which concerned the Honour and Security of all Soldiers. And for this divers Precedents were cited. The Argument ended thus: That as the Court conſiſted of Gentlemen, and Lawyers, and of martial Men; ſo the Plea conſiſting of three Branches, was the more proper for their Cognizance, a part of it being drawn from the Law of *England*, another part from the Civil Law, and a third part from the Martial Law: And if the Plea in any of the three Branches was made good (and they doubted not but it would be found ſo in them all) the Court would be ſatisfied, there was Reaſon and Juſtice for preſerving the Duke's Life.

The Court adjourned till Friday the ſecond Day of *March*, and the Duke being again brought to the Bar, the Counſel for the People pleaded, but ſo poorly, that all who heard them were aſhamed: But they had one Advantage, that neither the Duke nor his Counſel were allowed to ſpeak after them, nor to diſcover their impertinent Allegations, which made the Duke's Counſel obviate all they could imagine they might ſay, though they ſaid a great deal ſo far out of the way of Reaſon, that none could have thought of it; and yet it was ſo weak, that it needed neither be obviated, nor replied to.

Yet at the end of every Branch of their Pleading, I ſhall add the Anſwers againſt them, as they are ſet down in ſome Notes taken by the Duke's Counſel.

They begun with *Alienage*, and ſtudied to make it appear, that though he was a *Scotchman* born, yet he was no Alien, having enjoyed all the Privileges an *Engliſhman* was capable of, as being a Peer, a Privy-Counſellor, poſſeſſing Lands and Inheritances, and marrying in *England*. *But Naturalization cannot be but by Act of Parliament, and not by the King's ſingle Deed; much leſs by thoſe Privileges of which any Stranger might participate.*

Next they urged his Father's Naturalization, and ſince his Name was not in that Act, as was in other Acts of Naturalization, that proved him to be no Alien, otherwiſe his Name had been put in. *From that it rather appeared he was an Alien, ſince others found it neceſſary to inſert their Childrens Names; which his Father not doing, proves the Son an Alien ſtill.*

They alſo urged his being *Poſt-natus*, which muſt be held true, ſince he brought no Evidence to the contrary; and it being ſo, his Tie of Subjection was as great in *England* as in *Scotland*: That Allegiance was only due to the King, and not to the Kingdom; That there was a King when he entred into *England*, and that though he was ſecluded from the Government, yet all Writs were iſſued in his Name; ſo that this Expedition was a Breach of the Allegiance he owed the King. *This was the oddeſt part of all their Plea, ſince his Charge was, That he aſſiſted the King againſt the Kingdom; and now they did plead he owed no Allegiance to the Kingdom, but to the King, whom they had ſo lately murdered; the Duke's coming with his Army being only to relieve him from the barbarous Uſage he had met with.*

They alſo urged at large, That an *Engliſhman*'s Children, in what place of the World ſoever they were born, were Denizens of *England*, and cited many Precedents. *But the Miſ-application of them was groſs and palpable, thoſe being of Perſons who were* Engliſhmen *before their Children were born; whereas the Duke's Father was naturalized after he was born: ſo that he could not communicate that Privilege to him, which he did indeed tranſmit to his Children born after his Naturalization.*

Next, they pleaded, That the Parliament of *Scotland* had no Power to commiſſionate him to enter into *England*; and that if ſome of them were there, they ought likewiſe to ſuffer for it; and it was fit he ſuffered for his Maſters, who employed him: That it was pity the King had not ſuffered ſooner. They alſo produced many Precedents of Strangers being condemned as guilty of Treaſon, for Treaſons committed in *England*; as the Queen of *Scots*, *Lopez*, *Perkin Warbeck*, the Lord *Harris*, *Shirley* the *Frenchman*, and the *Spaniſh* Ambaſſador. *All this was obviated in the former Argument, where Diſtinction was made betwixt ſecret Practices, and an open Invaſion with a foreign Force.* They added, That *Scotland* belonged to the Crown of *England*, and ſo was to be look'd on as ſome of the Counties of *England*. *But* Scotland *had no Subjection to the Crown, but only to the King of* England, *whom they had murdered, and ſo they had no Power to judge any* Scotchman.

As for the Articles, they pleaded it was not in the power of the Army to abſolve any from the Juſtice of the Parliament, which being above them, was not tied to their Articles; and therefore, though they confeſſed the Words ought to have been leſs ambiguous, yet they ſaid, the Expoſition of thoſe who ſigned them was to be admitted, ſince every Man was to be the Expounder of his own Words; and pleaded ſome Precedents about the Expoſition of ambiguous Words. *But the Words here were plain and not ambiguous, only a treacherous Equivocation was invented to break them.*

Cook, by a ſtrange Subtilty, ſaid, The Articles only ſecured his Life during Impriſonment; ſo that his breaking of Priſon, and being retaken, put an end to the Obligation of the Articles. *Though he broke not Priſon, but went out at Door and Gate, which was no Crime.*

The

The Argument of Mr. Steel, *on behalf of the* Commonwealth, *touching the Matter of Law in the Case of the Earl of* Cambridge.

My Lord,

THE Counsel for the Earl of *Cambridge* have framed their Arguments upon the Fact, as they conceived it proved; and also by admittance of the contrary in some Points, I shall use the same Method: first arguing from the Fact, as I conceive it stated by the Proofs produced; and then by admittance of the contrary, that though the Fact should be as they would have it, that yet the Law will fall out to be against them.

The Charge being read to the Prisoner, he hath thereunto put in his Plea, consisting of three Parts; the Truth and Validity whereof hath been denied on the behalf of the Commonwealth.

First, The first Part of his Plea was, That he was imployed by the Parliament of the Kingdom of *Scotland*, not to invade this Kingdom, but for the Ends declared by them. The Improvement made of this part of the Plea, is, That the Earl was but a Servant in this Expedition, and under the Authority and Command of another, and tied under Oaths and Penalties to give Obedience; if he had disobeyed, he had been liable to Punishment; therefore it were hard for him to be punished for obeying also: That he hath not exceeded his Commission: Besides, the Parliament of *England* in their Declaration of the 17th of *February* last, lay the Blame of this Invasion upon the Parliament of *Scotland*: And lastly, That the Earl's Case is not unlike that of an Ambassador, who is not to be blamed for acting against a State, if he have it *in Mandatis*, as in the Case of the Bishop of *Ross*, in the Reign of Queen *Elizabeth*.

By endeavouring to give Satisfaction to all which, I shall dispatch what I have to say upon this first part of the Plea.

I shall admit it proved, That he had that Commission and Authority mentioned; and also, that the Rule is generally true, That a Man is not to be punished for an Act which he doth by the necessity of Obedience, because he hath not *solutum Arbitrium*, which is required to denominate Actions either blame-worthy or excusable: but I shall easily prove, that this Rule is capable of Restriction, both by the Rules of Law and Reason; and if we observe the Distinctions aright, which determine this Question, we shall still find the Earl of *Cambridge* within that part which renders him inexcusable.

First, The first difference is, where the Action is lawful, and where unlawful which is commanded: If it be lawful, a superior Command may dispense with some Circumstances; but if unlawful, the Servant obeying, is not the less to be blamed. I never held that Law of *Ina* the *Saxon* King to be warrantable Divinity; *Servus si quid operis patrârit Die Dominico ex præcepto Domini sui, liber esto*, if the Precept it self were unjust.

Now for the Action in question, wherein this Earl was engaged; it is not defended by his own Counsel, the Dispute being only *de modo*, whether he be to be punished as an Enemy, or as a Traytor, though if this Argument held, he were neither way to be punished: and therefore certainly the necessity of his Obedience is no Mitigation for his Crime; and if it should, *Empson* and *Dudley*, with all their monopolizing Successors, had been unjustly censured, who always have had Patents and Commissions from Authority to plead: And so also all that Catalogue of former Traytors, who have hatched their Treasons and Designs against this State in foreign Parts, and have ever had the Pope or foreign Princes to put a Stamp of Authority and Command upon them, must by this Argument be in some measure justified.

It was never expected from any under Command, to write himself more a Servant than *usque ad aras*, those being the *Hercules*'s Pillars whereon a *Non plus ultra* is written; and therefore whoever exceeds those Bounds, he will find it to be at his Peril.

Secondly, The second Difference is, where the Instrument is *inanimatum*, and where an active living Instrument: Of the first it is truly said, *Instrumenti nulla vis*, all being therein attributed to the principal Efficient, but otherwise of the other. From hence the Statute of 1, 2 *Phil.* and *Mary*, *c.* 10. did justly repeal the Statute of 33 *H.* 8. *c.* 20. which had punished a Man for Treason, though he became *non compos Mentis* before the Execution. And no less justly did 25 *Ed.* 3. *de Proditionibus*, by the Word [*Imagination*] alter in the like Point that Law which was in use till then, concerning such a Person's committing the Act of Treason, such an one being no better than *quasi inanimatus*. But who can affirm this Earl to be other than an active and vigorous Instrument? *non modo vivit, sed in Senatum venit*, being a chief Member of that Parliament, under whose Command he would shelter himself; and by that means he is a Master rather than a Servant, and so met with by that Declaration of the Parliament of this Kingdom, of which he would have made an Argument for himself.

Thirdly, Where there is *Necessitas culpabilis*, the Law will not excuse, as it will where there is no Crime in contracting the Necessity. Those who in former times gave Victuals and Provision to Sir *John Oldcastle*, were not punished as Traytors, because they did it (say our Records) *pro timore Mortis, & recesserunt quam citò potuerunt*, 3 Inst. 10. And upon this Reason seems that Opinion of *Tremayle* to be grounded in 21 *H.* 7. 39. That a Servant may justify the killing of another, to save his Master's Life, if he cannot otherwise escape.

But if one being drunk commits a Crime, though he hath not properly and immediately the free Exercise of his Will, yet the Law reputes him *voluntarium Dæmon*; and he is not at all the less excusable by our Law, 1 *Inst.* 247. 4 *li. Beverley*'s Case: and by the Philosopher's Rule, such a one doth *ignorans*, not *per ignorantiam agere*; and is therein so far from being excused, that he is therefore to be doubly punished.

Now to assume, that whereby the Earl's Counsel would excuse him, *viz.* his Oath and Commission, renders him the less excusable; because both are strong Arguments of a free and full Consent: for who can imagine them of *Scotland* to be such mean Statists, as to think that Oath equally obliging, which was compulsive to the same, if freely taken; or that that General should be trusted with a Commission over all their Forces both by Sea and Land, as his Commission runs, whose Heart as well as Hand had not imbraced it? And truly, they that have heard his Letters read to Sir *Marmaduke Langdale*, wherein he prays for the Increase of the Distractions at *London*, and for his Friends at *Colchester*, would not judge him an unwilling Instrument, but one exceeding, rather than falling short in executing his Commission.

Laſtly, Neceſſity of Obedience may excuſe *in privatis*, but never *in publicis*. If a Feme-covert, together with her Husband, commit an Act which in another would amount to Felony, yet in her it ſhall not, becauſe *ſub poteſtate viri*, 27 Aſſ. p. 40. but otherwiſe the Law is in point of Treaſon; and ſo is the Judgment of my Lord *Verulam*; *Nec valet Privilegium* (ſaith he) *contra Rempublicam*. And as to the Caſe of an Ambaſſador urged on the other ſide, and in particular of the Biſhop of *Roſs* in the Days of Queen *Elizabeth*; I anſwer, Firſt, The Privileges of thoſe who are entertained as Ambaſſadors, are very great, and not to be made Precedents, or aſſumed by any other; whence *Proregis Dedecus redundat in Regem*: and therefore before 25 *Ed.* 3. it was Treaſon to kill an Ambaſſador, 22 *Aſſ. p.* 48. And from hence might ariſe that Privilege ſhewed to the Biſhop of *Roſs*. Secondly, It appears rather to be an Act of Grace than of Juſtice, that that Biſhop was freed, becauſe he was ſet at liberty after a long Impriſonment; which if not liable to the Cenſure of the Law, he ſhould not at all in Juſtice have endured. Alſo by the Judgment of my Lord *Bacon*, cited by the learned Doctor on the other ſide, in point of Conſpiracy againſt the State, even an Ambaſſador is not privileged; yet of this Biſhop learned *Camden* ſaith in his *Eliz. Fuit liberatus, qui Rebellioni clam faces ſubjecerat*. All which were Arguments of Grace, and therefore that Caſe will be no Precedent for this, wherein alſo Conſpiracies and Correſpondencies with many of this Nation have been proved, and are otherwiſe notorious.

And for that inevitable Labyrinth, out of which the Earl of *Cambridge* cannot extricate himſelf, but that whether obey or not obey, he is under a Miſchief, he may for that thank himſelf; *volenti non fit injuria*: this is like the Plague of an erroneous Conſcience, which whether obeyed or not, proves a Tormentor to its Subject.

Secondly, The ſecond Part of the Earl's Plea is, That he is no *Engliſhman*, notwithſtanding the Naturalization of his Father; which, in effect, is as much as to ſay, and ſo it hath been inſiſted on, he is by Birth a *Scotſman*, and by conſequence an Alien to, and not tryable as a Traytor by the Laws of *England*. Concerning the handling of which Queſtion, it being that whereupon the Validity of the other two doth, in my Judgment, principally depend; I ſhall firſt anſwer the material Objections which I conceive made by the Counſel on the other ſide, before I offer any thing poſitively to aſſert the Invalidity of this part of the Plea.

Obj. *It hath been ſaid, The Proof is not clear for the Earl of* Cambridge's *being* a Poſt-natus; *viz. one born after King* James's *Acceſs to the Crown of* England; *and that being but a* non liquet in favorem vitæ, *the moſt favourable Conſtruction is to be taken for the Priſoner.*

Anſw. Firſt, I deny that the Proof amounts to no more in this Particular than a *non liquet*; for there is one poſitive Witneſs that ſpeaks directly to the Earl's Birth after K. *James*'s coming to the Crown of *England*: another ſpeaks to the Earl's own Confeſſion, being about two or three and forty years of Age, which ſpeaks him born ſince that time; and a third ſpeaks to the common Report of his being born ſince: and if the Proof were but *ſemiplena probatio*, yet as *Bracton* ſaith, that amounts to a Preſumption; and, ſaith he, *Preſumptioni ſtabitur donec probetur in contrarium*, eſpecially when the Earl himſelf, who ſhould have proved the contrary for the making good his Plea, hath offered nothing againſt it; and being asked, never abſolutely denied it.

Secondly, I do agree, that what the Jewiſh Expoſitors obſerve in the Expoſition of their Laws, which ſounded in favour, is to be obſerved in our Law, in thoſe things which we uſually ſay the Law favours; *viz. Favores ſunt ampliandi*; and that ſtrict Expoſitions are only for penal Rules, according to that of the Civilians, *Conſtitutio penalis non excedit Caſum*: yet we ſhall find, that where the Penalty of a penal Law is againſt one or few Perſons, and the Benefit redounds to the Generality, in that caſe even a penal Statute ſhall be taken largely againſt the Offender; ſo the Rule is put, *Plow. Com.* 36. *Plat*'s Caſe, where it is reſolved, though the Statute of 1 *R.* 2. *c.* 12. give an Action of Eſcape againſt the Guardian of the *Fleet*, yet for the Reaſon aboveſaid, it is, though a penal Law, by a benign Interpretation, to extend to the Sheriff of *London*: and in like manner, if there were any Latitude in Caſes of Treaſon and Murder (as there is not) yet to extend it on the behalf of the Priſoners, might prove to many thouſands *crudelis Miſericordia*.

Thirdly, Add to this, that the Law of *England* is ſo tender of the publick Weal, that though in other Caſes it may ſeem to inſiſt too much upon Formalities, yet herein it will diſpenſe ſometimes with its moſt certain Rules. Hence it is, that if one paſs over another's Land without his Conſent, to fetch a Falcon, or the like, he may be puniſhed as a Treſpaſſer; but not ſo, if to hunt or kill a Fox or an Otter (which Inſtances I ſuppoſe not unſuitable to the Priſoner) becauſe theſe are Creatures *contra bonum publicum*; which Reaſon the Book gives of the Law in that Caſe, 12 *H.* 8. 10. For the ſame reaſon no Man ſhall be puniſhed as a Treſpaſſer for erecting Bulwarks on another's Land, *Dyer* 36. *Maleverer*'s Caſe. And hence certainly was the reaſon of that ancient Law, That capital Offenders, who had tranſgreſſed againſt the Law, had *Lupina Capitâ*, and might therefore by the Juſtice of *Lex talionis*, *arte perire ſua*; wherein the Law followed *Naturæ Ordinem*: The Rules of Nature are moſt conſtant, yet for the Preſervation of the whole, it will ſometimes contradict it ſelf; as to prevent a *Vacuum*, and the like, what an Inverſion do we ſee of Nature's moſt conſtant and ordinary Rules? Do not they then in this prove ſomewhat unnatural, imbrace a Cloud inſtead of Subſtance, that fear not to omit the weightieſt things of the Law, rather than in Caſes of invincible Neceſſity, diſpenſe with ſome Formalities?

Obj. *But though the Earl of* Cambridge *were a* Poſt-natus, *yet he is* quaſi Ligeus acquiſitus *unto* England; *and if ſo, as his Allegiance began with an Act of the Nation, ſo it might determine by an Act of the ſame Power, to wit, by Command from the Parliament of* Scotland.

Anſw. Firſt, The Strength of this Objection, if admitted, would, as I conceive, by a new invented Diſtinction, overthrow the learned and ſolemn Reſolution of all the Judges and Chancellor of *England*, 6 *Jac.* in *Calvin*'s Caſe, wherein all Allegiances that the Wits of Men could imagine, are enumerated, and they are but four, *viz. Ligeantia naturalis*, *acquiſita*, *localis*, and *legalis*: and by the Judgment of that Caſe, *Robert Calvin*, Son and Heir to *James* Lord *Calvin* of *Colcroſs* in *Scotland*, born three Years after King *James*'s Acceſs to the Crown (as alſo all other ſo born) were adjudged Subjects of this Kingdom of *England*, *Ligeantia naturali*, by the beſt and higheſt Allegiance, without any *quaſi* at all, in the ſame kind, and to all Intents and Pupoſes

Purpoſes that any natural born *Engliſhman* was.

Secondly, The Objection ſeems to me not only to be againſt the Judgment of this Caſe, but againſt Reaſon alſo: For what Acquiſition is there by the Party, or what contributes he to it, whether he be born in this or that Time or Place? The Conceit that there is any Act of the Party's in this (as there muſt be to make a *Quaſi Ligeus acquiſitus*) ſeems to ſavour of the *Pythagorean Metempſucoſis*, or that Opinion of *Plato*, who held a Pre-exiſtence of Souls, which after came into the Bodies, *tanquam in ergaſtula*.

Obj. *It is inconſiſtent to have two natural Allegiances to two ſeveral Kingdoms, as it is impoſſible to have two Fathers; in which Caſe* major relatio trahet ad ſe minorem: *And in that Caſe the Earl is rather to be reputed a Subject of* Scotland, *where he was born, than of* England.

Anſw. Firſt, It is indeed inconſiſtent that the ſame Perſon ſhould in two ſeveral Kingdoms have two original Allegiances, in a phyſical Acceptation, to wit, to be ſo born: Yet by Conſtruction of Law, he that is born in *Scotland* may have an Allegiance to *England*, equivalent with the other. Thus *Calvin* by the Reſolution of that Caſe was *Scotus patria*, and *Anglus privilegio*.

And thus, without any Contradiction, it was ever held for Law, That the Natives of *Gaſcoign* and *Aquitain*, and thoſe other Countrys which were geographically out of *England*, were yet in Conſtruction of Law equally Denizens and Subjects of *England* with thoſe born here; in regard of one Allegiance and Protection wherein they were equally involved. 27 *Aſſ. Pla.* 48.

Secondly, No Allegiance which gains the Name of *Alta & Naturalis Ligeantia*, can by the Common Law of *England* be diveſted, though otherwiſe it may be by the Civil Laws, there being no *Magis & Minus* that it's capable of, which the Objection would ſuppoſe. And the truth is, the Reſolution of *Calvin's* Caſe anſwers all the Suppoſitions of any future Contingencies, and poſitively reſolves, That this Allegiance cannot poſſibly be loſt by any Matter *ex poſt facto*, no, not by Difference of Deſcents and Governments, 7 *Li.* 27. And what is agreed to be inherent to a natural born *Engliſhman*, belongs alſo to a *Poſt-natus*, *Non poteſt patriam in quo natus eſt exuere, nec Ligeantiæ Debitum ejurare*, 1 Inſt. 129.

Thirdly, And for the Inconſiſtencies of Allegiances that the Objection ſeems to inſinuate, in the Caſe of Competition between the Kingdoms, *Bracton* hath met with that Suppoſal long ſince, *Li. de Except.* 427. ſpeaking of one that is *ad fidem utriuſq; Regis, ſi contingat guerram accidere inter Regna*; putting the caſe of one born in *France*, and indenized in *England*, *Remaneat perſonaliter cum eo cui Ligeantiam fecerit, & faciat ſervitium debitum ei cum quo non ſteterit in perſona*.

Obj. *Though the Earl of* Cambridge *were a* Poſtnatus, *yet, as this Caſe is, it makes him not to differ from an Alien, becauſe the Kingdoms of* England *and* Scotland *were at the Time of this Invaſion divided, and there were then ſeveral Adminiſtrations of their Powers; from whence a double Allegiance is to be conſidered,* Regis & Regni.

Anſw. Firſt, If we look upon the judicial Powers of the Kingdoms in a legal Conſideration, even at the Time mentioned in the Objection, beſides the Union of the Kingdoms made by force of 1 *Jac. cap.* 1. we ſhall find as ſtrong Stipulations and Engagements by Treaties, confirmed by Parliament and otherwiſe, betwixt the Nations as were poſſibly to be made; none of which were repealed at the time of this Expedition: And ſo far from that, that the Earl himſelf hath often at the Bar profeſſed, That neither his Coming or Commiſſion were againſt the Parliament or Kingdom of *England*. How then were the Powers of theſe Nations ſo legally or judicially different?

Secondly, The Union of the Laws and Governments of theſe Nations was a Thing deſired and endeavoured by ſome, as may appear by the latter part of the Statute of 4 *Jac. cap.* 1. but it was not effected. Therefore the Diſtinction of the Kingdoms was taken into Conſideration in *Calvin's* Caſe, where [*Regna*] was one of the *Nomina operativa*, and granted, That though the Kingdoms, Laws, and Nobilities of the Nations of *England* and *Scotland* were ſeveral and diſtinct, yet the Allegiance of all born in either Nation after the Union was one and the ſame. And the Pleading of that Caſe (which beſt denotes the Law) demonſtrates this, That ſuch Diſtinction of the Kingdoms was under Conſideration: For the Pleading was, That *Calvin* was born *extra Ligeantiam Regni Regis Angliæ*, and *infra Ligeantiam Regni Regis Scotiæ*. And the learned Chancellor of that Time ſaith, in his *Poſt-nati*, that the Judgment was, That neither *Calvin*, nor any other *Poſt-nati*, were Aliens to the King or Kingdom of *England*.

Thirdly, It is agreed on the other ſide, That there was always one *Ligeantia Regis*: And therefore, even thence, I do infer that there was alſo one *Ligeantia Regni*; becauſe that Allegiance which was due to the King, was certainly due to him in his politick Capacity, though not to that only, or divided in the Subject from his natural Capacity. However, it may be ſaid nevertheleſs, as it is in *Calvin's* Caſe, (by a Community of Properties) that it was due to the natural Capacity alſo, *viz.* As it ought ever to be accompanied with the politick, thence it was but juſt in the Parliament, notwithſtanding the King's perſonal Command and Oppoſition againſt them, yet to permit the taking of the Oath of Allegiance, and not to aboliſh it till after his Death, it being *ad Legem Legatio*; yet the Perſon was ſo neceſſary, that without it, it had been ridiculous to adminiſter it in the Form it was, in which caſe *majus dignum trahit ad ſe minus*. And hence it was that capital Crimes committed in one King's time, might be proceeded againſt after the Death of that King, 3 *Ed.* 3. *Fitz. Reattach.* 18. & *Bro. Cor.* 178. If the King had purchaſed Land to him and his Heirs, though the Word [*Succeſſors,*] the Word of his politick Capacity, had not been mentioned, yet he was ſeized thereof *in Jure Coronæ*, 43 *Ed.* 3. 20. And if Land had been given to the King and another, and their Heirs, they had for the ſame reaſon been Tenants in Common, and not Joint-Tenants, *Com.* 239. for the ſame reaſon. And tho many of thoſe Perſons who have been Kings have often oppreſſed, inſtead of preſerving their Subjects, yet ſtill that which *Bracton* hath ſaid upon the ſame Ground remains true of the Regal Power, *Non aliud Rex poteſt, quam quod de jure poteſt*, his Office ſtill being *ex Officio*, as 2 *Littl. Co. Wiſeman's* Caſe, ſaith; and *Fitz. Nat. Brev.* 113. out of the Regiſter, to provide for the Preſervation of his People. And if any other Conſtruction ſhould be made, then it muſt have followed in the King's perſonal Abſence, Minority, or Diſability, the Kingdom muſt either have been but weakly, or not at all govern'd. From all which it may be inferred,

That

That the Obligation and Allegiance which was owing to the King, did include that which *sano sensu* was the Kingdom's also.

It remains now that somewhat be spoken for the further invalidating of this part of the Plea; wherein I shall,

First prove, That one born in *Scotland*, after the Union of the Crowns, cannot be to any purpose considered as an Alien to *England*.

Secondly, That though the Earl of *Cambridge* had been born before the Union, yet he had not been an Alien to *England*, partly from a national Consideration, but more principally from personal Considerations, *viz.* 1. By reason of his local Allegiance both in *Scotland* and *England*. 2. *Ligeantia acquisita*; and that by the Naturalization of his Father, or his own Denization.

Thirdly, That though he had been an Alien, yet as this Case is upon the Proofs, he will prove triable for Treason by the Laws of this Kingdom.

Before I speak of any of these, I might touch upon that Part which layeth Murder to the Charge of this Earl; it having been fully proved that several Persons by name, amongst many others, were slain and murdered by the *Scotish* Army. And to make him punishable for this Crime, there is no need of Denization; it being an Offence in it self against the Law of God and Nations, and no Trust requisite to be an Ingredient to it, as is required in Treason. Hence we find Rape punishable in *England*, committed by a *Scot*, 13 *Eliz. Dyer* 304. and Murder done by the Lord *Zanchar*, of the same Nation, 9 *Littl. Co.* 116. where we find him indicted by the Name of *Robert Creighton* Esq; Which together with the express Authority of 11 *Ed.* 3. *Fitz. Brev.* 473. are, by the way, sufficient Warrants for our charging the Prisoner by the Name of *James* Earl of *Cambridge*, without mentioning his Dukedom, as he hath often intimated we should have done.

And if the Earl should say he killed not these Persons himself, his Counsel can soon tell him that's not material, the Law being, That if divers Persons come to do an unlawful Act, and one commit a Murder or Treason, it is so in all. 1 *Mar. Dyer* 38. 13 *H.* 4. 13. 19 *Ed.* 2. *Fitz. Cor.* 433. But the truth is, I shall not rely upon this, being not willing so high an Offence should pass under any other Name than that of Treason: Therefore I pass to those aforementioned Considerations, which will evince his Crime to be no less than Treason.

1. As to the first of these, there being so much said in the Argument of *Calvin*'s Case, I shall omit the citing of any thing particularly from thence, and select something from the Statutes made shortly after the Union. It's agreed by all Historians that these two Kingdoms were antiently but one, *Divisos orbe Britannos, & subducta Britannia mundo.* Thence it's observable, that in the *Preface* of 1 *Jac. cap.* 1. by the Access of the King of *Scotland* to this Kingdom, the Parliament speaking of the Union, correct themselves in these Words, *Or rather a Reuniting of these two Nations, (though antiently but one.)* If so, this Reunion amounted to no less than (as it were) a national Remitter of the antient Union.

For the Settlement of this Union, Commissioners were chosen to compose some Differences betwixt the Nations, and to consider what was fit and necessary to be done for the Commonweal of both Kingdoms, 1 *Jac. cap.* 2. These Commissioners consult long about it; and because they could not perfect it within the Time prefix'd, an Act passeth for longer Time. 3 *Jac. cap.* 3.

At length the Work is finish'd by the Statute of 4 *Jac. cap.* 1. By which all Statutes that express or imply any Strangeness of the one Nation to the other are repealed. And moreover, it doth enact and say, *That if there had appeared any other Statutes of this Realm of* England, *wherein any thing is ordained, enacted, and established, expresly and by name against the* Scotish *as Enemies, or* Scotland *as an Enemy-Country to the King of this Realm, or the State of the same; we should, for so much of them as concerneth* Scotish *Men or* Scotland, *have utterly abrogated and annulled the same, seeing all Enmity and Hostility of former Times between the two Kingdoms and People is now happily taken away.* So the Statute. After which it seems as strange, that any born in *Scotland* after and during the Continuance of that Union, should make themselves Strangers to *England*; as if natural-born *Englishmen* should have made the same Allegation.

In the aforesaid Statute of 4 *Jac.* 1. there is a Clause, That no *Scotishman* coming into *England* to prosecute the Law against any *Englishman* offending in *Scotland*, is to be arrested here, except for Treason and Murder. And in the latter end of the Act, amongst other Things, it is enacted, *That if any* Englishman *should commit Treason or other Crimes in* Scotland, *and come into* England, *he shall not upon his Apprehension here be sent into* Scotland, *to have his Tryal there, but be tried where he is taken.* But the Statute of 7 *Jac. cap.* 1. which was the Year after the Resolution in *Calvin's* Case, repealed that Clause of 4 *Jac.* 1. last mentioned, as to all Offences but Treason, leaving the Offenders in that kind to be tried in the Kingdom where they were apprehended. And though the Statute speak only of *English*, yet the like Act was to pass in *Scotland*, in case any of that Nation committed Treason here; else neither was to be binding to the Nations.

2. In the next place, somewhat may be said from a national Consideration, to prove the Earl no Alien here, though born before the Union: Not that my Purpose is to endeavour the Revival of that antient Homage done formerly by that Kingdom to this; it is not worth the mentioning, in comparison of that Love and those Engagements which have been betwixt us: *Gens una summa* was heretofore said of us, and, if it may be, I wish *sic simus in ævum.* But because somewhat hath been on the other side cited from the Stories of *Bruce* and *Baliol*, in the Days of *Edward* I. and for that I find both Law and History afford some Matter for this Argument, I hold it my Duty not to be altogether silent in what passed in those Times, and since. I will not insist upon those several Appeals made by *Magdolphus*, and others of the *Scotish* Nation, to *Edward* I. *contra custodes Scotiæ*, and against the Kings of *Scotland* themselves: All Arguments of Allegiance then acknowledged from that Kingdom to this.

But to instance in some Precedents nearer to this in question, *Simon Fryfel* in 34 *Ed.* 1. *Anno* 1306. a Native of *Scotland*, came in an hostile manner from that Kingdom to invade this; and being apprehended here, he was condemned as a Traytor. The Words of *Mat. West.* 456. concerning him are, That he was *a turri Londinensi per plateas distractus, ut proditor.*

In the same Year of *Edward* I. *William Wallis*, the Commander in chief of the *Scotish* Forces, and

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a Native of that Nation alſo, as the Priſoner was, came into this Kingdom; and being apprehended, was, ſaith *Walſingham, fol.* 61. *Londonias uſque ductus & judicialiter condemnatus, trahitur, ſuſpenditur, & ultimo decollatur*; though he pleaded, as our Hiſtorians tell us, what this Earl doth, That he was a Subject of *Scotland*, and not of this Kingdom, and therefore ought not to be tried here for Treaſon. In 42 *Ed.* 3. *cap.* 3. in the Lord *Beaumont*'s Caſe, when it was replied that the Party objected againſt to be an Alien, was a *Scotſman*, the Plea is no longer inſiſted upon. A Protection *quia profecturus* lies not into a Country that is within the Allegiance and Protection of *England*, 7 *H.* 4. *c.* 14. Yet we ſhall find the only Reaſon given wherefore it was granted into *Scotland*, was becauſe of the Wars that were then betwixt the Nations; 7 *Ed.* 4. *c.* 27. After the ceaſing of which Wars, it may be collected by the Book, a Protection would have lien no more thither, than it would have lien into *Wales* or *Ireland*.

In 13 & 14 *Eliz. Dyer* 304. one was arraigned for a Rape. At the Return of the *Venire Facias* to try him, he pleaded that he was a *Scotſman*, and deſired a *Medietate Linguæ*, which Manner of Tryal is granted to Aliens by the Statutes of 27 & 28 *Ed.* 3. But by the Judgment of the Judges of both Benches it was denied him, for this reaſon, amongſt others, Becauſe, ſaith the Book, a *Scotſman* was never here reputed for an Alien, but rather a Subject.

Obj. Whereas it hath been ſaid, This was becauſe the Statutes of 27 & 28 *Ed.* 3. were made when *Scotſmen* were generally reputed Subjects to this Kingdom:

Anſw. I anſwer, 1ſt, That the Book gives no ſuch Reaſon. 2dly, To affirm this, is to ſuppoſe the Judges, by ſuch a foreign Conceit, to go againſt the expreſs Proviſion of two Acts of Parliament, and the conſtant Practice in purſuance thereof.

In the ſame Year of 13 *Eliz.* in the Caſe of the Duke of *Norfolk*, the Evidence of the Biſhop of *Roſs*, a *Scotſman*, was offered againſt the Duke by the Counſel for the Commonwealth; which the Duke oppoſed from the Judgment of *Bracton*, That a Foreigner's Teſtimony was not in that Caſe to be received. But *Cataline*, Chief Juſtice, though he ſays nothing to *Bracton*'s Opinion touching *Exterorum Teſtimonium*, yet he gives the Rule of the Court, That the Teſtimony was to be received. *Camden*'s *Eliz.* 214.

After this Time alſo the Queen of *Scots* was tried in this Kingdom, though not upon the Statute of 25 *Ed.* 3. yet upon the Statute of 27 *Eliz. cap.* 2. then in force. And though in the Proceedings of that Buſineſs Commiſſioners of both Nations met, and that the *Scots* Commiſſioners did proteſt, that though they did join with our Commiſſioners, yet they did thereby make no Acknowledgment that they were other than a Foreign Nation to this; yet the *Engliſhmen* proteſted againſt that Proteſtation, as we find in the Hiſtory of that Queen.

3dly, But to paſs from this national to a more perſonal Conſideration, and from thence (though he were an *Ante-natus*) to prove the Earl liable to Puniſhment for Treaſon againſt this State, and that by a local Allegiance both in *Scotland* and *England*: Wherein it muſt be granted as a Principle, and cannot be denied, but that if an Alien come into this Nation, and there abide, and commit that Act which would always be Treaſon in an *Engliſh* Subject, it is by the Law Treaſon in him during that Abode, becauſe he oweth *Localem Ligeantiam*, and the Indictment againſt him ſhall ſay *contra Ligeantiæ ſuæ debitum*, 7 Li. *Calvin*'s Caſe. Thus in 36 *Eliz.* the *Portugals* here in *England* join in an Act of Treaſon with Doctor *Lopez*; and it was adjudged Treaſonin all. Thus this Earl, tho he had been born before the Union, yet he lived in *Scotland* after the Union, and at the very Time of this Invaſion, where by he became a Subject, at leaſt *Locali Ligeantia*.

So in *England* alſo, not only by his former Reſidence here, which he will ſay perhaps was avoided by his Removal hence, but by his late coming in, he became *Ligeus* here *Locali Ligeantia*, becauſe he came from a Kingdom then, by his own Confeſſion, in Amity with this. This was the Caſe of *Shirley*, a *Frenchman*, 4 *Mar.* who came from *France*, then in Amity with *England*; and being taken levying War in an hoſtile manner, was indicted and executed as a Traytor, *Dyer* 144. And as the Book puts it, 7 *Li. Calvin*'s Caſe, if he had had Iſſue here, that Iſſue ſhould have inherited.

4thly, In the next place, I ſhall prove the Earl of *Cambridge* (though he had been an *Ante-natus*) to be a Subject of *England Ligeantia acquiſita*, and that by the Naturalization of his Father, or by his own Denization. But, Firſt, as to the Naturalization of his Father:

1. The Act of Parliament hath been read and proved, whereby the Father of this Earl, by the Name of *James* Marquiſs of *Hamilton*, Earl of *Cambridge*, in 21 *Jac.* was naturalized to be to all intents and purpoſes a Subject of this Nation, as if he had been here born; with a further Clauſe, That his Heirs might inherit and purchaſe any Lands, Tenements, *&c.* By which Act it clearly appears that this Earl is naturalized alſo: For, 1ſt, though in the Caſe of a Denization there may need the Word *Heirs* to extend it to them, becauſe it goes as it is limited, it may be for Life, in Tail, or upon Condition, 9 *Ed.* 4. *cap.* 7. yet it is repugnant to ſuppoſe that in point of a Naturalization, becauſe he that is born in *England*, as by Relation this makes him, without any other Expreſſions, conveys the Right to his Heirs. Hence Naturalization is never *temporanea*, though *data*, 1 *Inſt.* 129. 2dly, Here are not wanting Words neither, that reach to the Heirs, if neceſſary; for the Act is, That his Heirs may inherit and purchaſe, *&c.* And in purſuance hereof it's notorious that this Earl hath done both. But we ſhall find that oftentimes no more goes to expreſs a Naturalization than this; no other Expreſſion is uſed to import the Privilege of being *Engliſh*, to them that are born of *Engliſh* Parents beyond-Sea, but only that they may have, and freely bear the Inheritance within the ſame Allegiance as other Inheritors. 25 *Ed.* 3. *De natis ultra Mare.* And in 3 *H.* 6. *cap.* 55. *Hall* and his Wife brought a Writ of *Trover*: The Tenant pleaded that the Feme was an Alien. The Demandants reply, That the Feme, in the Time of *Henry* IV. was enabled by Act of Parliament to purchaſe Lands and Tenements, *&c.* With which Reply the Defendant's Counſel reſted ſatisfied, as if the Replication expreſſed it ſufficiently that ſhe was naturalized; and thereupon demanded View.

Obj. But it hath been objected, *That this Act can have no other Effect than if the now Earl's Father had been born in* England: *And though he were a native* Engliſhman, *yet having Iſſue, this Earl, by a native* Scotſwoman *in* Scotland, *the Iſſue thereby remains an Alien, though his Father were naturalized or born in* England.

Anſw. 1. I ſhall eaſily grant both that this Earl was ſo born in *Scotland*, and that the Naturalization amounts to no more than if the old Earl had been

been born in *England*; but do deny the Inference drawn from thence, That therefore the now Earl must be an Alien: For though in former Times some Controversy hath been touching this Question, *viz.* Whether the Issue of an *Englishman*, going out of the Kingdom, born of an Alien Woman, shall be a Subject of *England*, or no; yet I take the Law to be clear at this day, that such Issue is a Subject of *England*.

By the Common Law, if Father and Mother, both *English*, have Issue beyond-Sea, that Issue is *English*, 1 *R.* 3. 4. the Statute of 25 *Ed.* 3. *De natis ultra mare*, being declarative of the Common Law, 42 *Ed.* 3. *cap.* 10. And if the Reason and Practice of the Law be examined, we shall find it to be the same, where the Father only is *English*, for these Reasons:

First, Because at this day any Person may go from this Kingdom to another without Licence, though he be neither Nobleman, Merchant, or Soldier, except some Restraint by a *Ne exeat Regnum*, Proclamation, or other Act of State be against him. So is it resolved, 12 & 13 *Eliz. Dyer* 296. And though all, except Persons so qualified, were restrained by 5 *R.* 2. *cap.* 2. yet that Statute is repealed by the Statute of 4 *Jac. cap.* 1. made principally in reference to *Scotland*. Therefore however the Law may be as to such as go when prohibited, or who stay beyond-Sea when commanded to return; yet as to all others, at this day, and always as to Noblemen, as the Father of this Earl was, upon whom no Restraint was ever put by Common or Statute Law, certainly the Law is otherwise, especially when the Removal is to a Country in Amity, as *Scotland* was.

Secondly, *Partus sequitur semen*, by the Common Law: Therefore, in 4 *Ed.* 4. 25. *Statham Villen.* 9. if a Freeman marry a Wife, and have Issue, that Issue is free; but otherwise, if the Man had been Villain, and the Woman free.

Thirdly, The Woman Alien by the Marriage is indenized, and the Issue then must needs partake of the Privilege. And it appears by 26 *Ed.* 1. *Rot. Parl.* 1. that when *Edmond*, the Brother of *Edward* I. who married the Queen of *Navarre*, died, all the Judges resolved she should be indowed. And what though she should not, as in other Cases it hath been doubted, yet that hinders not, but during Coverture she was indenized, and that's enough to indenize the Issue. If a Wife marry a Freeman, it is and hath been a Doubt, whether this be a perpetual Infranchisement to the Woman after the Death of her Baron: But it never was doubted but that both her self, during Coverture, and her Issue ever after, were infranchised. *Lit. Sect.* 187. 1 *Instit.* 136.

And for express Authority in the Point in hand, besides the antient Authority of *Abridg. Ass.* 39. *tit. Bastard.* 7. and *Bro. Denizen* 21. it was the Judgment of all the Judges of *England*, 12 *Ca.* in the Dutchy-Chamber, betwixt the King and *Eaton*, usually called *Stephenson's* Case, the Record whereof is ready to be produced; where Judge *Yelverton* and *Harvey*, then Judges Assistants to that Court, declared it to be their Judgments, as also of all the other Judges, That the two Sons of *Stephenson*, born beyond Sea upon the Body of an Alien, were Denizens.

Object. I observed but one Book cited for maintenance of the contrary Opinion, and that was 26 *H.* 6. where indeed it is 22 *H.* 6. 38.

Answ. Which Authority is against, not for that Opinion for which it is cited: for in an Action there brought, the Defendant pleads that the Plaintiff's Ancestor, in the time of *H.* 4. went beyond Sea without Licence, and there had Issue the Plaintiff. Upon this Plea, *Arderne* the Plaintiff's Counsel demurs; but saith the Book, *Prist* the Defendant's Counsel durst not demur.

Secondly, If the Book were as it is supposed, yet it makes nothing against the Law at this day; because by the Book it appears, that the Plaintiff's Ancestor went beyond Sea in the time of *H.* 4. without Licence; which being after *R.* 2. there was a Restraint upon him, except by Licence, or qualified as that Statute of *R.* 2. requires: which Restraint is now abrogated, as is before said; and the Inhabitants of *England*, as is suitable to all Islanders, may travel at pleasure, except especially forbidden: and so whatever the Law was then, it's otherwise now; *Mutata ratione Legis, mutatur Lex.*

Object. What if the present Earl did himself endeavour, or, as he saith, was advised, notwithstanding the Naturalization of his Father, to procure himself to be naturalized, or indenized.

Answ. Yet that could be but *in majorem cautelam*; as some Savings have been inserted into Acts of Parliament themselves, not for Necessity, but for Satisfaction of the Lay-Gents, as our Books express it, 1 *Ii. Coo.* 24. *Plow. Com.* 379. upon the Statute of 5 *Ed.* 6. And even in that Case of *Stephenson*, tho the Judges Assistants delivered what was their own Opinions and of the rest of the Judges; yet if making the Party a Denizen would end the Controversy, they did advise it.

5thly, Besides this Purchase of his Father's, the Earl hath himself contributed to his own Denization, not so much by inheriting his Father's Dignity, and purchasing and enjoying himself Lands in *England*, that being rather an Evidence of what he formerly was, than making him what he was not before; but by the Writ of Summons sent to this Earl himself, 15 *Car.* The Record whereof hath been read, commanding him *ex fide & ligeantia sua* to appear in Parliament as a Peer of this Realm, who accordingly did appear, and acted in this Parliament, being chosen of several Committees in the Lords House, to consider of many things of great Concernment, some whereof were for the Strength of the Nation, as hath been fully proved by the Records of the Lords House. All which Actions are so inconsistent with his being an Alien, and would be such a Solecism in State to admit an Alien to be invested amongst others with a judicial Power, that rather than it should be admitted, all this laid together will (I conceive) amount to, at least, a Denization.

I will not say, that the granting of every Office, or the being employ'd in any Transaction which concerns the Law or Government of the Kingdom, will make an Alien a Denizen; the Books of 9 *Ed.* 4. 1. and 14 *H.* 4. 19. forbid me to say so: but it's another thing to have a judicial Power in Parliament, and to sit by virtue of such Summons in the Parliament of *England*. The Lord *Delaware* was disabled to sit in the House of Peers during his Life; but he dying, and a Writ of Summons coming to his Son, he was by virtue thereof enabled not only to sit, but to enjoy that Place which his Ancestors formerly had done, 11 *Ii. Coo.* 1. And in 39 *Ed.* 3. 29. *Umfreuil* Earl of *Angus* ought to be named Earl in the Writ against him, because by that Name he was summoned to the Parliament; and for not naming him so, the Writ abated. A Denization is a kind of a National Manumission:

numiſſion: now as there is in Law an expreſs Infranchiſement of a Villain, and an Infranchiſement in Law, *Lit. ſect.* 205. ſo it may be ſaid of Denizations. And amongſt other Manumiſſions by Act in Law, I find in *Britton*, *fol.* 79, & 82. if a Villain were made a Knight, this did make him free *ratione dignitatis*, and did not make the conferring of that Dignity to be a void Act, parallel whereunto is the Caſe in hand.

Sixthly, The laſt thing I ſhall inſiſt upon, touching this ſecond Part of the Plea, is to make it appear, that tho the Earl had been born before the Union, and an Alien, that yet there are other Circumſtances in this Caſe yet remaining, which will clearly make this Act of his to amount to no leſs than Treaſon, *viz.* his coming from a Kingdom in Amity with this, and his marching in hither with *Engliſh* Traytors. That he march'd in and held Correſpondency with Sir *Marmaduke Langdale* and his Son, and with Sir *Thomas Glenham*, and divers others, hath been fully proved; and that that Kingdom was then in Amity with this, beſides the National Treaties and Engagements unrepealed, it appears as well by the Earl's own Confeſſions at the Bar, as by the Words of the *Scotiſh* Declaration made upon this Expedition, read at the Earl's own Requeſt; which, whatever it be, doth yet conclude this Earl and all his Party from alledging the contrary for their advantage, it having been often reiterated by him; and alſo therein ſaid, That this Expedition was neither againſt the Parliament nor People of *England*: beſides, that it is no ſlight matter to make Nations in Amity to become open Enemies in a legal Conſtruction, which we are now upon, as appears by the Book of 19 *Ed.* 4. 6.

Now that theſe Circumſtances will make this Act reach to Treaſon, appears by theſe Authorities of Law. In the days of Queen *Mary*, *France* and *England* were in Amity; *Sherley*, a *French* Native, during that Amity, joins himſelf with ſome *Engliſh* Traytors: *Sherley* is apprehended, and indicted as a Traytor, *contra ligeantiæ ſuæ debitum*, 4 *Mar. Dyer* 144. which is confirmed for good Law likewiſe, 7 *li.* in *Calvin*'s Caſe, by all the Judges: with which agrees *Brook. Treaſon* 32. and *Crompton*'s Juriſdiction of Courts 72. and Mr. Juſtice *Dalliſon*'s Reports, 3, 4 *Mar.* All which Authorities agree in this difference, That if Alien Enemies join with *Engliſh* Rebels, and be apprehended, the Aliens ſhall be try'd by Martial Law, or ranſom'd; but if Alien Amies ſo join, it's Treaſon in all. And 'tis obſervable that the Caſe is put cautelouſly in *H.* 4. and ſo abridg'd by *Broo. Treaſon* 1. That where Alien Enemies join with *Engliſh*, the Aliens ſhall be try'd by Martial Law, and the *Engliſh* as Traytors.

Object. The Objection hath been made, and ſo far it ſeems the Law is agreed, That if Aliens fight under the Banner of *Engliſh*, that this may be Treaſon in all; but not if the *Engliſh* fight under the Command of Aliens, which is alledged to be the Caſe in hand.

Anſw. 1. I cannot ſafely admit that which the Objection takes for granted, that the *Engliſh* were the Auxiliaries, and the *Scots* the Principals in this Act, when I find it in the Proof offered by the Earl himſelf, that he came in by the Invitation of their Friends in *England*, and when I remember what was deſigned and produced in the South of *England* before and at the ſame time with this Expedition.

2. But admit it to be otherwiſe, yet if this Difference were material, then it ſhould follow likewiſe, That if Alien Enemies did fight under an *Engliſh* Command, it ſhould be Treaſon in all, but it is not ſo.

3. The Law makes no ſuch Difference, nay, the very Objection ſeems to be made and anſwered, 4 *Mar. Dyer* 144. for the Book ſaith, that tho *Sherley* were an Alien, yet *hoc non refert tempore pacis inter Anglos & Gallos*; the weight is laid upon *tempus pacis* only.

4. The true Reaſon of the Law in one Caſe is the ſame in both; which I conceive to be from the Deteſtation of conſpiring with an inward ſecret Enemy, and from the Truſt the Law repoſeth in ſuch as are of a Country in Amity. There is no Treaſon, but where there is a Truſt: hence antiently Treaſon, in its genuine and original Acceptation, was only and properly amongſt Allies and Friends, who mutually did repoſe Confidence in each other, as may be ſeen in the *Mirror*, *fol.* 30, & 201. And that a greater Truſt was placed in Aliens Amies, than in others, appears in that our Law allows not only Traffick and Commerce with them, but alſo allows them to be to ſome purpoſes Denizens; namely, as to the bringing perſonal Actions, which if they bring, it ſhall not be allowed to plead that the Plaintiffs are Aliens: 19 *Ed.* 4. 6. & 6 *H.* 8. *Dyer* 2.

Object. But the Earl hath objected, That upon the *Scotiſh* Forces coming in under his Command, they of that Nation were by the Houſe of Commons voted Enemies, and thoſe of this Kingdom who adhered to them, Traytors.

Anſw. 1. The words of that Vote ſeem to be excluſive of the Priſoner, mentioning only thoſe under his Command.

2. Tho every Enemy, in the legal Signification of the Word, be not a Traytor, yet every Traytor is an Enemy; and therefore if now he be proved a Traytor, he may be well enough an Enemy within that Vote. The preſent Charge againſt him is a Charge of High Treaſon, yet the Concluſion doth not improperly pray Judgment againſt him both as a Traytor and publick Enemy.

3. Take the Words in the ſtricteſt ſenſe, and the Vote only names thoſe of the *Scotiſh* Nation Enemies, but thoſe of this Kingdom Traytors. Now the labour hath been, and I ſuppoſe it clear that the Earl himſelf is of this Nation, and ſo a Traytor by that Vote, from which he would derive an Argument for himſelf.

4. If yet any other Conſtruction ſhould be made, *Leges poſteriores priores abrogant*; he is, by the Act whereby this Court now ſits, ordered to be try'd for Treaſon in the ſame kind as the reſt, who are now under queſtion: and if his Fact be Treaſon, it will eaſily follow by an Argument of *à denominatis*, that he is a Traytor.

The third Part of the Earl of *Cambridge*'s Plea is, That he is a Priſoner of War, and rendred upon Articles, and that thoſe Capitulations were made before his Rendition with Major-General *Lambert*'s Commiſſioners.

That there were Articles, and he a Priſoner of War, I ſhall agree to be proved; as alſo that one of thoſe Articles was, That he ſhould have Quarter, and have his Life aſſured: and it muſt be agreed on the other hand, That the Lord *Gray*, who had equal Authority, proteſted from the firſt againſt that Treaty, and after took him priſoner before any Aſſent thereunto. But whether, by the Proof, the Earl were not a Priſoner before the ſigning the Articles; and whether before the Articles were to have any effect, the ſame were not

to be ratified by the Commanders in chief, is submitted to Judgment upon the Evidence. That therefore I may do the Prisoner right in this point, which he seems to make his strongest Asylum, I shall admit that there were such Articles, and wave the relying upon the other Circumstances, which may not seem so clear in Proof.

Nevertheless I shall briefly shew my Reasons, wherefore I apprehend no Security from the Stroke of Civil Justice belongs to the Prisoner by this Refuge; for as to the Military, is not the Contention.

First, If these Articles be of avail against the Civil Power of the State, they must in effect amount to a Pardon or Discharge of Treason; (for this Point doth take the last Point by admittance, *viz.* that the Fact is Treason.) Now tho the Military Power may exempt a Prisoner of War from the Execution of the Sword, and of their own Power; yet it is not in their power, nor do they assume or ever challenged such a Power, as to exempt Delinquents and Traytors from the Execution of the Magistrate; for the bringing of whom to condign Punishment, the Soldier was at first armed, and the War principally begun: and if it should be in the power of one Soldier, it would *pari ratione* be in the power of all, as well to spare all as one; and if to grant a Pardon of Life, then likewise for their Livelihoods. And so the End of the War, and the Satisfaction promised, would be in the power of the Servants of the State to frustrate; not that the Articles have no effect, for he was by them freed from the immediate Execution of the Sword.

Secondly, The pardoning of Treason is a Power so inseparable to the Supreme Power, that by the Authorities of Law it is not communicable to any other: in 5 *Ed.* 4. 123. it's made a great doubt, and so said to be 1 *Bro. Treason* 22. Mercy and Justice being not transferable, 7 *li. Co.* in the Case of Penal Statutes, 9 *Ed.* 4. 2. & 20 *H.* 7. 6. It's true indeed, there was a time when some had gotten this Power into their hands, but by the Statute of 27 *H.* 8. *cap.* 24. this Power was resumed into the Supreme Power, and there it hath since lodg'd. And however we dispute not what the Parliament may do by expres Words, as they have done in many Acts and Tenders of Indemnity; yet without such Expressions, not by any implicit Power, nor *ex Officio*, can any justly assume it.

Thirdly, By the Rules of Law no Officer or Minister of State can give away or dispense with the Interest of the Commonwealth. If a Customer, who is an Officer of State, take a Bond in his own name for the Importation of Bullion, he cannot discharge this Bond; 4 *Ed.* 4. 4. & 12. The King was the supreme Officer of the Commonwealth, yet if an Indictment of Nusance had been preferred against one in his name, it had not been in his power to have discharged this Offence; 3 *Ed.* 3. *Fitz. Ass.* 445. Nor could he for the same reason by any *Non-obstante* dispense with the Penalty of any Statute which did concern the Interest of the Commonwealth, 12 *Jac.* Sir *Arthur Ingram*'s Case, and *H.* 36 *Eliz.* betwixt *Hamond* and *Griffith*, in an Information upon a penal Statute, the Informer died, yet the King's Attorney might proceed. The Difference I apprehend to be, as to the point in hand, betwixt one triable by Martial Law merely, as an Alien Enemy is; for such a one being triable by the Sword, if taken, may be discharged by that Power, tho in that case I totally exclude not the Legislative Power: But for a Traytor, originally and legally only tryable by the municipal Laws of a State, to be absolutely discharged by a subordinate Power, without the Concurrence or Confirmation of the Magistrate, will ever be strange to me, till I find that Rule overthrown of *Nil dat quod habet*, which can never be in a just and moral sense.

Fourthly, However the Words sound, the Intention and true Meaning of the Parties was not to free those that were concerned from Justice, if the State required it; and Intentions are the best Rules for Construction in these Cases. That it was intended only in this Treaty to free the Prisoner from the present Execution of the Sword by Martial Law, and no otherwise, hath been sworn by two of those Gentlemen that were Commissioners under Major-General *Lambert*, who have sworn their own Intentions. Words, saith *Bracton*, are but *Vestimenta Rerum*, as the Body and outward Form; the true Meaning and Intention of Parties is the Life and Soul of every Contract: as for *Sensus literalis*, it hath been (I have observed) *via regia*, but it hath not proved unto that side *via tuta*. However Words sound, the Exposition must be *secundum subjectam Materiam*. In 41 *E.* 3. 6. if one having divers Faculties hath an Annuity granted to him *pro concilio impenso*, the Words are general, but it shall be construed for Counsel in that Art which was intended. And as *Brudnel* saith, in 14 *H.* 8. 2. Contracts shall be expounded according to the Intents of those that did contract. *Cicero* saith, speaking *de Justitia*, as a Judge, not as an Advocate, *fol.* 24. to cavil with Words against the mind of the Parties, *est Calumnia quædam & malitiosa juris Interpretatio*; in which place he puts a Case upon a Treaty, as ours is, of one who had made a Truce for one hundred and thirty Days with his Enemy, and taking advantage of the Letter, fell upon his Enemy in the Night, alledging the Truce was only for Days, which the Orator derides as mere Injustice. And no otherwise may the literal Construction, contended for, be in the present Case, except the Letter must be observed or not observed, as it proves advantageous or disadvantageous to the Prisoner. Besides, it's usual in Law, that by Averments the Intentions of Parties take place, where the Letter would not so decide the Question; as 5 *li. Coo.* 68. and 21 *R.* 2. *Fitz. Devis.* 27. Nor do I see, how in the penning those Articles any other Expressions could well have been. If provision had been made, that the Prisoner should have been exempted from the Power of Civil Justice, that had been void; and if it had been expressed, that nothing was by those Articles intended to exempt him from Civil Justice, that had also implied a Power in them, if they had seen cause, to have given an absolute Discharge from the Magistrate; which had been equally by Construction derogatory to the Civil Power.

Fifthly, If the Earl had ever been *de facto* pardoned, yet he may seem to have lost the benefit thereof by his Escape made after a special Promise to the Governour with whom he was Prisoner. The Civil Law, as *Fortescue* observes, *cap.* 46. *Libertinum ingratum in pristinam redigit Servitutem*; and our Law saith, if one hath committed a capital Crime, and, being pardoned after, do but break the Peace, he forfeits the Benefit of the Pardon; 3 *H.* 7. 7. as *Bartue* did the Benefit of his Licence to travel, by his Resort to the Fugitives, 2 *Eliz. Dy.* 176. And I conceive no difference, whether the Condition be expressed or implied; which I infer not to make the Escape Treason, being

ing not ſo charged, and the Statutes of 2 *H.6.* & 14 *Eliz.* being expired concerning that; but only for this purpoſe it is enforced, that he who rendred himſelf up a Priſoner of War, and had for that conſideration Quarter granted him, and yet after breaks that which was on his part to be performed, hath thereby deprived himſelf of that Privilege which otherwiſe he might have enjoy'd.

Object. If now the Priſoner ſhall be queſtioned for his Life, who by the Rendition of himſelf had Quarter given him for it, how is the Conſideration made good which did induce him to ſurrender? Beſides, there if he had died (as the Earl himſelf ſaid) he had preſerved his Eſtate, and avoided the Conſequences of Attainder.

Anſw. It's ſtrange that it ſhould be thought no privilege to have ſo much time to die, in caſe there were certainty of it, above a Death by military Execution, which uſually is ſudden, and *ſine ſtrepitu Judicii.*

2. Is it no privilege above an immediate Death by the Sword, to have a fair judicial Proceeding by a Charge againſt him, putting in his own Plea thereunto, the Matter of Fact by Witneſſes and other Evidence proved on both ſides, and Counſel aſſigned him of his own choice to argue his Cauſe in point of Law, and himſelf to be heard as much as he could ſpeak in his own Defence?

3. And the Danger ſeems by this manner of Tryal not greater than before; for he that dies a Traytor *in furore belli*, becauſe himſelf is the cauſe why Formalities of legal Proceedings againſt him cannot be obſerved, by the antient Law forfeited his Eſtate, and remained attainted notwithſtanding. *Plowd. Com.* 262. *Fitz. Dower.* 106. where, in a Writ of *Dower*, the Demandant was barr'd, for that her Husband went into *Scotland*, and joining himſelf with the Enemies, died in Enmity.

Object. As to the Examples of *Joſhua* with the *Gibeonites*, and of the Prophet *Eliſha* forbidding the King of *Iſrael* to ſmite thoſe whom he had taken captive with his Sword and Bow:

Anſw. I anſwer, as to the firſt, *viz.* that of *Joſhua* with the *Gibeonites*, God forbid but that as that, ſo all other Leagues and Treaties ſhould be kept ſo far, as to bind that Power that made them, and who can rationally expect more? Now *Joſhua* was the Succeſſor of *Moſes*, and a Magiſtrate as well as Commander. Beſides, it's ſaid the Princes of the Congregation ſwore unto them; and had theſe Circumſtances been incident to this Caſe, the Diſpute had been ended.

1. As to the other Inſtance, the Men of *Syria* had a perſonal Quarrel againſt *Eliſha*; and therefore none being intereſted but the Prophet, it might well become his Piety to be their Interceſſor.

2. For any thing appears, the Prophet only ſpeaks againſt their being ſmitten with the Sword of War, which, if it had been drawn in cold Blood, might have been the Blood of War in Peace; but not againſt the Sword of Civil Juſtice.

3. Theſe Enemies were taken in the midſt of *Samaria, incruento prælio*; and therefore Bread and Water might well be ſet before them, that they might eat, and go to their Maſters: but there hath been in this caſe much Blood drawn, and Miſchief done; for the avenging and ſatisfaction whereof, Juſtice cries to them that bear not the Sword in vain.

And now (my Lord) tho I might have demanded Judgment for want of the Priſoner's making good his own Plea, which he ought to have done before I had ſaid any thing to the contrary; the Plea of being an Alien lying on his part to prove that pleads it: 9 *Ed.* 4. 12. & *Dy.* 300. and the Plea of a Pardon being a Confeſſion of the Fact, if not made out, proves fatal and final alſo to the Party; *Stanf. Cor.* 150. Yet nevertheleſs, for that the Priſoner hath not been confined herein to the ſtrict Formalities of the Law, I have alſo, on the behalf of the Commonwealth, taken the privilege of ſpeaking thus much for aſſerting the Invalidity of his Plea. And therefore, upon the whole matter, having now ſaid what hath prevailed with my Judgment to offer in this Caſe, I humbly ſubmit the ſame to the Judgment and Conſideration of this Honourable Court.

[THUS did the Counſel of the People plead againſt him, to the conviction of all who looked on, that they thirſted for his Blood, and were only ſeeking Colours of Juſtice for it: which yet were ſo ſlight, that they could ſerve for no Diſguiſe, but only to abuſe thoſe who were blinded with Prejudice. *Burnet.*]

The Court adjourned to Tueſday, being the ſixth of *March*; and then the Duke was brought to the Bar, and the Judges ſat in Scarlet: They rejected the Duke's Plea in all its Branches, and found him guilty of the Charge whereof he was indicted. But before Sentence, *Bradſhaw* the Preſident reſumed all, and ſpoke long for aggravating of every Particular, juſtifying every thing their Counſel had pleaded, as if it had been all both good Law and good Reaſon. Then he cauſed read the Earl of *Eſſex's* Commiſſion, to ſhew how little Power was given him: (*But ſpoke nothing of* Fairfax *or* Lambert *their Commiſſions, which had been more pertinent, but the reaſon was they were ampler; and yet the Parliament had never refuſed to ratify any Articles* Eſſex *gave.*) He confeſſed the Duke's Articles were fuller than any others, therefore he would inſiſt the more to invalidate them. He ſaid, It was true, if there had been a War proclaimed, and proſecuted betwixt a foreign Nation and Enemy and *England*, then by the Law of Nations, to which their Law was conſonant, Articles ſigned by the Commiſſioners of both Parties ſhould have been kept inviolable: but the Priſoner was no Enemy, for when the ordinary Courſe of Juſtice was obſtructed by the late King's prevailing Party, ſo that neither Conſtables nor Sheriffs, nor other Civil Officers, could lay hold on ſuch Delinquents as he was, or bring them to Puniſhment, the Parliament was forced to raiſe an Army, commiſſionating their Generals to bring ſuch to condign Puniſhment. This being the End and Subſtance of their Commiſſion, it was not in their power, who were but the Sword of Juſtice in the Parliament's hand, to give Articles for ſecuring any from the Juſtice of the Parliament, ſince it was never intended their Acts ſhould limit that Power that gave bounds to them. He added alſo, That the Court was fully ſatisfied, that the Duke was naturalized. The Preſident laid out alſo the Caſe of the other Priſoners then at the Bar, and ſpoke many hours; at laſt Sentence was given againſt them all, *That their Heads ſhould be ſever'd from their Bodies on Friday next, being the ninth Inſtant:* yet it was remitted to the Parliament's Conſideration, what Mercy ſhould be ſhew'd to any of them; and ſo the Duke was carried back.

The reſt of that Day, and the next Day, the Duke was earneſtly ſollicited to preſerve himſelf by

making Diſcoveries. And Mr. *Peters*, who appeared concerned for him during his Tryal, did now inſinuate himſelf on him to draw ſomewhat from him: but all was in vain, there being no choice to be made betwixt a Glorious Death and an Infamous Life.

On the Eighth of that Month, it being put to the Vote of the Houſe, whether he ſhould be reprieved or not, it was carried in the Negative.

And he was executed the Ninth of *March* 164⅝.

The Tryal of Lieutenant-Colonel John Lilburne, *at* Guild-Hall, London, *the* 24*th*, 25*th*, *and* 26*th of* October, 1649.

THE Commiſſioners Names of the extraordinary Commiſſion of *Oyer* and *Terminer*, for the Tryal of Lieutenant-Colonel *John Lilburne*, follow.

Thomas Andrews, Lord-Mayor.
Richard Keble, Lord Commiſſioner.
Philip Jermin, Juſtice of the Upper Bench.
Tho. Gates, Baron.
John Puleſton, Juſtice of the *Common-Pleas*.
Francis Thorpe, Baron and Member.
Rob. Nicolas, Member, } Juſtices of the Upper
Richard Aske, } Bench.
Peter Warburton, Juſtice of the *Common-Pleas*.
Alexander Rigby, Baron; but abſent.
Sir *Thomas Fowler*.
Sir *Henry Holcroft*.
Sir *William Row*.
Sir *Richard Saltonſtall*.
Sir *Richard Sprignall*.
Sir *John Wooliſton*.
Sir *William Roberts*.
John Green, } Serjeants at Law.
John Clarke, }
John Parker, }
William Steel, Recorder.
John Fowke, }
Thomas Foote, }
John Kendrick, }
Thomas Cullum, }
Simon Edmonds, } Aldermen.
Samuel Avery, }
John Dethicke, }
Rob. Titchburn, }
John Hayes, }
Henry Proby, Common Serjeant.
Thomas Brigandine.
Nathaniel Snape.
Edward Rich.
Owen Roe.
Tobias Liſle.
Auſtin Wingfield.
Richard Downton.
Daniel Taylor.
William Wibend.
Silvanus Taylor.

At the Guild-Hall *of* London, *the* 24*th of* October 1649. *being Thurſday, at the Tryal of Lieut. Col.* John Lilburne.

OYes made; all Perſons that were adjourned to the Court, requir'd to make their Appearance.

The Lieutenant of the Tower of *London*, Col. *Francis Weſt*, called to bring forth his Priſoner, according to the Precept.

Whereupon Col. *Weſt*, Lieutenant of the Tower, brought up the Priſoner out of the *Iriſh* Chamber, where he had been ſome time before the ſitting of the Court, and was guarded by the ſaid Lieutenant, and a ſpecial Guard of Soldiers beſides. And being brought to the Bar, the Sheriffs of *London* were directed to take the Priſoner into their cuſtody.

Silence commanded.

Cryer. John Lilburne hold up thy Hand.

Lieut. Col. *Lilburne* directed himſelf to Mr. *Keble*, one of the Keepers of the Great Seal, as the Preſident of the Court, and ſaid to this purpoſe: Sir, will it pleaſe you to hear me? and if ſo, by your favour thus. All the Privilege for my part that I ſhall crave this day at your hands, is no more but that which is properly and ſingly the Liberty of every free-born *Engliſhman*; *viz.* The Benefit of the Laws and Liberties thereof, which by my Birthright and Inheritance is due unto me; the which I have fought for as well as others have done, with a ſingle and upright Heart: And if I cannot have and enjoy this, I ſhall leave this Teſtimony behind me, That I died for the Laws and Liberties of this Nation; and upon this ſcore I ſtand, and if I periſh I periſh. And if the Fact that I have done, cannot be juſtified by the Law of *England*, let me periſh. I mention none of this for the gaining of Mercy, or by way of Merit; no, I ſcorn it: for Mercy I crave from none, but from the hands of my God alone, with whom I hope, and am aſſured one day to reſt; whom I have ſet before my eyes, and ſo walked, as believing I am always in his preſence, in whoſe Power my Confidence is fixed, whom I take and own to be my Stay, my Staff, my Strength and Support, and in whom I reſt as the Life of my Life, and whom I hope to meet with Joy, when this fading and uncertain Life ſhall have an end, to live with him in Glory and Bleſſedneſs for evermore. And therefore, becauſe I would not willingly trouble you with many Words, to cauſe you to ſpend your time impertinently; therefore, Sir, in reference to the Court, I ſhall crave but ſo much Liberty from you as was given to *Paul* when he pleaded for his Life before the Heathen *Roman* Judges, which was free Liberty of Speech to ſpeak for himſelf; the which I now humbly crave as my Right, not only by the Law of God and Man, but alſo by the Law and Light

Light of Nature. And I ſhall do it with that Reſpect, Reaſon, and Judgment, that doth become a Man that knows what it is to plead for his Life. I hope God hath given me Ability to be Maſter of my own Paſſion, and endow'd me with that Reaſon, that will dictate unto me what is for my own good and benefit.

I have ſeveral times been arraigned for my Life already. I was once arraigned before the Houſe of Peers for (ſticking cloſe to the Liberties and Privileges of this Nation, and thoſe that ſtood for them) being one of thoſe two or three Men, that firſt drew their Swords in *Weſtminſter-Hall* againſt Col. *Lunsford* and ſome Scores of his Aſſociates. At that time, it was ſuppoſed, they intended to cut the throats of the chiefeſt Men then ſitting in the Houſe of Commons: I ſay, for this, and other things of the like nature, I was arraigned by the King's ſpecial Command and Order, the firſt of *May* 1641. I mention it to this end, that when I came before the Houſe of Peers, where was about three or fourſcore Lords then ſitting at the beginning of the Parliament, (who then were ſuppoſed the moſt arbitrary of any Power in *England*) yet I had from them free Liberty of Speech, to ſpeak for my Life at their Bar, without check or controul, in the beſt manner all thoſe Abilities God had given me would enable me. And when I was at *Oxford*, I was again arraigned as a Traytor before the Lord Chief Juſtice *Heath*, for levying War at the Command of the then Parliament againſt the Perſon of the King: and when I came before him in the *Guild-Hall* of *Oxford*, he told me (there being preſent with him, as his Fellow-Judge, Mr. *Gardiner*, ſometimes Recorder of the City of *London*, now Sir *Thomas Gardiner*, and others that ſat by a ſpecial Commiſſion of *Oyer* and *Terminer* from the King; the which Commiſſion I did not ſo well then underſtand, as I hope I do now:) And my Lord Chief Juſtice *Heath* ſtood up, and in the face of all the Court, and in the face of all the Country preſent there, told me; Capt. *Lilburne*, you are brought here before us for High Treaſon, for levying War in *Oxfordſhire* againſt your Sovereign Lord and King; and tho you be now in a Gariſon, and were taken in Arms in open Hoſtility againſt the King, (yea Sir, and I muſt now tell you in ſuch Hoſtility, that we were but about 700 Men at *Brentford*, that withſtood the King's whole Army in the Field above five hours together, and fought it out to the very Sword's Point, and to the Butt-end of the Musket; and thereby hindred the King from his then poſſeſſing the Parliament's Train of Artillery, and by conſequence the City of *London*, in which very Act I was taken a Priſoner, without Articles or Capitulation, and was by the King and his Party then look'd upon as one of the activeſt Men againſt them in the whole Company) yet ſaid Judge *Heath*, we will not take advantage of that, to try you by the Rules of arbitrary Martial Laws, or any other arbitrary Ways; but we will try you by the Rules of the good old Laws of *England*: and whatſoever Privilege in your Tryal the Laws of *England* will afford you, claim it as your Birthright and Inheritance, and you ſhall enjoy it with as much Freedom and Willingneſs, as if you were in *Weſtminſter-Hall*, to be try'd amongſt your own Party. And this we will do for that end, that ſo at *London* your Friends ſhall not have any juſt cauſe to ſay, we murdered you with Cruelty, or denied you the Benefit of the Law, in taking away your Life by the Rules of our own Wills. Nay, further ſaid he, Capt. *Lilburne*, it is true I am a Judge, made by my Sovereign Lord the King, according to his Right by * Law, and ſo in a ſpecial manner am his Servant and Counſellor, and am to act for his Good, Benefit, and Advantage: And yet notwithſtanding, it is by the known Laws of this Land my Duty to be indifferent and free from Partiality betwixt my Maſter and you the Priſoner, and I am ſpecially bound unto it alſo by my Oath. And therefore you ſhall have the utmoſt Privileges of the Law of *England*, which is a Law of Mercy, and not of Rigour, and hath the Life of a Man in tendereſt and higheſt † eſtimation: And therefore it is the Duty of a Judge by Law, to be of Counſel with the Priſoner, in things wherein by his Ignorance he falls ſhort of making uſe of the Benefit of the Law, eſpecially when he is upon the Tryal of his Life. Yea, and to exhort him to anſwer without fear, if he perceive him daunted or amazed at the Preſence of the Court. Yea, it is my Duty to carry myſelf with all Fairneſs and Evenneſs of Hand towards you; and wherein that there ſhall ſeem any Miſtakes to appear, in Circumſtances or Formalities, to rectify you: For it's my Duty to help you, and not to uſe any boiſterous or rough Language to you in the leaſt, to put you in fear, or any ways prevent the Freedom of your Defence; and according to the Laws of *England* this is my Duty, and this is the Law. And accordingly he gave me liberty to plead to the Errors of my Indictment, before ever I pleaded Not Guilty; yea, and alſo became willing to aſſign me what Counſel I pleaſed to nominate, freely to come to Priſon to me, and to conſult and adviſe with me, and help me in point of Law. This laſt he did immediately upon my pleading to the Indictment before any Fact was proved: all which is conſonant to the declared Judgment of Sir *Edward Cooke*, that great Oracle of the Laws of *England*, whoſe Books are publiſhed by ſpecial || Orders and Authority of Parliament for good Law; who in his third Part of his *Inſtitutes*, Chap. of *High Treaſon*, fol. 29, 34. compared with fol. 137, 230. aſſerts the ſame.

Truly, Sir, I being now come before you to anſwer for my Life, and being no profeſſed Lawyer, may through my own Ignorance of the practick part of the Law, eſpecially in the Formalities, Niceties and Punctilio's thereof, run my ſelf with overmuch Haſtineſs in Snares and Dangers that I ſhall not eaſily get out of. And therefore being all of a ſudden bid to hold up my Hand at the Bar, I cannot chuſe but a little demur upon it, and yet with all reſpect to you, to declare my Deſireableneſs to keep within the Bounds of Reaſon, Moderation and Diſcretion, and ſo to carry my ſelf as it doth become a Man that knows what it is to anſwer for his Life.

And therefore in the firſt place, I have ſomething to ſay to the Court about the firſt Fundamental Liberty of an *Engliſhman*, in order to his Tryal; which is, That by the Laws of this Land all Courts of Juſtice always ought to be free and open for all ſorts of peaceable People to ſee, behold and hear, and have free Acceſs unto; and no Man whatſoever ought to be tried in Holes or Corners, or in any Place where the Gates are ſhut and barr'd, and guarded with armed Men: And yet, Sir, as I came

* *See the* 27 *of* Hen. 8. *c.* 24.

† *See the* 2*d part Inſt. fol.* 28, 30, 42, 43, 53, 315, 316, 591. *&* *part* 3. *fol.* 34.

|| *Which Orders are dated* May 12. 1641. *&* June 3. 1642. *You may at large read at the laſt end of his Inſtit. part* 2.

in, I found the Gates ſhut and guarded, which is contrary both to Law and Juſtice.

Sir, the Laws of *England*, and the Privileges thereof, are my Inheritance and Birth-right: And, Sir, I muſt acquaint you, that I was ſometimes ſummoned before a Committee of Parliament, where Mr. *Corbet* and ſeveral others have had the Chair; and there I ſtood upon my Right by the Laws of *England*, and refuſed to proceed with the ſaid Committee, till by ſpecial Order they cauſed their Doors to be wide thrown open, that the People might have free and uninterrupted Acceſs to hear, ſee and conſider of what they ſaid to me; although I think the Pretence that I am now brought before you for, be the very ſame in Subſtance, that I was convened before Mr. *Corbet* for, which was about Books: and I am ſure there I did argue the caſe with him and the reſt of the Committee, ſoundly out in Law; proving that they were bound in Law and Juſtice freely to open their Doors, for the free Acceſs of all ſorts and kinds of Auditors: And I did refuſe (as of Right) to proceed with them, till by ſpecial Order they did open their Doors. For no Tryal in ſuch caſes ought to be in any Place, unleſs it be publick, open and free; and therefore if you pleaſe that I may enjoy that legal Right and Privilege which was granted unto me by Mr. *Miles Corbet*, and the reſt of that Committee, (when I was brought before them in the like Caſe that now I am brought before you) which Privilege I know to be my Right by the Law of *England*; I ſhall, as it becomes an underſtanding *Engliſhman*, (who in his Actions hates Deeds of Darkneſs, Holes or Corners) go on to a Tryal. But if I be denied this undoubted Privilege, I ſhall rather die here than proceed any further. And therefore foreſeeing this beforehand, and being willing to provide againſt all Jealouſies of my Eſcape, the Fear of which I ſuppoſe might be objected againſt me as a Ground to deny me this my legal Right; and therefore before-hand I have given my Engagement to the Lieutenant of the Tower, that I will be a faithful and true Priſoner to him.

And I hope the Gentleman hath ſo much Experience of my Faithfulneſs to my Word, that he doth not in the leaſt queſtion or ſcruple it; I am ſure he hath often ſo declared to me that he doth not.

Nay, I have not only engaged to be a true Priſoner in the Tower to him, but I have alſo ſolemnly engaged to him, that I will come civilly and peaceably with him, and that I will go civilly and peaceably back with him again: And that if any Tumult or Uproar ſhall ariſe in the Croud, of which I loſe him, and he me; or in caſe I ſhould be any ways by Force and Power reſcued from him, I have alſo faithfully engaged to him, that I will come again to him (by the Aſſiſtance of God) as ſoon as ever I can get away from that Force or Reſcue. And all this I entreated him to acquaint you with, that all Jealouſies and Diſputes might be avoided.

Judge *Keble*. Mr. *Lilburne*, look behind you, and ſee whether the Door ſtands open or no.

L. Col. *Lil.* Well then, Sir, I am ſatisfied as to that. But then in the next place, I have read the *Petition of Right*, I have read *Magna Charta*, and abundance of Laws made in Confirmation of it; and I have alſo read the *Act that aboliſheth the Star-Chamber*, which was made in the Year 1641. which laſt recited Act expreſly confirms thoſe Statutes that were made in *Edward* the Third's Time, which declares all Acts, Laws and Statutes that were made againſt *Magna Charta*, to be null and void in Law, and holden for Error.

In the reading of which Laws I do not find a ſpecial Commiſſion of *Oyer* and *Terminer* to be legal and warrantable. I beſeech you, Sir, do not miſtake me; for I put a vaſt difference betwixt an ordinary and common Commiſſion of *Oyer* and *Terminer* for holding ordinary and common Aſſizes and Seſſions, and betwixt an extraordinary and ſpecial Commiſſion of *Oyer* and *Terminer* to try an individual Perſon, or Perſons, for a pretended extraordinary Crime. The Laws I laſt recited, and the Fundamental or Eſſential Baſis of Freedom therein contained, knows no ſuch Names or Commiſſions of ſpecial *Oyer* and *Terminer*.

And thoſe Statutes in *Edward* the Firſt, and *Edward* the Third's Time, that doth erect thoſe ſpecial and extraordinary Commiſſions, and warrant the Uſage of them, are merely irrational (a) Innovations upon our indubitable Rights contained in *Magna Charta*, and mere Court and Prerogative-Devices to deſtroy the beſt of Men, by extraordinary Courts appointed to prejudge Proceedings that ſhould manfully ſtand in the way of the Prince, or any of his great Favourites: for ſure I am from the *Petition of Right*, no Ground or Foundation for any extraordinary or ſpecial Commiſſion of *Oyer* and *Terminer*, upon any pretended, ſpecial or great Occaſion, cannot be founded; but rather the abſolute quite contrary, as to me clearly appears by the very plain Letter of that moſt excellent Law. And therefore ſuch a ſpecial Commiſſion upon any pretended ſpecial Occaſion, being expreſly againſt our indubitable Rights contained in *Magna Charta*, and the *Petition of Right*, viz. That no *Engliſhman* ſhall be ſubjected to any other Tryal, but the ordinary, univerſal and common Tryals at ordinary Aſſizes, Seſſions or Goal-Deliveries, and not in the leaſt to be tryed by extraordinary and ſpecial prejudged, packed, over-awing Commiſſions of *Oyer* and *Terminer*; and therefore all ſuch extraordinary and dangerous Tryals are abſolutely aboliſhed, by the late excellent Acts that confirm the *Petition of Right*, and all and every the Clauſes therein contained, and aboliſheth the *Star-Chamber*, both made *Anno* 1641.

And, Sir, with your favour, the then Parliaments that made the laſt cited Laws, were ſo far from countenancing any ſpecial Commiſſions of *Oyer* and *Terminer*, upon any ſpecial or pretended great Occaſions whatſoever that I can read of, that I rather find and read the Parliament's Proceedings in the Year 1641, an extreme Out-cry of the Houſe of Commons againſt ſpecial Commiſſions of *Oyer* and *Terminer*, with a great deal of Bitterneſs and Vehemency, as may fully and clearly be read in that excellent Argument of Mr. *Hyde*, *April* 1641. printed and publiſhed in a Book, called *Speeches and Paſſages of Parliament*, p. 409, to 417. which I have here at the Bar to produce; which Mr. *Hyde* was

(a) *And excellent to this purpoſe is Lieutenant Colonel* Lilburne's *Argument, in his ſecond Edition of his* Picture of the Council of State, p. 8. *againſt the Erection of extraordinary Courts, which thus followeth: He granting that the Parliament hath Power to erect a Court of Juſtice to adminiſter the Law, provided that the Judges conſiſt of Perſons that are not Members of Parliament; and provided the Power they give them be univerſal; that is to ſay, to adminiſter the Law to all the People of* England *indefinitely, who are all equally born free alike, and not to two or three particular Perſons ſolely; the laſt of which for them to do is unjuſt, and altogether out of their power,* &c. *Which Argument or Reaſon is moſt notably illuſtrated and inlarged in the ſecond Edition of* the Legal Fundamental Liberties of *England, revived of the 8th of* June, 1649. p. 72.

then

then the ſpecial and appointed Mouth of the Houſe of Commons before the Lords, who unto them in conformity to his Commiſſion from the then Houſe of Commons, complains to the Houſe of Lords extremely of a ſpecial Commiſſion of *Oyer* and *Terminer* that was exerciſed in the five Northern Counties of *England*; and earneſtly, in the name of the Houſe of Commons, craves the ſpecial Aſſiſtance of the Houſe of Lords, to pluck up that Court by the very Roots, founded upon a ſpecial Commiſſion of *Oyer* and *Terminer*, being ſo illegal and unjuſt in the very Foundation of it, as it is inconſiſtent with the People's Liberties, and as that which deſtroyed and diſinherited all the People that were tryed, both of their Birthright and Inheritance, *viz.* their Liberties and Freedoms contained in *Magna Charta*. And this, Sir, was the declared and avowed Judgment and Opinion of the Houſe of Commons in *April* 1641. in their primitive Purity and Non-defilement, when they acted bravely and gallantly for the univerſal Liberties and Freedom of this Nation (and not Self-intereſt) when they were in the Virginity of their Glory and Splendor, as he there fully and moſt excellently declares; and yet he there gives an extraordinary Reaſon for the original Erection of that Court founded upon a ſpecial Commiſſion of *Oyer* and *Terminer*, as can be rendred.

The original Reaſon or Occaſion of which, he there declares to be thus: That by reaſon of the Suppreſſion of the Abbies in the 27th of *Henry* the Eighth's Time, in the North of *England* (through Diſcontent thereat) there did ariſe from the ſaid 27th Year to the 30th no fewer than ſix grand Inſurrections, moſt of them under the Command of ſome eminent Man of thoſe Countries; which Inſurrections and Rebellions occaſioned the levying of great Armies, which had like to have ſet the whole Kingdom in an univerſal Flame: for the ſuppreſſing and preventing of which in future times, King *Henry* VIII. cauſed a ſpecial Court to be erected, by a ſpecial Commiſſion of *Oyer* and *Terminer*; which Court alſo continued in *Edward* the Sixth's Time, Queen *Mary*'s, and firſt and ſecond of King *James*: The Baſis of which Commiſſion was founded upon thoſe fore-mentioned innovating Statutes made in *Edward* the Second's and *Edward* the Third's (b) Time: Which ſpecial Commiſſion of *Oyer* and *Terminer* was ſeveral times renewed by the late King *Charles*, as in the fifth, eighth, and thirteenth Year of his Reign. And the ſaid Mr. *Hyde* there in his Argument or Speech, which I have here in Print, names ſeveral of the Preſidents of that illegal Court of ſpecial Commiſſion of *Oyer* and *Terminer*: And he there alſo declares in what an extraordinary Manner, and upon what an extraordinary Occaſion it was granted; which was ſo great, as that a greater could not be imagined: and yet notwithſtanding he declares, that this extraordinary Commiſſion, which being granted to ſuppreſs and quiet thoſe many extraordinary Inſurrections and Rebellions, which do not admit of ſo long Delay as times of ordinary Tryal, in times of Peace, when the ordinary, legal and common Courts of Juſtice are open and free, will do, when Peace and Quiet is in the Nation, as now it is; and yet for all that, he condemns it for illegal.

And therefore, Sir, admit my Actions in their Tendency, to be as dangerous and heinous as any of my Adverſaries can imagine or declare them to be; yet they are but in the Aſhes, but in the Hearth, they are not broke out into viſible and violent hoſtile Actions. And therefore I ſay, if ſpecial Commiſſions of *Oyer* and *Terminer*, granted in ſuch ſpecial and tranſcendent Caſes as thoſe in *Henry* the Eighth's Time, were illegal; much more muſt a ſpecial Commiſſion of *Oyer* and *Terminer* granted to try me barely for Words, or at moſt for pretended Writings or Books, at ſuch a time when there is no burning Flame of Inſurrections or Rebellions in the Kingdom, but all in viſible Peace, and all the ordinary Courts of Juſtice open: and I and my Friends have often ſought to enjoy the Benefit of the Law in a legal Tryal, from firſt to laſt, but could never enjoy it in the leaſt meaſure, although many Aſſizes and Seſſions have paſt over my Head ſince my firſt Commitment, now ſeven Months ago; at the firſt of which, in the County where my pretended Crime was committed, I ought by Law and Juſtice either to be tryed or acquitted. So that, Sir, by what I have already ſaid, you may ſee the Judgment and Opinion of the Houſe of Commons upon ſpecial Commiſſions of *Oyer* and *Terminer*, in their firſt Purity, when as a full Houſe, there being conſtantly 400 or 500 of them ſitting in the Houſe, as the deputed and choſen Truſtees of the People of *England*, whoſe Opinion was to damm them, and pluck them up by the Roots, as unjuſt and illegal in their original Inſtitution, which they have accordingly done, and declared to the whole Nation in the Act that aboliſhed the *Star-Chamber*; where that Court ſpoken againſt by Mr. *Hyde*, is totally dammed and pulled up by the Roots. So that now in Law I cannot ſee how ſpecial Commiſſions of *Oyer* and *Terminer* can be legal at this preſent, admit the Power never ſo juſt from whom it comes; but abundantly much more, ſeeing there is no actual Wars, nor popular Inſurrections: which if lately there had been any, and yet were overcome, there is no Pretence or Ground by the good old Laws of *England*, for any extraordinary Proceedings againſt any Man, although he had been in Arms againſt you, but he ought to have the Benefit of the ordinary, accuſtomed and common Tryals at the Common Law, as clearly appears by the expreſs Words of *the Petition of Right* (c). But I was never in any hoſtile manner againſt thoſe that are the preſent Governours of the Nation, but have been under their Command in ſeveral Battels in the Nation, and have hazarded my Life for them, and never yet in the leaſt changed my original or firſt Principles; nor never was engaged in the leaſt in any Hoſtility againſt them, but have always, ſince I five Years ago gave over my Command, lived in Peace and Quietneſs in mine own Houſe and Abode: and was the ſame Day at the Houſe of Commons Door that their Votes paſſed againſt me, declaring me in general (which in Law ſignifies nothing) to be a Traytor; and ſpake with a Gentleman that is now a Judge amongſt your ſelves (*viz.* Mr. *Rigby*) at the Houſe-door, who, in ſome Great Ones Names, proffered me large Matters, if I would do as I ſhould be directed by them. After this, I went home to mine own Houſe in *Southwark*, where I

(b) *Which were* Weſtminſter, *the ſecond being the* 13 *of* Ed. 1. c. 29. *and* 2 Ed. 3. c. 2. *and* 34 Ed. 3. c. 1.

(c) *Of which Judgment Sir* Edward Coke *is poſitively, in* part 2. Inſtit. f. 48. *and* part 3. f. 52. *in* Tho. *Earl of* Lancaſter's *Caſe, which is ſingular well worth the reading. See alſo* part 1. Inſtit. f. 13. a.

ſtayed in Peace and Quietneſs, well enough knowing the Votes that that Day paſſed againſt me, without either particular Accuſation or Accuſer, or any ſuch thing; where I ſtayed, whenas I might eaſily have eſcaped the Hands of mine Enemies, and been gone: but having the ſweet Peace of a good Conſcience within me, which did aſſure me that I had done nothing that was againſt the Welfare of the Nation of *England* in general, nor againſt the Welfare of any one particular Man in *England*, but really wiſh'd it well, and all its Well-wiſhers:

I ſay that, notwithſtanding my certain Knowledge of all that at the Houſe had paſſed againſt me; and although I alſo knew that the further Deſign againſt me, which was, That the Council of State (as they are called) would take me away thereupon with armed Force the next Morning; yet notwithſtanding all this, I ſtirred not out of my Houſe, but remained there till about Five a-clock the next Morning; at which time 200 or 300 armed Horſe and Foot (without ſo much as one Civil or Magiſterial Officer with them) came by force of Arms, and haled me out of Bed from my Wife and Children, not according to the Law of *England*, as is expreſly provided in two ſeveral Statutes, *viz.* the 1ſt of *Edw. 6. chap.* 12. and the 5th and 6th of *Edw. 6. chap.* 11. By which Rules of the Law, and no other, they ought to have proceeded againſt me from firſt to laſt; and I am ſure they both expreſly provide, That if any Man be accuſed of Treaſon, that he ſhall be accuſed firſt to one of the King's Counſel, or to one of the King's Juſtices of Aſſize, or elſe to one of the King's Juſtices of the Peace being of the *Quorum*, or to two Juſtices of the Peace within the Shire where the ſame Offence or Offences ſhall happen to be done or committed (d).

But contrary to theſe and other wholeſom and good Laws (although there hath been an eight Years War in *England*, pretendedly, for the Preſervation of the Laws and Liberties of *England*, yet, I ſay, contrary to the expreſs Tenor of theſe Laws, as alſo of *the Petition of Right*, yea, and alſo of the expreſs Letter of that excellent Law that aboliſhed the *Star-Chamber* this Parliament) was I by force of Arms (that never fortified my Houſe againſt the preſent Power, nor never diſputed any of their Summons, though ſent by the meaneſt Man that ever appertained to them; and who, if they had ſent their Warrant for me by a Child, I would have gone to them) I was fetch'd out of my Bed in Terror and Affrightment, and to the Subverſion of the Laws and Liberties of *England*, and led through *London-Streets* with Hundreds of armed Men (like an *Algier* Captive) to their Main-Guard at *Pauls*, where a mighty Guard ſtaid for the further conducting me by force of Arms to *White-hall*. Now, Sir, if I had committed Treaſon, I ought not to have been apprehended and proceeded againſt by armed mercenary Soldiers, but by Civil and Magiſterial Officers, and no other; according to thoſe excellent Privileges that the Parliament themſelves in the Year 1641. in their own Book of Declarations, *p.* 36, 37, 76, 77. did claim for thoſe ſix Members, *viz.* the Lord *Kimbolton*, Mr. *Pym*, Mr. *Hollis*, Mr. *Stroud*, Sir *Arthur Haſlerig*, and Mr. *Hampden*: I ſay and aver, I ought to have had the Proceſs of the Law of *England*, due Proceſs of Law according to the forementioned Statutes and Precedents; for I never forcibly reſiſted or contended with the Parliament; and therefore ought to have had my Warrant ſerved upon me by a Conſtable, or the like Civil Officer; and upon no Pretence whatſoever, ought I to have been forced out of my Bed and Houſe by mercenary armed Officers and Soldiers. But, Sir, coming to *White-hall*, I was there alſo kept by armed Men, contrary to all Law and Juſtice; and by armed Men againſt Law, I was by force carried before a Company of Gentlemen ſitting at *Derby-Houſe*, that look'd upon themſelves as authorized by the Parliament to be a Committee or Council of State, (who by the Law I am ſure in any kind had nothing at all to do with me in Caſes of pretended Treaſons) where I was brought before Mr. *John Bradſhaw*, ſometimes a Counſellor for my ſelf before the Houſe of Lords, againſt my unjuſt *Star-Chamber* Judges; who there in my behalf, *Feb.* 1645. did urge againſt the Lords of the *Star-Chamber*, as the higheſt Crime againſt the Liberties of the People that could be, as being illegal, arbitrary and tyrannical, that the Lords in *Star-Chamber* ſhould cenſure me to be whip'd, pillory'd, *&c.* for no other Cauſe but for refuſing to anſwer their Interrogatories againſt my ſelf. And when I was brought before the ſaid Council of State, I ſaw no Accuſer, no Proſecutor, no Accuſation, no Charge nor Indictment; but all the Crime that there was laid unto my Charge, was Mr. *Bradſhaw*'s very ſeriouſly examining me to Queſtions againſt my ſelf: although I am confident he could not forget, that himſelf and Mr. *John Cook* were my Counſellors in *February* 1645. at the Bar of the Houſe of Lords, where he did moſt vehemently aggravate, and with Deteſtations condemn the Lords of the *Star-Chamber*'s unjuſt and wicked dealing with *Engliſh* Freemen, in cenſuring them for their refuſing to anſwer to Queſtions concerning themſelves; and yet notwithſtanding walked with his dealing with me in the very Steps that formerly he had bitterly condemned in the *Star-Chamber* Lords; yea, and there for refuſing to anſwer his Queſtions, (for any thing he declared to me to the contrary) committed me to Priſon for Treaſon in general. And you know very well, better than I do, that by your own Law, Generals in Law ſignify nothing.

Judge *Jermin.* Mr. *Lilburne*, you very much abuſe and wrong your ſelf, for you very well know Mr. *Bradſhaw* is now denominated by another Name, namely, *Lord Preſident to the Council of State of* England; and it would well become you in your Condition ſo to have ſtiled him.

Lieut. Col. *Lilburne.* And although no Crime in Law (which ought to be particularly expreſs'd) was laid unto my charge; yet when I was firſt impriſoned, there were thouſands of my Friends (Well-wiſhers to the Freedoms of *England*, and to the common Cauſe in which they had been engaged in for theſe eight Years together) both old and young, both Maſters of Families, young Men and Apprentices, and abundance of others of the Feminine Sex too, with abundance of cordial honeſt Men in ſeveral Countries, joined in ſeveral rational and fair Petitions, and delivered them to the Houſe in the behalf of my ſelf, and my three Fellow-Priſoners; in which they moſt earneſtly intreated them, that they would not prejudge us before we were heard, and knew our Accuſers

(d) *See alſo to this purpoſe*, part 3. *of* Coke's Inſtit. ch. High Treaſon, f. 26, 27, 28. *and* part 1. Parl. Declar. *in the Caſe of the Lord* Kimbolton *and the five Members*, p. 38, 39, 76, 77.

and

and Accuſations, but rather that they would reieaſe us, and take off their prejudging Votes againſt us, which they had cauſed to be proclaimed in all the publick Places of the Nation againſt us, and let us have a fair and legal Tryal, according to the Laws of *England*, and according to the undeniable Privileges of the due Proceſs of the Law from firſt to laſt; and they would put in any Security that they would require of them, that we ſhould be forthcoming at all times to anſwer whatſoever in Law could be laid to our charge. Unto all which Petitions, which were very many, they could get no manner of ſatisfying Anſwer, but Slights, Abuſes and Scorns.

But beſides this, Gentlemen, that you may ſee that I am rational, and that you may ſee that I have an innocent and quiet Conſcience within me, that does not accuſe me, nor terrify me; therefore I muſt acquaint you, that I again and again proffered my chiefeſt Adverſaries, and ſent often to them, being earneſtly deſirous to chuſe two Members of the Houſe of Commons, and let them chuſe two more, whom they pleaſe; and I would with all my Heart freely refer all manner of difference betwixt them and me, to the final Determination and Jugdment of four of their Fellow-Members: but all this would do no good, and yet they would not in the leaſt let me underſtand what was the Thing they deſired of me; but, by their Power and Will, I had my Pockets and Chamber ſearch'd to find out Advantages againſt me; and alſo lock'd up cloſe Priſoner, with Centinels Night and Day ſet at my Door, and denied the Acceſs and Sight of my Wife and Children for ſome certain time; and for about twenty Weeks together in the heat of Summer, kept cloſe Priſoner, and denied the Liberty of the Priſon, and my Eſtate with a ſtrong Hand taken away from me, without any Pretence (or due Proceſs) of Law, to the Value of almoſt three thouſand Pounds, that was legally and juſtly inveſted in me, and in my Poſſeſſion. But being I will avoid (at this time eſpecially) Provocations as much as I can, I will name no Perſon by whoſe Power and Will it hath been done, although he be notoriouſly known; but the Gentleman that took it away by his pleaſure, without all Rules of Law or Juſtice, told my Father to this purpoſe, That I was a Traytor, and under the Parliament's Diſpleaſure; and therefore he would ſecure it from me, although I were not in the leaſt convicted of any Crime, neither in Law then, or for many Months after had I the leaſt Pretence of Crime laid unto my charge. And although my own Eſtate by force, againſt Law, was taken from me, yet was I alſo denied in my cloſe Impriſonment that legal Allowance that ſhould have kept me alive; for in all this miſerable Condition I never yet received a Penny of my legal Allowance, but was poſitively denied that Teſtimony and legal Right that the late King conſtantly allowed to all the Members of the Parliament that were committed in the Third of his Reign, and ſeveral other times; unto whom for their Diet he allowed three, four and five Pounds a Week, according to their Quality, although they had great and large Eſtates peaceably in their Poſſeſſion. And one of them that is now beyond the Seas, a Colonel, I have forgot his Name, (but it was Colonel *Long*) confeſſed in the Lieutenant of the Tower's own Chamber, the laſt Year, that the King was ſo bountiful to him and the reſt of his Fellow-Priſoners, that he let them enjoy the Allowance of about four or five Pounds a week for Diet; and that while he was Priſoner in the Tower, he ſpent the King about 1500 *l.* for his own particular ſelf in Proviſion. But notwithſtanding I was denied all this, and to fill up the height of the inſufferable Provocations put upon me, abundance of my own and antient Acquaintance were ſet upon me to calumniate, beſpatter and reproach me; yea, and to endeavour to become Inſtruments to take away my Life, ſome of them confeſſing they were underhand ſet on by ſome Parliament-Men: All whoſe baſe and wicked Petitions, Papers and Books preferred and publiſhed againſt me, were hugged and imbraced; altho, for my own part, I do not know of any Man in this World that can juſtly tax me with any Action, or maintaining any Principles or Tenents, but what doth become a Man that doth believe all that is contained in the Law and the Goſpel, and does believe the Reſurrection of the Dead, and Life eternal; nay, that does believe that I my ſelf ſhall ariſe and go to the Lord of Glory. Yet notwithſtanding all theſe unparallel'd Provocations put upon me, eſpecially by divers of my old Acquaintance, whom I had upon all Occaſions faithfully ſerved, but never wronged, injured nor provoked, being inſtigated (as they themſelves confeſs in ſome of their own Congregations) by Parliament-Men ſo to do.

Truly, Sirs, I appeal to your own Judgments, and to your Conſciences, and to all the People that hear me this Day, whether all theſe Provocations laid upon a poor Man, which is but Duſt and Aſhes, as well as other Men, be not too inſupportable a Burden, and too much for the Cauſers of them to take advantage of the Fruits produced by them, to deſtroy me, and take away my Life.

And therefore, Sir, in the firſt place, I ſhall humbly crave that Favour and Right, ſeeing I am brought before you by a piece of Parchment that truly I could not read, neither could he do it that ſhewed it me, (I mean the Lieutenant of the Tower;) for admit that if I did well underſtand *Latin*, as indeed I do not, only ſome ordinary Words, yet was it in ſuch an unuſual ſtrange Hand, that I could not read it. And therefore being I am brought before you implicitly, and not as I conceive an *Engliſhman* ought to be, who ought to ſee and read the Authority, by virtue of which he is convened before any Power. It's true, I know ſome of you, Gentlemen, that I ſee ſit before me, yet not many of you; and truly I have nothing but a piece of unlegible Parchment, which cannot ſatisfy my Underſtanding of the Legalneſs of my Convention before you: but being I am not able to diſpute that Power that compulſively brought me, but here I am; and therefore in order to the declaring of my ſelf to be a true *Engliſhman*, I moſt humbly crave (and that I think is conſonant to Reaſon, and I hope to Law too) that I may ſee, and hear read the Commiſſion, by virtue of which you ſit here this Day, and convene my Perſon before you, that ſo I may compare it to the Law; and conſider whether or no, that by my pleading before you by virtue of it, I do not betray my Liberties. And therefore I humbly crave that you would let me hear your Commiſſion read; for this Court is no ordinary and common Aſſizes, Seſſions, or Goal-Delivery, the only proper Courts for trying me for all criminal Faults; yea, and thoſe alſo ought to ſit where the Crimes are committed: and I was impriſoned for a pretended Crime, pretended to be committed in the County of *Surrey*, where by the Common Law of *England*, and expreſs Statutes,

I ought to be tried therefore, and no where elſe.

And therefore being brought in an extraordinary manner to ſuch an extraordinary Place as this, which is no ordinary Aſſizes or Seſſions, no, nor yet in mine own County; therefore I again humbly deſire that you will be pleaſed to let me ſee and hear your extraordinary Commiſſion, that ſo I may conſider whether the Extent or Latitude of the Commiſſion be conſonant, or no, to the Petition of Right, and other the good old Laws of *England*. For thoſe that now ſit at *Weſtminſter*, exerciſing the ſupreme Power, by two ſpecial Declarations, the one dated the 9th of *February* laſt, and the other the ſeventeenth of *March* laſt, have poſitively declared, and called God to witneſs, That they will maintain, preſerve, and defend that excellenteſt of Laws, the Petition of Right, as in the ſeventh Page of the laſt Declaration they call it; and that the People of *England* ſhall enjoy all the Benefit therein contained, whether to Life, Liberty, or Eſtate, with all Things incident thereunto. And therefore I humbly beg and crave that Favour from you, that ſeeing to me you appear to be ſent in an extraordinary manner, not according to the ordinary Cuſtoms of the Laws of *England*, that you will be pleaſed to let me hear your Commiſſion read, that ſo I may conſider the Conſonancy thereof to the Petition of Right, and other the good old Laws of *England*; and after the reading of it, I hope I ſhall return you ſuch an Anſwer as doth become a rational and ingenious Man: Who though he hath Right to all the Privileges of the Laws of *England*, and hath read all the declared and plain Laws of *England*, that are to me the Fundamentals of all, yet the practick Part of the Law, which are in other Tongues beſides the *Engliſh*, I cannot read, know, nor underſtand. And in the Petition of Right, and other the good old fundamental Laws of *England*, I can find no Foundation or Bottom for ſuch an extraordinary Court, as this before my Eyes ſeems to be: And therefore I again make it my moſt humble Suit to hear your Commiſſion read.

Judge *Keble*. Mr. *Lilburne*, you are fully heard.

Mr. Prideaux *Attorney-General*. My Lord, the Priſoner at the Bar, nor none elſe, have Cauſe to complain that he hath wanted your Patience in being fully heard. My Lord, that which at the beginning of his Arraignment you expected from him, which was to hold up his Hand, he denied; and upon his Denial deſired Liberty of Speech to ſpeak, and he hath enjoyed it. But, my Lord, how pertinent his Diſcourſe is to what was propoſed to him, the Court, and all that hear him, will judge. My Lord, I am not here to juſtify the Actings of thoſe that here he hath complained againſt; but they are a Court, they are a Council, and my Thoughts are (and ſo ought his to be) honourable of them; and what they have done (my Lord) towards him, in ordering this Court to try him, is but Juſtice. My Lord, there is no ſpecial Commiſſion of *Oyer* and *Terminer*, but a general Commiſſion; and upon that general Commiſſion here is a ſpecial Preſentment of Mr. *Lilburne* here at the Bar: The general Commiſſion is according to the Law of the Land; and upon that ſpecial Preſentment it is expected he may be proceeded againſt according to Law. And for your Commiſſion, my Lord, that hath been read and publiſhed to the Court before Mr. *Lilburne* came to the Court, and the Court is ſatisfied with it, that it is in the ordinary way; and I hope the Judgment you will give, will declare it to be according to the Law, in the ordinary way. And as for the Commiſſion it ſelf, in the Form of it, it is not a Tittle varied from the ordinary accuſtomed Form. But, my Lord, the Petition of Right, *Magna Charta*, the Statutes, and all Declarations that have been ſpoken of, they are all confirmed in this, and all do confirm it; for in that ordinary Tract, that hath been practiſed in this Nation for five hundred Years, is Mr. *Lilburne* now to be tried, and that by the old good Laws of *England*, Mr. *Lilburne*'s Birth-right, and every Man's elſe, he has his Tryal; the beginning of which hath been Mr. *Lilburne*'s Preſentment, which is already found by the Grand Inqueſt, who are Men of Integrity, Men of Ability, Men of Knowledge. My Lord, he is now come to his Tryal, not in an extraordinary way, but by a Jury of good and legal Men of the Neighbourhood; by Men that do know, my Lord, and underſtand what is Fact, what is (*a*) Law, and to do Juſtice indifferently between both.

And, my Lord, I do know, and publiſh to all that now hear me, that the Commiſſion for Tryal of Mr. *Lilburne* this Day, for thoſe Differences that are between the State and Mr. *Lilburne*, is free in Law from all thoſe Exceptions that he is pleaſed to put upon it, and is unqueſtionably legal, and uſed for theſe many hundred Years together. And as for Mr. *Lilburne*'s declaring the Fact, for which he was originally impriſoned, for to be committed in *Surrey*, and therefore there in Law he ought to be tried, and not here in *London*, being another County; as for Mr. *Lilburne*'s Crimes committed in *Surrey*, his own Conſcience beſt knows what they are: But Mr. *Lilburne*, at moſt, can but yet gueſs at what we intend to try him here for, or lay unto his Charge.

But, my Lord, if Mr. *Lilburne* will pleaſe to put himſelf upon his Tryal, according to Law, my Lord, I hope the Court, and all that hears and ſees their Proceedings, will receive full Satisfaction in the Legality and Fairneſs of their Proceedings againſt him, and himſelf the Benefit of Juſtice and Law.

Lieut. Col. *Lilburne*. Sir, by your favour, in two Words, I ſhall not be tedious, I now perceive who is my Accuſer and Proſecutor, the Gentleman that is a very unequal one; for he is one of the Creators (being a Member of the Houſe) of you that ſit here this Day to be my Judges; and therefore an over-awing and unfit Accuſer or Proſecutor.

Ld *Keble*. Mr. *Lilburne*, I pray you hear me a Word; for now you ſpeak not rationally nor diſcreetly: You have had a fair Reſpect and Hearing. What you ſpeak of Liberties and Laws, we come here to maintain them for all, and for you too: And we alſo come for to vindicate our Actions. And as for that you ſpeak of in reference to the Commiſſion, I muſt let you know the Commiſſion is warrantable by the Laws of *England* for this five hundred Years, nay, and before five hundred Years in ſubſtance. The ſecond Thing that you ſpeak to, is, That you were apprehended in ſuch an hoſtile Manner, underſtanding by Law you ſhould have been taken in an ordinary way, by an ordinary Officer. But, Mr. *Lilburne*, in all Apprehenſions of Traytors, Felons, and Murderers, is not the Power

(*a*) *Mark that well; for Judge* Jermin *called it a Damnable Doctrine, when Mr.* Lilburne *declared the Jury were Judges of Law as well as of Fact.*

of the County to be raiſed, and the Sheriff is to call and take what Power he pleaſeth.

Lieut. Col. *Lilburne*. By your favour, Sir, not unleſs I reſiſt; which I did not. And beſides, there was no Sheriff, nor no other Civil Officer, at my Apprehenſion.

Ld *Keble*. Mr. *Lilburne*, ſpare your ſelf: It is as they are informed of the Danger of the Man; they may do it before ever they ſee him. The next Thing you are upon, is, The Wrong and Injuſtice that you received by the Proceedings in the Star-Chamber againſt you. You ſee the Proceedings there have been queſtioned, and you juſtified: If there be any thing elſe that hath been by others in the North, or elſewhere acted, there is no Man here that will juſtify them in their Evil. But for a private Man, as you are, to tell us of them here, and to come and tell us to our Faces that we are created and conſtituted by the Attorney-General, we will not ſuffer it, nor further hear of it. And therefore, Mr. *Lilburne*, although you have ſpoken fair Words, (and happily more than your Friends expected from you) I muſt tell you that Words are but Words; and it were well that you would do as well and as rationally as becomes a rational Man, as you have declared you will.

Lieut. Col. *Lilburne*. With your favour, but one Word more.

Judge *Jermin*. Mr. *Lilburne*, pray ſpare a Word, and hear the Court: This Court ſits here by lawful Authority, and that is from the Parliament, that are the ſupreme Authority of *England*; ſo that our Power is not derived from thoſe that have no rightful Authority to conſtitute us, but our Power is from the publick Authority of *England*, which is now, by an admirable Act of God's Providence, lately, but truly revived and ſettled by God upon them. By that Authority this Court doth now ſit; and you are brought here before them that are moſt of us Judges of the Law, and we are ſworn to do you and every Man Juſtice and Right, according as his Cauſe requires, according to Law, Judgment, Equity, and Reaſon. And it was ſaid truly, that which my Brother *Heath* (who now is dead) did ſay, It's the Duty of the Judges to be of Counſel with the Priſoner at the Bar before him, and to do that which they are ſworn to do: And that you ſhall have. And accordingly you have received more Favour than ever I heard of a Priſoner that was accuſed of Treaſon in my Life ever had. And as for the Commiſſion, I muſt tell you it is uſual to have Commiſſions of *Oyer* and *Terminer*, and that even in Term-time, for high Offences, and ſuch as tend to the Deſtruction of the Nation, as *Overbury*'s did, and thoſe that tend to capital Treaſon, whereof you are now accuſed, by a Grand-Jury of *London*, that are Freemen of *London*, Citizens, able Men, Men of Religion, Men of Eſtate, Men of Conſcience, Men of Quality: Theſe are your Accuſers; who have found you, upon their Oaths, guilty of Treaſon, and cry out to us the Judges for Juſtice againſt you: And it is they, not we, that proceed againſt you. And as for our Commiſſion, it is according to the good old Laws of the Land, founded upon the Statute made in *Edward* the Firſt's Time, called *Weſtminſter* the Second. That Statute authorizeth Commiſſions: According to that Commiſſion we ſit by here this Day. And *Edward* the Firſt was a wiſe and a good Prince, and conſented to the People, to let them have ſuch Commiſſions as ours we ſit by is, which the People had fought ſtoutly for in the Barons Wars in his Father's Time, and alſo in his; for he himſelf was taken Priſoner at *Lewes*, in the County of *Suſſex*. And being a wiſe Prince, he knew that the Love of the People was not more to be got than by wholeſom and ſafe Laws, that every Man's Life, and every Man's Eſtate, and every Man's Liberty, might be preſerved by, and not be ſubject to any arbitrary Will or Power; but that the ſober, and diſcreet, and wiſe Laws of the Kingdom, which our Anceſtors won by their Swords, might be their Protectors. A ſpecial one of which was this Statute of *Weſtminſter* the Second, made in *Edward* the Firſt's Time: By virtue of which Statute is this Commiſſion directed to the Juſtices of the one Bench and the other; and they be all here this Day, but only thoſe that of neceſſity muſt attend at *Weſtminſter*, only to preſerve the Term. Now you are come to anſwer to that Charge, which hath been the greateſt Oppoſition to the Settlement of Government that can be; I mean the Settlement of the ſupreme Authority of the Nation in the Commons now aſſembled in Parliament, not newly erected, but revived into the right Place and Hands; for it is the Law of *England* revived, that the ſupreme Authority is in the (*a*) Commons aſſembled in the Parliament of *England*: For ſo it was in the *Saxons* Time, and in the *Romans* Time, and in all Times (*b*) it hath been as it is now; which will ſufficiently juſtify our preſent Proceedings againſt you. And therefore, I ſay, for the Commiſſion it ſelf, it is in general for the Tryal of all Treaſons whatſoever. But the Grand Inqueſt have found out no other Traytor, that they may accuſe, but Maſter *John Lilburne*, who is now here at the Bar. But it is not a bare Accuſation, but it is the ſolemn Verdict of almoſt a double Jury, that hath appeared upon the Roll; and upon their Oaths do conceive thoſe Crimes of Treaſon that are laid againſt you, to be of ſo dangerous Conſequence againſt the State and Commonwealth, that they do call for Juſtice againſt you as a Traytor already found guilty. And therefore I do require you, as you are an *Engliſhman*, and a rational Man, that you do conform your ſelf, and tell us plainly what you will do, as in reference to the putting your ſelf upon your Tryal by the Law, and hear with Patience thoſe Offences of Treaſon that are laid to your Charge.

Lieut. Col. *Lilburne*. May it pleaſe you, Sir, by your favour, I ſhall not now trouble you with many Words.

Ld *Keble*. You go improperly to work.

Lieut. Col. *Lilburne*. That Gentleman, I do not know his Name, (pointing to Judge *Jermin*:) You were pleaſed to ſay, That I have had more Favour than ever you have heard of any before ever had, in the like Caſe. But, Sir, by your favour, I ſhall tell you of ſome that in the like Caſe have had as much, if not more; and that was *Throgmorton*, in Queen *Mary*'s Time, who was impeached of higher

(*a*) *But by his Favour, never before practiſed nor uſed without both King and Lords; a Precedent of which he is deſired to ſhew and produce out of any of his Law-Books.*

(*b*) *But there was before the Conqueſt neither Inns of Court, Lawyers, nor Term-Judges in* England, *but only twelve good and legal Men, choſen in each Hundred, finally to decide all Controverſies: Which laſted till* William *the Conqueror ſubdued that excellent Conſtitution, and inſtead thereof introduced by his Will and Sword (contrary to his ſolemn Oath, three ſeveral times taken) the intolerable Bondage of* Weſtminſter-Hall, *or Term-Judges, and their Outlandiſh or* Norman *Law-Practice in the* French *Tongue; as all the* Engliſh *Chronicles univerſally and truly declare.*

Treaſon than now I am; and that in the Days of the commonly accounted bloodieſt and cruelleſt Prince that this many hundred of Years hath reigned in *England:* And yet, Sir, I am ſure in this very Place, and that by ſpecial Commiſſion of *Oyer* and *Terminer*; who was accuſed for being one of the chiefeſt Confederates with *Wyat*, in his *Kentiſh* Rebellion; which *Wyat* marched with an Army againſt the Queen to *London:* For which actual War or Rebellion, *Throgmorton* was in this Place arraigned as a Traytor, and enjoyed as much, if not more Favour than I have now enjoyed, altho his then Judges and Proſecutor were bent to take away (*a*) his Life, right or wrong. And therefore, Sir, by your favour, it is no extraordinary Favour that you have afforded me; it is but only my Right by Law, Juſtice, and common Equity. But, Sir, I ſhall be ſhort, and put my Buſineſs to a plain Iſſue, which is this:

I have here at the Bar given in many ſtrong Arguments againſt the Validity and Legality of a ſpecial Commiſſion of *Oyer* and *Terminer*, and ſuppoſing that to be ſuch an one by virtue of which you ſit, and intend to try me for my Life; and therefore I have humbly deſired (as in Reaſon, and I think in Law, I may juſtly do) to hear your Commiſſion read; but you have poſitively denied me that. And therefore I deſire all my Friends, and all the People that hear me this Day, to bear witneſs, and take notice, that you, contrary to Reaſon and common Equity, denied me to let me hear read your Commiſſion, by virtue of which you go about to take away my Life; which, I cannot chuſe but deſire them to take notice, I declare to be very hard Meaſure.

But, Sir, to ſave my ſelf from your forelay'd Snares and deſired Advantage againſt me, I will come a little cloſer to the Buſineſs. You demand I ſhould hold up my Hand at the Bar; and I know not what it means, neither what in Law it ſignifies. It's true, I have read the moſt part of the Laws that are in *Engliſh*, which I take to be the Foundation of all our legal *Engliſh* Privileges; and in them I cannot find any thing that doth clearly declare unto me the full Signification or Meaning of a Man's holding up his Hand at the Bar. Therefore if you pleaſe but to explain what the Meaning and Signification of holding up the Hand at the Bar is, I ſhall ſeriouſly conſider of it, and, I hope, return you a rational and diſcreet Anſwer: For truly in thoſe Laws which are in the *Engliſh* Tongue that I have read, although I find mention made of holding up the Hand, yet I cannot find much of the full Signification of it, only I find it to be of a large Extent. And as for thoſe Laws, or rather the practick Part of the Law, that are in *French* and *Latin*, I cannot read them, and therefore much leſs underſtand them. In which regard, for me to hold up my Hand at the Bar before I underſtand the true Signification of it in Law, (which tells me it is in it ſelf a tickliſh Thing) were for me to throw away my own Life upon a Punctilio or Nicety that I am ignorant of; and therefore, truly, I think I ſhould be a very Fool, in my own Ignorance to run that Danger. And therefore, Sir, I humbly deſire the clear Explanation of the Meaning of it in Law, and after that I ſhall give you a fair and rational Anſwer.

Ld *Keble.* Mr. *Lilburne*, you ſhall ſee we will deal very rationally with you, (and not inſnare you in the leaſt manner) if that be all. The holding up of your Hand, we will tell you what it means and ſignifies in Law: The calling to the Party to hold up his Hand at the Bar, is no more but for the ſpecial notice that the Party is the Man inquired for, or called on; and therefore if you be Mr. *John Lilburne*, and be the Man that we charge, do but ſay that you are the Man, and that you are there, and it ſhall ſuffice.

Lieut. Col. *Lilburne.* I am *John Lilburne*, Son to Mr. *Richard Lilburne* of ----

Ld *Keble.* Mr. *Lilburne*, what you have to ſay we will hear preſently; only take notice that we will take your acknowledging of your Name to be ſufficient, if you will ſay that you are the Man: You are called by your Name, you have come and anſwered to your Name, in order to your anſwering the Charge to be read againſt you; do but this, and it ſhall ſuffice, without holding up your Hand. Therefore let us have no more Diſcourſe as to that.

Judge *Jermin.* Mr. *Lilburne*, pray ſpare me a Word; for you have been heard with Patience. You have deſired to have the Right of the Law of *England*; and yet you do queſtion a fundamental Thing, that hath been always uſed in caſe of criminal Offences. By the Law of *England*, that you deſire to have the Meaning of it, is but juſt; but you muſt know that the Law of *England* is the Law of God; and if there be any thing in the Law of *England* but what was by admirable Conſtitution and Reaſon, we would not meddle with it. But I pray know this, that the Law of *England* is no written Law: It is the Law that hath been maintained by our Anceſtors, by the tried Rules of Reaſon, and the prime Laws of Nature; for it does not depend upon Statutes, or written and declared (*b*) Words or Lines. And this is our Laws, that have been maintained by our Anceſtors, and is ſubordinate to the Law and Will of God: Therefore I ſay again, the Law of *England* is pure primitive Reaſon, uncorrupted and unpolluted by human Humours, or human Corruptions, Wits, or Wills: That's the Law of *England*. There be two Reaſons why holding up the Hand hath been uſed always: Firſt, for notice that thoſe that are called for capital and criminal Offences, that they hold up their Hands, is to declare that they are the Men. My Lord hath given you this one Reaſon already; which I ſay is, that he be notified by holding up the Hand to all the Beholders, and thoſe that be preſent, and hear him that he is the Man. But beſides this, there is more in it; that's thus: A pure innocent Hand does ſet forth a clear unſpotted

(*a*) *Whoſe remarkable and excellent Defence you may at large read in* Hollingſhead's *Chronicle, in the Life of Queen* Mary, *which Diſcourſe is excellently well worth the ſpeedy Reprinting, eſpecially ſeeing Men are made Traytors for Words; which Cruelty Queen* Mary *abhorred, as may clearly be read in that excellent Statute of hers, made in the firſt Year of her Reign,* Chap. 1.

(*b*) *But ſaith Mr.* Hyde, *in his forementioned Argument, againſt the Northern ſpecial Commiſſion of* Oyer *and* Terminer, *Pag.* 411. Milera ſervitus eſt, ubi jus eſt vagum aut incognitum; *that is to ſay, It is a miſerable Servitude, where the Law is uncertain or unknown. And the very ſame ſaith that great Oracle of the Law, Sir* Edward Coke, *in the Proem to the third Part of his Inſtitutes, and in the fourth Part,* fol. 332. *and in ſeveral Places beſides. But the People may eaſily ſee hereby, that theſe preſent Judges drive to have no other Law in being in* England, *but what is in their own and their Maſters Breaſts; (that ſo by pretence of Law they may give away all the Liberties and Proprieties of the People of the Nation, as their Brother Judges did lately to the King, in the caſe of Ship-Money:) And then woe, and woe to the People, to be brought back again to that Faith, That Ignorance is the Mother of Devotion or Obedience.*

Heart; that ſo the Heart and Hand together might beteken Innocency. And therefore hold up your Hand, that thereby you may declare you have a pure innocent Heart: If you refuſe to do this, you do wilfully deprive your ſelf of the Benefit of one of the main Proceedings and Cuſtoms of the Laws of *England*. Now for this, do what you think fit.

Lieut. Col. *Lilburne*. Well, then, Sir, (applying himſelf to Mr. *Keble*, as the Preſident of the Court) I take your Explanation of it, and lay hold of that.

Ld *Keble*. You muſt anſwer poſitively, Sir, for you have had Advice enough, yea, good Advice if you embrace it, it is good Advice to you; but the Court doth not expect an Anſwer from you to what hath been already ſaid to you, but they expect that without any more diſpute you apply yourſelf to anſwer according to that which you are adviſed unto. Do it if you will, and if you will but anſwer to it ſo as hath been declared to you, it ſhall ſuffice; but ſo far you muſt go to this, as to declare whether you be the Man or no before you go away. And therefore diſpute it no more, leſt you deprive yourſelf of the Benefit of the Law.

Lieut. Col. *Lilburne*. Well then, Sir, according to your own Explanation, I ſay my Name is *John Lilburne*, Son to Mr. *Richard Lilburne* of the County of *Durham*, a Freeman of the City of *London*, and ſometimes Lieutenant-Colonel in the Parliament's Army: and if you will not believe that I am the Man, my Guardian the Lieutenant of the Tower there (pointing to him) will aver that I am.

Ld *Keble*. So then you are the Man.

Judge *Jermin*. Ask him again: hearken Mr. *Lilburne*, hearken what he ſays, and uſe that Moderation, and Temper, and Diſcretion that you have promiſed.

Lieut. Col. *Lilburne*. One word more, and I ſhall have done; and that is by the Law of *England*—— But being interrupted, he cry'd out, With your favour, Sir, I will come to the main thing; I hope you do not go about to circumvent me, therefore hear me I beſeech you.

Ld *Keble*. Hear the Court, Mr. *Lilburne*, there ſhall be nothing of Circumvention or Interruption: but as you have profeſſed to be a rational and underſtanding Man in Words, let your Deeds ſo declare you.

Lieut. Col. *Lilburne*. Sir, I beſeech you do not ſurprize me with Punctilios or Niceties, which are hard things for me to loſe my Life upon. I tell you again, my Name is *John Lilburne*, Son to Mr. *Richard Lilburne*.

Ld *Keble*. Talk not of Punctilios with us, nor talk not of Judges made by the Laws, you ſhall not want Law: but if you talk of Punctilios here in this Room, we will ſtop that Language.

Lieut. Col. *Lilburne*. Truly, Sir, I am upon my Life, and ſhall my Ignorance of the Formalities of the Law in the practick part thereof deſtroy me? God forbid! Therefore give me but leave to ſpeak for my Life, or elſe knock me on the head, and murder me where I ſtand, which is more righteous and juſt than to do it by pretence of Juſtice. Sir, I know that Mr. *Bradſhaw* himſelf, Preſident to the High Court of Juſtice, as it was called, gave Duke *Hamilton* (a *hoſtile Enemy*) leave to ſpeak to the Punctilios of the Law; yea, and to my knowledge again and again made an Engagement unto him and the reſt try'd with him, that the Court nor he would not, by virtue of their Ignorance of the Niceties or Formalities of the Law, take advantage againſt them to deſtroy them; but did declare again and again, that all Advantages of Formalities ſhould be totally laid aſide, and not in the leaſt made uſe of againſt them to their prejudice. And I hope you will grant me, that have often been in Arms for you, but never againſt you, as much Favour and Privilege as was granted to Duke *Hamilton*, never of your Party, but a General of a numerous Army againſt you.

Ld *Keble*. Take it as you will, we have had patience with you, and you muſt and ſhall have patience with us: we will paſs over all that is bypaſt, but take heed by your ſurly Croſſneſs you give not advantage in the face of the Court, to paſs Sentence againſt you, without any further Proceedings, or Proof of your Actions, but what our own Eyes ſee. The Ceremony is for your advantage more than you are aware of: but if you confeſs yourſelf to be Mr. *John Lilburne*, we have done as to that.

Judge *Jermin*. Mr. *Lilburne*, at the beginning you talked of Moderation, and that you would carry yourſelf with Rationality, which methinks in your Actions you fall ſhort of; for you have ſaid, that Mr. Attorney-General was a very unequal Proſecutor of you, becauſe you ſay he was the (*a*) Creator of our Commiſſion. Pray hear me, I heard you; and do not you think to put Affronts upon us undeſerv'd. And as for that Man that you call Mr. *Bradſhaw*, I tell you again he is Lord Preſident of the Council of State of the Commonwealth of *England*; and why you ſhould ſo much neglect him, doth not ſo much ſavour of Rationality and Moderation, as you pretend yourſelf to be poſſeſſed with.

Ld *Keble*. Come, will you read the Indictment?

Mr. *Broughton* reads. *Hold up your Hand*, John Lilburne, *and hearken to your Charge.*

Thou ſtandeſt indicted of High Treaſon by the Name of John Lilburne, *late of* London *Gent. for that thou as a falſe Traytor, not having the Fear of God before thy eyes, but being ſtirred up and moved by the Inſtigation of the Devil*, &c. as it followeth *verbatim*, in the ſecond Day's Proceedings, to which the Reader is referred.

Mr. *Broughton*. What ſay'ſt thou, *John Lilburne*, art thou guilty of this Treaſon whereof thou ſtandeſt indicted, or not guilty?

Lieut. Col. *Lilburne*. Gentlemen, I require the Favour that I may be heard, and I ſhall deſire nothing but that which may ſtand with Reaſon and Juſtice.

Ld *Keble*. Mr. *Lilburne*, we ſhall deal with you according to Reaſon and Juſtice, and after ſuch a manner as you yourſelf ſhall judge rational and right.

Lieut. Col. *Lilburne*. Gentlemen, I ſhall ſpeak but a few words; I beſeech you hear me, for it is upon my Life.

Ld *Keble*. You ſay you will deal rationally in thoſe ways; that is to be expected from you the firſt in Reaſon, is to anſwer, and plead; and before you ſo do, you cannot be heard.

(*a*) *Mr.* Lilburne *here endeavoured to ſpeak, and ſhew the Judge his Miſtake; for he did not ſay that Mr.* Prideaux *was the Creator of the Commiſſion, but that he was one of the Creators of all the Judges, and thereby was Judge of his Judges, and in that regard he was no competent Accuſer or Proſecutor: but they would not ſuffer him to ſpeak, but cry'd out,* Hear the Court; *which thing alſo they frequently did afterwards.*

Lieut.

Lieut. Col. *Lilburne.* Give me leave to ſpeak, and I ſhall not ſpeak ſix Lines: (which with much ſtruggling being granted, Mr. *Lilburne* went on and ſaid to this effect) Then Sir, thus, By the Laws of *England* I am not to anſwer to Queſtions againſt or concerning myſelf.

Ld *Keble.* You ſhall not be compel'd.

Another Judge. Mr. *Lilburne,* is this to anſwer againſt yourſelf, to ſay you are not guilty? By the Laws of the Land you are to plead to your Charge, and it is no accuſing of yourſelf to ſay Guilty, or Not Guilty.

Lieut. Col. *Lilburne.* Sir, by your favour——

Judge *Keble.* To anſwer that you are Not Guilty, is no great matter, nor definite in Law.

Lieut. Col. *Lilburne.* By the Law of *England* I am to be tried by a Rule, but I do not know, by the Rules of Law, what Benefit, in reference to my Exception againſt the Illegality of my Indictment, I may deprive myſelf of, in caſe I ſhould anſwer before I except.

Ld *Keble.* The Law is plain, that you are poſitively to anſwer Guilty or Not Guilty, which you pleaſe.

Lieut. Col. *Lilburne.* Sir, by the Petition of Right, I am not to anſwer to any Queſtions concerning myſelf; therefore I humbly intreat you to afford me the Privileges of the Laws of *England,* and I will return a poſitive Anſwer to it; if you will but pleaſe to allow me Counſel, that I may conſult with them, for I am ignorant of the Formalities of Law in the practick part of it, altho I here declare I own the good old Laws of *England,* and a legal Jury of twelve Men, yea, and a Tryal by a Jury of legal Men. And I do humbly crave, Sir, a Copy of the Indictment, or ſo much of it as I may ground my Plea upon it; and reaſonable Time to conſult with my Counſel, altho it be but eight or nine days.

Ld *Keble.* You ſpeak well, but you muſt do well, 'tis that we come for: the Rationableneſs of it is this, that you ſhould ſhortly anſwer, Sir, to that Queſtion, and in a rational legal way. When you have anſwered it, you ſhall have liberty to make your Defence, to maintain that you ſay; but this that we now ſpeak of, is a thing in your own Breaſt, in your own Knowledge, whether you be guilty of this that is laid to your charge, or no: And if you be clear, you cannot wrong yourſelf, nor your Conſcience; for in ſaying Not Guilty, you know better what you ſay than any other doth.

Lieut. Col. *Lilburne.* Sir, I am ignorant of the Formalities of the Law, having no Books in *Engliſh* wherein I can read them; and as for other Tongues, I underſtand none: and therefore for you to take away my Life for my Ignorance, when the practick Part of the Law, or the Formalities thereof, is lock'd up in ſtrange Language, that it is impoſſible for me to read or underſtand, is extreme hard.

It is true, in thoſe *Engliſh* plain Laws which I have read, I find ſomething ſpoken of it; but muſt aver, that I find there is a great deal of Nicety and Danger in locking a Man up to ſingle Formalities, in anſwering Guilty, or Not Guilty: and therefore I beſeech to aſſign me Counſel, to inform my Ignorance, and give me but leave to conſult with my Counſel, and I will return you an Anſwer according to your deſire, without any Demur, as ſoon as it is poſſible for me to know what grounds I go upon.

Mr. *Broughton. John Lilburne,* what ſay'ſt thou, art thou guilty of the Treaſon laid unto thy charge, or art thou not guilty?

Lieut. Col. *Lilburne.* But under favour thus, for you to come to enſnare and entrap me with unknown Niceties and Formalities, that are lock'd up in the *French* and *Latin* Tongue, and cannot be read in *Engliſh* Books, they being not expreſſed in any Law of the Kingdom, publiſhed in our own *Engliſh* Tongue: it is not fair play according to the Law of *England,* plainly in *Engliſh* expreſſed in the Petition of Right, and other the good old Statute Laws of the Land. Therefore I again humbly deſire to have Counſel aſſigned to me, to conſult with, what theſe Formalities in Law ſignify; ſo that I may not throw away my Life ignorantly upon Forms.

Ld *Keble.* Mr. *Lilburne,* we cannot grant you that Favour, it is not conſiſtent to the Law, whatſoever you ſay to the contrary.

Lieut. Col. *Lilburne.* I hope you will not go about to enſnare me, and take away my Life for Punctilios.

Another Judge. Well then, you will not plead?

Lieut. Col. *Lilburne.* Yes, if I may be allowed that which I conceive to be my Birthright and Privilege, to conſult with Counſel; or that you pleaſe to make the ſame Engagement to me that Mr. *Bradſhaw,* as the Preſident of the High Court of Juſtice, made to Duke *Hamilton*; which was, that the Court would take no advantage at all of his Ignorance in the Niceties and Formalities of the Law in his pleading: let me but enjoy this Engagement from you, and I will plead.

Ld *Keble.* You ſhall have that which is according to the Law; therefore, Mr. *Lilburne,* I adviſe you for to plead, and you ſhall have fair play, and no advantage taken againſt you by your Ignorance of the Formality of the Law.

Lieut. Col. *Lilburne.* Well then, Sir, upon that Engagement, and becauſe I ſee you are ſo poſitive in the thing——this is my Anſwer; That I am not guilty of any of the Treaſons in Manner and Form, as they are there laid down in that Indictment, (pointing to it.) And therefore now, Sir, having pleaded, I crave the Liberty of *England,* that you will aſſign me Counſel.

Mr. *Broughton.* By whom wilt thou be tried?

Lieut. Col. *Lilburne.* By the known Laws of *England,* and a legal Jury of my Equals, conſtituted according to Law.

Mr. *Broughton.* By whom wilt thou be tried?

Lieut. Col. *Lilburne.* By the known Laws of *England*; I mean, by the Liberties and Privileges of the Laws of *England,* and a Jury of my Equals legally choſen. And now, Sir, I again deſire Counſel to be aſſigned me, to conſult with in point of Law, that ſo I may not deſtroy myſelf through my Ignorance. This is but the ſame Privilege that was granted at *Oxford* unto me, and the reſt of my Fellow-Priſoners arraigned with me.

One of the Clerks. You muſt ſay, by God and your Country; that's the Form of the Law.

Lieut. Col. *Lilburne.* Why muſt I ſay ſo?

Another Judge. This is the Form and Law of the Land: Will you plead, Mr. *Lilburne,* according to the Laws of *England?*

Lieut. Col. *Lilburne.* Truly I never read it, Sir, in the Laws of *England,* what it is to plead in this nature.

Ld *Keble.* You ſay you will be tried by the Laws of the Land, then it is by the Country, and ſo you may plead, and do yourſelf no harm; for by the Country is meant a Jury of your Equals.

Lieut.

Lieut. Col. *Lilburne.* Sir, I am doubtful of my Ignorance in the Laws, yet I will return you an Anſwer, you making good your already engaged Promiſes, that you will take no advantage againſt me, if through my Ignorance, and your Importunity, I plead in any Form, that in ſtrictneſs of acceptation may deprive me of any real Benefit the Law will afford me.

Judge *Thorp.* Mr. *Lilburne*, you will be tried by the Law, and by the Rules thereof: when you ſay ſo, you do really declare it to be by your Country. So that the true Signification of being tried by the Law, is the ſame thing in ſubſtance with being tried by the Rules of the Law.

Lieut. Col. *Lilburne.* Then I hope my Anſwer is clear and fair, Sir.

Judge *Jermin.* The Formality is ſhortly this, to be tried by God and your Country; no more is meant by it but thus, by God, as God is every where preſent, yea in all Courts of Juſtice, and ſits and knows all things that are acted, ſaid, and done: The other part of it, by your Country, that is, by your Country or Neighbourhood; the Country is called *Patria*, becauſe your Neighbour and your Equals, which you are willing to put yourſelf upon the Tryal of. By force of that word, the Country, a Jury of the Neighbourhood for Tryal of you are ſummoned. Now do what you will.

Lieut. Col. *Lilburne.* Sir, under your favour thus; then in the negative I ſay, God is not locally or corporally here preſent to try me, or paſs upon me; but affirmative, I return this Anſwer, That I deſire to be tried in the preſence of that God, that by his omnipotent Power is preſent every where, and beholds all the Actions that are done upon the Earth, and ſees and knows whether any of your Hearts be poſſeſſed with a premeditated Malice againſt me, or whether any of you come with ſo much Forethought of Malice againſt me, as that in your hearts you intend to do the utmoſt you can, right or wrong, to deſtroy me: and before this all-ſeeing God I deſire to be tried, and by my Country, that is to ſay, by a Jury of my Equals, according to the good old Laws of the Land.

Juſtice *Thorp.* You have ſpoken very well.

Ld *Keble.* You have done like an *Engliſhman* ſo far as you have gone; and I do aſſure, that in any Formality (as you expreſs or call them) there ſhall be no advantage againſt you, if you miſtake in them. Now what you have the next to think upon, is your Jury of your Countrymen, or Neighbours of your Equals; and I promiſe you we will take care of that, that they ſhall be good and lawful Men of *England.*

Lieut. Col. *Lilburne.* I thank you, Sir, but under your favour thus: Your Indictment is extreme long, and of abundance of Particulars, it is impoſſible that my Memory, or of any one Man's in *England*, can contain it, or carry it in our heads; and therefore that I may make my Defence ſo as becomes a rational *Engliſhman*, I earneſtly intreat you, that now you will be pleaſed to give me a Copy of my Indictment, or ſo much of it, as you expect a Plea from me upon, and an Anſwer unto, and Counſel aſſigned me, and Time to debate with my Counſel, and Subpœnas for Witneſſes.

Ld *Keble.* For Counſel, you need none, Mr. *Lilburne*; for that Not Guilty which you have pleaded, is that which lies in your own Breaſt, which reſts in your own Counſel, and you know how it is, and can beſt plead that yourſelf: Counſel lies in Matter of Law, not of Fact.

Lieut. Col. *Lilburne.* Under favour I deſire Counſel for Matter of Law, and not for Matter of Fact. My Indictment I believe in Law, is all Matter of Law, and I have ſomething to ſay to it in Law.

Ld *Keble.* If Matter of Law do ariſe upon the Proof of the Fact, you ſhall know it, and then ſhall have Counſel aſſigned to you.

Lieut. Col. *Lilburne.* I myſelf have before this been upon ſome Tryals, and never before this was denied Counſel, no nor ſo much as ever diſputed whether I ſhould have it or no. I alſo was at a great part of the Earl of *Strafford*'s Tryal, who was ſuppoſed a moſt notorious Traytor; and yet if my Obſervation and Memory do not exceedingly fail me, he had Counſel aſſigned him at his firſt deſire, and they were continually with him, not only at the Bar when he was there, but alſo had continual and free Acceſs to him in Priſon.

Beſides, Sir, I being accuſed of Treaſon in ſuch an extraordinary manner, and being but an ordinary Man myſelf; no eminent experienced Lawyer dare well meddle with my Buſineſs, no nor ſo much as beſtow a Viſit upon me, but he runs a hazard of being undone. And truly my Eſtate is in an extraordinary manner taken from me, ſo that I have not Money to ſend Meſſengers up and down privately to their Chambers: and therefore that I may be freely and allowedly able, without danger of Ruin to any Man that ſhall adviſe me, I ſhall humbly crave as my Right by Law, and I am ſure by common Equity and Juſtice, that I may have Counſel and Sollicitors alſo aſſigned me.

Ld *Keble.* Mr. *Lilburne*, ſpeak rationally for yourſelf; when there comes a Matter of Law, that you are able to ſay, this is for Matter of Law, ariſing from Matter of Fact, that hath been proved or endeavoured to be proved, when you come beyond that, you ſhall have it as willingly as you can deſire: and withal, this that you ſay concerning your Memory, which you ſay is not able to carry away, or contain the Particulars of this Indictment; the Indictment, ſo much as will charge your Memory, will be very ſhort: for it is the publiſhing of thoſe Books charged upon you in the Indictment, that will be the Matter which will ſtick, and that Matter will be very ſhort, which we muſt prove againſt you, which is only Matter of Fact, and not of Law. And therefore for Fact of Treaſon you can be allowed no Counſel, but muſt plead it yourſelf.

Lieut. Col. *Lilburne.* Sir, under favour, you expect from me Impoſſibilities; for ſeeing I have been ſeven Months in Priſon for nothing, and could not in the leaſt know perfectly what would be laid to my charge, nor after what manner I ſhould be proceeded againſt, (conſidering all Proceedings againſt me hithertoward have been ſo abſolutely arbitrary, that it was impoſſible for me in Law exactly to come provided:) and therefore ſeeing I am now here, and you pretend to proceed with me according to the due Courſe of Law, and ſeeing the Form of the Proceedings in this manner with me is not expreſly and exactly declared in Print in *Engliſh*, which Tongue only I can read and underſtand; and ſeeing by the Law, which is in *Engliſh*, which I have read, and clearly underſtand, that there are a great many Snares, and a great many Niceties in the Practick, that are formal Proceedings of the Law; and ſeeing I know not certainly, whether if I proceed to Matter of Proof, before in Law I make my Exceptions againſt your Indictment, as to Matter, Time, and Place, I be not in Law deprived of that Benefit, which I prin-

Principally aim at for the preſervation of my Life; therefore I beſeech and moſt earneſtly intreat you, to aſſign me Counſel to conſult with, before I be too far inſnared: and if you will not do it, and give me ſome reaſonable time to prepare my Plea and Defence, then order me to be knock'd on the head immediately in the place where I ſtand, without any further Tryal; for I muſt needs be deſtroyed, if you deny me all the Means of my Preſervation.

Judge *Jermin.* Mr. *Lilburne*, it were reaſonable to give you ſatisfaction, if you would receive it. You ſay you were preſent at my Lord of *Strafford*'s Tryal, and you ſay he had Counſel aſſigned him, not only to ſtand by him at the Bar, but to repair to Priſon to inſtruct and adviſe: but that was not a Tryal in ſuch a way as this is; it was a Tryal by way of Impeachment before the Peers aſſembled in Parliament, and his Attainder was made up into an Act of Parliament; but that is not a Tryal at the Common Law *per Pares*, which is that which yourſelf have deſired, a Tryal by lawful Men, according to the Liberties of the Laws of *England*. After your Anſwer to your firſt Queſtion, that is to ſay, whether you be guilty or not guilty of the things whereof you are accuſed, no Counſel in the world can follow, till the Fact be proved, and Matter of Law do ariſe thereupon. So that the firſt thing that muſt be done, the Matter of Fact muſt be proved againſt you; and then if it ſhall appear thereupon to the Court, that Matter of Law doth ariſe, and you do expect Counſel, we muſt and will perform it; the Court are of your Counſel ſo far as to Fact. And then in that caſe, that Law ariſe thereupon, you may and ought to have other Counſel aſſigned; and do not you doubt but the Court will be as careful of you, as you can be of yourſelf, and allow you more Favour, it may be, than your Friends do expect.

Lieut. Col. *Lilburne.* Under your favour, and by your good-liking; I was once arraigned at *Oxford* for my Life, upon the Matter of Treaſon, for levying War in *Oxfordſhire* againſt the King, as their Indictment then ſaid; and my Arraignment was by virtue of a Commiſſion of *Oyer* and *Terminer*, that was (and in Law I am ſure of it) as legal and as juſt as yours is: and my Lord Chief Juſtice *Heath*, the chief Commiſſioner or Preſident, who was in the eye of the Law as legal a Judge as any of you, and yet he——

Ld *Keble.* Mr. *Lilburne*, we do remember it.

Lieut. Col. *Lilburne.* I beſeech you give me leave to ſpeak for myſelf, and to go on, for my Life lies upon it.

Ld *Keble.* Hear me one word, and you ſhall have two. This that you did ſpeak but even now, do not you think that we have ſuch bad Memories, as that we have already forgot it; your Life is by Law as dear as our Lives, and our Souls are at ſtake if we do you any wrong.

Lieut. Col. *Lilburne.* I wiſh you may be ſenſible of that, Sir.

Judge *Jermin.* Mr. *Lilburne*, you need not to ſay ſo, our Souls are upon it, and we are to ſtand or fall by Juſtice and Righteouſneſs as well as yourſelf is.

Lieut. Col. *Lilburne.* I ſay, my Lord *Heath* and the Court at *Oxford* proffered me Counſel before any one Witneſs was produced to my face, or any Matter of Fact came to the Proof; yea, and gave me liberty to make my Exceptions to the Inſufficiency of the Indictment, which was very ſhort in compariſon of yours. I crave the ſame Privilege from you (the Nation's pretended Friends) that I found at *Oxford* amongſt its declared pretended Enemies, againſt whom in ſeveral Battels I had fought. And I hope you that pretend to be the Preſervators of the Liberties of *England*, will not be more cruel and unrighteous than the declared Deſtroyers of them. If you will not allow me Counſel as I had there, I have no more to ſay to you; you may murder me if you pleaſe.

Judge *Jermin.* You were pleaſed to mention ſome Precedents of thoſe that have been accuſed of High Treaſon, that have had Counſel aſſigned to them; and for one you mention that of my Lord *Strafford*, whoſe Tryal I told you was Parliamentary before the Houſe of Peers, upon the Impeachment of the Commons of *England* in Parliament aſſembled, and ſo it went on in a Parliamentary way: This Proceeding is in an ordinary Courſe of the ordinary *quondam* Court of Juſtice, according to the Common Law. Now for my Lord of *Strafford*, give me leave to obſerve this; he had no Counſel aſſigned him until ſuch time as Queſtions of the Law did ariſe, which required Counſel, and then he had Counſel aſſigned him, but not before: for that my Lord doth not ſay, that you ſhall have no Counſel, but that you ſhall have that which the Law allows. And as for that which you ſpeak of Counſel at *Oxford*, it could not be. But when upon the Proof of Matter of Fact, it appears to the Court that there is any Queſtion or Matter of Law ariſing upon the Fact; and when it doth ſo appear unto us, then you ſhall have Counſel for that. But (I beſeech you) hear me on: You are now come before us, acccording to the Common Law, to be tried by your Country; there is now nothing in queſtion, but whether that Matter, that Thing, thoſe Words contained in the Indictment read to you, be true, yea or no; that is, whether they be done or no: for we will not give Counſel to plead to the Matter of Fact contained in your own Books, which you remember very well.

Lieut. Col. *Lilburne.* Thoſe Books ſuppoſed mine: pray let me have fair play, and not be wound and skrew'd up into Hazards and Snares.

Ld *Keble.* If they be not yours upon good grounds proved before you, you are in no danger; and if upon the Proofs of the Words and Deeds done, there do appear Matter of Law, you muſt and ſhall have Counſel: ſtay till that be done. In the mean time the Court will take care that a Jury ſhall be returned, of honeſt and ſufficient legal Men to judge of the Proofs.

Lieut. Col. *Lilburne.* There was arraigned with me at *Oxford* Colonel *Vivers* of *Banbury* now alive, and Captain *Catesby* who is dead: I will bring Colonel *Vivers* to depoſe here upon his Oath, That my Lord *Heath*, and the reſt of the Commiſſioners of *Oyer* and *Terminer*, proffered me Counſel, and allowed me and him Counſel before ever ſo much as any Witneſſes were produced, to prove the leaſt Matter of Fact. And if you will not be ſo juſt towards me as the Cavaliers were, and allow me Counſel as they did, I have no more to ſay, but reſolve upon this ſcore to ſtand, and here to die upon the Principles of an *Engliſhman*. If you will not be ſo juſt as the Cavaliers were, with whom you and the Parliament ſet us together by the ears to fight with, pretendedly for their Injuſtice, let God and all righteous Men judge betwixt you and me.

Judge *Nichols.* If you will not be led by the Proceedings of Law, it will be worſe for you; and you are to know this is not *Oxford.*

Lieut.

Lieut. Col. *Lilburne*. Sir, by what better Rules of the Law can I be led by, than thoſe that I have before my eyes? I am ſure at *Oxford*, as my Right by Law, I was, before any Fact was proved, proffered Counſel by my Judges, which were my Lord *Heath*, and Mr. *Gardiner*, now Sir *Thomas Gardiner*, who is now in *London*: if you pleaſe I will produce him to this Bar, to juſtify it upon his Oath, That the Lord Chief Juſtice *Heath* in his preſence proffered me Counſel upon my Arraignment for Treaſon there, as my Right by the Privileges of the Laws of *England*, before the Fact came to be proved; yea, and alſo gave me liberty to aſſign the Errors of my Indictment. He is now in *London*, and I will produce him here at this Bar (if you pleaſe) to juſtify what I ſay, if you will give me time, and enable me with Ability to ſummon him in.

Judge *Nichols*. Mr. *Lilburne*, whether Mr. *Gardiner* will juſtify it or no, it is nothing to us; for we are not to walk by *Oxford* Precedents, but by the Rules of the Law: and the Law will afford you no Counſel, but in Points of Law ariſing upon Proof of the Fact (z).

L. Col. *Lilb*. Under favour, thus: I conceive the Precedents at *Oxford*, ſo far as they are righteous, are fit for your Imitation; and whether it be a righteous thing for you, when I am tryed for Treaſon before you, to be more cruel towards me, who have fought for you, than the Cavaliers at *Oxford* in the like Caſe were, againſt whom I fought: And I muſt tell you, I further conceived it the moſt unequal and unjuſt thing in the World for me to have to do, upon the Tryal of my Life, with all the Judges of the Land (who are all engaged Men) that have had above ſix Months time to beat their Brains together, with the Aſſiſtance of divers of my Adverſaries, who are Parliament-Men, that were the Creators of their Power, and for one of them to be my Proſecutor; and in this ſo extraordinary Caſe, for me to be denied to conſult with Counſel; I tell you, Sir, it is moſt unjuſt, and the moſt unrighteous thing, in my Apprehenſion, that I ever heard of, or ſaw in all my Life. O Lord! was there ever ſuch a Pack of unjuſt and unrighteous Judges in the World? Sir, in plain *Engliſh* let me tell you, if I had thought you would have bound me up to a ſingle Plea, and not have given me in my Plea the juſt Latitude of Law, Equity and Reaſon, but hold me thus cloſe to your ſingle Formalities, contrary to your Promiſes, I would rather have died in this very Court before I would have pleaded one Word unto you; for now you go about, by my own Ignorance and Folly, to make my ſelf guilty of taking away my own Life: and therefore unleſs you will permit me Counſel, upon this Lock I am reſolved to die.

Ld *Keble*. This is not the rational way you ſaid you would go in.

L. Col. *Lilb*. Sir, my Life is before you, you may murder me, and take away my Blood, if you pleaſe.

Ld *Keble*. I will not be out-voiced by you, our Lives and our Souls are upon it, therefore you ſhall have Equity and Juſtice; yea, ſuch as you deſire your ſelf: but you are now going to fly into Extravagancies and Heats, which will manifeſt the Rancour of the Diſtemper'dneſs and Invenom'dneſs of Spirit which is within you. And beſides, if we ſhould enter into it, we might aggravate your Crimes by your own Words at the Bar. Take heed of it, that you give not advantage againſt your ſelf to your own Ruine.

L. Col. *Lilb*. Sir, I am in no Heats, I am but with Earneſtneſs pleading for my Life, when you deny me all the juſt Means of my Preſervation, which is my Right and Due by your own Law.

Judge *Thorp*. Mr. *Lilburne*, I deſire to correct a Miſtake of yours in the Law: You were pleaſed to condemn it as unjuſt; for the Attorney-General's ſpeaking with me when your Indictment was a reading, you are to know, he is the Proſecutor for the State here againſt you; and he muſt confer with us upon ſeveral Occaſions, and we with him, and this is Law.

L. Col. *Lilb*. Not upon the Bench, Sir, by your favour, unleſs it be openly, audibly and avowedly, and not in any clandeſtine and whiſpering way: And by your favour, for all you are a Judge, this is Law, or elſe Sir *Edward Coke* in his (a) *3d Part Inſt. cap. High Treaſon* or *Petty-Treaſon*, hath publiſhed Falſhoods, and the Parliament hath licenſed them; for their Stamp in a ſpecial manner is to that Book.

Judge *Thorp*. Sir *Edward Coke* is Law, and he ſays, The Attorney-General, or any other Proſecutor may ſpeak with us in open Court, to inform us about the Buſineſs before us in open Court.

L. Col. *Lilb*. Not in hugger-mugger, privately or whiſperingly.

Judge *Thorp*. I tell you, Sir, the Attorney-General may talk with any in the Court, by Law, as he did with me.

L. Col. *Lilb*. I tell you, Sir, it is unjuſt, and not warrantable by Law, for him to talk with the Court, or any of the Judges thereof in my abſence, or in hugger-mugger, or by private Whiſperings.

Ld *Keble*. No, Sir, it is no hugger-mugger for him to do as he did; ſpare your Words, and burſt not out into Paſſion; for thereby you will declare your ſelf to be within the compaſs of your Indictment, without any further Proof: Look to it, that you behave your ſelf according to the Bounds of Reaſon and Law, and hear me; for we muſt cauſe the Jury to be returned.

L. Col. *Lilb*. Sir, under favour, I crave but one Word more, hear me out: I know very well, and I read in your own Law-Books, ſuch a Prerogative as that in Caſes of Treaſon no Counſel ſhall plead againſt the King, hath been ſometime challenged to be the King's Right by Law; but let me tell you, it was an uſurp'd Prerogative of the late King, with all other arbitrary Prerogatives and unjuſt Uſurpations upon the People's Rights and Freedoms, which has been pretended to be taken away with him. And, Sir, can it be juſt to allow me Counſel to help me to plead for my Eſtate, the leſſer; and to deny me the help of Counſel to enable me to plead for my Life, the greater? Nay, Sir, can it be juſt in you Judges, to take up ſeven Years time in ending ſome Suits of Law for a little Money of Land, and deny me

(z) *What a lying Judge is this Mr.* Nichols! *whenas he himſelf with Mr.* John Maynard *the Lawyer, was aſſigned by the Preſident, Lord Chief Baron* Wilde, *to be of the Counſel with Major* Rolfe *upon his Deſire; and that before ever the Grand Jury found his Indictment of Treaſon, as is fully declared in the next day's following Plea of Mr.* Lilburne.

(a) *Whoſe Words there,* fol. 29, 30. *are ſo plain and expreſs to prove what Mr.* Lilburne *ſaid to be good Law, as nothing in the World can be plainer. See alſo to the ſame purpoſe, the* ſecond Part Inſt. fol. 49, 103, 104.

a few Days to consider what to plead for my Life? Sir, all these Pretences of yours, were but all the Prerogatives of the King's Will, to destroy the poor ignorant and harmless People by, which undoubtedly died with him; or else only the Name or Title is gone with him, but not the Power or hurtful Tyranny or Prerogative in the least. Therefore seeing all such pretended and hurtful Prerogatives are pretended to be taken away with the King, by those that took away his Life, I earnestly desire I may be assigned Counsel to consult with, knowing now especially no Pretence why I should be denied that Benefit and Privilege of the Law, of the just and equitable Law of *England*, having put my self upon a Tryal according to the Privileges thereof. And it was declared to me at *Oxford*, upon the Tryal of my Life there, after I was taken Prisoner, fighting against the King and his Party, even almost to Handy-gripes, and to the Sword Point, and to the But-end of our Muskets, being in Person one of that little Number that for many Hours together at *Brentford* fought with the King's whole Army, where in the manner, without any Articles or Composition, I was taken a Prisoner, and immediately thereupon arraigned at *Oxford*; where notwithstanding all this, it was declared to me by Judge *Heath* to be my Right, by the Law of *England*, to have Counsel assigned me to help me in point of Law, and I had it granted. I confess he is my best Authority that I have, and I am sure he was a Judge of the Law, or else I had never pleaded to him; and he was upon his Oath to do Justice and Right; and he was an able and understanding Lawyer, and yet did allow me (an hostile Enemy) Counsel to help me, as my Right by Law, before ever any Proof to Matter of Fact was produced: and I beg but the same legal Privilege from you, from whom I have more Cause to expect it.

Ld *Keble*. Were you there indicted for Treason?

L. Col. *Lilb*. Yes that I was, and for the highest of Treasons, by the Letter of the Law, for actual levying War against the King.

Judge *Thorp*. And yet, for all that, you know it was no Treason, and so did he too; for you know that you had committed no Treason at all in obeying the Parliament's Command: for what you have done, was done by the Parliament's special Authority and Command; and you had your Commission to justify you in your hostile Actions: and he knew it well enough your Act was no Treason, though he did offer you Counsel, or else he durst not allow you Counsel.

L. Col. *Lilb*. I had nothing to justify me in that Act, but the equitable Sense of the Law, the Letter of it being point-blank against me, and on the Cavaliers side, by which if they had prevail'd, they might have hanged both you and me for levying War against the King, notwithstanding our Parliament Commissions: and this I know, Sir, you know to be Law in the Letter or Punctilio's of it.

Judge *Thorp*. It was no Treason in you, and he that assigned you Counsel, knew it was no Treason; and this Arraignment of you was as illegal as his assigning you Counsel.

L. Col. *Lilb*. Sir, by your favour he was a Judge of the Law by legal Authority, being made by the King, in whom, by Law, that Power was invested; and he looked upon himself as a legal Judge, and so did I too: and as a legal Judge he arraigned me for doing that Act, that by the express Letter of the Law was Treason; and as a legal and honest Judge, according to his Duty in Law, he allowed me Counsel.

Judge *Jermin*. For that matter that you talk of, they knew it was no Treason, and therefore gave you more Privileges than was their right by Law, very well knowing, that whatsoever was done to any of you that did fight for the Laws, Religion and Liberties of their Country, there might be the like done to others that were Prisoners in the Parliament's Power: and this was the truth of it, and you know it very well; and therefore it is nothing to us, nor in Law his Willingness.

L. Col. *Lilb*. Upon my Letters, after the first Day of my Tryal, that Declaration of *Lex Talionis* was made, as clearly appears by the Words and Date of it now in Print, which the Reader may peruse in the first Part of the Parliament's Declarations, *p*. 802, 803.

Judge *Thorp*. I wonder they did not proceed in the Prosecution of the Indictment, and find you guilty of Treason, and so to Execution.

L. Col. *Lilb*. Under your favour, thus; I appear'd at the Bar, I pleaded to my Indictment Not guilty, I made Exceptions against my Indictment; and my self, and the two other Gentlemen arraigned with me, had Counsel assigned us as our Right by Law: and the Judges most fairly and rationally further told us, Because we will not surprize you, we will give you a Week's time to consider (with what Counsel you please in *Oxford* to chuse to come to you) what to plead for your Lives; and whatsoever other Privileges you can claim by the Liberties of the Law of *England*, you shall enjoy them to the utmost. Upon which Promise I spoke in open Court to the Judge, shewing him the Irons upon my Hands, in which I was arraigned, and told him; My Lord, by the Laws of *England*, no Prisoner for any Crime whatsoever, that behaves himself civilly and peaceably in his Imprisonment, ought to be put in Irons, or to any other Pain or Torment before he be legally convicted; and therefore I desire, as my Right by Law, that my Irons may be taken off. And I said further, My Lord, I am shut up a close Prisoner in my Chamber, denied the use of Pen, Ink and Paper, which is contrary unto Law, especially in the time of my Tryal. Why, says he, you shall be released from your Irons, from your close Imprisonment, and have the use of Pen, Ink and Paper: And Capt. *Lilburne*, I tell you, you shall enjoy whatsoever other Privilege you can challenge as your Right by Law; for the Law of *England* is a Law of Mercy, and I hope we shall appear just Judges of it: And therefore you shall freely have either Lawyer, or whom you will in *Oxford*, to come unto you to help you and advise you. And, says he, because you shall see that Law and Justice is of the King's side against the Parliament, and because they shall have no Cause to calumniate us at *Westminster*, and to say we are unrighteous and unjust Judges, that surprize you, and thereby go about to murder you, the Court is freely willing to give you a Week's time, to consider with your Counsel in the mean time what this Day Sevennight to plead for your Life. In which time, being freed of my Irons, and of my close Imprisonment, and enjoying Pen, Ink, and Paper at my Pleasure, by special Order from the other two Gentlemen, I writ a Letter to my Wife, and in it inclosed another to your Speaker, and another to young Sir *Henry Vane*, then my familiar Acquaintance;

tance; all which I ſent in poſt-haſte away to my Wife by the Hands of Capt. *Primroſe*'s Wife, which Capt. *Primroſe* was Priſoner there; and his Wife, who brought up the Letter to my Wife, is now in *London*. Which Letter my Wife delivered to the Speaker, *&c.* and by her importunate Sollicitation procured the Declaration of *Lex Talionis*; the Subſtance of which, in a Letter from Mr. Speaker, my Wife brought down to *Oxford*, and delivered to the Lord *Heath*'s own Hands upon the Sunday after the firſt Day of our Arraignment. And the third Day before we were to appear again, my Wife arrived at *Oxford* with the Speaker's Letter, which ſhe delivered to Judge *Heath* himſelf: Which Letter taking notice of our Tryal, threaten'd them with *Lex Talionis*, to do the like to their Priſoners that they did to us, or any of us. And they having many of their great eminent Men Priſoners in the *Tower*, and in *Warwick*-Caſtle, and other Places, did induce them to ſtop all further Proſecution of Colonel *Vivers*, Captain *Catesby*, and my ſelf. And if it had not been for this threatning Letter, in all likelihood we had all three been condemned by a Commiſſion of *Oyer* and *Terminer*, and executed: For my Wife did hear Judge *Heath* ſay to ſome of his Aſſociates, at the reading of the Letter, That as for all the threatning part of it, as to his particular ſelf, I value it not; but, ſaid he, we muſt be tender of the Lives of the Lords and Gentlemen that ſerve the King, and are in the Cuſtody of thoſe at *Weſtminſter*. And that Clauſe of *Lex Talionis* put a ſtop to our Proceedings, and further Tryals at Law.

Ld *Keble*. It was well for you, by your Story that you do tell, that you had ſo fair Play: You ſhall have with us, who are upon our Lives and Oaths, as much as the Law will afford you, and ſo much as our Judgments and Conſciences can lead us to, without doing Injuſtice in granting more than the Laws of *England* will afford. What was done there, is nothing to us here; for we are not to walk by their Precedent, but by our own Judgments, according to the Rules of the Law. And here 'tis thus far juſt, That upon the Proof of Matter of Fact, if Law do ariſe, you are to have Counſel; if not, you are to have none. By your Allegation, you ſay you had Counſel aſſigned you before any Matter of Fact came to be proved, when as a Judge of the Law he could not but do it; but if he did, it is nothing to us, we cannot do it. Yet we have in this Place proceeded legally hitherto with you; and when that Matter of Law doth ariſe from the Fact, as you had Counſel there aſſigned you, ſo ſhall you have here, and you ſhall have fair Dealing, and fair Play, according to Law, which is abſolutely as I tell you.

Lieut. Col. *Lilburne*. Sir, by your favour, I crave but one Word more; and that is this: Here is a Gentleman that is a By-ſtander, a Friend of mine, and my Sollicitor, who by Law, as well as any other By-ſtander, may (*a*) ſpeak for the Priſoner at the Bar, in caſe he perceive Things urged againſt him contrary to Law; and therefore I deſire he may ſpeak two or three Words.

[Mr. *Sprat* beginning to ſpeak.]

Ld *Keble*. Spare your ſelf; when your Time comes, you ſhall ſpeak.

Mr. *Sprat*. He asked leave for me firſt. And, Sir, it is eaſy to prove the whole Indictment to be Matter of Law.

Judge *Jermin*. What impudent Fellow is that, that dare be ſo bold as to ſpeak in the Court without being called? Mr. *Lilburne*, by your own Words you ſay you were told at *Oxford*, That by Law you were to have Counſel; that is as true, that the Court is of Counſel for the Priſoner arraigned at the Bar; and ſo we ought, and ſhall permit you other Counſel, if Matter of Law, upon the Proof of the Fact, do ariſe: But for any other Counſel to be aſſigned you before that appear, is not by Law warranted: We ſhall tread the Rules of Juſtice. And we ſhall do Wrong to the whole Commonwealth, if we ſhould allow you Counſel before Matter of Law doth ariſe from the Proof of the Fact; and to allow Counſel in any other Caſe, the Court commits Injuſtice.

Ld *Keble*. And this, Mr. *Lilburne*, I will promiſe you, that when there comes Matter in Law, let be a Lawyer, or your ſelf, he ſhall ſpeak in your behalf; but before he cannot.

Lieut. Col. *Lilburne*. Sir, the whole Indictment, under favour, is Matter of Law; and the great Queſtion that will ariſe (admit the Fact ſhould be true, and admit it ſhould be granted) is, Whether the Words be Treaſon in Law, yea or no? And alſo it is Matter of Law in the Indictment, whether the Matter in the Indictment be rightly alledged as to Matter, Time, and Place. And it is Matter of Law in the Indictment, where there divers ſeveral pretended Treaſons committed in divers and ſeveral Counties, put into one and the ſame Indictment, be legal, yea or no?

Ld *Keble*. Upon Proof of the Matter of Fact, you ſhall hear and know whether Matter of Law will ariſe; and till the Words be proved, we cannot ſay whether that be the Law that you ſuppoſe.

Lieut. Col. *Lilburne*, Truly, Sir, you promiſed me a fair Tryal, and that you would not take advantages of my Ignorance in the Law's Formalities: But the Lord deliver me, and all true-hearted *Engliſhmen*, from ſuch unjuſt and unrighteous Proceedings as I find at your hands, who go about, I now clearly ſee, by my Ignorance, in holding me to a ſingle and naked Plea, which is purely as bad, if not worſe, than all the Prerogatives; and for the worſt and groſſeſt of his Prerogatives, in a more rigorous manner than they were uſed in his Lifetime, to be thus preſs'd upon me at this Day, after he hath loſt his Life for pretended Tyranny and Injuſtice, Liberty and Freedom in publick Declarations declared to the Kingdom: I ſay, if there be Juſtice and Equity in this, I have loſt my Underſtanding; and the good Lord God of Heaven deliver me from all ſuch Juſticiaries.

Ld *Keble*. Mr. *Lilburne*, you have been arraigned before us for High Treaſon, and we bid you forbear thoſe Terms of yours long ago; ſpeak that you do rationally, and you ſhall have fair and chriſtian Anſwers and Replies, as ever any Man had at a Bar; and go on, you ſhall have it ſtill, if you will be fair and rational, and not break out into Extravagancies and Bitterneſs of Spirit.

Lieut. Col. *Lilburne*. For my part, Sir, I muſt look upon my ſelf as a loſt and dead Man if I have not Counſel to help my Ignorance, to pitch upon thoſe Things that tend to my Preſervation.

(*a*) Coke, *in his* Inſtit. 3 par. cap. Petty-Treaſon, fol. 29. *is expreſs in this Particular: So he is in* cap. 63. *being his Cap.* Of Counſel learned in Pleas of the Crown, fol. 137.

And therefore if you will not aſſign me Counſel to adviſe and conſult with, I am reſolved to go no further, tho I die for it; and my innocent Blood be upon your Heads.

Juſtice *Jermin.* You have alledged part of the Law of *England* for your own Advantage; but every one that ſays ſo, does not prove it to be ſo. You have ſaid you will be tried by the Laws of *England*; and yet againſt the Laws of *England* you have utterly refuſed, in that you would not hold up your Hand, which I do not know any *Engliſhman* that ever refuſed ſo to do, but your ſelf. You have been told by the Court what the Law of *England* is; and yet you will not be ſatisfied. We are upon our Oaths, and therefore will diſcharge our Conſciences, and that in a more eminent manner than my Brother *Heath* did, altho we do not deny you Liberty to ſpeak for your ſelf. But now you who would have Counſel aſſigned before any Matter of Law doth appear upon the Proof of the Fact, which we cannot do; for it were to do Injuſtice, and to do againſt the Law, which the Court cannot juſtify.

Lieut. Col. *Lilburne.* Sir, under favour, whether or no I have tranſgreſs'd the Law, I will not judge: But I am ſure the Law, in the Equity and Intention of it, would have all Tryals to be equal, and not prejudicial. My Proſecutors have had time enough to conſult with Counſel of all ſorts and kinds to deſtroy me, yea, and with your ſelves; and I have not had any time at all, not knowing in the leaſt what you would charge upon me, and therefore could provide no Defence for that which I knew not what it would be. And if by the Law of *England* I cannot have Counſel, then upon your own Grant, which is, That the Laws of God are the Laws of *England*, I deſire to have the Privilege of the Law of God, which you your ſelf ſaid is the Law of *England*; and I am ſure the Law of God is, That you ſhould *do as you would be done to.* Now it cannot be according to the Law of God, for my Adverſaries to have the Helps of all manner of Counſels, by Snares, Tricks, and Provocations, to take away my Life, and for me to be denied the Benefit to conſult with any to preſerve my innocent Life againſt potent Malice.

Ld *Keble.* You ſay well: The Law of God is the Law of *England*; and you have heard no Law elſe but what is conſonant to the Law of Reaſon, which is the beſt Law of God; and here is none elſe urged againſt you.

Another Judge. The Laws of God, the Laws of Reaſon, and the Laws of the Land, are all joined in the Laws that you ſhall be tried by.

Juſtice *Jermin.* The Queſtion is but this, Whether the Law of God, and the Law of Reaſon, and the Law of Man, may be conſonant to each other? And whether the Court or *John Lilburne* ſhall be Judges thereof? That is the Queſtion.

Ld *Keble.* And that which you ſaid, Mr. Attorney hath had ſo much Time againſt you, and Opportunity to conſult with all manner of Counſel to deſtroy you, your ſecret Actions, though they are now come to publick View, are ſo heinous, as that they do require time to put them into the moſt ſure way of Tryal; we have proved the Clandeſtineneſs of them: You did this in ſecret; now it is come to the Face of the World. Now this being Matter of Fact, no Matter of Law can appear till Proof paſs upon it. You have had Times to complot your treaſonable venomous Books, which ſhall be proved upon you; and till this be done, there is no Matter of Law to be looked at. This is the Law of God: When a Man hath done ſuch treaſonable Things, he ſhall anſwer directly and poſitively whether he be guilty of them, or no; and if he anſwer Not guilty, and they be not fully proved againſt him, there needs no more to be ſaid.

Juſtice *Thorp.* Mr. *Lilburne*, there fell ſome Words from you even now, wherein you think you have this Hardſhip put upon you, when you ſay the Judges and your Proſecutors have had ſix Months time to meet together, and conſult together how to deſtroy you. Firſt, I would not have you to believe, nor the reſt that hear it, that that is true that you ſay; for I ſpeak it for my own particular, that I never ſaw your Indictment till this time that I came here; and yet you ſay we have had ſix Months together to frame it. Theſe are your Words: This was not rightly done of you; for it is not true. I ſpeak in my own particular.

Lieut. Col. *Lilburne.* I am ſure the Subſtance of it you might ſee many Months ago; and though all you Judges have not at one time met about it, yet the greateſt part of you have, that commonly carry the Domination of the whole; and at *Serjeants-Inn*, with Mr. Attorney-General, the moſt of the Judges of *England* have had ſeveral Meetings, ſix, five, and four Months ago: for I have had Friends there that have ſeen it, and who have inquired into the Cauſe of ſuch ſolemn Meetings, and your own Servants have told them it hath been about me and my Tryal.

Juſtice *Thorp.* I ſpeak as for my own particular, that I never was there, and that I never ſaw your Indictment till this time.

Juſtice *Jermin.* Why, Mr. *Lilburne*, might we not have ſuch Meetings as thoſe, your Buſineſs being a Matter of this Importance, as this is, through the Heinouſneſs of your Offence? and that it might be ſo grounded as the Warrant of the Law is, the Judges did meet: And they ought to meet (*a*) to conſider of it, that nothing ſhould be done againſt you, or any Man elſe, contrary to the Law. But yet, for my part, my Dwelling is out of *London*, I heard not of it ſo ſoon as you ſpeak of; but after I came to Town, I confeſs I heard of it, and have been preſent about ſome Debates about it.

Lieut. Col. *Lilburne.* Only this I ſay, If by your Prerogative you will deſtroy me, as *Nebuchadnezzar* did endeavour to deſtroy *Daniel* by his Prerogative, I am as willing to die, as he was to be thrown into the Lions Den: And if you will not allow me Counſel, to conſult with what Plea to make for my Life, I have no more to ſay. Sir, it is but a vain Thing to ſpend any more Words.

Ld *Keble.* Theſe are but Words and Flouriſhes, Sir, that you are ſo willing and ready to die, as you declare you are: But if you be, it is better for you. And alſo it is well you have not to do with Judges that would be auſtere upon you; for you to term us to be Men that come hither to deſtroy you as *Nebuchadnezzar* went about to do *Daniel:* You may

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(*a*) *But* Coke, *in his Chapter of* Petty Treaſon, *in* 3 Par. Inſt. fol. 29. *expreſly ſaith, and to the end, That the Tryal may be the more indifferent, ſeeing the Safety of the Priſoner conſiſteth in the Indifferency of the Court, the Judges ought not to deliver their Opinions before-hand of any criminal Caſe that may come before them judicially. And he there cites* Humphrey Stratford's *Caſe, that Arch-Traytor, in which* Huſſey, *Chief Juſtice, beſought* Henry VII. *not to demand of them their Opinions before-hand. And in* 4 Par. Inſtit. cap. High Court of Parliament, fol. 37. *he fully ſhews the Evil of asking Judges Opinions before-hand.*

judge of what is within you; but of us, what is within us, you cannot judge. You ſhall have Juſtice here in the Face of the Country, and of all that hear us: Theſe ſhall be Judges of our Proceedings towards you. Take heed, Mr. *Lilburne*, this Language is but the Sparks of that venomous Heat that is within you; and they may burſt out to prove you guilty before us, and in our Preſence, of that you are charged with, without any further Proof or Proceedings; for you may do it, you may do it where you ſtand: And therefore be adviſed, and take heed what you ſay.

Lieut. Col. *Lilburne*. Sir, I have caſt up my Account, and I know what it can coſt me: I bleſs God I have learned to die, having always carried my Life in my Hand, ready to lay it down for above this twelve Years together, having lived in the Favour and Boſom of God; and I bleſs his Name, I can as freely die as live.

Ld *Keble*. You ſhall not now lay it down, if you do not deſtroy nor caſt away the Commonwealth; but if you go about to deſtroy the Commonwealth, the Commonwealth will ſpue you up, and deſtroy you.

Lieut. Col. *Lilburne*. I deſire nothing but Counſel, and a little Time to conſult with them, and to produce my Witneſſes, and a Copy of my Indictment: If not, I am willing to die as the Object of your Indignation and Malice, do your Will and Pleaſure.

Ld. *Keble*. We are willing to die too.

Mr. Attorney. What is agreeable to the Law of *England*, the conſtant ſettled Practice of trying Priſoners, will not be denied Mr. *Lilburne*: But as for that Privilege that was granted him at *Oxford*, is no Tie in Law to us; neither was it ever heard of in *England* that any, that did underſtand the Law, did ever, as Mr. *Lilburne* now deſires, allow Counſel to a Priſoner for ſuch an Act as this is, or had the Copy of the Indictment. It ſhall not be denied Mr. *Lilburne*, which is his Right by Law, in its due place; but to make new Precedents and new Laws, which, my Lord, when done by ſuch a Bench as this is, moſt of the Judges in *England* being preſent, runs to all criminal Caſes whatſoever, whether in Treaſon, Murder, or other Felonies: It's true, Mr. *Lilburne* is now only concerned in it; but if granted to him, it would be a Precedent to all future Times; by means of which there would never be an end of Tryals in criminal Caſes. And it is a wonderful ſtrange Thing to me, that when the Priſoner hath pleaded the uſual way, you proceed not immediately to Tryal. It's true, Mr. *Lilburne* hath pleaded his own Ignorance, and therefore deſires longer Time: But, my Lord, to make a Precedent of this nature, that never was known by the Laws of *England*, is very dangerous, very perilous. My Lord, the Thing that I preſs is not in relation to Time, but in relation to the publick Juſtice; for the ſame Reaſon it's granted him, it ought not to be denied to any Man that asketh it, neither for Treaſon or Felony. And of what evil Conſequences it would be, I leave your Lordſhip and the Court to judge.

My Lords, I do humbly deſire that Mr. *Lilburne* may be dealt with all legal, juſt, and fair Proceedings from the Court. My Lord, I do deſire accordingly that Proceedings may for the Commonwealth be ſo too; and that Mr. *Lilburne* may be without Delay, according to Law, proceeded againſt for his notorious Treaſons.

Lieut. Col. *Lilburne*. Sir, with your favour, I ſhall crave but one Word: This Gentleman declares unto you what an evil Precedent it would be to give me a little Time to conſult with Counſel, to frame a Plea for my Life; and yet that Judge was pleaſed to ſay the Law of *England* is founded upon the Law of God, and the Laws of Reaſon, unſpotted, uncorrupted, or undefiled. I am ſure the Law of God, and the Law of uncorrupted Reaſon, is to do as you would be done to, and not to lay Snares for your Neighbour's Life: I am ſure the Law of God would have all Tryals indifferent, and no Man's Life ſurpriſed or taken away by Niceties or Formalities, tho never ſo notoriouſly accuſed. And, Sir, for Mr. *Prideaux*, and others of you, ſo often to call me notorious Traytor, as you do; I tell you, Sir, you reproach me: for though I am never ſo notoriouſly accuſed, yet in the Eye of the Law of *England* I am an innocent Man, yea, as innocent as any of thoſe who call me Traytor, till ſuch time as I be legally convicted of the Fact or Crime laid unto my Charge; and therefore, Sir, I beſeech you ceaſe your calumniating of me, for you thereby deal not fairly nor legally with me. And, Sir, I confidently hope I ſhall appear in the Eye of the Law, in the Eyes of you, and in the Eyes of all Men that hear me this Day, an innocent, a juſt, and a true *Engliſhman*, that really loves the Welfare of his native Country, if I may have fair Play, and the Scope of the Law. And therefore, Sir, blemiſh me not in the Ears of the Auditors, till the Law, and a Conviction by it, do blemiſh me; for I tell you I am in the Eye of the Law as innocent as any of your ſelves, till I be juſtly convicted. And therefore I pray ceaſe the calling of me Traytor in this manner.

Ld *Keble*. What need we any more, when we are of your Opinion? We wiſh you may come as clearly off as you ſay you hope to do.

Mr. Attorney. My Lord, and that it may be ſo declared, and that the World may know whether Mr. *Lilburne* be an innocent Man, or no, I pray put it to the final iſſue, and let the Law judge.

Lieut. Col. *Lilburne*. Under favour, for me to be denied Law, which I conceive is done unto me when I am denied Counſel, and to put the Niceties and Formalities of the Law upon me, the Signification of which are writ in ſuch Language and Tongues as I cannot read, much leſs underſtand; and would you deſtroy me for the not knowing of that which it is impoſſible for me to know? Sir, I beſeech you be not ſo extreme towards me. That Gentleman ſaith the Law of God is the Law of *England*; and it would have no Snares laid to take away a Man's Life: I pray let me have the Benefit of that.

Mr. Attorney. Once you had; and it is but juſt you ſhould; and I am ſure it will be granted unto you.

Ld *Keble*. Mr. *Lilburne*, you ſay well; the Priſoner doth not know the Law; you do not, and many others do not: But I tell you again, you know ſo much of the Law as is ſuitable to this Plea; you your ſelf know whether your Conſcience accuſe you guilty of the Fact laid unto your Charge, or not. For our parts, we ſay no more than one and twenty Men upon their Oaths have informed us, upon ſufficient Teſtimony of Witneſſes, that what they had ſaid we ſhould further inform our ſelves of, before your Life be taken away; yea, ſuch is the Law of *England*, the tendereſt Law in the World of a Man's Life. I ſay again, that no ſuch Tryal for Life is to be found in the World, as in *England*---- in any Place but in *England*. A Man's Life may be taken away upon two or three Witneſſes;

Witneſſes; but in *England* two or three Witneſſes do not do it: For there is two Juries beſides, and you have four and twenty Men returned; you have one and twenty Men upon their Oaths and Conſciences that have found you guilty: And yet when you have done that, it is not enough by the Law of *England*, but you are alſo to have twelve rational underſtanding Men of your Neighbours to hear all over again, and to paſs upon your Life. This is not uſed in any Law in the World but in *England*, which hath the righteouſeſt and mercifulleſt Law in the World: And this we ſit here to maintain, and let all the World know it, that according to the Rules thereof we have proceeded againſt you.

Judge *Michel.* Mr. *Lilburne*, you were ſpeaking of the Laws being in other Tongues; thoſe that we try you by are in *Engliſh*, and we proceed in *Engliſh* againſt you; and therefore you have no cauſe to complain of that.

Lieut. Col. *Lilburne.* By your Speeches you ſeem to bind me up to a ſingle Plea: Truly I conceive that is not equitable by the Law of God, and the Laws of Reaſon. No Man's Life is to be deſtroyed by Niceties and Formalities; yet contrary to your ſolemn Promiſes, you take all Advantage againſt me by them, and make my ignorance in the tickliſh Formalities of the Law to be the means of my own Deſtruction: although before I pleaded you ingaged unto me you would take no Advantage by my Ignorance in your Formalities, and my Miſtakes in them ſhould be no Diſadvantage unto me; and yet now I have pleaded, you ſeem to hold me cloſe to a ſingle Plea. Truly, Sir, I think that is not juſt nor fair, ſo to break your Promiſes, and by fair Words to ſmooth me on into Nets and Snares, and to make uſe of my Willingneſs to be tried by the Law of *England* to drill me on to my own Deſtruction. Truly, Sir, had I ever thought or believed I ſhould have been denied Counſel, I would have died before ever I would in any manner have pleaded to your Charge, or have yielded to your ſmooth Inſinuations.

Juſtice *Jermin.* Thoſe Men that know the Laws of *England*, know well that it taketh away no Man's Life but upon clean Proof, and upon manifeſt Contempts of the Law. The Law is, Whoſoever ſhall go ſuch a way in a Court as evidently gives affront to the Law, that ſuch one takes away his own Life. The Facts that you are charged with, if they had taken effect, would have taken away the innocent Lives of many: Therefore you are now before us charged with the Fact; and every Man's Conſcience knows whether he committed the Thing charged upon him, or no; and your ſelf does know whether you be guilty of that you are accuſed of, or no. But the Court muſt not ſpend any further time; for Mr. Attorney-General hath returned the Writ of *Veniri facias*, for the calling or ſummoning of a Jury of Life and Death.

Ld *Keble.* Mr. *Lilburne*, you ſay you well underſtand your ſelf: You knew of your coming, and you knew of the Fact that you have committed.

Lieut. Col. *Lilburne.* Truly, Sir, ſix Months ago I heard much of my Tryal; and I longed for it, but could not have it, but was ſtill kept in Priſon, and abundance of Provocations put upon me, to make me cry out of my Oppreſſions; and then to hang me therefore, by a Law made after my pretended Crime was committed, is not juſt. And truly, Sir, I heard by uncertain common Fame of my Tryal now. But Parliament-Men told my Wife and Friends that my chiefeſt Crime was correſponding with the Prince; and to defend my ſelf againſt that, I fitted my ſelf, never dreaming that only Books ſhould be laid to my Charge, and therefore I could not as to that come prepared: And therefore do humbly deſire Counſel, a Copy of my Indictment, and Time to bring in my Witneſſes.

Ld *Keble.* Hear what is ſaid to you: For your Witneſſes, you ſhould have brought them with you; we'll give you leave to ſend for them: We will give you time to do, to conſider with your ſelf what to ſay for your ſelf, you ſhall, till to-morrow Seven a-clock.

L. Col. *Lilburne.* Sir, ſome of my Witneſſes lives, abides an hundred or eighty Miles off; and yet I muſt bring them to-morrow Morning: How's that poſſible? And therefore I deſire Time to bring them in, and alſo *Subpœna's*; for ſome of them are Parliament-Men, and ſome of them Officers of the Army, and they will not come in without Compulſion.

Ld *Keble.* That's the time we will give you longer; you knew of your coming long ago, and therefore ought to have come provided.

Lieut. Col. *Lilburne.* Sir, I beſeech you give me a convenient time, eight or ten days, that ſo I may get them together; for how could I be provided before-hand for any thing, but for that for which I was at the firſt impriſoned for, nothing of which is now laid to my charge? Could I divine upon what you would proceed againſt me? But, Sir, I have that within me, I bleſs God, that will be a Portion of Comfort with me, to carry me through all your Malice and Injuſtice.

Ld *Keble.* Never talk of that which is with you; God is in us, as well as in you: never make a flouriſh of what is in you; for the Fear of God is before our eyes as well as yours, and what we do we ſhall have comfort in, in that it is according to the Laws of *England*, the Rules of which we are ſworn to obſerve, and every Man will do righteous things as well as you.

Lieut. Col. *Lilburne.* Pray will you give me but eight days time then?

Ld *Keble.* We will give you no more, you ought to have brought them with you, you knew of it long ago; and the Court cannot, nor will not wait upon you.

Lieut. Col. *Lilburne.* By your favour, Sir, thus; then let me have a little time to conſult with Counſel.

Ld *Keble.* I tell you, that if the Matter be proved, there needs no Counſel.

Lieut. Col. *Lilburne.* Sir, I ſhall not much inſiſt upon that, but the queſtion is, Whether the Matter be Treaſon in Law or no, and whether in Law it be rightly expreſſed in the Indictment, as to Time and Place, with other Circumſtances thereunto belonging? And I queſtion the Legality of the Indictment, and that ought in Law to be diſputed, before the Matter of Fact come to be ſpoken to.

Ld *Keble.* Sir, you ſaid at firſt, you would ſpeak as a rational and moderate Man, and yet you will not be anſwered. If Matter of Law do ariſe out of your Fact, that we have told you again and again, you ſhall have Counſel and Time.

Lieut. Col. *Lilburne.* Sir, by your favour, it may be too late to deſire Counſel after the Fact is proved. And beſides, having legal Exceptions againſt the Indictment, why ſhould you run me upon the hazard of my Life, by tickliſh Niceties and Formalities; and as my Proſecutor Mr. *Prideaux* ſaith——(But being interrupted, cry'd out) Sir, I beſeech you, do but hear me.

Ld

Ld *Keble.* Your Diſtemper will break out; your Heart is ſo full of boiling Malice and Venom, you cannot contain yourſelf.

Lieut. Col. *Lilburne.* Mr. *Prideaux* is pleaſed to urge, that the granting of me my Deſire in reference to Counſel, will be ſo inconvenient a Precedent, as will deſtroy the Commonwealth: therefore to avoid the danger of ſuch a deſtroying Precedent, as he is pleaſed to call it, I deſire to have ſome time aſſigned me to get my Witneſſes together, and then I ſhall, I doubt not, but convincingly ſhew you the hazard and deſtroying Miſchief of that deſperate Precedent in denying Men liberty to conſult with Counſel, when they are upon Tryals for their Lives. For my own Judgment, my own Conſcience doth tell me, that it is my undoubted Right by the Law of *England*, by the Law of God, and the Law of Reaſon; and if it be totally denied me, I can but die: and upon that ſcore, by the aſſiſtance of God, I am reſolved to die.

Ld *Keble.* You ſpeak great words of your own Judgment, your own Conſcience, your own Zeal, and the like: and I tell you, our Conſciences, and our Religion, and our Zeal, and our Righteouſneſs, I hope ſhall appear as much as yours. You would make yourſelf Judge in your own Cauſe, which you are not, and ſo make Cyphers of us; but all your high Words of Conſcience and Righteouſneſs is but a Flouriſh, to make the People believe or be apprehenſive as tho we had none, you had all: but you ſhall know, here we ſit with as much Tenderneſs and Integrity as you ſtand there, and to do that uprightly which is according to Law and Juſtice.

Lieut. Col. *Lilburne.* I ſhall not in the leaſt make any compariſons, neither do I in that particular; I only ſpeak of my own particular, in reference unto that God in whom I have believed, and in whom I enjoy Content, Peace, and Quietneſs of Mind: and yet for my part I ſhall rather die than willingly go any further, except I have Counſel firſt.

Ld *Keble.* Well, Mr. *Lilburne*, the Court is very tender not to take up any of your time; you have heard what was declared to you there, that Mr. Attorney hath made Proceſs againſt you returnable to-morrow at Seven of the clock, and therefore to ſpend more time will be but your loſs and damage. The Sheriffs of *London* are to take care to return the Jury to-morrow morning, and therefore the Court doth adjourn till Seven a clock to-morrow in the morning; and in the mean time they do commit the Priſoner at the Bar to the Lieutenant of the *Tower* again.

Lieut. Col. *Lilburne.* Sir, I did not hear you the firſt words.

Ld *Keble.* You ſhall not be denied to hear it again, the Court deſires to be good Husbands of Time for you; we could have ſat long enough, to have trifled away your time that you may ſpend your Meditations, and take your Friends Advice, do not ſtand upon and deſtroy yourſelf by words. Mr. *Lilburne*, all that are here, are * to take notice of it, that the Priſoner at the Bar hath had more Favour already, than ever any Priſoner in *England* in the like caſe ever had: for by the Laws of *England*, in the Matter of Treaſon, whereof you are indicted, you ought to have been try'd preſently, immediately: But becauſe all the World ſhall know with what Candor and Juſtice the Court do proceed againſt you, you have till to-morrow morning; which is the Court's extraordinary Favour, and the Doors are wide open, that all the World may know it.

* *Juſt.* Jermin, *take notice, the Judge ſtood up and ſpake out an Appeal to the People.*

Lieut. Col. *Lilburne.* Sir, I can ſhew one hundred Precedents to the contrary in your own Books, to diſprove what you ſay.

Ld *Keble.* Adjourn the Court.

Lieut. Col. *Lilburne.* I humbly thank you for what Favour I have already received.

The Court adjourned till the next Morning, and the Priſoner remanded to the Tower.

Guild-Hall, *October* 26. 1649. *being Friday. At the Tryal of Lieut. Col.* John Lilburne, *the Second Day.*

THE Priſoner being brought to the Bar, ſpake as followeth: Sir, I pray hear me a word or two.

Ld *Keble.* Mr. *Lilburne*, I am afraid ſomething troubles you; I will have no body ſtand there *, let all come out but one Man.

Lieut. Col. *Lilburne.* Here's none but my Brother and my Sollicitor.

Ld *Keble.* Sir, your Brother ſhall not ſtand by you there; I will only have one hold your Papers and Books, and the reſt not to trouble you: wherefore the reſt are to come out.

* *That was in the Bar, where his Brother Col.* Robert Lilburne, *his Sollicitor Mr. Sprat, and other of his Friends ſtood.*

Lieut. Col. *Lilburne.* Sir, I beg of you but one word, tho I do not know any reaſon why of myſelf I ſhould not have the Privilege of the Law, as well as any Man in *England*; yet beſides what yeſterday I alledged for myſelf, for to have Counſel aſſigned, yet to-day give me leave to mention an unqueſtionable Precedent for my purpoſe, and that is Major *Rolfe*, who being an Officer in the Army, and being lately indicted for High Treaſon, (before the Lord Chief Baron *Wilde*, that now is at *Hampſhire* Aſſizes) for conſpiring to poiſon and piſtol the late King, which by Law was the higheſt of Treaſons, did conceive himſelf, in regard of his Ignorance, unable to defend himſelf ſingly againſt his Enemies Deſign, which was to take away his Life: whereupon he becomes an humble Suitor to the Lord Chief Baron *Wilde*, that he might have Counſel aſſigned him; and the Court, before ever the Grand Jury received any Teſtimony againſt him to find the Bill, aſſigned him Counſel, who as I underſtand were one Mr. *Nichols*, now a Judge of this Bench, and ſitting there; and Mr. *Maynard* of the *Temple*: they were both aſſigned his Counſel, and from Mr. *Maynard* himſelf I have it, yea, from his own mouth; who being aſſigned his Counſel, they came into the Court, where the Grand Jury was called before the Judge. Mr. *Maynard*, and Mr. *Nichols*, now a Judge here, had liberty there to be in the open Court, where the Witneſſes, before the Indictment was found, was called, and in open Court was ſworn, and in open Court gave in their Evidence before the Grand Jury; Major *Rolfe*'s Counſel being by in open Court, to hear all the Evidence that was given againſt Major *Rolfe*, who in his Indictment was indicted for two Matters of Fact; the firſt was, That he had declared that in ſuch a Month, and at ſuch a Place, he had an intent to piſtol the late King, which by the Letter of the Law of 25 *Edw.* 3. *chap.* 2. was Treaſon. Then there was another Charge, That ſuch a day he had ſo ſaid or declared

declared to poiſon him, in the preſence of ſuch a one; and they were both put into one Indictment. Whereupon Mr. *Maynard* being aſſigned by the Lord Chief Baron *Wilde*, that now is, to be of Counſel for *Rolfe* in the ſame Caſe, (but with abundance of more advantage to him, than I am now in) Mr. *Maynard* was then of Counſel to the Priſoner, and had liberty to hear what the Witneſſes ſwore againſt him, and to make his beſt advantage of it, and that in open Court, before the Indictment was found by the Grand Inqueſt; and altho there were two expreſs Witneſſes againſt him, yet but one of them ſwore to one thing, and another to another. Mr. *Maynard* being one that knew the Law better than Major *Rolfe* did himſelf, he apply'd the two Statutes of *Edward* VI. *viz.* the 1 *Edw. 6. chap.* 12. and 5 & 6 *Edw. 6. chap.* 11. to *Rolfe*'s Caſe; which Statutes do expreſly declare, That no Man ought to be convicted of Treaſon, but by two ſufficient Witneſſes upon plain and clear Evidence to each Fact of Treaſon: which Evidence, as Sir *Edward Coke* ſays in the third Part of his *Inſtitutes*, ought to be as clear as the Sun at Noon-day, and not upon one ſingle Witneſs, and upon conjectural Preſumptions, or Inferences, or Strains of Wit. Now, Sir, I am an *Engliſhman* as well as Major *Rolfe*, and I have been an Officer in the Parliament-Army as well as he, and there fought for them as heartily as ever he did in his life, and he was accuſed for the higheſt of *Engliſh* Treaſons. And therefore I humbly crave, that in regard there are many particular Errors in the Indictment, as to Matter, Time, and Place; that therefore in reference to the Illegality of the Indictment, according to this Precedent by one of your own Fellow-Judges, that you would, according to my Birthright declared in Major *Rolfe*'s Caſe, aſſign me Counſel as he had, to help my Ignorance, that ſo I may not be deſtroyed by Surprizal, and illegal and unjuſt Prerogatives.

Ld *Keble*. You ſee with what a great deal of Favour, inſtead of a few Words, we have heard you many; this is a Privilege: but this that you ſay upon it, it may be it was done; but that we do, ſhall be according to that you and we ſhall find to be according to the Laws of the Land, and our Conſcience, and the Privilege of the Subject: that that they did before the Grand Jury, and the Witneſſes, the Witneſſes are here ſworn in Court in preſence of the Grand Jury, ſo far we go with them; that of Mr. *Maynard* and Mr. Juſtice *Nichols* being aſſigned Counſel, for what cauſe it was then they beſt know, it is nothing that doth now concern us, tho the Treaſon was againſt thoſe Laws that then were in being; we muſt come to proof, it may be he confeſs'd his Fact; if you will do ſo too, it alters the Caſe.

Lieut. Col. *Lilburne*. No, Sir, he never confeſs'd it, for if he had, he had been found guilty; but he was ſaved merely by the Skill and Honeſty of his Counſel Mr. *Maynard*, and his Indictment null'd and evaded before ever the Grand Jury found it, and that upon this Point of Law, becauſe by the two Statutes of *Edward* VI. there ought to be two plain and clear Witneſſes to every part of Treaſon; and tho *Rolfe* was accuſed by two Witneſſes, yet there was two Facts, and but one Witneſs to the Proof of each of them.

Ld *Keble*. When you come to Tryal, if we ſee there be need of Counſel, the Court will be inſtead of Counſel to you; nay the Court, if they ſee any Matter of Law for Counſel, tho you do not ask it, they will give you it. And therefore ſet your heart at reſt, for if there be any thing rational in Law that we can ſpy out, as well as your Counſel, we will help you in it.

Lieut. Col. *Lilburne*. Sweet Sir, I crave but one word more; I am upon my Life, and if you deny me what the Law affords me, and that which hath been granted to be Law by Cavalier Judges, yea and by your Fellow-Judges, who are now in power at this day; the Lord deliver me from ſtanding in need of you to be my Counſellors.

Ld *Keble*. We are upon our Lives too, as well as you.

Lieut. Col. *Lilburne*. No, by your favour, not in ſo imminent a manner as I am.

Ld *Keble*. We are upon our Lives and our Souls to all Eternity.

Lieut. Col. *Lilburne*. Sir, I beſeech you hear me one word.

Ld *Keble*. I will hear no more.

Mr. *Prideaux*. My Lord, I deſire the Court would proceed, and not prolong time, ſeeing he has pleaded Not Guilty, and confeſſed ſomething.

Lieut. Col. *Lilburne*. No, Sir, you do me wrong, and abuſe me: I never confeſſed any thing, neither did I plead Not Guilty; for my Plea was conditional, grounded upon your Promiſes, not to take any advantage of my Ignorance in your Formalities.

Ld *Keble*. Go on; be ſilent Mr. *Lilburne*.

Lieut. Col. *Lilburne*. If you take away my Life without affording me the Benefit of the Law, my innocent Blood be upon your heads.

Ld *Keble*. Sir, theſe paſſionate Words will do you no good, you had better forbear them.

Lieut. Col. *Lilburne*. Pray hear me then.

Ld *Keble*. Do you ſay that we do offer to take away your Life, Sir? if we do take it away contrary to Law, we are liable to ſmart for it: but we ſhall judge what you have done. [*The Lieutenant-Colonel preſſing to ſpeak, was not ſuffered, but bid be ſilent.*] Sir, I adviſe you, Sir, ſpare yourſelf with patience, and hear the Court.

Juſtice *Jermin*. Be quiet, Sir.

Lieut. Col. *Lilburne*. I beſeech you, Sir, let me hear but the Grand Jury ſpeak; for I underſtand from ſome of themſelves, they never found me guilty of Treaſon, but do conceive themſelves wronged by ſome Words yeſterday, that paſſed from ſome of the Judges: I pray let me hear them ſpeak.

Ld *Keble*. Mr. *Lilburne*, you ſaid you would be rational, you would be moderate; you do break out, you will do yourſelf more hurt than any here can do you: you muſt be ſilent and hear the Court, we can loſe no more time to hear you. Cryer, call the Jury.

Cryer. The Jury called——[*And Mr.* Lilburne *earneſtly preſſed to be heard, but could not.*] Cryer. *Miles Petty, William Wormwell.*

Lieut. Col. *Lilburne*. Sir, I beſeech you let me but ſee theſe Gentlemens Faces.

Ld *Keble*. You Maſter *Sprat*, you muſt not talk to the Priſoner; you may ſtand and hold the Books: you did offend yeſterday, but you ſhall not do ſo to-day, for you ſhall not ſtand near the Priſoner to talk to him.

Lieut. Col. *Lilburne*. My Lord, the Law ſays a Stander-by may ſpeak in the Priſoner's behalf at the Bar, much more whiſper to him; but eſpecially if he be his Sollicitor.

Cryer. *John Sherman, Thomas Dainty, Ralph Ely, Edmund Keyzer, Edward Perkins, Ralph Packman, Francis Woodall, William Commins, Henry Hanſon, Roger Jenkenſon, Joſias Hamond, Richard Allen, Richard*

chard Nevill, John Mayo, Henry Jooley, Arthur Due, Roger Sears.

Clerk. You good Men of the City of *London* appear. *Stephen Ives, John Sherman, Ralph Ely, Roger Jenkinſon, Joſias Hamond, Richard Allen, Richard Nevill, Roger Sears, John Mayo, Nicholas Murren.*

Clerk. You Priſoner at the Bar, theſe good Men that are here preſented before the Court, are to be of your Jury of Life and Death; if therefore you will challenge them, or any of them, you muſt challenge them before they go to be ſworn, and then you ſhall be heard.

Cryer. Every Man that can inform my Lords the Juſtices, and the Attorney-General of this Commonwealth, againſt Maſter *John Lilburne* Priſoner at the Bar, of any Treaſon or Felony committed by him, let them come forth, and they ſhall be heard, for the Priſoner ſtands upon his Deliverance; and all others bound to give their Attendance here upon pain of Forfeiture of your Recognizance, are to come in.

Lieut. Col. *Lilburne.* Sir, I beſeech you give me leave to ſpeak.

Ld *Keble.* You cannot be heard.

Lieut. Col. *Lilburne.* Truly, Sir, I muſt then make my Proteſt againſt your unjuſt and bloody Proceedings with me, before all this People; and deſire them to take notice, that yeſterday I pleaded to my Bill conditionally, that no advantage ſhould be taken againſt me for my Ignorance in your Formalities, and you promiſed me you would not.

Ld *Keble.* We give you too much time; you will ſpeak words that will undo you: is this your Reaſon? You ſhall talk in your legal time, and take your legal Exceptions, we will hear you till midnight.

Lieut. Col. *Lilburne.* Then it will be too late, Sir.

Juſtice *Jermin.* You have given a great Slander, and that doth not become a Man of your Profeſſion; you ſpeak very black words.

Lieut. Col. *Lilburne.* I beſeech you, do but hear me one word; I do not know the Faces of two of the Men that were read unto me, I hope you will give me time to conſider of them.

Ld *Keble.* No, Sir, you ought not to have it.

Lieut. Col. *Lilburne.* Will you let me have ſome Friends by me that are Citizens of *London*, that know them, to give me information of their Qualities and Conditions? for without this, truly you may as well hang me without a Tryal, as to bring me here to a Tryal, and deny me all my legal Privileges to ſave myſelf by.

Ld *Keble.* If you be your own Judge, you will judge ſo; go on.

[Mr. *Sprat*, or Col. *Robert Lilburne*, whiſpers to the Priſoner to challenge one of the Jury, which the Judge excepted againſt.]

Lieut. Col. *Lilburne.* Sir, by your favour, any Man that is a By-ſtander may help the Priſoner, by the Law of *England.*

Ld *Keble.* It cannot be granted: and that Fellow come out there, with the white Cap, pull him out.

Lieut. Col. *Lilburne.* You go not according to your own Law in dealing thus with me.

Juſtice *Jermin.* Your words were never a Slander, nor never will be; hold your peace. Cryer, go on.

Cryer. *Stephen Blyth*, look upon the Priſoner.

Abraham Seal, John King, Nicholas Murren, (Thomas Dariel) [the Priſoner excepted againſt him] *Edward Perkins, Francis Peale.*

Juſtice *Jermin.* Was he recorded and ſworn before he ſpake or no?

Cryer. No, my Lord.

Juſtice *Jermin.* Then let him continue, if he be right recorded.

Cryer. The Oath was not given quite out.

Juſtice *Jermin.* Then he hath challenged in time; let him have all the lawful Favour that may be afforded him by Law.

Williams Comins ſworn, *Simon Weedon* ſworn.

Lieut. Col. *Lilburne.* He's an honeſt Man, and looks with an honeſt Face, let him go.

Henry Tooley ſworn, *Arthur Due* excepted againſt.

Ld *Keble.* Take away Mr. *Due*, let him ſtand a little by.

Henry Hanſon put by, being ſick; one that could not hear, excepted againſt; *John Sherman, Ralph Head, Roger Jenkinſon, Joſias Hamond, Richard Allen, John Mayo, Roger Seares, Henry Hanſon* excepted againſt, *Edmond Keyzer* ſworn.

The Jury called.

Clerk. Twelve good Men and true, ſtand together, and hear your Evidence.

Juſtice *Jermin.* Cryer of the Court, let the Jury ſtand ſix of the one ſide, and ſix of the other.

Clerk.
1. *Miles Petty,*
2. *Stephen Ives,*
3. *John King,*
4. *Nicholas Murren,*
5. *Thomas Dainty,*
6. *Edmond Keyzer,*
7. *Ed. Perkins,*
8. *Ralph Packman,*
9. *William Comins,*
10. *Simon Weedon,*
11. *Henry Tooley,*
12. *Abraham Smith.*

Of the Jury, ſix live about *Smithfield*, one in *Goſling-ſtreet*, two in *Cheapſide*, two in *Bread-ſtreet*, and one in *Friday-ſtreet.*

Juſtice *Jermin.* It's well done.

Cryer. The Lords the Juſtices do ſtraitly charge and command all manner of Perſons to keep ſilence, while the Priſoner is in Tryal.

Mr. *Broughton. John Lilburne*, hold up thy Hand.

Lieut. Col. *Lilburne.* As I did yeſterday, I acknowledge myſelf to be *John Lilburne* Freeman of *London*, Son to Mr. *Richard Lilburne*, of the County of *Durham*, and ſome time Lieutenant-Colonel in the Parliament-Army.

Juſtice *Jermin.* You refuſe to hold up your Hand; and tho you break the Law of *England*, the Court will not break it.

Lieut. Col. *Lilburne.* I do what the Court declares what is my Right and Duty to do; I do no more than declare my Name to be ſo as it is.

Ld *Keble.* Read the Indictment.

Mr. Broughton *reads.* Hold up thy Hand, *John Lilburne*; thou ſtandeſt here indicted of High Treaſon by the Name of *John Lilburne*, late of *London* Gentleman, for that thou as a falſe Traytor, not having the Fear of God before thine eyes, but being ſtirred and moved up by the Inſtigation of the Devil, did endeavour not only to diſturb the Peace and Tranquillity of this Nation, but alſo the Government thereof to ſubvert, now eſtabliſhed without King or Houſe of Lords, in the way of a Commonwealth and a Free-State, and happily eſtabliſhed; and the Commons in Parliament aſſembled, being the Supreme Authority of this Nation of *England*, to diſgrace, and into Hatred, baſe Eſteem, Infamy and Scandal, with all the good, true, and honeſt Perſons of *England* to bring. That is to ſay, that thou the ſaid *John Lilburne*, on the firſt Day of *October* in the Year of our Lord 1649, and in divers other Days and Times, both before and after, in the Pariſh of *Mary the Arches*, in the Ward

of *Cheap*, *London*, aforeſaid, of thy wicked and deviliſh Mind and Imagination, falſly, maliciouſly, adviſedly, and traitorouſly, as a falſe Traytor, by writing and imprinting, and openly declaring, that is to ſay, by a certain ſcandalous, poiſonous, and traitorous Writing in Paper, intitled, *A ſalva Libertate*; and by another ſcandalous, poiſonous, and traitorous Book, intitled, *An Impeachment of High Treaſon againſt* Oliver Cromwell, *and his Son-in-Law* Henry Ireton *Eſqs; late Members of the late forcibly diſſolved Houſe of Commons; preſented to publick View by Lieutenant-Colonel* John Lilburne, *cloſe Priſoner in the Tower of* London, *for his real, true, and zealous Affections to the Liberties of this Nation*: And by another ſcandalous, poiſonous, and traitorous Book, imprinted, and intitled, *An Outcry of the Young-men and Apprentices of* London, *or an Inquiſition after the loſt fundamental Laws and Liberties of* England, *directed* Aug. 29. 1649. *in an Epiſtle to the private Soldiers of the Army, eſpecially all thoſe that ſigned the ſolemn Engagement at* Newmarket-Heath, *the fifth of* June 1647. *but more eſpecially the private Soldiers of the General's Regiment of Horſe, that helped to plunder and deſtroy the honeſt and true-hearted* Engliſhmen, *traitorouſly defeated at* Burford, *the fifteenth of* May 1649. And alſo by another ſcandalous, poiſonous, and traitorous Book, intitled, *The legal fundamental Liberties of the People of* England, *revived, aſſerted, and vindicated*; didſt publiſh that the Government aforeſaid is tyrannical, uſurped, and unlawful; and that the Commons aſſembled in Parliament are not the Supreme Authority of this Nation. And further, that thou the ſaid *John Lilburn* as a falſe Traytor, God before thine eyes not having, but being moved and led by the Inſtigation of the Devil, endeavouring, and maliciouſly intending, the Government aforeſaid, as is aforeſaid, well and happily eſtabliſhed; thou the ſaid *John Lilburne*, afterwards (that is to ſay) the aforeſaid firſt Day of *October* (*a*) in the Year of our Lord 1649 aforeſaid, and divers other Days and Times, as well before as after, at *London* aforeſaid, that is to ſay, in the Pariſh and Ward aforeſaid, *London* aforeſaid, maliciouſly, adviſedly, and traitorouſly didſt plot, contrive, and endeavour to ſtir up, and to raiſe Force, againſt the aforeſaid Government, and for the Subverting and Alteration of the ſaid Government, and to do thoſe wicked, malicious, and traitorous Adviſements to put in execution, *&c.* And thou the ſaid *John Lilburne* afterwards, that is to ſay, the aforeſaid firſt Day of *October* in the Year of our Lord 1649 aforeſaid, and divers Days and Times as well before as after, at *London* aforeſaid, that is to ſay, in the Pariſh and Ward aforeſaid, of thy depraved Mind, and moſt wicked Imagination, in and by the aforeſaid ſcandalous, poiſonous, and traitorous Book, intitled, *An Impeachment of High Treaſon againſt* Oliver Cromwell, *and his Son-in-Law* Henry Ireton, *Eſqs; late Members of the late forcibly diſſolved Houſe of Commons; preſented to publick View by Lieutenant-Colonel* John Lilbnrne, *cloſe Priſoner in the Tower of* London, *for his real, true, and zealous Affection to the Liberties of his native Country*: falſly, maliciouſly, adviſedly, and traitorouſly, didſt publickly declare, amongſt other things in the ſaid Book, theſe falſe, ſcandalous, malicious and traitorous Words following; 'But my true Friends, (meaning the Friends of the ſaid *John Lilburne*) 'I (meaning the foreſaid *John Lilburne*) ſhall here 'take upon * me the Boldneſs, conſidering the great Diſtractions of 'the preſent Times, to give a little 'further Advice to our Friends afore- 'ſaid, from whoſe Company or So- 'ciety, or from ſome of them, hath been begun 'and iſſued out the moſt tranſcendent, clear, rational and juſt things for the Peoples Liberties 'and Freedoms, that the foreſaid *John Lilburne* 'had ſeen or read in this Nation, as your notable 'and excellent Petition of *May* the 20th, 1647. 'burnt by the hands of the common Hangman, 'recorded in my Book called *Raſh Oaths unwarrantable*, pag. 29, 30, 31, 32, 33, 34, 35. with di- 'vers Petitions of that nature, and the Petition 'of the 19th of *January* 1648. recorded in the 'following Diſcourſe, *pag.* 45, 46, 47, 48. and the 'Maſculine Petition of the 11th of *September* 1648. 'ſo much owned by Petitions out of ſeveral Counties; yea, and by the Officers of the Army's 'large Remonſtrance from *St. Albans*, the 16th of '*November* 1648. *pag.* 67, 68, 69. The Subſtance 'of all which, I (thou the foreſaid *John Lilburne* meaning) 'conceive is contained in the printed 'Sheet of Paper, ſigned by my Fellow-Priſoners, 'Mr. *William Walvin*, Mr. *Richard Overton*, and 'Mr. *Thomas Prince* and myſelf, dated the 1ſt of '*May* 1649. and intitled, *The Agreement of the Free* 'People of England.' Which falſe, ſcandalous, and traitorous Book, called, *The Agreement of the People of* England, tends to the Alteration and Subverſion of the Government aforeſaid. 'The 'Principles of the foreſaid Agreement, I (meaning yourſelf the ſaid *John Lilburne*) 'hope and de- 'ſire you (the Friends of the foreſaid *John Lilburne* meaning) 'will make the final Centre, and 'unwavering Standard of all your Deſires, Ha- 'zards and Endeavours, as to the future Settle- 'ment of the Peace and Government of this diſtreſſed, waſted, and divided Nation; the firm 'eſtabliſhing of the Principles therein contained, 'being that only which will really and in good 'earneſt marry and knit that Intereſt, whatever it 'be, that dwells upon them, unto the diſtreſſed 'or oppreſſed Commons of this Nation.

'But the Principles of the foreſaid Agreement 'being ſo deteſtable and abominable 'to the preſent * ruling Men, as that 'which they know will put a full end 'to their Tyranny and Uſurpation, 'and really eaſe and free the People from Oppreſſion and Bondage; that it is ſomething dangerous to thoſe that go about the Promotion of 'it: yet I ſhall adviſe and exhort you, (meaning the Friends of him the aforeſaid *John Lilburne*) 'vigorouſly to lay all Fear aſide, and to ſet on 'foot the Promotion of it (meaning the ſaid Agreement) 'in the ſame method we took for the 'promotion of the foreſaid Petition of the 9th of '*January* 1647. laid down in the following Diſcourſe, *pag.* 23, 24, 25. and write to all your 'Friends in all the Counties of *England*, to chuſe 'out from amongſt themſelves, and ſend up ſome 'Agents to you (two at leaſt for each County, 'with Money in their pockets to bear their Charges) to conſider with your called and choſen 'Agents, of ſome effectual Courſe ſpeedily to be 'taken, for the ſettling of the Principles thereof, (meaning the aforeſaid falſe Agreement, deviſed

* *This Paſſage you may read in that Book*, p. 5.

* *Theſe Lines are in* p. 7.

(*a*) *Note, That Mr.* Lilburne *was impriſoned by the Council of State as a Traytor, the* 28*th of* March, 1649. *and they there came, and after arraign him as a Traytor, for Actions done above five Months after, waving all the pretended Crimes for which they firſt impriſoned him.*

by

by yourself the aforesaid *John Lilburne*) ' and to set ' up the promoting of, (the foresaid feigned Agreement meaning) ' as that only which in an ' earthly Government can make you (the aforesaid Friends of the said *John Lilburne*) ' happier; ' at least to know one another's Minds, in owning and approving the Principles of the foresaid false ' Agreement, that so it may become to ' you (meaning the foresaid Friends of the foresaid *John Lilburne*) ' and all your Friends, your ' Centre, Standard, and Banner, to flock together to, ' in time of those foreign Innovations, and domestick Insurrections, that are like speedily to bring ' Miseries enough upon this poor distressed Nation, (the aforesaid Nation of *England* again meaning) ' and unanimously resolve and engage one to another, neither to side with, or fight for, the Chimera's, Fooleries, and Pride of the present Men ' in Power, (the aforesaid Parliament of *England* meaning) ' nor for the Prince's Will, nor any ' other base Interest whatsoever; the which if you (the aforesaid Friends of the said *John Lilburne* meaning) ' should fight for, it would be but an ' absolute Murder of your Brethren and Countrymen you know not wherefore, unless he or they ' will come up to those just, righteous, and equitable Principles therein contained, and give rational and good Security for the constant adhering thereunto.

' And upon such Terms, I do not see but you ' may justifiably, before God or Man, join with ' the Prince himself; yea, I am sure, a thousand ' times more justly, than the present ruling Men ' (upon a large and serious Debate) joined with ' *Owen Roe O-Neale*, the grand bloody Rebel in ' *Ireland*; who, if we must have a King, I (meaning he the aforesaid *John Lilburne*) ' for my part ' I had rather have the Prince, (meaning *Charles Stuart*, Son to the late King) ' than any Man in ' the world, because of his large Pretence of ' Right, which if he come not in by Conquest, ' by the hands of Foreigners (the bare attempting ' of which, may apparently hazard him the Loss ' of all at once) by gluing together the now divided People, to join as one Man against him; but ' by the hands of *Englishmen*, by Contract upon ' the Premises aforesaid, (which is easy to be ' done) the People will easily see, that presently ' thereupon they will enjoy this transcendent Benefit, (he being at peace with all foreign Nations, and having no regal pretended Competitor) *viz.* The immediately disbanding of all ' Armies and Garisons, saving the old Cinque-Ports: and so those three grand Plagues of the ' People will cease, *viz.* Free-Quarters, Taxations, and Excise; by means of which, the People may once again really say, They enjoy something they can in good earnest call their own. ' Whereas for the present Army to set up the pretended false Saint *Oliver*, (or any other) as their ' elected King, there will be nothing thereby from ' the beginning of the Chapter to the end thereof, ' but Wars, and the cutting of Throats, year after ' year; yea, and the absolute keeping up of a perpetual and everlasting Army, under which the ' People are absolute and perfect Slaves and Vassals, as by woful and lamentable Experience they ' now see they perfectly are; which Slavery and ' absolute Bondage is like daily to encrease, under ' the present tyrannical and arbitrary new-erected ' robbing Government. And therefore rouze up ' your Spirits before it be too late, to a vigorous ' Promotion, and settling of the Principles of the ' foresaid Agreement, as the only absolute and ' perfect Means to carry you off all your Maladies ' and Distempers.'

Here Lieutenant-Colonel *Lilburne*, in the first Day's reading the Indictment, taking notice of the Judge *Thorp* and Mr. *Prideaux* to whisper together, cry'd out, and said to this effect:

L. Col. *Lilb.* Hold a while, hold a while, let there be no Discourse but openly; for my Adversaries or Persecutors whispering with the Judges, is contrary to the Law of *England*, and extremely foul and dishonest Play: and therefore I pray let me have no more of that Injustice.

Mr. Attorney. It is nothing concerning you (let me give him satisfaction) it is nothing concerning you, Mr. *Lilburne*.

L. Col. *Lilb.* By your favour, Mr. *Prideaux*, that is more than I do know; but whether it be or not, by the express Law of *England*, it ought not to be; therefore I pray let me have no more of it.

Mr. *Broughton.* And further, thou the said *John Lilburne* stand'st indicted, for that thou the aforesaid first Day of *October*, in the Year of our Lord 1649, and divers Days and Times, as well before as after, in *London* aforesaid, and in the Parish and Ward aforesaid, didst maliciously, advisedly and traytorously publish another false, poisonous, traytorous and scandalous Book, intitled, *An Out-cry of the Young Men and Apprentices of* London, *or an Inquisition after the lost Fundamental Laws and Liberties of* England: having these traytorous and scandalous Words (amongst other things) following; that is to say, *We* (meaning the Young Men and Apprentices of *London*) considering what is before premised, * *are necessitated and compelled to do the utmost we can for our own Preservations, and for the Preservation of the Land of our Nativity, and never, by popular Petitions, address our selves to the Men sitting at* Westminster *any more, or to take any more notice of them, than as of so many Tyrants and Usurpers; and for the time to come to hinder (as much and as far as our poor despised Interest will extend to) all other whatsoever from subscribing or presenting any more popular Petitions to them; and only now as our last Refuge, mightily to cry out to each other, of our intolerable Oppressions, in Letters and Remonstrances signed in the behalf, and by the Appointment of all the rest, by some of the stoutest and stiffest amongst us, that we hope will never apostatize, but be able by the Strength of God to lay down their very Lives for the maintaining of that which they set their Hands to.* And further, That thou the aforesaid *John Lilburne* afterwards, that is to say, the aforesaid first Day of *October*, in the Year of our Lord 1649, and divers other Days and Times, as well before as after, not being an Officer or Soldier, or Member of the Army aforesaid, at *London* aforesaid, in the Parish and Ward aforesaid, as a false Traytor, did maliciously, advisedly and traytorously endeavour to stir up a dangerous, mutinous and traytorous Distemper, Mutiny and Rebellion in the Army, now under the Command of *Thomas* Lord *Fairfax*, and didst endeavour to draw *Thomas Lewis*, *John Skinner*, and *John Toppe* from their Obedience to their superiour Officers, *&c.* and further, didst deliver unto the three Soldiers before-named, the said Book, intitled, *An Out-cry of the Young Men and Apprentices of* London; having these Words following contained in them: ' Surely all Sense and Compunc- ' tion of Conscience is not totally departed from ' you; hear us therefore in the earning Bowels of ' Love

* *Which Words are in* pag. 11.

'Love and Kindneſs, we intreat and beſeech you 'with Patience, and do not abuſe us, for com- 'plaining and crying out, for the Knife hath been 'very long at the very Throats of our Liberties and 'Freedoms; and our Burdens are too great and 'many for us, we are not able to bear them and 'contain our ſelves; our Oppreſſions are even rea- 'dy to make us deſpair (or forthwith to fly to 'the prime Laws of Nature, *viz.* the next violent 'Remedy at hand, light where it will, or upon 'whom it will) they are become as devouring 'Fire in our Boſoms ready to burn us up, rendring 'us deſperate and careleſs of our Lives, prizing 'thoſe that are already dead, above thoſe that are 'yet alive, who are rid of that Pain and Torment 'that we do and muſt endure, by ſenſible ſeeing 'and beholding, not only the dying, but the daily 'Burial of our native Liberties and Freedoms, that 'we care not what become of us, ſeeing that we 'are put into that original State or Chaos of Con- 'fuſion, wherein Luſt is become a Law; Envy and 'Malice are become Laws, and the ſtrongeſt Sword 'rules and governs all by Will and Pleaſure; all our 'antient Boundaries and Land-marks are pulled up 'by the Roots, and all the Ties and Bonds of hu- 'man Society in our *Engliſh* Horizon totally de- 'ſtroyed and extirpated. Alas for pity! we had 'rather die than live this Life of a languiſhing 'Death, in which our Maſters poſſeſs nothing (to 'buy themſelves or us Bread to keep us alive) that 'they can call their own; therefore it's no boot for 'to ſerve out our Times, and continue at our 'drudging and toiling Trades, whilſt theſe Op- 'preſſions, Cruelties and Inhumanities are upon us, 'and the reſt of the People, expoſing thereby the 'Nation, not only to domeſtick Broils, Wars and 'Blood-ſheds (wherein we are ſure our Bodies muſt 'be the principal Buts) but to foreign Invaſions by '*France*, *Spain*, *Denmark*, *Swethland*, &c. as was 'well obſerved by an endeared and faithful Friend 'of the forementioned late treacherouſly defeated 'Party at *Burford*, in their Book of the 20th of '*Auguſt* 1649, intituled *The Levellers vindicated, or 'the Caſe of the Twelve Troops truly ſtated*, pag. 11, '*and* 12. which we cannot but ſeriouſly recom- 'mend with them, to your ſerious Peruſal and 'Judgment, and deſire to know of you (but eſpe- 'cially the private Soldiers of the Gen. Regiment of 'Horſe, who we underſtand had a hand in ſeizing 'upon, and plundering our true Friends at *Burford*) 'whether you do own the abominable and palpable 'treacherous Dealings of your General and Lieu- 'tenant-General *Cromwell*, and their perfidious Of- 'ficers with them, or no? (that ſo we may not 'condemn the Innocent with the Guilty, and may 'know our Friends from our Foes) as alſo to tell 'us, Whether you do approve of the total Defec- 'tion of your Army, under which it now lieth, 'from their Faith and fall'n Engagement made at '*Newmarket-Heath*, the 5th of *June* 1647. not one 'of thoſe righteous Ends, in behalf of the Parlia- 'ment and People, on which your Vow was made, 'being yet fulfilled or obtained; but on the con- 'trary (as we have before-rehearſed) a whole 'Flood-gate of Tyrannies are let in upon us, and 'overwhelm us; and whether you [*the aforeſaid 'private Soldiers meaning*] juſtify all thoſe Actions 'done in the name of the Army, upon your Ac- 'count, and under the Pretence of that Engage- 'ment, ſince the Engagement it ſelf was broken, and 'your Council of Adjutators diſſolved? And whe- 'ther you will hold up your Swords to maintain 'the total Diſſolution of the People's choiceſt In- 'tereſt of Freedom, *viz.* frequent and ſucceſſive 'Parliaments, by an Agreement of the People, or 'obſtruct the annual Succeſſion? Whether you do 'allow of the late ſhedding the Blood of War in 'time of Peace, to the Subverſion of all our Laws 'and Liberties? And whether you do countenance 'the Extirpation of the Fundamental Freedoms of 'this Commonwealth, as the Revocation and Nul- 'lity of the great Charter of *England*, the *Petition 'of Right*, &c.? And whether you do aſſent to the 'Erection of Arbitrary Prerogative Courts, that 'have or ſhall over-rule, or make void our antient 'way of Tryals in Criminal Caſes by a Jury of 'Twelve Men of the Neighbourhood? And whe- 'ther you will aſſiſt or join in the forcible Obſtruc- 'tion of this martial and tyrannical Rule over us? 'Alſo whether you will fight againſt and deſtroy 'thoſe our Friends that ſhall endeavour the Compo- 'ſure of our Differences, together with the Procure- 'ment of our Freedoms, and Settlement of our Peace '(your Plenty and Proſperity) according as it was 'offered by the four Gentlemen Priſoners in the 'Tower of *London*, upon the firſt Day of *May* 1649. as a 'Peace-offering to the Nation, by the Agreement of 'the People, [*the aforeſaid feigned Agreement meaning.*] 'Laſtly, We [*the aforeſaid Young Men and Apprentices 'of* London *meaning*] earneſtly beſeech you [*the a- 'foreſaid private Soldiers again meaning*] to acquaint 'us, whether from your Hands, to your Power, 'we may expect any Help or Aſſiſtance in this our 'miſerable, diſtreſſed Condition, to the Removal 'of thoſe Iron Bonds and Yokes of Oppreſſion [*the 'aforeſaid Government in way of a Commonwealth and 'Council of State meaning*] that have thus enforced 'us to complain, and addreſs our ſelves thus to 'your Conſideration; for we [*the aforeſaid Young 'Men and Apprentices again meaning*] cannot chuſe 'but acquaint you [*the aforeſaid private Soldiers 'again meaning*] that we are ſeriouſly reſolved, 'through the Strength and Aſſiſtance of God, 'with all the Intereſt we have in the World, to 'adhere to the righteous things contained in our 'treacherouſly defeated forementioned Friends Vin- 'dication, [*the aforeſaid traytorous Book, intituled*, 'The Levellers Vindicated, or the Caſe of the 'Twelve Troopers truly ſtated, *again meaning.*']

And further, thou the ſaid *John Lilburne*, as a falſe Traytor, by moſt wicked traytorous Conſpiracies, Deſigns and Endeavours of thine aforeſaid, afterwards, that is to ſay, the aforeſaid firſt Day of *October*, in the Year of our Lord 1649, aboveſaid, and divers other Days and Times, as well before as after, didſt in the Pariſh and Ward of *London* aforeſaid, in and by the aforeſaid ſcandalous, poiſonous and traytorous Book, intituled, *An Impeachment of High Treaſon againſt* Oliver Cromwell, *and his Son-in-law* Henry Ireton, *&c.* moſt falſly, maliciouſly and traytorouſly publiſh, and openly declare, amongſt other things, in the ſaid Book, theſe following ſcandalous, treacherous, tumultuous and traytorous Clauſes and Words following; that is to ſay, 'But I [*meaning thy ſelf the ſaid* John Lilburne] 'and many other Perſons [*meaning the aforeſaid 'Friends*] intreat you ſeriouſly to conſider that I 'cannot adviſe you to make Addreſſes to him '[*meaning the aforeſaid* Thomas *Lord* Fairfax, *Cap- 'tain-General*] as the General of the Nation's For- 'ces [*the Forces of this Nation of* England *meaning*] 'for he [*the aforeſaid Captain-General meaning*] is 'no General, but is merely a great Tyrant [*meaning 'the aforeſaid Captain-General*] ſtanding by the Power 'of his own Will, and a ſtrong Sword borne by 'his Vaſſals, Slaves and Creatures [*the Soldiers of*

'*the*

'*the Army aforesaid meaning*] having no Commission 'to be General, either from the Law or the Par- 'liament, nor from the prime Laws of Nature 'and Reason. For First, when he was made Gene- 'ral by both Houses of Parliament, it was expres- 'ly against the Letter of the Laws. And Second- 'ly, when he refused to disband, *&c.* he hath re- 'belled against his Parliament-Commission, and 'thereby destroyed and annihilated it, *&c.*

[The Reader is desired to take notice, That in the Indictment it self there was a great many other things than in this is expressed; as particularly divers Passages out of a Book, called Mr. *Lilburne's*, intituled, *The Legal Fundamental Liberties of* England *revived*, &c. as also out of another Book, intituled, *A Preparative to an Hue and Cry after Sir* Arthur Haslerig, *&c.* as also out of *The Agreement of the People, of the first of* May 1649. with several other remarkable Things in Matter and Form, that were more neglected to be taken than the Pleadings; because it was not supposed, but the Indictment (being a Record) a true Copy of it might easily be had; considering that by Law all Records ought freely to be used by any Freeman of *England*, and Copies of them denied to none that desire to take them: But that Privilege being in this Cause already disputed and denied; in which regard, the Reader must at present accept of the best imperfect Notes that the Publisher could pick up.] But to go on.

And further, That thou the said *John Lilburne*, as a false Traytor, all and singular the Clauses and *English* Words aboveſaid, and many other traytorous, poisonous and malicious Expressions in and by the aforesaid Writings, and by the aforesaid several Books, as aforesaid recorded, and by thee the aforesaid *John Lilburne* published, and openly declared in the several Books so as aforesaid printed, and by the aforesaid Writings, and by thee the aforesaid *John Lilburne*, in Manner and Form aforesaid, published, and openly divulged and declared divers other scandalous, malicious, tumultuous and treacherous Clauses and Words in the said Books contained, falsly, maliciously, advisedly and traytorously, hast published and openly declared, to the intent to stir up, and raise Forces against the Governmnent aforesaid, in the way of a Commonwealth, and free State as aforesaid established; and for the suppressing and Alteration of the said Government, and to stir up Mutiny in the Army aforesaid; and also to withdraw the said *John Tooke*, *Thomas Lewis* and *John Skinner*, and many other Soldiers from their Obedience to their superior Officers and Commanders, and to set them in Mutiny and Rebellion against the publick Peace, and to manifest Contempt of the Laws of this Commonwealth and free State, and against the Form of the Statutes in this Case made and provided.

The Indictment being reading, and the Noise of the People in the Hall great, the Prisoner said he could not hear, and had some few Lines before read over to him.

L. Col. *Lilb.* Pray hold your peace, Gentlemen; I beseech you be quiet (speaking to the People.)

Ld *Keble.* Quiet your self, we will quiet them for you.

Broughton. Which Country are you? so that you are to find whether he is guilty or no, he having already pleaded, Not Guilty. If you find that he is guilty of any the High Treasons laid to his Charge, then you are to enquire what Goods, Lands or Chattels he stood possessed of, when he committed the said High Treasons; but if you find him Not Guilty, you shall then enquire whether he did not fly for it; and if he did not fly for it, then you are to say so and no more: therefore hearken to your Evidence.

Lieut. Col. *Lilburne.* May it please your Honour.

Cryer. If any Man can give any Evidence to my Lords, the Justices of *Oyer* and *Terminer*, against Mr. *John Lilburne*, let him come in, and he shall be heard.

Lieut. Col. *Lilburne.* I desire to be heard to speak two or three Words. I humbly desire the Favour to speak two or three Words. I humbly desire the Favour to be heard two Words.

Ld *Keble.* It is not a fit time; you shall be heard in your due time: but hear what the Witnesses saith first.

Lieut. Col. *Lilburne.* I conceive I am much wronged, in saying that I pleaded Not Guilty, for I pleaded no such Plea; I appeal to the Court, and to all that heard me, whether I pleaded any such Plea: for before I pleaded, the Court became engaged to me, to take no Advantage of my Ignorance of the Formalities of the Law; and promised to give me as much Privilege as my Lord Duke of *Hamilton*, and others enjoyed before the Court of Justice.

Ld *Keble.* We know all this.

Lieut. Col. *Lilburne.* Sir, by your favour, I pleaded conditionally, and now I make my absolute Plea to the Indictment, which is this; That I except against the Matter and Form of it, Matter, Time and Place, and humbly crave Counsel to assign and plead to the Errors thereof.

Ld *Keble.* You must hear us, we hear you; a word is a great deal; these things we have taken perfect notice of, the Court is not ignorant of them; therefore they need not so suddenly be repeated to us again; you need not repeat these things, for I tell you again, they are all fresh in our Memories, and that we have done we must maintain, or we have done nothing.

Lieut. Col. *Lilburne.* Truly it is requisite for me to say, that I am wronged, I had no such single Plea; I plead a Plea at large to the Errors of the Indictment; and first now crave liberty of the Law of *England* to have Time and Counsel assigned me.

Ld *Keble.* You shall have the Laws of *England*, although you refuse to own them in not holding up your Hand; for the holding up of the Hand hath been used as a part of the Law of *England* these 500 Years. Go on.

Mr. the Counsel that was an Assistant to Mr. Prideaux.

My Lord, the Prisoner at the Bar stands indicted as a Traytor, for that he contriving, and maliciously intending not only to disturb the publick Peace, but also to bring the Government of the Nation happily settled in a free State or Commonwealth, without a King, or an House of Lords, and the Commons in Parliament assembled to bring in Disgrace and Contempt amongst all good Men; he did the first of this Instant *October*, and divers times before and since in this City, falsly and maliciously, advisedly and traytorously, by writing, printing and openly declaring, in and by one Paper of his called, *A Salva Libertate*, and by divers other Papers and Books, whereof one he calls, *An Impeachment of High Treason against* Oliver Cromwell *and his Son-in-law* Hen-

ry Ireton; and another Book of his, entitled, *An Out-cry of the Young Men and Apprentices of* London, directed to all the private Soldiers of the Army, *&c.* A third, *A Preparative to an Hue and Cry after Sir* Arthur Haſlerig; and a fourth, *The Legal Fundamental Liberties of the People of* England *revived*: That he did in theſe Books publiſh, That the ſaid Government is tyrannical, uſurped and unlawful; and that the Commons in Parliament aſſembled, are not the Supreme Authority of this Nation. He ſtands further indicted, That he, as a falſe Traytor, did maliciouſly, adviſedly and traytorouſly, plot and contrive to raiſe Force againſt the preſent Government, and for the Subverſion and Alteration of it; and for the fulfilling of his moſt malicious and traytorous Deſigns, he did in and by the ſaid traytorous Books falſly, maliciouſly and adviſedly, utter and declare ſeveral moſt falſe and ſcandalous, malicious and traytorous Words and Writings, that in the Indictment are particularly named and expreſſed. And thirdly, That as a Traytor, not being an Officer, nor a Soldier, or a Member of the Army under the Command of the now Lord General *Fairfax*, he did moſt maliciouſly and traytorouſly endeavour to withdraw certain Soldiers of that Army from their Obedience to their ſuperior Officers, which are particularly named in the Indictment: And that for the full Accompliſhment of his Contrivances and Endeavours, did maliciouſly, adviſedly and traytorouſly, publiſh and deliver the poiſonous Book, called *An Impeachment*; and in particular directed by the Title of the Book, to all the People of *England*, being for that end publiſhed by him to publick View: In which Book are contained moſt falſe and ſcandalous, malicious, mutinous and traytorous Expreſſions, as in the Indictment are ſet forth. And further, That in the ſaid Book, which he called *An Impeachment*, That the preſent Government is tyrannical and uſurped; and that the Commons of *England* in Parliament aſſembled, are not the Supreme Authority. And he further ſtands indicted, and the Jury further finds and preſents, that by all theſe and other Expreſſions written by him, and publiſhed by him in written Papers and printed Books, he hath falſely, maliciouſly and traytorouſly ſtirred up Strife on purpoſe, and to the intent, to ſtir up and raiſe Force againſt the preſent Government, ſettled in the way of a Commonwealth and free State, without King and Lords, on purpoſe it to ſubvert and deſtroy. And further, he hath alſo moſt traytorouſly endeavoured to withdraw the private Soldiers from their Obedience and Subjection to their ſuperior Officers: And all this in manifeſt Contempt of the Laws of this Commonwealth, in that behalf made and provided, and to the hazard of the Overthrow, and utter Subverſion of the ſaid Government.

To this Indictment the Gentleman hath pleaded Not Guilty, and hath put himſelf upon his Country; and if we can prove this againſt his Plea, it is at an Iſſue.

Lieut. Col. *Lilburne.* I deny that, Sir, I never pleaded any ſuch ſingle Plea as Not Guilty: and you Gentlemen of the Jury, I beſeech you take notice he extremely wrongs me in ſaying ſo; for my Plea was a conditional Plea, as as a Plea at large.

Mr. Attorney. My Lord, and you Gentlemen of the Jury, you have heard the Indictment read unto you, and you have heard it opened unto you; and you have heard what Mr. *Lilburne* ſays, That he did not plead Not Guilty: and I hope he is aſhamed of his Plea now he hears the Indictment opened unto him. My Lord, in this Indictment there is contained theſe ſeveral Grand Treaſons.

The firſt is, That he hath adviſedly, traytorouſly and maliciouſly publiſhed, That the Government that is now eſtabliſhed, by way of a free State or Commonwealth, without either King or Houſe of Lords, is tyrannical, uſurped and unlawful. And further, That the preſent Parliament now aſſembled, are not the Supreme Authority of the Nation.

The ſecond is, That he hath plotted, contrived and endeavoured to ſtir up, and raiſe Forces againſt the preſent Government, and for the Subverſion and Alteration of the ſame.

The third is this that relates to the Army; you have heard what his Expreſſions have been, and they have been read unto you, concerning them and the reſt, That he, not being an Officer, or Soldier or Member of the preſent Army, hath offered to ſtir up Mutiny in the Army, and to withdraw the Soldiers from their Obedience and Subjection to their ſuperior Officers, and thereby to ſtir them up to Mutiny and Diſcontent.

Theſe are the main Parts and Subſtance of what I intend to charge him with in the Evidence, to prove that which was contained in the Indictment. My Lord, you have heard in what hath been read out of the Indictment, what Expreſſions they are; thoſe that are traytorous to the Publick, and have been ſo declared, ſo judged, ſo executed, theſe are here Mr. *Lilburne*'s engaged true Friends: The Parliament, the Government, the Authority of both Parliament and Army, they are Tyrants, Uſurpers, Mercenaries, Janiſaries, Murderers, Traytors, ſtanding by their own Power and Swords, and over-ruling all by their Wills: Theſe are the Expreſſions that he hath uſed. My Lords, I ſhall not trouble you with any thing of Aggravation; for, my Lords, I do conceive, that the reading of the Books themſelves aggravates every thing againſt him; and I think there is no *Engliſhman* (as Mr. *Lilburne* ſo often ſtiles himſelf to be) will own ſuch Words or Acts as theſe are.

And truly, my Lord, if I had read the Books, and not known the Perſon, I ſhould not have thought he had been either a Chriſtian, or a Gentleman, or a civil Man, to have given ſuch baſe and bitter Language; but, my Lords, and you of the Jury, I ſhall hold you no longer, the Evidence being ſo plain, and the Matter ſo foul, that it will not admit over-much, or ſtand in need of any Diſpute; and to make it plain and clear to your Judgments and Conſciences, there are Witneſſes in the Court evidently to prove every thing that will ſtand in need to be proved for the Indictment.

My Lords, the Words are maliciouſly, adviſedly, and traitorouſly: I ſhall not catch at Words, but, as himſelf ſays, what he prints is of mature and deliberate Conſideration; and ſuch are his Books in print, that himſelf hath either printed, or cauſed to be publiſhed.

The firſt that he is charged withal, is that which is called *An Outcry*: It hath a very dangerous Title, and in the Direction eſpecially to the Soldiers of the Army, but eſpecially to the private Soldiers of the General's Regiment of Horſe, that helped to plunder the true-hearted *Engliſhmen*, traitorouſly defeated at *Burford*; ſo that the Rebels at *Burford* were Mr. *Lilburne*'s dear Friends. My Lords, it hath not only a dangerous Title, but was publiſhed at a dangerous Time, yea, and for a dangerous End, which was to ſtir up the great Mutiny

tiny that was in the City of *Oxford*. My Lord, for the Proof of this we ſhall offer this, That Mr. *Lilburne* himſelf was Captain *Jones*'s Aſſociate in the publiſhing that Book: For Mr. *Lilburne* and this Captain *Jones* brought this Book to the Preſs to be printed. We ſhall offer unto you where he hath publiſhed it to Soldiers of the Army, to engage them in a Mutiny and Diſcontent againſt their ſuperior Officers. Therefore in the firſt place call *Thomas Newcombe*.

Thomas Newcombe *ſworn*.

Juſtice *Jermin*. Before you ſpeak look upon the Priſoner firſt, whether you know him, or not.

Mr. Attorney. My Lord, if you pleaſe, he may take the Book in his Hand, and ſee whether he printed it, and when he printed it, and who brought it to the Preſs?

Mr. *Newcombe*. I printed of this Book only the laſt Sheet, not knowing where the former part of it was done; which Book was brought to me by Lieut. Col. *Lilburne* and Capt. *Jones*, which Capt. *Jones* did agree with me in the Price: I was ſtop'd in the Proceedings in it. I ſay that Capt. *Jones*, together with Lieut. Col. *Lilburne*, did bring it to me, and that Capt. *Jones* did agree with me in the Price; but I was taken before I did perfect it: But Capt. *Jones* did indent with me for the Price. But this I muſt ſay, Lieut. Col. *Lilburne* came alone with the Copy; and afterwards at Night he came again, and had a Proof of it; and that he was preſent when it was corrected.

Mr. Attorney. And when the firſt Sheet was printed, then they came at Night again, and examined the Proof with Capt. *Jones* and his Corrector?

Ld *Keble*. And he brought the Copy of the whole Draught of the Book unto you?

Lieut. Col. *Lilburne*. Sir, by your favour, if Mr. *Prideaux* have done with the Witneſs, I crave my Right by Law to ask him ſome Queſtions. In the firſt place, I deſire he may be asked, Whether I was either Reader of the original Copy, or the Overlooker of the printed Proof?

Mr. *Newcombe*. You had a printed Sheet of it, and that was all.

Lieut. Col. *Lilburne*. I deſire to know whether I was either the Reader of that he printed, or the Looker upon the written Copy?

Mr. *Newcombe*. You look'd upon the Sheet that was printed, Capt. *Jones* read the Manuſcript.

Lieut. Col. *Lilburne*. Ask him the Queſtion thus, Whether was I the Corrector of the Thing printed, or the Looker-on upon the printed Copy? And whether, or no, he can ſwear that that printed Sheet, that he ſays I had, was corrected and reviſed, and was a true and perfect Sheet, according to the Original?

Mr. *Newcombe*. It was a Copy of the Sheet before it was corrected or reviſed.

Mr. Attorney. And Mr. *Jones* did read the Original, and Lieut. Col. *Lilburne* corrected the Copy.

Lieut. Col. *Lilburne*. Under favour, you are miſtaken: He ſays that I caſt my Eye upon the Copy; but doth not in the leaſt ſay that I corrected it. And therefore, Sir, you do abuſe me, in going about to make him ſay more than his own Conſcience tells him is Truth.

Ld *Keble*. While the Examination was, he ſaith you read the Proof.

Lieut. Col. *Lilburne*. Sir, he ſays no ſuch Thing, by your favour.

Ld *Keble*. Mr. *Newcombe*, was not Mr. *Lilburne* there the ſecond time at Night, and did he not look upon the Copy?

Mr. *Newcombe*. That he did, my Lord: But, my Lord, I ſhall tell you the Manner of our Trade in this particular. The Manner is, That after we have ſet a Form of the Letter, we make a Proof of it, which Proof we have a Corrector does read: My Corrector he had one, being he corrected it, and Capt. *Jones* look'd upon the Manuſcript. And Lieut. Col. *Lilburne* had a Copy of the ſame Sheet uncorrected; but he did not correct it, nor read to the Corrector. There was two pulled off; the Corrector had one, and Mr. *Lilburne* had the other; and Capt. *Jones* look'd upon the Manuſcript, and read it to the Corrector.

Lieut. Col. *Lilburne*. He has declared unto you, That he was taken printing the Thing before it was perfected: I deſire to know whether I was at his Houſe to give any further Directions at all after it was taken?

Mr. Attorney. That's no Thanks neither to you nor him.

Lieut. Col. *Lilburne*. I pray let him anſwer the Thing: Let me have fair Play above board. Sir, I beſeech you let me hold him cloſe to the Queſtion. He ſays he was taken before the Sheet was perfected: Truly I think they are his very Words.

Mr. *Newcombe*. I ſaid in my Examination that it was a Proof of that printed which you had.

Lieut. Col. *Lilburne*. I deſire again to know this of him, whether before he had printed or perfected that Sheet he had doing, he was not taken, and both the Forms?

Ld *Keble*. Mr. *Lilburne*, you muſt deſire to ask him the Queſtion; and not you to demand it of him your ſelf.

Lieut. Col. *Lilburne*. I ſhall, Sir.

Mr. *Newcombe*. It was before the Forms were taken.

Lieut. Col. *Lilburne*. I ask you, whether before the Things were compleat and perfect, your Forms were not both taken, and your Perſon ſeized upon?

Mr. *Newcombe*. There were only ſome few Copies printed, and then I was ſeized upon, and the Forms taken away before I had perfected the Sheet. But this I ſay, He did not indent with me for the Price; neither had I the Copy from Mr. *Lilburne*'s Hands, but from Capt. *Jones*'s Hands.

Juſtice *Jermin*. You ſay that he had one Proof, and *Jones* another: When was this you ſpeak of? Give us the Time as near as you can.

Mr. *Newcombe*. I cannot juſtly ſay the Time; but as I remember, it was about ſeven or eight Weeks ſince.

Mr. Attorney. Stand you aſide; and call *John Tooke*, *John Skinner*, *Thomas Lewis*, *John Hawkins*, and *John Merriman*, Witneſſes ſworn.

Mr. Attorney. *John Tooke*, do you declare now your Knowledge. That which I call him for, is to this purpoſe, That Mr. *Tooke* being a Soldier of the Army, one of them mentioned in the Indictment, Mr. *Lilburne* delivered him one of the *Outcries*, on purpoſe to draw him from his Obedience to his ſuperior Officers.

Ld *Keble*. Shew him the Book.

Mr. *Tooke*. I have ſeen the Book; but I had not the Book in my Hand before.

Mr. Attorney. Tell what you know; that's all we ask you.

Mr. *Tooke*. About ſeven Weeks ago, being at Dinner with *Thomas Lewis* and *John Smith*, all Soldiers, after Dinner we met with Lieut. Col. *Lilburne* in

Ivy-

Ivy-Lane; and *Thomas Lewis* knowing of him, took acquaintance of him.

Juſtice *Jermin*. All Soldiers under my Lord General *Fairfax?*

Mr. *Tooke*. Yes, Sir.

Juſtice *Jermin*. Go on.

Mr. *Tooke*. Mr. *Lilburne* asked me to go and drink a Cup of Beer: We did ſo. And ſo when we went in, he asked whether we had ſeen ſuch a Book as the *Apprentices Outcry?* And Mr. *Lewis* anſwered, That he had ſeen it in a Man's Hand. Then Lieut. Col. *Lilburne* ſaid he had one in his Pocket, that was given him; and if he pleaſed to accept of it, he would give it him. So told him he had thought to buy one of them, for he heard they were ſold in the City; but he would accept of his. So Mr. *Lilburne* delivered it to Mr. *Lewis*.

Mr. Attorney. What did Maſter *Lilburne* ſay further unto you?

Mr. *Tooke*. He ſaid, That you Soldiers keep us all in Slavery.

Lieut. Col. *Lilburne*. I beſeech you, let me ask him one Queſtion.

Mr. *Tooke*. There was ſome to be ſold; but I forgot the Place.

Mr. Attorney. Did he name a Place and Perſon to you, where you might have ſome of them?

Mr. *Tooke*. He did name a Place, but I have forgot it, where there were more Books to be ſold.

Lieut. Col. *Lilburne*. Sir, I beſeech you let me ask you one Queſtion----

Ld *Keble*. Mr. *Lilburne*, for your Direction, you muſt make your Queſtion to us, and require us to ask him the Queſtion; and then if your Queſtion be fair, it ſhall not be denied you.----

Lieut. Col. *Lilburne*. Then thus: Whatſoever this Gentleman ſays of meeting him in *Ivy-Lane*, and deſiring him to go to drink with me, yet I deſire you to ask him whether I did take Notice or Cognizance of any of them firſt? or whether they did ſpeak to me before, before ever I ſaid any thing to them?

Ld *Keble*. To what end do you ask this?

Lieut. Col. *Lilburne*. Becauſe in your Indictment I am charged that I went among the Soldiers to ſeduce them from their Obedience to their ſuperior Officers; when I have made it my Endeavour to ſhun them as much as I can, and not to come nigh the Place where I know they are, if I can avoid it; no, although I meet with them, not to diſcourſe with any of them, unleſs they begin firſt.

Ld *Keble*. I tell you this, which may direct you afterwards: Whoſoever began to diſcourſe firſt, if you did give them the Book afterwards, it is all one.

Lieut. Col. *Lilburne*. But, ſhall pleaſe you, I am upon my Life; and by Law I ought not to be denied to ask the Witneſſes that ſwear againſt me any Queſtion that I pleaſe, that I my ſelf judge pertinent for my Advantage.

Mr. Attorney. Call *Thomas Lewis*.

Thomas Lewis. And it ſhall pleaſe you, I am upon my Oath to ſpeak the Truth; and I ſhall deſire by the Help of God ſo to do, and no more. One Day, which I conceive, to my Remembrance, was the 6th Day of *September* laſt, we being upon a Guard at *Paul's*, went to an Houſe to refreſh our ſelves; and when I came forth I met with Lieut. Col. *John Lilburne*, whom I had formerly known, and ſometimes viſited in his Impriſonment, and whom I was very glad to ſee, having a little before heard as though ſome ſudden Accident or Miſchance had befallen him; and I did ask of him how he did. He ſaid unto me he was well: And ſo with that ſays he, What are you upon the Guard? To my beſt Remembrance this was his Expreſſion; yet ſee whether it was he, or another that ſaid it. As I take it theſe were his Words: Says he, I have almoſt forgotten you. Sir, I was known to you formerly, having ſometimes been with you in the *Tower*. Says he, Will you go drink? If you pleaſe, we will: And ſo upon that we went to a Place called the *Red-Croſs* in *Newgate-Market*. And there we ſitting down to drink, having not much Diſcourſe for the preſent, we ſitting ſtill, he asked me at length, Have you heard of a Book called the *Outcry of the Apprentices?* Sir, ſaid I, I have heard of it, and have a longing Deſire to buy one of them to read it; and my Reaſon why I ſo ſaid was, becauſe I did underſtand it was to be ſold at the *Exchange*; there I intended to go to get one of them. Says he, I had one given to me; and if you will, I will give it unto you. So I received the Book with Thankfulneſs; and further expreſſing, which was ſomething mean, it would ſave me a Penny in buying of it. And I further entreated him, if he could direct me where I might buy ſome more of them. I have a Friend, ſays he, in ſuch a Place; if you would go to him, and tell him that I am here, I ſhould think my ſelf beholding to you. Now the Place's Name was *Martin's-Lane*, but the Man's Name, whither I went, I have forgot, and the Man too: I never heard of the Man before nor ſince; ſo I told Mr. *Lilburne*. Now he ſaid to me, Peradventure where you find that Man, you may have ſome more of the Books. Now theſe were the Words, to my beſt Remembrance and Knowledge, as I deſire to ſpeak with a pure Conſcience.

Mr. Attorney. Mr. *Lilburne* gave you one of thoſe Books?

Mr. *Lewis*. Yes, Sir; and I put it into my Pocket, and when I had done, Mr.---- he will deliver him.----

Whether there was any Books or Paſſages betwixt them? And upon which he told him, Yes; there is a Book that Mr. *Lewis* has, that has ſuch a Title.

Mr. Attorney. What did you with the Book?

Mr. *Lewis*. I delivered it to the Lieutenant.

Mr. Attorney. The ſame Book that you received from Mr. *Lilburne*, you delivered to the Lieutenant.

Mr. Attorney. What did Lieutenant-Colonel *Lilburne* ſay to you concerning your Pay? Did not he ask you, *&c.*

Lieut. Col. *Lilburne*. I pray, Sir, do not direct him what to ſay, but leave him to his own Conſcience and Memory, and make him not for fear to ſwear more than his own Conſcience freely tells him is true.

Mr. *Lewis*. The Diſcourſe was thus: Says he, You Soldiers (to my beſt Remembrance) are the Men that keep us all in Slavery. Now what to conceive of that Expreſſion, I muſt leave that unto you. And as concerning our Pay, he asked us, How is your Pay? Theſe were the Words, or to that effect. But there was Money come for us, and ready to be delivered out unto us.

Mr. Attorney. Call *John Skinner*: He was one of thoſe that was in Company, and can ſpeak to it.

Mr. *Skinner*. To my beſt Remembrance, and it ſhall pleaſe you, 'twas the beginning of *September*, I cannot juſtly tell what Day, that I met with Mr. *Lilburne* in *Ivy-Lane*, near unto *Paul's*; and meeting with him, I was going towards the Guard, and ſo was Mr. *Lewis* with me, being walking forth of the Lane, having been refreſhing our ſelves.

And

And near the end of the Lane we met Lieutenant-Colonel *Lilburne*, which Lieutenant-Colonel Mr. *Lewis* very well knew; and knowing of him, asked him how he did, and how it went with him, in regard he had heard before he was in Prison; and so I did not take any heed what he said further. Neither do I know whether Mr. *Lewis* asked Mr. *Lilburne* to go with him to drink, or Mr. *Lilburne* asked him; but to the *Red-Cross* in *Newgate-Market* we went to drink. And Mr. *Lilburne* did ask Mr. *Lewis* whether or no he had seen the Book which was called the *Apprentices Outcry*. Mr. *Lewis* answered him, That he had not seen the Book, (as I remember;) but he had heard of that Book that it was forth, and he did intend to buy one of them, in regard they were publickly sold abroad. Says Mr. *Lilburne*, I have such a Book in my Pocket, which was given me even now; and I will give it you, if you will.

Lieut. Col. *Lilburne*. I pray let me hear two or three Lines before.

Mr. *Skinner*. Whereupon you answered, and said, I have the Book in my Pocket, and it was given me, and I will give it you. And Mr. *Lewis* received it; and that was all. And presently I went away.

Mr. *Prideaux*. You hear, Gentlemen of the Jury, that it is the same Book that he received from the Hands of Lieut. Col. *John Lilburne*.

Lieut. Col. *Lilburne*. My Lord, I beseech you hear me before the Witnesses go: And he that was sworn before, I desire to ask him this Question, Whether or no that this is the very Book that is mentioned in the Indictment? And whether or no they have examined the Words of it with the Indictment?

Mr. *Prideaux*. You need not; that shall be proved presently. Mr. *Skinner*, That Book which Mr. *Lilburne* gave you, what did you with it?

Mr. *Skinner*. It was delivered unto my Lieutenant, who stands there.

Lieut. It was delivered unto my Captain upon the Guard.

Capt. *Merriman* took the Book into his Hand, and said, This individual Book, signed in several Places by me, I delivered to Mr. *Frost*, Secretary to the Council of State; and Mr. *Frost* caused me to sign it in several Places, whereby it could not be mistaken; and that is the very individual Book.

Mr. *Prideaux*. My Lords, and you Gentlemen of the Jury, we have thus far gone in the Evidence; That Mr. *Lilburne* brought the last Sheet of it to the Press the first Time he came with Capt. *Jones*; and he came the second Time with him to examine it, that is, he had a printed Copy, that was then printing, to be printed, and was the Corrector for the Press, reading the original Copy: So far is he privy to the printing of the Book. In the next place, three Witnesses (Soldiers of the Army) swear he gave them one of those Books, and one of them gave it to his Lieutenant, and the Lieutenant to the Captain; and the Captain swears this individual Book is that which Master *Lilburne* gave into the Hands of Mr. *Lewis*. What can be more plain than this? I pray you judge. For here is plain Testimony of Mr. *Lilburne*'s delivering this *Outcry* to the three Soldiers, and one of them to his Lieutenant, and his Lieutenant to his Captain, and his Captain to Mr. *Frost*, with Marks upon it: So this is by consequence proved unto you, this is the individual Book that Mr. *Lilburne*, Prisoner at the Bar, gave to the three Soldiers; and which is to be made use of when you have occasion upon the Evidence, to read it as now it is in the Court with you.

Lieut. Col. *Lilburne*. By your favour, I have had no Answer to the Question, that I humbly craved an Answer to; which is, Whether the Soldiers are positively able to swear that this is the individual Book which they say they had from my Hands? And whether they are able to swear that this individual Book is a true and exact Copy, without Addition or Subscription, of that original Manuscript that the Printer saith Captain *Jones* delivered to his Hands, which, he saith, I had an uncorrected Sheet of.

Mr. *Prideaux*. We shall clear that to you when we come to make use of it.

Lieut. Col. *Lilburne*. I beseech you, Gentlemen of the Jury, to take notice of my Question, and what I am denied.

Mr. *Prideaux*. The next Thing that is charged upon him is a Paper written and entitled, *A Salva & Libertate*. My Lord, I shall open the Thing to you, being directed (my Lord) for the Prosecution of Mr. *Lilburne*. And having Things of very high Concernment that are charged against him, I did by Word of Mouth send to have him come to me; which I understood he did decline, because the Lieutenant had no Warrant. The Lieutenant of the *Tower* was pleased to acquaint me with it; and I thereupon directed my Warrant to the Lieutenant to bring him before me. And Mr. *Lilburne*, &c.

Lieut. Col. *Lilburne*. My * Lord, and please your Honours, thus; If we be upon Matter of Fact, let us come to it: Let us have no Introduction to teach the Witnesses what to say, beyond what their own Consciences dictate unto them.

* *This was the first or second Time that Mr.* Lilburne's *Tongue slipp'd in calling him Lord.*

Mr. *Prideaux*. I shall go no further in it; let the Lieutenant of the *Tower* speak himself.

The Lieutenant of the Tower *sworn.*

Mr. *Prideaux*. Lieutenant of the Tower, you are questioned about the *Salva Libertate* that Mr. *Lilburne* delivered unto you: Have you the Original?

Lieut. Tower. Yes, Sir, I have.

Mr. *Prideaux*. How come you by it?

Lieut. Tower. I shall be short in what I say, because I will not trouble the Court.

Lieut. Col. *Lilburne*. Let me hear you then.

Lieut. Tower. Being abroad, there was a Message left with my Servants, That I should bring up Lieutenant-Colonel *Lilburne* to Mr. Attorney's Chamber in the *Temple*; and when I came in, I had notice of it. I did then send to Lieutenant-Colonel *John Lilburne*, to let him know what Command I had received from the Attorney-General, the next Day to carry up Lieutenant-Colonel *John Lilburne* to the Attorney-General's Chamber. But Lieutenant-Colonel *Lilburne* not well understanding whether I had a written Warrant, or no; but before he came at home he recalled himself, and came back, and desired the sight of my Warrant. I told you before I had no Warrant, but by Word of Mouth. Why, says he, do you think I will go upon a verbal Warrant? Saith he, I will not go unless you force me. But the next Day Mr. Attorney-General was acquainted that he refused to come without a Warrant. When the Warrant was made, I met with Lieutenant-Colonel *Lilburne* about Ten of the clock in the *Tower*, who intreated me to let him see it.

I shew'd it him, he read it, he desired a Copy of it, takes it; which when he had, he went from me, and about two hours after he came to me, about One of the clock, and said, I pray receive this from me, for (says he) I do intend not to own the Authority and Power of that Gentleman that sent me the Warrant. Whereupon I told him I would shew this same to the Attorney-General: Why, says he, I give you it to that purpose. When the time came, Lieut. Col. *Lilburne* did go along with me in an orderly civil way: I had no body but my Man, for I told him, I will take no body but my Man, if you will engage yourself to me that you will return peaceably; which he did, and so we went very orderly to Mr. Attorney's Chamber; which is all for that I can say.

Mr. Attorney. If you please that the Lieutenant may upon his Oath declare, whether that be the true Original he had from Mr. *Lilburne*'s own hands or no?

Lieut. Tower. It was never out of my custody since he gave it me.

Ld *Keble.* Mr. *Lilburne*, you do acknowledge it to be your own Hand-writing; shew it him.

Lieut. Col. *Lilburne.* I am too old with such simple Ginns to be catch'd; I will cast mine Eyes upon none of your Papers, neither shall I answer to any Questions that concern myself: I have learned more Law out of the Petition of Right, and Christ pleading before *Pilate*, than so.

Mr. Attorney. Would you had learnt more Gospel.

Judge *Jermin.* You may answer a Question whether it be true or false, and confess, and glorify God.

Lieut. Col. *Lilburne.* I have said, Sir; prove it: I am not to be catch'd with such Fooleries.

Ld *Keble.* You see the Man, and the Quality of the Man; this is the Paper that he delivered into his own hand, and that is sufficient, as well as if it was of his own Hand-writing.

Lieut. Col. *Lilburne.* Good Sir, your verbal Bench-Law is far short of your written Text in your own Law-Books.

Judge *Jermin.* Put it into the Court.

Ld *Keble.* Your writing or not writing is nothing; you delivered the Book.

Lieut. Col. *Lilburne.* Sir, I desire to know in what place, whereabouts in the Tower of *London*, the Lieutenant of the Tower saith he received this Paper.

Ld *Keble.* Let him name the place where it was delivered.

Lieut. Tower. The place was at the steps, at the bottom of the narrow Passage at my Garden-end, in the Cart-way where the Carriages come up.

Lieut. Col. *Lilburne.* Whether is that place in the Liberties of *London*, or is it part of the County of *Middlesex*?

Lieut. Tower. The Tower is in † *London*, some part of it, and some part in *Middlesex*; but unto which place that part of the Tower belongs, I am not able certainly to say, but it hath commonly been reputed in *Middlesex*.

† *But it is sure that place is in* Middlesex, *as was resolved in Sir* Tho. Overbury's *Case. See* Coke's 3*d part Inst.* fol. 130. chap. *Indictment.*

Mr. Attorney. My Lord, you may see the Valiantness of this Champion for the Peoples Liberties, that will not own his own Hand; altho I must desire you Gentlemen of the Jury to observe, that Mr. *Lilburne* implicitly confesseth it.

Lieut. Col. *Lilburne.* Sir, I deny nothing; and what now can be proved mine, I have a Life to lay down for the Justification of it, but prove it first.

Mr. Attorney. My Lord, the next thing to prove the Charge against him is a very high one, it is stiled Master *Lilburne*'s, and his Name is to it: it is intitled, *An Impeachment of High Treason against* Oliver Cromwell, *and his Son-in-Law* Henry Ireton, *Esqs; late Members of the late forcibly dissolved House of Commons, presented to publick View by Lieut. Col.* John Lilburne, *close Prisoner in the Tower of* London. My Lord, I doubt he will not own it; but yet, my Lord, he may be asked the Question.

Lieut. Col. *Lilburne.* I shall deny nothing I do: And yet I have read the Petition of Right, Sir, that teacheth me to answer to no Questions against or concerning myself, and I have read of the same to be practised by Christ and his Apostles.

Mr. Attorney. You will not own it, the Book you have read?

Lieut. Col. *Lilburne.* You may make your advantage of it.

Mr. Attorney. We shall prove it, call Witnesses.

Thomas Daffern, *Richard Lander* Marshal, Major *Hawksworth*, Governour of *Warwick-Castle*; all sworn.

Mr. Attorney. Mr. *Daffern*, if you please he may be asked where he met Mr. *Lilburne*, the time when, what Book was given him, and to what purpose it was given him.

Mr. *Daffern.* Why, it was upon the 12th of *August* last. Having been in *Southwark*, I met with Lieut. Col. *Lilburne* upon the Bridge, I went back with him to his House at *Winchester-house* in *Southwark*: He had leave to visit his Family at that time, being very sick, and I told him I was going into *Warwickshire* the next day; and he having heard that Col. *Ayres* was then removed from *Oxford* to *Warwick-Castle*, he gave me a Book to carry to him, and I delivered it to him at *Warwick-Castle*.

Mr. Attorney. The Book that he gave you, you gave to the Governour: did you see any more of them?

Mr. *Daffern.* I never saw any of them but that, which was both the first and the last I have seen of them.

Mr. Attorney. Lander the Marshal was present at that time, was he not?

Mr. *Lander.* That I was, and I had it from him, and I delivered the Book to Major *Hawksworth* the Governour.

Mr. Attorney. Major *Hawksworth*, what did you do with the Book?

Major *Hawksworth.* I sent it to Colonel *Purefoy*, in a Paper sealed with three or four Seals.

Mr. Attorney. Call Col. *Purefoy.*

[Col. *Purefoy* sworn.]

Lieut. Col. *Lilburne.* I hear not one word: Under favour but one word, I crave but one word, I have an Exception. First, Col. *Purefoy* is one of those that call themselves the Keepers of the Liberties of *England*; and for committing Crimes against them I am indicted, and he is one of them, and therefore a Party, and in that respect in Law he can be no Witness against me. It would have been very hard for the King to have been a Witness against that Man that was indicted for committing Crimes against him; such a thing in all his Reign was never known.

Col. *Purefoy.* I received this Book, sealed in a Letter, from the Governour of *Warwick-Castle*, Major *Hawksworth*; I know his Hand, and I know the day

day he ſent me this very individual Book, and my Hand is at it, and the Governour who ſent it up to me, which I declare to be the very individual Book that I received from him.

Mr. Attorney. Mr. *Lilburne*, you are miſtaken; Col. *Pureſoy* is a Member of Parliament, he is none of the Keepers of the Liberties of *England*. But why will you put us to all this trouble to prove your Books, ſeeing your Hand is to them? my Lord, I had thought the great Champion of *England* would not be aſhamed to own his own Hand.

Lieut. Col. *Lilburne.* I have anſwered once for all: I am upon Chriſt's Terms, when *Pilate* asked him whether he was the Son of God, and adjured him to tell him whether he was or no; he reply'd, *Thou ſayſt it:* ſo ſay I, Thou Mr. *Prideaux* ſayſt it, they are my Books: but prove it, and when that is done, I have a Life to lay down to juſtify whatſoever can be proved mine.

Judge *Jermin.* But Chriſt ſaid afterwards, *I am the Son of God:* confeſs, Mr. *Lilburne*, and give Glory to God.

Lieut. Col. *Lilburne.* I thank you, Sir, for your good Law, but I can teach myſelf better.

Mr. Attorney. Here Mr. *Lilburne* makes a Book, which was given to the hands of Mr. *Daffern* by Mr. *Lilburne* himſelf; Mr. *Daffern* he ſwears that the ſame Book he gave to Col. *Ayres*; Mr. *Lander*, the Marſhal of the Gariſon of *Warwick*, ſwears that the ſame Book *Daffern* gave to Col. *Ayres*, he had from him, and gave to Major *Hawkſworth* the Governour; the Governour ſwore, that that Book he received from the Marſhal, he ſent ſealed up in a Letter to Mr. *Pureſoy*; who alſo ſwears, that that ſame Book he ſet his Hand to it to know it again by, and that the individual Book that is now given into your hands, is the ſame Book that was delivered to him: the Title is, *An Impeachment of High Treaſon againſt* Oliver Cromwell *Eſq*;

Lieut. Col. *Lilburne.* Sir, I wonder you are not aſhamed ſo far to preſs the Teſtimony beyond that they themſelves ſwear. Mr. *Daffern* doth not name the Book at all that was given to him, neither doth he ſwear it to be mine; and therefore, Sir, you abuſe yourſelf, the Court, the Witneſs, and me too.

Mr. Attorney. Maſter *Lilburne*, I have done you right in it, and no wrong at all; for Col. *Pureſoy* doth name it. The next is a very dangerous Book of his, called, *A Preparative to the Hue and Cry after Sir* Arthur Haſlerig. Mr. Lieutenant of the Tower, you are upon your Oath, I pray you ſpeak your knowledge to that.

Lieut. of Tower. My Lord, it is true, Lieut. Colonel *Lilburne* gave me in the Tower ſuch a Book; but I cannot ſay, whether that be the ſame Book that he delivered to me, or no: I have ſuch a Book alſo at home, but I am not able to ſay that is the very Book he gave me; and whether this be the ſame Book, I know not.

Mr. *Prideaux.* Call Mr. *Nutleigh* and Mr. *Radney.*

[Maſter *Nutleigh* ſworn.]

Lieut. Col. *Lilburne.* I pray let the Witneſſes ſtand here, the Jury ſay they cannot hear them.

[*Edward Radney* called and ſworn.]

Lieut. Col. *Lilburne.* I pray you, let me know what theſe Gentlemen are; I do not know them, neither can I remember at preſent that ever I ſaw them before.

Ld *Keble.* You ſee they look like Men of Quality.

Mr. *Prideaux.* They are my Servants, Mr. *Lilburne.*

Mr. *Nutleigh.* My Lord, and (*a*) pleaſe your Lordſhip, the 14th of *September* laſt, the Priſoner at the Bar, Lieut. Col. *John Lilburne*, being before Mr. Attorney-General, and I being by in the Chamber, I did ſee him deliver this Book to Maſter Attorney-General, this ſpecifical Book; and he did own it, and called himſelf the Author of it, ſave only the Erratas of the Printer.

Lieut. Col. *Lilburne.* The laſt Clauſe, I beſeech you Sir; the Jury deſires to hear the laſt Clauſe.

Mr. *Nutleigh.* My Lord, he (*b*) ſaid he was the Author of that Book, the Erratas of the Printer excepted.

Lieut. Col. *Lilburne.* Let him be asked this Queſtion, Whether in that Expreſſion, *ſaving the Erratas of the Printer*, there did not follow theſe words, *which are many?* I deſire to know whether there were not ſuch words or no?

Mr. *Radney.* I was preſent, my Lord, when the Priſoner at the Bar preſented this Book to Mr. Attorney, and owned it, ſaving the Erratas of the Printer.

Lieut. Col. *Lilburne.* Were there no more Words?

Mr. *Radney.* Not to my remembrance. [And ſo ſaid they both.]

Lieut. Tower. My Lord, I was preſent at the ſame time, when Lieut. Col. *Lilburne* did preſent a Book to Maſter Attorney-General, with ſuch a Title as this: And truly if I be not much miſtaken, there was uſed by him theſe words, *which are many.* Thus it was in the whole: ſays he, *Here is a Book which is mine, which I will own, the Erratas or Errors of the Printer excepted, which are many*; and if I miſtake not very much, thoſe are the very words Maſter *Lilburne* ſaid.

Mr. Attorney. My Lords, and you Gentlemen of the Jury, you ſee that here are three Witneſſes, and they do all agree in this, that Maſter *Lilburne*, the Priſoner at the Bar, did deliver this Book to me, owning it as his (*c*) own, the Errors or Erratas of the Printer only excepted. And as for that Clauſe, *which are many*, only the Lieutenant of the Tower ſwears to that ſingly; and therefore I deſire it may remain in Court, as that individual Book that they ſee Maſter *Lilburne* give me. But, my Lord, there is another Book in the Indictment, intitled, *The legal fundamental Liberty of the People of* England *revived and aſſerted: or, An Epiſtle written the Eighth of* June 1649, *by Lieutenant-Colonel* John Lilburne, *to Mr.* William Lenthall, *Speaker to the Remainder of thoſe few Knights, Citizens, and Burgeſſes, that Colonel* Thomas Pride *at his late Purge thought convenient to leave ſitting at* Weſtminſter. My Lords, for this Book it owns Maſter *Lilburne*, if he will own it, it hath his Name to it: But I have my Leſſon from him; my Lord, he will own nothing, he will publiſh enough, but, my Lord, he will not own it when he comes to be queſtioned for it; that is not the true Principle of a true Chriſtian, nor an *Engliſhman*, nor a Gentleman.

(*a*) *But Mr.* Lilburne *hath been heard to profeſs, he ſaw not thoſe Gentlemen in the Chamber that he diſcourſed with Mr.* Prideaux *in, altho he looked divers times about him.*

(*b*) *That is an errant Lye; for divers that heard the Words, aver them to be thus:* It is my Book, and I will own it; *and ſo it might be, altho he had bought it.*

(*c*) *So is an Ox a Man buys with his Money, it is his own; and ſo is a Gold Ring he finds, after he hath found it, it is his own: and yet it doth not follow, that the Owner either begot the Ox, or made the Gold Ring.*

Lieut. Col. *Lilburne.* I deny nothing, by your favour.

Mr. Attorney. And confeſs as little. My Lord, for this you have two Books in proof before you; *The Preparative to the Hue and Cry*, and the *Salva Libertate* owns theſe very individual Books: for the *Preparative to the Hue and Cry*, in the marginal Note at the ſecond Page, owns and avows this Book, called, *The legal fundamental*, &c. to be Maſter *Lilburne's*. And Maſter *Lilburne* himſelf did own *the Preparative to the Hue and Cry* before three Witneſſes to be his; and therefore the *Salva Libertate*, Mr. Lieutenant of the Tower hath ſworn that he received it from his own hands. My Lords, as for this Book the *Salva*, which he does not acknowledge, we ſhall read the Words in the Indictment, altho it had been as ingenuous for Maſter *Lilburne* to have confeſs'd it, as for us to have proved it: and for the proof of it, read the Title.

Clerk. The Title read: *A Preparative to an Hue and Cry after Sir* Arthur Haſlerig, *a late Member of the forcibly diſſolved Houſe of Commons; and now the preſent Wicked, Bloody, and Tyrannical Governour of* Newcaſtle upon Tyne.

Mr. *Prideaux.* Read the marginal Note in Page 2.

Clerk. Page 2. in the Margin: 'That thoſe 'Men that now ſit at *Weſtminſter* are no Parliament, either upon the Principles of Law or Reaſon: ſee my Argument and Reaſons therefore, in 'my ſecond Edition of my Book of the 8th of 'June 1649, intitled, *The legal fundamental Liberties of the People of* England *revived and aſſerted*, 'pag. 48, 49, to 63.'

Mr. Attorney. This Book hath Mr. *Lilburne's* Name to it, and here in this his *Hue and Cry* he owns it, and the third Page in the Margin hath it again.

Clerk. Page 3. 'Peruſe carefully, I intreat you, 'the Quotations in the 6th and 8th Pages of my 'forementioned Impeachment of High Treaſon 'againſt *Cromwell:* as alſo the 12th and 15th Pages 'of the ſecond Edition of my forementioned 'Book, dated the Eighth of *June* 1649, intitled, 'The *legal fundamental Liberties*, &c.'

Mr. Attorney. Read the fourth in the Body of the Book.

Clerk. Page 4. 'At which Tryal, by Strength 'of Arguments, I forced the Judges openly to 'confeſs, that Generals were nothing in Law: 'ſee alſo the ſecond Edition of my Book of the 'Eighth of *June* 1649, intitled, *The legal fundamental Liberties of the People of* England, *revived*, 'aſſerted, *and vindicated*, pag. 49.'

Lieut. Col. *Lilburne.* Let him ſpeak whether it be 29 or 49.

Clerk. Forty nine, (but there is not ſo many Pages in the Book.)

Mr. Attorney. My Lord, here is a *Salva Libertate*, which is his own Book, tho he will not own it. My Lord, I had thought the great Champion of *England* for the Peoples Liberties, would never have been ſo unworthy, as not to have owned his own Hand: but read in the 24th Page of the *Salva* in his own written Hand.

Clerk. Page 24. 'I have by almoſt eight Years 'dear-bought Experience found the Intereſt of 'ſome of my forementioned Judges to be too 'ſtrong for me to grapple with, and 'the only * Cauſe, to my apprehenſion, that all this while keeps me 'from my own.' And in the Margin he ſaith; 'See alſo the ſecond 'Edition of my forementioned Book, intitled, 'The *legal fundamental Liberties of the People of* England *revived*, &c.

* *This was brought in by head and ſhoulders.*

Mr. Attorney. Now, my Lord, there is the *Salva Libertate* that was given from his own Hand that owns it; I mean this Book, call'd, *The legal fundamental Liberties*, &c.

Mr. Attorney. Read the Title of it.

Clerk. A Salva Libertate *ſent to Colonel* Francis Weſt, *Lieutenant of the Tower of* London, *on Friday the 14th of* Septemb. 1649. *by Lieut. Col.* John Lilburne.

Mr. *Prideaux.* Read where it is marked.

Clerk. 'But if you would produce unto me a 'written Warrant which hath ſome more face of 'legal Magiſtracy in it than verbal Commands, 'and according to my Right and Privilege let me 'read it; I would go with you either by Land or 'Water as you pleaſe, becauſe I was in no capacity to reſiſt you: altho I then told you, I 'judg'd a Paper-Warrant (altho in Words never 'ſo formal) coming from any pretended Power, 'or Authority in *England* now viſible, to be altogether illegal; becauſe the intruding General, *Fairfax*, and his Forces, had broke and annihilated all the formal and legal Magiſtracy 'of *England*, yea the very Parliament itſelf; and 'by his Will and Sword (abſolute Conqueror like) 'had moſt tyrannically erected, ſet up, and impoſed upon the free People of this Nation, a 'Juncto, or Mock-Power ſitting at *Weſtminſter*, 'whom he and his Aſſociates call a Parliament; 'who like ſo many armed Thieves and Robbers 'upon the High-way, aſſume a Power by their 'own Will, moſt traitorouſly to do what they like.'

Mr. Attorney. That's not the place, look towards the latter end.

Clerk. Then here it is: 'Sure I cannot chuſe 'but acquaint you, that I have long ſince drawn 'and publiſhed my Plea againſt the preſent Power, 'in my ſecond Edition of my Book of the 8th of 'June 1649, intitled, *The legal fundamental Liberties of the People of* England *revived, aſſerted, and* 'vindicated; which you may in an eſpecial manner read in the 43d, 44th, 45th, to the 49th Page: 'which by the Strength of the Lord God omnipotent, my large experienced Help in time of 'need, I will ſeal with the laſt Drop of my Blood.'

Mr. Attorney. My Lord, for the Book called *The legal fundamental Liberties of* England, his Name is to the Book; but I ſhall not put much weight upon that: But in others of his Books, as in his *Preparative to an Hue and Cry*, which he owns, and which is proved he owns by three Witneſſes, in ſeveral places of that Book he owns this as his Book, *viz. The legal fundamental Liberties of* England *revived*, &c. he calls it *mine*, and *his forementioned Book:* and in his *Salva Libertate* he owns it again, gives it the very Date, and the very Title that is in this Book. My Lords, we have done with this. My Lords, now I ſhall go on to make uſe of it, and to ſhew my Lord out of theſe Books his Words and Language, to make good the Charge that hath been read in the Indictment againſt Mr. *Lilburne.* My Lords, if you pleaſe, for that I ſhall begin firſt in reading to the Jury the very Act itſelf, which makes the Fact to be Treaſon.

My Lord, for that, here is the Act that doth declare the Commonwealth for the future to become hereafter a Free State; and the other declaring that Fact to be Treaſon, that ſhall ſay it is Tyrannical or Unlawful. Theſe are general Acts which need not be proved; but if the Priſoner does deſire it, we ſhall prove it.

Clerk.

Clerk. Die Lunæ, 14 May 1649. Ordered by the Commons assembled in Parliament.

Lieut. Col. *Lilburne.* Hold, Sir! prove your Act first, whether it be an Act of Parliament.

Mr. Attorney. My Lords, I shall not struggle with Mr. *Lilburne* in plain terms; but I thought when Acts were published, the Courts of Justice were bound in duty to take notice of them: but if it be so he will have it proved, we will, altho it be but a slender Cavil, for this is one of the published Copies.

Lieut. Col. *Lilburne.* But under your favour, Mr. *Prideaux*, as there may be counterfeit Money, (which we see there is every day) so there may be counterfeit Statutes too; and this may be one for any thing I know, therefore I desire it may be proved to be a true Statute or Act of Parliament.

Mr. *Nutleigh.* This is a true Copy of the Act of Parliament, which I examined with the Record.

Lieut. Col. *Lilburne.* The Record! Where is that to be found?

Mr. *Nutleigh.* At *Westminster*, with the Clerk of the Parliament.

Lieut. Col. *Lilburne.* Is this Gentleman able to depose it to be a true Law in all the parts of it? For by the Laws of *England*, the People are not to take any notice of Acts made, but by a Parliament; neither are they to take notice of those Acts that are not proclaimed. Sir, I beseech you let me know where the Record and Rolls are, and where he examined this, and whether he is able to swear whether they have been proclaimed in every Hundred and Market-Town, according to the old, and not yet repealed Law of *Eagland.*

Ld *Keble.* At *Westminster*, he tells you.

Lieut. Col. *Lilburne.* I beseech you, where at *Westminster?*

Ld *Keble.* The Clerks of the Parliament are known to the City of *London* here, you know it well enough.

Lieut. Col. *Lilburne.* That is no Answer to my Questions: I pray let me have fair play; for it is a Question to me, whether the Books of the Clerk of the House of Commons be a (*a*) Record in Law or no.

Ld *Keble.* Read, Clerk.

Clerk. *An Act of the 14th of* May 1649. *declaring what Offences shall be adjudged Treason.*

'WHEREAS the Parliament hath abolished the Kingly Office in *England* and *Ireland*, and in the Dominions and Territories thereunto belonging, and hath resolved and declared that the People shall for the future be governed by its own Representatives, or National Meetings in Council, chosen and intrusted by them for that purpose; hath settled that Government in the way of a Commonwealth and Free State, without King or House of Lords: Be it therefore enacted by this present Parliament, and by the Authority of the same, That if any Person shall maliciously or advisedly publish, by writing, printing, or openly declaring, That the said Government is Tyrannical, Usurped, or Unlawful; or that the Commons in Parliament assembled are not the Supreme Authority of this Nation; or shall plot, contrive, or endeavour to stir up or raise Force against the present Government, or for the Subversion or Alteration of the same, and shall declare the same by any open Deed: That then every such Offence shall be taken, deemed, and adjudged by the Authority of this present Parliament to be High Treason. And whereas the Keepers of the Liberty of *England*, and the Council of State constituted, and to be from time to time constituted by Authority of Parliament, are to be under the said Representatives in Parliament entrusted for the Maintenance of the said Government with several Powers and Authorities, limited, given, and appointed unto them by the Parliament: Be it likewise enacted by the Authority aforesaid, That if any Person shall maliciously and advisedly plot, or endeavour the Subversion of the said Keepers of the Liberty of *England*, or the Council of State, and the same shall declare by any open Deed; or shall move any Person or Persons for the doing thereof, or stir up the People to rise against them, or either of them there, or either of their Authorities; that then every such Offence and Offences shall be taken, deemed, and declared to be High Treason.

'And whereas the Parliament, for their just and lawful Defence, have raised and levied the Army and Forces under the Command of *Thomas* Lord *Fairfax*, and are at present necessitated, by reason of the manifold Distractions within this Commonwealth, and Invasions threatned from abroad, to continue the same; which under God must be the instrumental Means of preserving the well-affected People of this Nation in Peace and Safety: Be it further enacted by the Authority aforesaid, That if any Person, not being an Officer, Soldier, or Member of the Army, shall plot, contrive, or endeavour to stir up any Mutiny in the said Army, or withdraw any Soldiers or Officers from their Obedience to their superiour Officers, or from the present Government, as aforesaid; or shall procure, invite, aid, or assist any Foreigners or Strangers to invade *England* or *Ireland*; or shall adhere to any Forces raised by the Enemies of the Parliament, or Commonwealth, or Keepers of the Liberties of *England*; or if any Person shall counterfeit the Great Seal of *England* (for the time being) used and appointed by Authority of Parliament: That then every such Offence and Offences shall be taken, deemed, and declared by the Authority of this Parliament, to be High Treason; and every such Person shall suffer Pain of Death, and also forfeit unto the Keepers of the Liberty of *England*, to and for the use of the Commonwealth, all and singular his and their Lands, Tenements and Hereditaments, Goods and Chattels, as in case of High Treason hath been used by the Laws and Statutes of this Land, to be forfeit and lost. Provided always, That no Persons shall be indicted and arraigned for any of the Offences mentioned in this Act, unless such Offenders shall be indicted or prosecuted for the same within one Year after the Offence committed.'

Mr. *Prideaux.* Read the other Statute.

Clerk. Tuesday, 17 *July* 1649. *Ordered by the Commons assembled in Parliament, That this Act be forthwith printed and published.* Hen. Scobel, Cler. Parl.

(*a*) *And well might he: for* Mackwel, *in his* Manner of passing of Statutes, *in his Preface thereunto, saith, That the Commons had no Journals at all before* Edward *the Sixth's time.*

An Act declaring what Offences ſhall be adjudged Treaſon.

'WHEREAS the Parliament hath abo-
'liſhed the Kingly Office in *England* and
'*Ireland*, and in the Dominions and Territories
'thereunto belonging; and having reſolved and
'declared, that the People ſhall for the future be
'governed by its own Repreſentatives, or Natio-
'nal Meetings in Council, choſen and entruſted
'by them for that purpoſe, hath ſettled the Go-
'vernment, by way of a Commonwealth, and
'Free State, without King or Houſe of Lords: Be
'it enacted by this preſent Parliament, and by the
'Authority of the ſame, That if any Perſon ſhall
'maliciouſly or adviſedly publiſh by writing, print-
'ing, or openly declaring, That the ſaid Govern-
'ment is tyrannical, uſurped or unlawful; or that
'the Commons in Parliament aſſembled, are not
'the Supreme Authority of this Nation; or ſhall
'plot, contrive or endeavour to ſtir up, or raiſe
'Force againſt the preſent Government, or for the
'Subverſion or Alteration of the ſame, and ſhall
'declare the ſame by any open Deed; that then
'every ſuch Offence ſhall be taken, deemed and
'adjudged by Authority of this Parliament to be
'High Treaſon. And whereas the Keepers of the
'Liberties of *England*, and the Council of State,
'conſtituted, and to be from time to time conſti-
'tuted by Authority of Parliament, are to be un-
'der the ſaid Repreſentatives in Parliament, en-
'truſted for the Maintenance of the ſaid Govern-
'ment with ſeveral Powers and Authorities limit-
'ed, given and appointed unto them by the Par-
'liament: Be it likewiſe enacted by the Authori-
'ty aforeſaid, That if any Perſon ſhall maliciouſ-
'ly and adviſedly plot or endeavour the Subver-
'ſion of the ſaid Keepers of the Liberties of *Eng-*
'*land*, or the Council of State, and the ſame ſhall
'declare by any open Deed, or ſhall move any Per-
'ſon or Perſons for the doing thereof, or ſtir up the
'People to riſe againſt them, or either of them,
'their, or either of their Authorities, that then
'every ſuch Offence and Offences ſhall be taken,
'deemed and declared to be High Treaſon. And
'whereas the Parliament for their juſt and lawful
'Defence, hath raiſed and levied the Army and
'Forces now under the Command of *Thomas* Lord
'*Fairfax*, and are at preſent neceſſitated by rea-
'ſon of the manifold Diſtractions within this
'Commonwealth, and Invaſions threatened from
'abroad, to continue the ſame, which under God,
'muſt be the inſtrumental Means of preſerving
'the well-affected People of this Nation, in Peace
'and Safety: Be it further enacted by the Authori-
'ty aforeſaid, That if any Perſon not being an Of-
'ficer, Soldier or Member of the Army, ſhall plot,
'contrive or endeavour to ſtir up any Mutiny in
'the ſaid Army, or withdraw any Soldiers or Of-
'ficers from their Obedience to their ſuperior Of-
'ficers, or from the preſent Government as afore-
'ſaid; or ſhall procure, invite, aid or aſſiſt any Fo-
'reigners or Strangers to invade *England* or *Ireland*,
'or ſhall adhere to any Forces raiſed by the Enemies
'of the Parliament, or Commonwealth, or Keepers
'of the Liberty of *England*: or if any Perſon
'ſhall counterfeit the Great Seal of *England*, for the
'time being, uſed and appointed by Authority of
'Parliament: that then every ſuch Offence and
'Offences ſhall be taken, deemed and declared by
'Authority of this Parliament to be High Trea-
'ſon; and every ſuch Perſon ſhall ſuffer Pains of
'Death, and alſo forfeit unto the Keepers of the
'Liberty of *England*, to and for the Uſe of the
'Commonwealth, all and ſingular his and their
'Lands, Tenements and Hereditaments, Goods
'and Chattels, as in caſe of High Treaſon hath been
'uſed by the Laws and Statutes of this Land, to be
'forfeit and loſt. Provided always, That no Perſons
'ſhall be indicted and arraigned for any the Offen-
'ces mentioned in this Act, unleſs ſuch Offenders
'ſhall be indicted and proſecuted for the ſame
'within one Year after the Offence committed.
'And be it further enacted by the Authority a-
'foreſaid, That if any Perſon ſhall counterfeit the
'Money of this Commonwealth, or ſhall bring
'any falſe Money into this Land, counterfeit, or
'other like to the Money of this Commonwealth,
'knowing the Money to be falſe, to merchan-
'dize or make Payment in Deceit of the People
'of this Nation; or if any Perſon ſhall hereafter
'falſly forge, and counterfeit any ſuch kind of
'Coin of Gold or Silver as is not the proper Coin
'of this Commonwealth, and is or ſhall be cur-
'rent within this Nation, by Conſent of the Par-
'liament, or ſuch as ſhall be by them authori-
'zed thereunto; or ſhall bring from the Parts be-
'yond the Seas into this Commonwealth, or into
'any the Dominions of the ſame, any ſuch falſe
'and counterfeit Coin of Money, being current
'within the ſame, as is aboveſaid, knowing the
'ſame Money to be falſe and counterfeit, to the
'intent to utter or make payment with the ſame,
'within this Commonwealth, by Merchandize or
'otherwiſe; or if any Perſon ſhall impair, dimi-
'niſh, falſify, clip, waſh, round or file, ſcale or
'lighten, for wicked Lucre or Gain-ſake, any the
'proper Monies or Coins of this Commonwealth,
'or the Dominions thereof, or of the Monies or
'Coins of any other Realm, allowed and ſuffered
'to be current within this Commonwealth or the
'Dominions thereof: that then all and every ſuch
'Offences above-mentioned, ſhall be, and are here-
'by deemed and adjudged High Treaſon; and the
'Offenders therein, their Counſellors, Procurers,
'Aiders and Abettors, being convicted according to
'the Laws of this Nation, of any of the ſaid Of-
'fences, ſhall be deemed and adjudged Traytors
'againſt this Commonwealth, and ſhall ſuffer and
'have ſuch Pains of Death and Forfeitures, as in
'caſe of High Treaſon is uſed and ordained. Pro-
'vided always, and be it enacted by the Authority
'aforeſaid, That this Act touching the Moneys and
'Coins aforeſaid, or any thing therein contained,
'nor any Attainder of any Perſon for the ſame,
'ſhall in any wiſe extend, or be judged to make
'any Corruption of Blood to any the Heir or Heirs
'of any ſuch Offender, or to make the Wife of
'any ſuch Offender to loſe or forfeit her Dower of
'or in any Lands, Tenements or Hereditaments, or
'her Title, Action or Intereſt in the ſame.'

Mr. Attorney. My Lords, and you Gentlemen of the Jury, you have heard theſe Laws read unto you: the Clauſes that we are to make out in Proof againſt Mr. *Lilburne*, are theſe; That if any Perſon ſhall maliciouſly or adviſedly publiſh by writing, printing, or openly declaring that the ſaid Government is tyrannical, uſurped or unlawful; or that the Commons in Parliament aſſembled; are not the Supreme Authority of this Nation, are Traytors: Theſe we ſhall join together with his Books. My Lord, you are here in Court, and have received the Proofs againſt him, and we ſhall now make it out, that

that he hath done what this Statute forbids, out of his own Books that have come from himself, as the Author of them. My Lord, we shall begin with that Charge against him, in declaring the Government to be tyrannical, usurped and unlawful; and for that end, see his *Impeachment of Lieutenant General* Cromwell, *&c. p.* 8.

Justice *Jermin.* Mr. *Lilburne*, doth your Paper of the 17th of *May* agree with that which was read, or no?

Lieut. Col. *Lilb.* No, Sir; I conceive, Sir, you ask'd me whether this Act I have in my Hand, do agree with that which was read?

Just. *Jermin.* Yes, Sir, I do.

Lieut. Col. *Lilb.* It does not.

Just. *Jermin.* Then you will make use of it by and by.

Lieut. Col. *Lilb.* I, Sir, I intend so, if you will let me.

Mr. Attorney. My Lord, the first is, That Mr. *Lilburne* hath declared the present Government to be tyrannical, usurped and unlawful; and that *in ipsissimis verbis*, that he hath so declared, in a very high way, in the very Words; So his Book, intitled, *An Impeachment of High Treason against* Oliver Cromwell, *and his Son-in-law* Henry Ireton, *&c.* Read *fol.* 8.

Clerk. Fol. 8. 'Yea, and the absolute keeping up 'of a perpetual and everlasting Army, under which 'the People are absolute and perfect Slaves and 'Vassals, as by woful and lamentable Experience 'they now see they perfectly are; which Slavery 'and absolute Bondage is like daily to encrease un-'der the present tyrannical and arbitrary, new-'erected, robbing Government.

Mr. Attorney. And so, my Lord, it is here ex-pressed to be a tyrannical and arbitrary Govern-ment, which are expresly within the Words of the Law; for they are *a tyrannicall Government.* My Lords, we shall not stick here with him, but you shall see the whole Course of all his Pen's Writing hath been to this purpose: that goes very far, my Lord; see the Title-page of the last Book.

Clerk. Title-page. 'Before a legal Magistracy, 'when there shall be one in *England*, which now in 'the least there is not.'

Mr. *Attorney.* See *fol.* 1.

Clerk. Page 1. 'I have fully, both by Law and 'Reason, undeniably and unanswerably proved, 'That the present Juncto sitting at *Westminster*, are 'no Parliament at all in any Sense, either upon 'the Principles of Law or Reason, but are a Com-'pany of usurping Tyrants and Destroyers of your 'Laws, Liberties, Freedoms and Proprieties, sit-'ting by virtue of the Power and Conquest of the 'Sword.'

Mr. *Attorney.* Read the Title-page of the same Book.

Clerk. *An Impeachment of High Treason against* Oliver Cromwell, *and his Son-in-law* Henry Ireton, *Esquires, Members of the late forcibly dissolved House of Commons; presented to publick view, by Lieutenant-Col.* John Lilburne, *close Prisoner in the Tower of* London, *for his real, true and zealous Affections to the Liber-ties of his native Country.* In which following Dis-course or Impeachment he engageth, upon his Life, either upon the Principles of Law (by way of In-dictment, the only and alone legal way of all Try-als in *England*) or upon the Principles of Parlia-ments antient Proceedings, or upon the Principles of Reason, (by Pretence of which alone they late-ly took away the King's Life) before a legal Ma-gistracy, when there shall be one again in *Eng-land*, which now in the least there is not.

Mr. Attorney. Indeed, my Lord, and you of the Jury, Mr. *Lilburne* is a very great Rooter, not a Leveller, but a Rooter to root out the Laws of *England* by the Roots.

J——. There is not——

Lieut. Col. *Lilb.* By your favour, Mr. *Prideaux*, I knew the time when others said it as well of you; and it is not long since you were penn'd down in a black Bill, to my knowledge, as unsavoury Salt, with many others, to be thrown out of the House of Commons. I pray, Sir, whether were those Rooters that went about to root up that House by force of Arms, or Mr. *Prideaux* and others to give them cause, at least in their Apprehensions?

Mr. Attorney. My Lord, a legal Magistracy in *England* as now, he saith, in the least there is not: if there be no Magistracy, I will conclude, there is no Propriety left in this Nation; but Mr. *Lil-burne* saith, there is no Magistracy; and if so, then no Propriety.

Lieut. Col. *Lilb.* It would be a very strange Ar-gument that you would infer; I wish you and I were to dispute that in point of Law for our Lives, that to deny a Magistracy legally constituted, ac-cording to the Formalities of the Law, does not destroy Propriety. For indeed, Sir, Propriety is an Antecedent to Magistracy, and is first in being before it. But, Sir, to end the Dispute, he that owns the Law of *England* (as I do) that distinguish-eth *meum* and *tuum*, can never be a Destroyer of Propriety: I wish your Practice were as consonant to Propriety as my Principles.

Mr. *Attorney.* Read the second Page at the Mark.

Clerk. 'Now, I say, considering that which is 'before declared, I cannot upon any terms in the 'world, either with Safety, Justice or Conscience, 'as things stand with me at present, give my Con-'sent, but hinder (as much as I am able) all Ad-'dresses from me, or any other that shall own the u-'surping Tyrants as a Parliament, especially by 'Petition, which was a Course (saith the pretend-'ed Parliament Sollicitor, against the King, in his '*Case Stated*, pag. 24.) which God's People did not 'take with *Rehoboam*; for they never petitioned 'him (although he was their lawful Supreme Ma-'gistrate) but advised him; he refusing their Coun-'sel, and hearkening to young and wicked Coun-'sellors, and they cry out, *To thy Tents, O* Is-'rael! and made quick and short Work of it.'

Mr. *Prideaux.* My Lord, here are Words again to make good as aforesaid, That the Parliament are usurping Tyrants. Read also *pag.* 28.

Clerk. Read on *pag.* 23. in the Margin of the said Book. 'And if those very things should be judged 'Treason, as they are, and were in the Earl of 'Strafford, I wonder what should become of all our 'present Juncto at *Westminster*, and their new thing 'called *a Council of State?* Undoubtedly the most, 'if not all of them, must go to *Tyburn* or *Tower-'Hill*, there by a Halter or Ax, to receive their 'just Deserts. *Amen.*'

Mr. Attorney. There is an *Amen* pronounc'd to us, let him have it that deserves it: But to go on. Read the 11th *Page* of his Book called, *The Apprentices Out-cry.*

Clerk reads pag. 11. 'We say, considering what is 'before premised, we are necessitated and compel-'led to do the utmost we can for our own Preser-'vation, and the Preservation of the Land of our 'Nativity, and never by popular Petitions, *&c.* ad-'dress our selves to the Men sitting at *Westminster* 'any more, or to take any more notice of them, 'than as of so many Tyrants and Usurpers; and for

'time

'time to come to hinder (as much and as far as 'our poor despised Interest will extend to) all others 'whatsoever from subscribing, or presenting any 'more popular Petitions to them; and only now as 'our last Paper-Refuge, mightily cry out to each 'other, of our intolerable Oppressions, in Letters 'and Remonstrances signed in the behalf, and by 'the appointment of all the rest, by some of the 'stoutest and stiffest amongst us, that we hope will 'never apostatize, but be able, through the Strength 'of God, to lay down their very Lives for the 'maintaining of that which they set their Hands 'to.'

Mr. *Attorney.* Read *pag.* 2.

Clerk reads on pag. 2. 'But even our Parliament (the 'very Marrow and Soul of all the People's native 'Rights) put down, and the Name and Power 'thereof transmitted to a pick'd Party of your for-'cible selecting, and such as your Officers (our 'Lords and Riders) have often and frequently sti-'led no better than a Mock-Parliament, a Sha-'dow of a Parliament, a seeming Authority, or 'the like, pretending the Continuance thereof, 'but till a new and equal Representative by mu-'tual Agreement of the free People of *England*, 'could be elected; although now for Subserviency 'to their Exaltation and Kingship, they prorogue 'and perpetuate the same, in the Name, and un-'der Colour thereof, introducing a Privy Council, 'or, as they call it, *a Council of State*, of Super-'intendency and Suppression to all future Parlia-'ments for ever, erecting a martial Government, 'by Blood and Violence impulsed upon us.

Mr. *Attorney.* Read *pag.* 3. at the Mark.

Clerk. Page 3. 'Trade is decayed and fled, Mi-'sery, Poverty, Calamity, Confusion, yea and Beg-'gary, grown so sore and so extreme upon the 'People, as the like never was in *England*, under 'the most tyrannical of all our Kings that were 'before these in present Power, since the Days of 'the Conqueror himself: no Captivity, no Bon-'dage, no Oppression like unto this; no Sorrow and 'Misery like unto ours, of being enslaved, undone 'and destroyed by our large pretended Friends.'

Mr. *Attorney.* Read *page* 4.

Clerk. Page 4. 'And yet nothing but the ground-'less Wills and Humours of those afore-mentioned 'Men of Blood rageth and ruleth over us: and is 'this all the Return and Fruit that People are to 'expect from your hands?'

Mr. *Attorney.* Take this *Preparative to an Hue and Cry after Sir* Arthur Haslerig, and read *page* 2.

Clerk reads on. 'The *Preparative to the Hue and* 'Cry after Sir Arthur Haslerig, at *pag.* 2. in the 'Margin: That those Men that now sit at *West-'minster*, are no Parliament, either upon the Prin-'ciples of Law or Reason.'

Mr. *Attorney.* Read *page* 3.

Clerk. Page 3. 'They promise to amend, and to 'proceed according to the Form of the Law, as 'fully appears in their last fore-mentioned Decla-'ration, and several others; as particularly the 'present Declaration of this present Juncto against 'Kingship, dated the 17th of *March*, 1648.

Mr. *Attorney.* Read *page* 4.

Clerk. Pag. 4. 'But the said Sir *Arthur Haslerig*, '*&c.* more arbitrarily, and more treacherously than '*Strafford*, having no Pretence of Regal, Legal, or 'Parliamentary Commissions or Authority, no not 'so much as from the present Nothing, or illegal 'Juncto, or the present illegal Thing called *the Coun-'cil of State*, Mr. *John Jordan* now Member.'

Mr. Attorney. My Lord, he doth declare who he means by Juncto; Mr. *Jordan*, a Member of the present Juncto, the pretended House of Commons. In the third place, for the Proof of this first Particular, I shall produce his Book, intitled, *The Legal and Fundamental Liberties of* England *revived*, &c. Read *pag.* 41.

Clerk reads pag. 41. 'But, Sir, I say, no wonder, 'all the things foregoing rightly considered, they 'do own you now (as *Thomas Pride* hath made you) 'for the Supreme Authority of the Nation; al-'though before they would neither submit to 'King nor Parliament, (when it was a thousand 'times more unquestionable, both in Law and 'Reason, than now you are) but fought against 'both King and Parliament, their Setters up, 'conquered them, repelled them, subdued them, 'and broke them both; and so pulled up by the 'Roots all the legal and visible Magistracy and 'Authority in the Nation, and thereby left none 'but themselves, who stand in parallel to none (as 'they have managed their business) but to a Com-'pany of Murderers, Thieves and Robbers, who 'may justly be dispossessed by the first Force that 'are able to do it; no pretended Authority that 'they of themselves, and by their Swords can set 'up, having in the sight of either God or Man, 'either in Law or Reason, any more just Authority 'in them, than so many *Algier* Pirates and Robbers 'upon the Sea have.'

Lieut. Col. *Lilb.* You read, as I take it, a second Edition; whether is that a second Edition or no?

Mr. *Attorney.* No, no, it is not so in the In-dictment; it is no second Edition, but the first. Read *pag.* 56.

Clerk. Page 56. 'To which I answer; First, That 'that Company of Men at *Westminster*, that gave 'Commission to the High Court of Justice to try 'and behead the King, were no more a Parliament 'by Law, or a Representative of the People, by 'the Rules of Justice and Reason, than such a 'Company of Men are a Parliament, or Repre-sen-'tative of the People, that a Company of armed 'Thieves chuse and set apart to try, judge, con-'demn, hang or behead any Man that they please, 'or can prevail over by the Power of the Sword, 'to bring before them by force of Arms, to have 'their Lives taken away upon pretence of Justice, 'grounded upon Rules merely flowing from their 'Wills and Swords.'

Mr. *Attorney.* Read the Title-page.

Clerk. *The Legal Fundamental Liberties of the Peo-ple of* England, *revived, asserted and vindicated; or an Epistle written the eighth of* June, 1649. *by Lieu-tenant-Colonel* John Lilburne, (*Arbitrary and Aristo-cratical Prisoner in the Tower of* London) *to Mr.* Will. Lenthall *Speaker to the Remainder of those few Knights, Citizens and Burgesses, that Col.* Thomas Pride *at his late Purge thought convenient to leave sitting at* West-minster, (*as most fit for his and his Masters Designs, to serve their ambitious and tyranical Ends, to destroy the good old Laws, Liberties and Customs of* England, *the Badges of our Freedom, as the Declaration against the King of the* 17*th of* March, 1648. pag. 23. *calls them, and by force of Arms to rob the People of their Lives, Es-tates and Properties, and subject them to perfect Vas-salage and Slavery, as he clearly evinceth in his pre-sent Case, &c. they have done) and who (in truth no otherwise than pretendedly) stile themselves the Parlia-ment of* England.

Mr. *Attorney.* Read *pag.* 2.

Clerk. 'Sir, for Distinction-sake, I will yet stile 'you *Mr. Speaker*, although it be but to Col. *Pride's* 'Juncto, or Parliament sitting at *Westminster*, (not

'the

'the Nations, for they never gave him Authority 'to iſſue out Writs to elect or conſtitute a Par- 'liament for them;) and a little below, in the 'ſame ſecond Page, I accuſed *Oliver Cromwell* for a 'wilful Murderer, and deſire you there to acquaint 'your Houſe therewith, (who then had ſome little 'Hand of a Parliament ſtamp upon it.)'

Mr. Attorney. Read *Page* 28.

Clerk. Page 28. 'The like of which Tyranny the 'King never did in his Reign; and yet by St. *Oli- 'ver's* means loſt his Head for a Tyrant. But the 'Thing that I principally drive at here, is to de- 'clare that *Oliver* and his Parliament, now at *Weſt- 'minſter*, (for the Nation's it is not) having pluck- 'ed up the Houſe of Lords by the Roots.'

Page 44. 'So that if it be Treaſon to call this 'a a Mock- 'Parliament, yea, and to ſay

'And if this be true, for true it (*a*) is, 'then there is neither legal Juſtice, nor Juſtice of 'Peace in *England*.'

Mr. Attorney. Read *Page* 37.

Clerk. Page 37. 'For if they ever had intended 'an Agreement, why do they let their own lie dor- 'mant in the pretended Parliament ever ſince they 'preſented it? ſeeing it is obvious to every know- 'ing Eye, that from the Day they preſented it, to 'this Hour, they have had as much Power over 'their own Parliament, now ſitting, as any School- 'Maſter in *England* had over his Boys.'

Clerk. Page 45. 'For your Intereſt and the King's, 'both being Intereſts of Truſt, as your Declara- 'tions do plentifully and plainly declare; but eſpe- 'cially your preſent *Juncto's* late Declaration againſt 'the late beheaded King, and Kingly Govern- 'ment.

Mr. Attorney. Read *Page* 58.

Clerk. Page 58. 'And let the preſent Generation 'of ſwaying Men, that under pretence of Good, 'Kindneſs, and Friendſhip, have deſtroyed and 'trod under foot all the Liberties of the Nation, 'and will not let us have a new Parliament; but 'ſet up by the Sword their own inſufferable, inſup- 'portable, tyrannical Tyranny.'

Lieut. Col. *Lilburne.* I pray, Sir, are all theſe Quotations in the Indictment *verbatim?* I do not remember that I heard them there.

Mr. Attorney. No, we do not offer any Book but what is charged in the Indictment: For we do ſay, That he publiſhed thoſe Things among other Clauſes and Things in thoſe Books. So that we bring in no Book that is not contained in the Indictment. Read *Page* 64.

Clerk. Page 64. 'That ſo they might rule, direct, 'and counſel their Mock-Parliament.

Mr. Attorney. Read *Page* 68.

Clerk. Page 68. 'That that High Court of Juſ- 'tice was altogether unlawful, in caſe thoſe that 'had ſet it up had been an unqueſtionable Repre- 'ſentative of the People, or a legal Parliament: 'neither of which they are, not in the leaſt; but, 'as they have managed their Buſineſs in oppoſing 'all their primitive declared Ends, are a Pack of 'traytorous, ſelf-ſeeking, tyrannical Men, Uſur- 'pers of the Name and Power of a Parliament.'

Mr. Attorney. Read *Page* 72.

Clerk. Page 72. 'Then with much more Confi- 'dence ſay I, This that now ſits is no Parliament; 'and ſo by conſequence the High Court of Juſtice 'no Court of Juſtice at all.'

Mr. Attorney. My Lord, that which we ſhall offer you next, is the *Salva Libertate*, which the Lieutenant of the *Tower* had from Mr. *Lilburne* himſelf. Read at the Mark.

Clerk. † 'A *Salva Libertate*: Altho I then told 'you I judged a Paper Warrant, (altho in Words 'never ſo formal) coming from any pretended 'Power or Authority in *England*, now viſible, to be 'altogether illegal; becauſe the intruding General 'Fairfax and his Forces had broke and annihilated 'all the formal and legal Magiſtracy of *England*, yea 'the very Parliament it ſelf; and by his Will and 'Sword (abſolute Conqueror like) had moſt tyran- 'nically erected, and ſet up, and impoſed upon the 'free People of this Nation a *Juncto* or Mock- 'Power, ſitting at *Weſtminſter*, whom he and his 'Aſſociates call a Parliament; who, like ſo many 'armed Thieves and Robbers upon the Highway, 'aſſume a Power, by their own Wills, moſt trai- 'torouſly to do what they like, yea, and to fill the 'Land with their mock and pretended Magiſtrates, 'amongſt the Number of which is the pretend- 'ed Attorney-General: in perfect Oppoſition of 'whom, to the utmoſt of my Might, Power, and 'Strength, I am reſolved, by God's gracious Aſ- 'ſiſtance, to ſpend my Blood, and all that in this 'World is dear unto me, ſuppoſing him not really 'and ſubſtantially worthy the Name of an *Engliſh* 'Freeman, that in ſome meaſure, in this Particu- 'lar, is not of my mind.'

Mr. Attorney. My Lord, in the Caſe of this Charge, what Mr. *Lilburne* is pleaſed to ſay concerning me, I ſhall ſay no more but only this: I ſhall not do ſo by him; I ſhall not ſpend my Blood againſt him. You ſee what he ſaith, That the preſent Government is tyrannical, uſurped, and unlawful; that the Commons of *England* in Parliament aſſembled are not the ſupreme Authority, but a *Juncto*, a Mock-Power, a Mock-Parliament, a Company of Traytors, that rule merely by the Dictates of their own Will. I could alledge more of his Books unto you, which have Words in them very notorious, and very publick. He doth in expreſs Words ſay, That the Government is arbitrary, tyrannical, and a new-erected, ruining, inſlaving, robbing Government: To ſtile them Tyrants, Uſurpers, Traytors, parallel to none but Murderers, Robbers, Thieves: No Parliament at all, but *Thomas Pride's Juncto*, and School-Boys, Deſtroyers of the Laws and Liberties of the Nation, the preſent *Juncto*, (Chimeras, Fooleries, and the like.) All theſe Expreſſions, and many more, which I am ſorry I have occaſion to repeat to you; that ſo much Dirt ſhould be thrown into the Face of any Magiſtrates of *England*: My Lords, theſe are now the beſt which do rule. My Lords, I hope you, and the Gentlemen of the Jury, will take notice of it, as to be very clear, pregnant, evident Proof, that Mr. *Lilburne* hath thus publiſhed, and thus ſaid. And beſides this, you ſee what he does go to: He denies all (*b*) Magiſtracy. So that now we are all alike, a *Chaos*, a Confuſion: And this he hath brought us to, or would have endeavoured it. My Lords, I ſhall not aggravate; and if I did ſay no more, it were enough. But I come to the ſecond general Head of the Charge;

(*a*) *Theſe Words cannot be found in* Page 44. *but are in the Book it ſelf, which Time will not permit to read all over; and therefore at preſent it paſſeth lame and imperfect.*

(*b*) *That's falſe: He doth no ſuch Thing; but at moſt ſaith, The Army hath deſtroyed all the legal Magiſtracy of the Nation; and they are the Men that thereby are the real Levellers and Rooters.*

which is, That he hath plotted and contrived to levy or raiſe Forces to ſubvert and overthrow the preſent eſtabliſhed Government, in the way of a free State or Commonwealth. My Lords, if I ſhould ſay nothing more to the Jury, this that hath been already read is evident Proof of that: For certainly thoſe that ſhall ſay that the Governors be Tyrants, that the Parliament is tyrannical, that they are Men of Blood, Deſtroyers of Laws and Liberties; this cannot be of any other uſe but to raiſe Force againſt them, for ſubverting and deſtroying of them, as he himſelf ſaith, as ſo many Weaſels or (*a*) Polecats; eſpecially if you conſider to whom theſe Words were declared, to the Army in general, eſpecially to the General's Regiment of Horſe, that helped to plunder and deſtroy Mr. *Lilburne*'s true Friends, defeated at *Burford*; and ſome of which were moſt juſtly, as Traytors, executed.

My Lords, if I would ſay nothing more to the Jury but this, there is full and pregnant Proof already: But yet, my Lord, further to ſhew the Malice of Mr. *Lilburne*'s Heart, and that he did intend to raiſe Force, to incite and invite them to help him to ſubvert and deſtroy the Parliament: And for the Proof of this, read the fifth Page of his *Impeachment of High Treaſon againſt* Oliver Cromwell.

Clerk reads Page 5. 'But, my true Friends, I 'ſhall here take upon me the Boldneſs (in regard 'of the great Diſtractions of the preſent Times) to 'give a little further Advice to you, from whoſe 'Company or Society (or from ſome of them) hath 'begun and iſſued out the moſt tranſcendent, clear, 'rational, and juſt Things for the People's Liber'ties and Freedoms, that I have ſeen or read in this 'Nation, as your notable Petition of *May* 20. 1647. 'burnt by the Hands of the common Hangman, 'recorded in my Book, called *Raſh Oaths unwar'rantable*, Page 29, 30, 31, 32, 33, 34, 35. with di'vers other Petitions of that Nature; and the Pe'tition of the 19th of *Jan.* 1647. recorded in the 'following Diſcourſe, *Page* 45, 46, 47, 48, *&c.* 'and the maſculine Petition of the 11th of *Sept.* 1648. ſo much owned by Petitions out of ſeveral 'Counties, yea, and by the Officers of the Ar'my's large Remonſtrance, from *St. Albans*, of the '16th of *Nov.* 1648. *Page* 67, 68, 69. The Sub'ſtance of all which, I conceive, is contained in the 'printed Sheet of Paper ſigned by my Fellow-Priſo'ners, Mr. *William Walwyn*, Mr. *Thomas Prince*, and 'Mr. *Richard Overton*, and my ſelf, dated the 1ſt 'of *May*, 1649, and entitled, *An Agreement of the 'Free People of* England, *&c.* The Principles of 'which I hope and deſire you will make the final 'Centre and unwavering Standard of all your De'ſires, Hazards, and Endeavours, as to the future 'Settlement of the Peace and Government of this 'diſtracted, waſted, and divided Nation; the 'firm eſtabliſhing of the Principles therein con'tained, being that only which will really and in 'good earneſt marry and knit that Intereſt, what'ever it be that dwells upon them, unto the di'ſtreſſed and oppreſſed Commons or People of this 'Nation. Yea, the ſettling of which Principles 'is that that will thereby make it evident and ap'parent unto all underſtanding People in the 'World, that the real and hearty Good and Wel'fare of this Nation hath cordially, and in good 'earneſt, been that that their Souls have hunted 'for, and thirſted after, in all the late bloody Civil 'Wars and Conteſts; all the Conteſts of the King's 'Party, for his Will and Prerogative, being mere'ly ſelfiſh, and ſo none of the People's Intereſt; 'and the Conteſt of the Presbyterians, for their 'make-bate, dividing, hypocritical Covenant, no 'better in the leaſt; and the preſent Conteſt of the 'preſent diſſembling Intereſt of Independents, for 'the People's Liberties in general, (read the fol'lowing Diſcourſe, *Page* 27, 28, 29.) merely no 'more but Self in the higheſt, and to ſet up the 'falſe Saint and moſt deſperate Apoſtate, Mur'derer, and Traytor, *Oliver Cromwell*, by a pre'tended Election of his mercenary Soldiers, under 'the falſe Name of the Godly Intereſt, to be King 'of *England*, *&c.* (that being now too apparently 'all the intended Liberties of the People that ever 'he fought for in his Life;) that ſo he might rule 'and govern them by his Will and Pleaſure, and ſo 'deſtroy and envaſſalize their Lives and Properties 'to his Luſts: Which is the higheſt Treaſon that 'ever was committed or acted in this Nation in 'any ſenſe or kind; either, 1. In the Eye of the 'Law: Or, 2. In the Eye of the antient (but 'yet too much arbitrary) Proceedings of Parlia'ment: Or, 3. In the Eye of their own late decla'red Principles of Reaſon, (by pretence of which, 'and by no Rules of Law in the leaſt, they took 'away the late King's Head:) Which, if there 'were any Law or Juſtice in *England* to be had, or 'any Magiſtrates left to execute it, (as in the 'leaſt there is not) *&c.*

Mr. Attorney. Read *Page* 7.

Clerk. Page 7. 'But the Principles of the fore'ſaid Agreement being ſo deteſtable and abomina'ble to the preſent ruling Men, as that which they 'know will put a full end to their Tyranny and 'Uſurpation, and really eaſe and free the People 'from Oppreſſion and Bondage, that it is ſome'thing dangerous to thoſe that go about the Pro'motion of it; yet I ſhall adviſe and exhort you 'vigorouſly to lay all Fear aſide, and to ſet on foot 'the Promotion of it, in the ſame Method we took 'for the Promotion of the foreſaid Petition of *Ja'nuary* 19. 1649. laid down in the following Diſ'courſe, *Page* 23, 24, 25. and write to your Friends 'in every County of *England*, to chuſe out from 'among themſelves, and ſend up ſome Agents to 'you, (two at leaſt from each County, with Mo'ney in their Pockets to bear their Charges) to 'conſider with your culled and choſen Agents of 'ſome effectual Courſe, ſpeedily to be taken, for 'the ſettling the Principles thereof, (as that only 'which in an Earthly Government can make you 'happy, or at leaſt, to know one another's Minds 'in owning and approving the Principles thereof:) 'that ſo it may become to you and your Friends 'your Centre, Standard, and Banner, to flock to'gether to, in the time of theſe foreign Inva'ſions and domeſtick Inſurrections, that are like 'ſpeedily to bring Miſery enough upon this poor 'and diſtreſſed Nation; and unanimouſly reſolve 'and engage one to another, neither to ſide with 'or fight for the *Chimeras*, Fooleries, and Pride of 'the preſent Men in Power, nor for the Prince's 'Will, or any other baſe Intereſt whatſoever, (the

(*a*) *In calling Tyrants Weaſels and Polecats, he hath ſaid no more but what he hath learned out of* Saint John's *own Argument of Law againſt the Earl of* Strafford; *at which you have no cauſe to be angry, becauſe they are the Words of one of your own Brother Lawyers.*

'which

'which if you ſhould fight for, it would be but 'an abſolute murdering of your Brethren and 'Countrymen, you know not wherefore) unleſs he 'or they will come up to thoſe juſt, righteous, and 'equitable Principles therein contained, and give ra-'tional and good Security for the conſtant adhering 'thereunto. And upon ſuch Terms, I do not ſee 'but you may juſtifiably, before God or Man, join 'with the Prince himſelf; yea, I am ſure a thou-'ſand times more juſtly than the preſent ruling 'Men (upon a large and ſerious Debate) joined 'with *Owen Roe O-Neale*, the grand bloody Re-'bel in *Ireland*: Who, if we muſt have a King, I, 'for my part, had rather have the Prince than any 'Man in the World, becauſe of his large Pretence 'of Right; which, if he come not in by Conqueſt, 'by the Hand of Foreigners, (the bare attempting 'of which may apparently hazard him the loſs of 'all at once, by gluing together the now-divided 'People, to join as one Man againſt him) but by 'the Hands of *Engliſhmen*, by Contract upon the 'Principles aforeſaid, (which is eaſy to be done) 'the People will eaſily ſee that preſently thereupon 'they will enjoy this tranſcendent Benefit, (he be-'ing at Peace with all foreign Nations, and having 'no regal pretended Competitor) *viz.* The immediate 'Disbanding all Armies and Gariſons, ſaving the 'old *Cinque-Ports*; and ſo thoſe three grand Plagues 'of the People will ceaſe, *viz.* Free-Quarter, 'Taxations, and Exciſe: By means of which the 'People may once again really ſay they enjoy ſome-'thing they can in good earneſt call their own. 'Whereas, for the preſent Army to ſet up the falſe 'pretended Saint *Oliver* (or any other) as their elect-'ed King, there will be nothing thereby, from the 'beginning of the Chapter to the end thereof, 'but Wars, and the cutting of Throats Year after 'Year, yea, and the abſolute keeping up of a per-'petual and everlaſting Army, under which the 'People are abſolute and perfect Slaves and Vaſ-'ſals, as by woful Experience they now ſee they 'perfectly are: Which Slavery and abſolute Bon-'dage is daily like to increaſe, under the preſent 'tyrannical and arbitrary new-erected robbing Go-'vernment.'

Mr. Attorney. He hath blown the Trumpet for all that will to come in: He hath ſet up his Centre; he would have it to be a Standard for all his Friends to flock to him. And to make them the more quick in betaking them to their Arms, he hath falſly and maliciouſly there ſaid, That the Parliament had joined with *Owen Roe O-Neale*; which, I can aſſure all that hear me this Day, the Parliament always deteſted, abominated, diſavowed, and declared againſt, and never had any Thoughts that way. My Lord, the falſe Imputations of his laid upon the Parliament, are almoſt numberleſs. But, in the ſecond place, I come to that pretty Bauble, that's of his own making, the *Agreement of the People*, dated at the *Tower* the 1ſt of *May*, 1649. and ſhall deſire your Lordſhips to judge whether this Agreement of the People, which he made, and his Friends then in the *Tower*, and entitled, *The Agreement of the People*, as ſigned by them, for they called it *An Agreement of the Free People of* England, ſtrikes not at the very Root of all Government.

Lieut. Col. *Lilburne.* Pray, Sir, look whether it be licenſed, or no, according to the Law of the Nation; and if it be licenſed by publick Autho-rity, how comes it to be Treaſon? That's very ſtrange.

Mr. Attorney. It is ſo.

Lieut. Col. *Lilburne.* Pray, Sir, go, and queſtion the Licenſer then.

Mr. Attorney. We muſt queſtion the Author; the Licenſer will not excuſe it. Read *Page* 2.

Clerk reads Page 2. 'This Agreement being the 'ultimate End and full Scope of our Deſires and 'Intentions concerning the Government of this 'Nation.' And a little below: 'After the long 'and tedious Proſecution of a moſt unnatural, cruel, 'home-bred War, occaſioned by Diviſions and Diſ-'tempers amongſt our ſelves; and thoſe Diſtempers 'ariſing from the Uncertainty of our Government, 'and the Exerciſe of an unlimited or arbitrary 'Power by ſuch as have been truſted with ſu-'preme and ſubordinate Authority, whereby Mul-'titudes of Grievances and intolerable Oppreſ-'ſions have been brought upon us: And finding, 'after eight Years Experience and Expectation, all 'Endeavours hitherto uſed, or Remedies hitherto 'applied, to have increaſed, rather than diminiſhed 'our Diſtractions; and that if not ſpeedily pre-'vented, our falling again into Factions and Divi-'ſions will not only deprive us of the Benefit of 'all thoſe wonderful Victories God hath vouch-'ſafed againſt ſuch as ſought our Bondage, but 'expoſe us firſt to Poverty and Miſery, and then 'to be deſtroyed by foreign Enemies.'

Mr. Attorney. Read *Page* 3.

Clerk. Page 3. 'Agree to aſcertain our Govern-'ment, to aboliſh all arbitrary Power, and ſet 'Bounds and Limits both to our ſupreme and all 'ſubordinate Authority, and remove all known 'Grievances; and accordingly do declare and pub-'liſh to all the World that we are agreed as fol-'loweth. *Page ibid.* That the ſupreme Authority 'of *England*, and the Teritories therewith incorpo-'rate, ſhall be and reſide henceforward in a Re-'preſentative of the People, conſiſting of four hun-'dred Perſons, but no more.'

Mr. Attorney. The Manner of the Choice of whom, *&c.* they leave to this Parliament. Read a little below.

Clerk. 'All Things concerning the Diſtribution 'of the ſaid four hundred Members proportionable 'to the reſpective Parts of the Nation, the ſeveral 'Places for Election, the Manner of giving and ta-'king of Voices, with all Circumſtances of like 'nature, tending to the Compleating and equal 'Proceedings in Elections, as alſo their Salary, is 'referred to be ſettled by this preſent Parliament, 'in ſuch ſort as the next Repreſentative may be in 'a certain Capacity to meet with Safety at the 'Time herein expreſſed; and ſuch Circumſtances 'to be made more perfect by future Repreſenta-'tives.

'We agree that this preſent Parliament ſhall 'end the firſt Wedneſday in *Auguſt* next, 1649. 'thenceforward to be of no Power or Authority; 'and in the mean time ſhall order and direct the 'Election of a new and equal Repreſentative, ac-'cording to the Intent of this our Agreement; 'and ſo as the next Repreſentative may meet and 'ſit in Power and Authority, as an effectual Re-'preſentative, upon the Day following, namely, 'the firſt Thurſday of the ſame *Auguſt*, 1649.

Page ibid. 'We agree, if the preſent Parliament 'ſhall omit to order ſuch Election or Meeting of a 'new Repreſentative, or ſhall by any Means be hin-'der'd from performance of that Truſt, that in ſuch 'caſe we ſhall for the next Repreſentative proceed 'in electing thereof in thoſe Places, and according 'to that Manner and Number formerly accuſtomed

'in the Choice of Knights and Burgeſſes; obſerving only the Exceptions of ſuch Perſons from being Electors or Elected, as are mentioned before in the firſt, third, and fourth Heads of this Agreement: it being moſt unreaſonable, that we ſhould either be kept from new frequent and ſucceſſive Repreſentatives, or that the Supreme Authority ſhould fall into the hands of ſuch as have manifeſted Diſaffection to our common Freedom, and endeavoured the Bondage of the Nation. And for preſerving the Supreme Authority from falling into the hands of any whom the People have not or ſhall not chuſe, we are reſolved and agreed (God willing) that a new Repreſentative ſhall be upon the firſt Thurſday in *Auguſt* next aforeſaid: the ordering and diſpoſing of themſelves, as to the Choice of a Speaker, and the like Circumſtances, is hereby left to their diſcretion; but are in the Extent and Exerciſe of Power, to follow the Direction and Rules of this Agreement; and are hereby authorized and required, according to their beſt Judgments, to ſet Rules for future equal Diſtribution and Election of Members, as is herein intended and enjoined to be done, by the preſent Parliament.'

Mr. Attorney. Read Page 8.

Clerk. Page 8. 'And all Laws made, or that ſhall be made, contrary to any part of this Agreement, are hereby made null and void.'

Mr. Attorney. My Lords, here by this *Agreement of the People*, that Mr. *Lilburne* hath publiſh'd to the World, in which, my Lord, he hath deſigned how many the Supreme Authority ſhall conſiſt of, the Time when the Parliament ſhall diſſolve, as alſo the Time when his own Parliament ſhall meet; this Parliament to be diſſolved the firſt Wedneſday in *Auguſt* 1649. all Laws contrary to this to be null and void: and in it you ſhall find ſome Expreſſions of Treaſon in the height, that whoſoever ſhall do contrary to it, ſhall be moſt ſeverely puniſhed. In the next Book before this, it is deſired by him, that this *Agreement of the People* may be the Center, the Banner, and Standard of all his Friends, and that they go on vigorouſly with it; which is, my Lord, to diſſolve this Parliament, and to put on this new one of Mr. *Lilburne*'s appointing. This we conceive, which is of Mr. *Lilburne*'s appointing, would (if effected) be an abſolute Subverſion of this in being; and this is High Treaſon. My Lord, we ſhall go on with more yet, and that is with his *Outcry*. My Lord, if you pleaſe to ſee the Title, and ſee to whom it is directed, what was intended to be done with it: it is intitled, *An Outcry of the Young-men and Apprentices of* London, *directed* Aug. 29. 1649. *in an Epiſtle to the private Soldiery of the Army, eſpecially all thoſe that ſigned the ſolemn Engagement at* Newmarket-Heath, *the fifth of* June 1647. *but more eſpecially to the private Soldiers of the General's Regiment of Horſe, that helped to plunder and deſtroy the honeſt and true-hearted* Engliſhmen, *traitorouſly defeated at* Burford, *the fifteenth of* May 1649. A good Encouragement! they were traitorouſly defeated at *Burford*; but we are Rebels and Traitors, and our Army Murderers and Butchers, for giving ſome of thoſe declared Traitors their due Deſerts. But that you may ſee his Tendency by this Book, read Page 11.

Clerk. Page 11. 'We ſay, conſidering what is before premiſed, we are neceſſitated and compel'd to do the utmoſt we can for our own Preſervation, and for the Preſervation of the Land of our Nativity, and never (by popular Petitions) addreſs ourſelves to the Men ſitting at *Weſtminſter* any more, or to take any more notice of them than of ſo many Tyrants and Uſurpers, and for time to come to hinder (as much and as far as our poor deſpiſed Intereſt will extend to) all others whatſoever from ſubſcribing or preſenting any more popular Petitions to them. And only now, as our laſt Paper Refuge, mightily cry out to each other of our intolerable Oppreſſions, in Letters and Remonſtrances, ſigned in the behalf, and by the appointment of all the reſt, by ſome of the ſtouteſt and ſtiffeſt amongſt us, that we hope will never apoſtatize, but be able through the Strength of God to lay down their Lives for the maintaining of that which they ſet their Hands to. You our Fellow-Countrymen (the private Soldiers of the Army) alone being the inſtrumental Authors of your own Slavery and ours; therefore as there is any Bowels of Men in you, any Love to your native Country, Kindred, Friends or Relations, any Spark of Conſcience in you, any Hopes of Glory or Immortality in you, or any Pity, Mercy, or Compaſſion, to an inſlaved, undone, periſhing, and dying People; O help, help, ſave and redeem us from total Vaſſalage and Slavery, and be no more like brute Beaſts, to fight againſt us or our Friends, your loving and dear Brethren after the Fleſh, to your own Vaſſalage as well as ours.

'And as an aſſured Pledge of your future Cordialneſs to us, (and the true and real Liberties of the Land of your Nativity) we beſeech and beg of you (but eſpecially thoſe amongſt you that ſubſcribed the ſolemn Engagement at *Newmarket-Heath*, the fifth of *June* 1647.) ſpeedily to chuſe out amongſt yourſelves two of the ableſt and conſtanteſt faithful Men amongſt you in each Troop and Company, now at laſt (by correſponding each with other, and with your honeſt Friends in the Nation) to conſider of ſome effectual Courſe (beyond all Pretences and Cheats) to accompliſh the real End of all your Engagements and Fightings, *viz.* the ſettling of the Liberties and Freedom of the People; which can never permanently be done, but upon the ſure Foundation of a popular Agreement: who (*viz.* the People) in Juſtice, Gratitude, and common Equity, cannot chuſe but voluntarily and largely make better proviſion for your future Subſiſtence (by the payment of your Arrears) than ever your Officers or this pretended Parliament intends, or you can rationally expect from them: witneſs their cutting off three parts of your Arrears in four, for Free-quarter; and then neceſſitating abundance of your Fellow-Soldiers (now caſhier'd, *&c.*) to ſell their Debentures at two Shillings Sixpence, three Shillings, and at moſt four Shillings *per lib.*'

Mr. Attorney. See, my Lord, here we are ſtiled Tyrants, Uſupers, introducing Government-Oppreſſions of the People; and Mr. *Lilburne* is reſolved with his Friends to join together, and to lay down their very Lives for this. This, I think, is a Trumpet blown aloud for all the diſcontented People in the Nation to flock together, to root up and deſtroy this Parliament, and ſo the preſent Government. But read alſo the ſame Book, *pag.* 9.

Clerk. Pag. 9. 'For the effectual promotion of which ſaid Agreement, we are neceſſitouſly compelled to reſolve in cloſe Union to join ourſelves, our Commiſſioners (choſen for that end) in Council, with our foreſaid *Burford*-Friends, or their Commiſſioners; and to reſolve to run all hazards to methodize all our honeſt Fellow-Prentices, in

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'all the Wards of *London*, and the Out-Parishes, 'to chuse out their Agents to join with us or 'ours, to write exhortative Epistles to all the ho- 'nest-hearted Freemen of *England*, in all the par- 'ticular Counties thereof, to erect several Coun- 'cils amongst themselves; out of which we shall 'desire (and exhort them) to chuse Agents or 'Commissioners (impowered and intrusted by 'them) spedeily to meet us, and the Agents of all 'our (and the Agreement of the People) Adhe- 'rents at *London*, resolvedly to consider of a speedy 'and effectual Method and Way how to promote 'the Election of a new and equal Representative, 'or Parliament, by the Agreement of the free 'People: Seeing those Men that now sit at *West- 'minster*, and pretendedly stile themselves the Par- 'liament of *England*, and who are as they say '(altho most falsly) in the Declaration for a Free 'State, dated *March* 17. 1648. *pag.* 27. intrusted 'and authorized by the Consent of all the People 'of *England*, whose Representatives they are; 'make it their chiefest and principallest Work, 'continually to part and share amongst themselves 'all the great, rich, and profitablest Places of the 'Nation; as also the Nation's publick Treasure 'and Lands; and will not ease our intolerable 'Oppressions, no not so much as of late receive 'our popular Petitions, having upon Thursday 'last, *Aug.* 23. 1649. rejected that most excellent 'of Petitions ready at their door to be presented 'to them by divers honest Men (our true-hearted 'Neighbours of *Surrey*) the true Copy of which, 'for the worth of it, altho it be at large already 'printed in *Friday-Occurrences*, and the *Tuesday- 'Moderate*, we desire here to insert.'

Mr. Attorney. My Lord, this is a loud one! Whom does he join us withal, but only with those very Men that justly suffered Death, many of them, for it? My Lord, now it's resolved that these Men shall be closely joined with them; and what to do? still to promote *The Agreement of the People*, that which Mr. *Lilburne* hath hatched, and that must be the Baby that those declared open Traytors and Rebels, that Mr. *Lilburne* will join with, must nourish up. My Lord, we shall go on further to shew what Mr. *Lilburne* drives at; which is not much differing from us, for he would have a Free State: but, my Lord, this that is now in being, it doth not go in Mr. *Lilburne*'s way, and therefore it must be overthrown by Force and Arms; that so way may be made for his new (*a*) Commonwealth. We shall go further on, my Lord, and in the next place quote his Book, intitled, *The legal fundamental Liberties of the People of* England, *revived, asserted, and vindicated*, &c. Read *p.* 57.

Clerk reads *pag.* 57. 'And the present Setters- 'up of this tyrannical new Commonwealth, con- 'sidering their many Oaths, Covenants, Promises, 'Declarations, and Remonstrances to the contra- 'ry, (with the highest Promises and Pretences of 'Good for the People and their declared Liber- 'ties, that ever was made by Men) are the most 'perjured, perfidious, false, Faith and Trust- 'breakers, and Tyrants, that ever lived in the 'World; and ought by all rational and honest Men 'to be the most detested and abhorred of all Men 'that ever breathed, by how much the more un- 'der pretence of Friendship and Brotherly-Kind- 'ness they have done all the mischief they have 'done, in destroying our Laws and Liberties.'

Mr. Attorney. My Lord, and you Gentlemen of the Jury, you see Mr. *Lilburne* hath been pleased very often to give the Name of Tyrants to the Parliament: I would give no other Instance, nor shew no other Example but Mr. *Lilburne* himself, to disprove himself; and with much confidence affirm it, that never State had before, (neither King nor State) since the Foundations of it, so much Enmity, nor have endured with so much patience any Man whatsoever, as they have done Mr. *Lilburne*; who notwithstanding all his traitorous Provocations, and traitorous Designs, undertaken against them, is yet alive at this day, and now hath fair play to plead for his Life. I would take him for his own Confuter, and see by all that has been done by him, and see if he could make good his Actings, and make good the Parliament's dealing with him therefore, can be demonstrated by him to prove them Tyrants. My Lord, I can hardly forbear, to see and hear his dangerous and desperate Expressions, to invite all People for to take up Arms against the Parliament, to cut their throats like Pole-cats and Weasels. My Lords, here to stile them the most perfidious, perjured, false, Faith and Trust-breakers, and Tyrants, that ever lived in the World; and to be the most abhorred and detested of all the People, above all Men that ever breathed: O insufferable, and the highest of Treasons!

Lieut. Col. *Lilburne.* Sir, all the Wit of all the Lawyers in *England* could never bring it within the compass of High Treason, by the old and just Laws of this Nation, that abhors to oppress Men contrary to Law; and then if they seem but to cry out of their Oppressions, to make them Traytors for Words.

Mr. Attorney. I am confident the least Lawyer in *England* would have brought this within the Statute of Treason of the 25 *Ed.* 3. *chap.* 2. My Lords, you shall see there is none escaped, the Parliament with him are Tyrants, Traytors, and Usurpers; and therefore he stirs up the People to destroy them. But in the third place, you shall see what Titles he gives to my Lord General *Fairfax*, and his chief Officers; that, my Lord, he that reads the Books, and doth not know the Persons, he would think that they were Monsters, and not Men; altho they are so famous and glorious, that all the World have rung of them to their praise. But, saith he, never was there more glorious Declarations made by Men than by them, and yet never performed any of them. Nay, he doth not only call them also Covenant and Engagement-breakers, but he calls the Lord General Tyrant, Murderer, and what not; and the Officers, perfidious Officers. My Lords, what I observed in the last Clause of the Act, is, That whosoever goes about to draw the Soldiers from their Obedience to their superiour Officers, or from their Obedience to the present Government, that is High Treason: and this likewise we shall find him guilty of, in his *Legal Fundamental Liberties of* England *asserted and vindicated*; it is in the first side of the Epistle that in the first place I pitch upon, read it.

Clerk. Page 1. of the Epistle. 'I positively ac-

(*a*) *And yet a few days before his Tryal, several principal leading Members of the House and Council of State, told his Wife, and several others of his Friends, That Mr.* Lilburne *was turned Cavalier, and had joined with the Prince, and they had several Letters under his own Hand to prove it.*

'cuse

'cuse Mr. *Oliver Cromwell* for a wilful Murderer, '(and desire you to acquaint your House therewith) 'for murdering Mr. *Richard Arnold* near *Ware*.'

Mr. Attorney. Which Man, my Lord, was condemned for a Mutineer by a Council of War, where the Lord Lieutenant of *Ireland* was but one Member; and the Parliament gave him, and the rest of that Council Thanks, for shooting that mutinous Soldier to death: and yet Mr. *Lilburne* calls him Murderer therefore, and this is laid to my Lord Lieutenant's charge for his part.

Lieut. Col. *Lilburne.* Doth not the Petition of Right absolutely condemn all such Acts in time of Peace, when the Courts of Justice are open? And the Judgment of the Earl of *Strafford* doth abundantly condemn it, who lost his Life for a Traytor, for doing the very same Act in kind and likeness, at that time, when he in the eye of the Law was as legal a General, as the General was that condemned that Man.

Mr. Attorney. My Lords——

Lieut. Col. *Lilburne.* I pray, Sir, hear me out: and sure I am, the Declarations of all the Powers extant in *England* ever since, hath been to maintain the Petition of Right inviolably; yea, even those that are now in present Power: and if the Petition of Right be true, to shoot Soldiers, as *Arnold* was, is absolute Murder. Nay further, if the Judgment of the Parliament upon the Earl of *Strafford* for such an Act be legal, then all those that had a hand in shooting that Soldier, are Traytors, and ought to die for it, as well as *Strafford.*

Clerk reads on the second side of the Epistle. 'Of all which Crimes and Charges, and all your 'others against the King, contained in your fore-'said Declaration, I know not three of them; but '*Cromwell* and his Confederates, in your pretended 'House and Army, are as guilty of the like in 'kind, tho under a new Name and Notion, as 'the King was of the forementioned, if not more 'guilty.'

Mr. Attorney. Read Page 35.

Clerk. Pag. 35. 'But alas poor Fools! we were 'merely cheated and cozened, it being the prin-'cipal Unhappiness to some of us, as to the 'Flesh, to have our Eyes wide open, to see 'things long before most honest Men come to 'have their Eyes open. And this is that which 'turns to our smart and reproach, and that which 'we Commissioners feared at the first, *viz.* That 'no Tye, Promises, nor Engagements were strong 'enough to the grand Jugglers and Leaders of the 'Army, was now made clearly manifest; for when 'it came to the Council, there came the General, '*Cromwell*, and the whole Gang of Creature-Colo-'nels, and other Officers, and spent many days in 'taking it all in pieces, and there *Ireton* shewed 'himself an absolute King, if not an Emperor; 'against whose Will no Man must dispute. And 'then *Shuttlecock*, *Roe* their Scout, *Okey*, and Ma-'jor *Barton* (where Sir *Hardress Waller* sat Presi-'dent) begun in their open Council to quarrel 'with us, by giving some of us base and unworthy 'Language; which procured them from me a 'sharp Retortment of their own Baseness and 'Unworthiness into their teeth, and a Challenge 'from myself into the field. Besides, seeing they 'were like to fight with us in the Room in their 'own Garison, which when Sir *Hardress Waller* in 'my ear reproved me for it, I justified it, and gave 'it him again, for suffering us to be so affronted. 'And within a little time after, I took my leave 'of them for a pack of dissembling juggling 'Knaves: amongst whom in Consultation, ever 'thereafter I should scorn to come, (as I told some 'of them;) for there was neither Faith, Truth, nor 'common Honesty among them. And so away I 'went to those that chose and intrusted me, and 'gave publickly and effectually (at a set Meeting 'appointed on purpose) to divers of them, an 'exact Account how they had dealt with us, and 'cozened and deceived us; and so absolutely 'discharged myself from meddling or making any 'more with so perfidious a Generation of Men, 'as the Great-ones of the Army were; but espe-'cially the cunningest of *Machiavellians*, Commis-'sary *Henry Ireton.*'

Mr. Attorney. Read Page 37. at the Mark.

Clerk. Page 37. 'Which the General and his 'Council knew well enough: and I dare safely 'say it upon my Conscience, that an Agreement of 'the People, upon Foundations of just Freedom, 'gone through with, is a thing the General, and 'the chiefest of his Council, as much hates, as 'they do Honesty, Justice, and Righteousness, '(which they long since abandoned:) against 'which, in their own Spirits, they are absolutely 'resolved (I do verily believe) to spend their 'Heart-Blood, and not to leave a Man breathing 'in *English* Air, (if possibly they can) that through-'ly and resolutely prosecutes it; a new and just 'Parliament being more dreadful to them, than 'the great Day of Judgment, so much spoken of 'in Scripture. And altho they have beheaded the 'King, yet I am confidently perswaded, their En-'mity is such at the People's Liberties, that they 'would sooner run the hazard of setting the Prince 'in, to reign in his Father's stead, than further 'really a just Agreement, or endeavour a new 'Parliament rightly constituted.'

Mr. Attorney. Read Page 38.

Clerk. Page 38. 'Whenas alas! it is as visible 'as the Sun when it shineth in its Glory and Splen-'dour, that *Korah*, *Dathan*, and *Abiram*, of old, 'were never such Rebels against Authority, as 'the General and his Council are; nor the Ana-'baptists at *Munster*, with *John* of *Leyden*, and *Bu-'perdullion*, were never more Contemners of Au-'thority; nor *Jack Straw*, nor *Wat Tyler*; nor all 'those famous Men, mentioned with a black Pen 'in our Histories, and called Rebels and Traytors, 'can never be put in any Scale of equal Ballance, 'for all manner of Rebellions and Treasons, a-'gainst all sorts and kinds of Magistracy, with the 'General and his Council.'

Mr. Attorney. See, my Lord, and you Gentlemen of the Jury, you see Mr. *Lilburne* gives the General and his Officers as bad Titles, as he can give the worst of Rebels and Traytors, or the worst of Men. But we go on to his *Outcry*; read the Title of it.

Clerk. An Outcry of the Young-men and Apprentices of London, *pag.* 8. where it is thus: 'Sure all 'Sense and Compunction of Conscience is not to-'tally departed from you.'

Mr. Attorney. If it please you, my Lord, because the Jury may observe it, the Book is directed to the Soldiers of the Army, and that is an *Outcry*, *&c.* Now read Page 8.

Clerk. P. 8. 'Sure all Sense and Compunction of 'Conscience is not totally departed from you: hear 'us therefore, in the earning Bowels of Love and 'Kindness we intreat and beseech you, with pa-'tience, and do not abuse us for complaining and 'crying out; for the Knife hath been very long 'at the throats of our Liberties and Freedoms, 'and

'and our Burdens are too great and too many for 'us, we are not able to bear them, and contain 'ourselves; our Oppressions are even ready to 'make us despair, or forthwith to fly to the prime 'Laws of Nature, *viz.* the next violent Remedy 'at hand, light it where it will, or upon whom it 'will. They are become as devouring Fire to our 'Bones ready to burn us up, rendring us desperate 'and careless of our Lives, prisoning those that 'are already dead above those that are yet living, 'who are rid of that Pain and Torment that we 'do and must endure, by sensibly seeing and be-'holding not only the dying, but the daily Burial 'of our native Liberties and Freedoms; that we 'care not what becomes of us, seeing that we are 'put into that original State, or Chaos of Confu-'sion, wherein Lust is become a Law, Envy and 'Malice are become Laws, and the strongest 'Sword rules and governs all by Will and Plea-'sure; all our antient Boundaries and Bond-marks 'are pull'd up by the roots, and all the Tyes and 'Bonds of human Society in our *English* Horizon 'totally destroy'd and extirpated. Alas for pity! 'we had rather die, than live this Life of lan-'guishing Death, in which our Masters possess no-'thing (to buy themselves or us Bread, to keep 'us alive) that they can call their own. There-'fore it's no boot for us to serve out our Times, 'and continue at our drudging Trades, while 'these Oppressions, Cruelties, and Inhumanities 'are upon us, and the rest of the People; expo-'sing thereby not only the Nation to domestick 'Broils, Wars, and Bloodsheds, (wherein we are 'sure our Bodies must be the principal Butts) but 'to foreign Invasions, by *France*, *Spain*, *Denmark*, '*Swedeland*, &c. as was well observed by our en-'deared and faithful Friends, of the forementioned 'late treacherously defeated Party at *Burford*, in 'their Book of the 20th of *August* 1649. intitled, '*The Levellers vindicated, or the Case of their twelve* 'Troops truly stated, pag. 11, 12. which we cannot 'but seriously recommend (with them) to your 'serious Perusal and Judgment; and desire to 'know of you (but especially the private Soldiers 'of the General's Regiment of Horse, which we 'understand had a hand in seizing upon and plun-'dering our true Friends at *Burford*) whether you 'do own the abominable and treacherous Dealings 'of your General and Lieutenant-General *Cromwell*, 'and their perfidious Officers with them, or no, 'that so we may not condemn the Innocent with 'the Guilty, &c.'

Mr. Attorney. Read Page 11.

Clerk. Page 11. 'You our Fellow-Countrymen '(the private Soldiers of the Army) alone, being 'the instrumental Authors of your own Slavery 'and ours; therefore as there is any Bowels of 'Men in you, any Love to your native Country, 'Kindred, Friends, or Relations, any Sparks of 'Conscience in you, any Hopes of Glory or Im-'mortality in you, or any Pity, Mercy or Com-'passion to an enslaved, undone, dying, perishing 'People; O help, help, save and redeem us from 'total Vassalage and Slavery, and be no more like 'brute Beasts, to fight against us or our Friends, '&c.

'And as an assured Pledge of your future Cor-'dialness to us, (and the true and real Liberties 'of the Land of your Nativity) we beseech and 'beg of you (but especially those amongst you, 'that subscribed the solemn Engagement at *New-'market*, the fifth of *June* 1647.) speedily to chuse 'out from amongst yourselves two of the ableft 'and constanteft faithful Men amongst you, in 'each Troop and Company, now at last (by cor-'responding each with other, and with your honest 'Friends in the Nation) to consider of some effec-'tual Course (beyond all Pretences and Cheats) 'to accomplish the real End of all your Engage-'ments and Fightings, *viz.* the settling the Liber-'ties and Freedoms of the People; which can ne-'ver be permanently done, but upon the sure 'Foundation of a popular Agreement: who (*viz.* 'the People) in Justice, Gratitude, and common 'Equity, cannot chuse but voluntarily and largely 'make better provision for your future Subsistence, 'than ever your Officers, or this pretended Parlia-'ment intends, &c.'

Mr. Attorney. Read the Title of his *Impeachment.*

Clerk. An Impeachment of High Treason against Oliver Cromwell, &c.

Mr. Attorney. Read Page 2.

Clerk. Page 2. 'But I shall rather desire and ad-'vise you, by Letter, like yourselves, to address 'yourselves to the Lord *Fairfax*, by the Sword of 'whom and his Soldiers I am now in prison for 'my Honesty and Innocency, and nothing else, 'and demand my Liberty of him. If he refuse, 'print it, and do as God and Reason shall direct 'you; for it was his and his Soldiers Force, that 'fetch'd me out of my Bed the 28th of *March* '1649, without all shadow of Law or Justice, and 'against the Tenour of all their own Declara-'tions, the particular Pages of which you may 'read in my following Letter to Mr. *Holland*, p. 5. 'and by Force of Arms carried me to *Whitehall*, 'and then to *Derby-house*, before a Company of 'Men that in Law had no more power to commit 'my Body to Prison, than so many Thieves and 'Robbers upon *Shuters-Hill* have; who by the 'Rules of their own Wills (as in the second Edi-'tion of the Picture of them, I have fully decla-'red) sent me by Force of Arms to the *Tower*, for 'all my short Eternity in this World.

'But I intreat you seriously to consider, that 'I cannot advise you to make Address to him 'as the General of the Nation's Forces; for he 'is no such thing, but is merely a great Ty-'rant, standing by the Power of his own Will, 'and a strong Sword, borne by his Vassals, Slaves 'and Creatures; having no Commission to be Ge-'neral, either from Law, the Parliament, or from 'the prime Laws of Nature and Reason.'

Mr. Attorney. Read *An Outcry of the Young-men and Apprentices*, pag. 3.

Clerk. Page 3. 'Your Heart seems to us as ob-'durate as the flinty Rock; as savage and inhu-'man, as if the Flesh and Blood, the Bones and 'Marrow of the People were become your Meat.'

Mr. Attorney. Stay, Mr. *Broughton*: The Jury will take notice, that this is directed to the Soldiers of the General's Regiment; this speaks to them.

Clerk reads on. *Directed* Aug. 29. 1649. *in an Epi-stle to the private Soldiery of the Army, especially all those that signed the solemn Engagement at* Newmarket-Heath, *the fifth of* June 1649. *but more especially to the private Soldiers of the General's Regiment of Horse.*

Mr. Attorney. Now read Page 3.

Clerk. Page 3. 'Your Hearts seem to us as ob-'durate as the flinty Rock; as savage and inhu-'man, as if the Flesh and Blood, the Bones and 'Marrow of the People were become your Meat, 'as already it is in effect; and instead of Encou-'ragement and Support to our true Friends and 'real Relievers, (at least in faithful Desire and 'Endeavour) as shall stand in the gap betwixt our

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'Deſtroyers and us, all Ways and Means are uſed 'to impoveriſh, deſtroy, and ſuppreſs them; and 'in them to break and vaſſalage the Spirits of all 'the *Engliſh*, which in all Ages have had the pre-'heminencies of other Nations, that there may 'not be ſo much of Gallantry or Courage left 'amongſt the People, that one amongſt them ſhall 'dare to aſſert or maintain their Freedoms.' And a little below, 'If any do but murmur and com-'plain, preſently their Houſes, as with Furies, 'are beſet with armed mercenary Janizaries, 'Guards, and Centinels ſet upon their Doors and 'Paſſages.'

Mr. Attorney. My Lord, and you Gentlemen of the Jury, you hear what ſtuff this of Mr. *Lilburne*'s is; yea, ſuch ſtuff as that it would make any Man loath to hear it. The laſt Clauſe of the Act is, 'If any Perſon not being an Officer, Soldier, or 'Member of the Army, ſhall plot, contrive or 'endeavour to ſtir up any Mutinies in the Army, 'or to withdraw any Officers or Soldiers from 'their Obedience to their ſuperiour Officers, or 'to the preſent Government; it is High Treaſon.' You have here the ſeveral Books read to you, and the Calumniation laid upon the chiefeſt of them, to ſtir the reſt up to Mutinies againſt them; but they are very well known, and therefore nothing that Mr. *Lilburne* can ſay will ſtick upon them, to their prejudice. But, my Lord, you ſee here, and you of the Jury, how he appeals from the Officers to the Soldiers, interrogates to know what they could do, and whether they will acknowledge they will own them, and not fight againſt them, and what Aid and Aſſiſtance they will give to him and his Friends againſt their own General, and the reſt of their ſuperiour Officers. You ſee alſo what he calls that noble General, that all the World doth honour, and his Fame rings through the World; and yet he calls him a grand Tyrant, ſtanding by the Power of his own Will, and a ſtrong Sword, a Deſtroyer of the Parliament, of the Laws and Liberties of *England*. You ſee what he calls the common Soldiers; Furies, and mercenary Janizaries, which none but *Turks* have. You have heard the ſeveral Charges proved unto you, for my part I think it as clear as Noon-day. We have not raiſed any advantage upon any ſlipping Words that have ſlipt from him, which we might have done; and I could have urged ſome more Witneſſes, to have proved his Books publiſhed by him to publick View, tho when he comes in the face of the publick Court of Juſtice, he will not own them, which ſhews his Deſign to be the more dangerous. He will write, print, publiſh, beſpatter, and reproach; yea, and raiſe Tumults and Rebellion in a clandeſtine way: but if we chance to queſtion him therefore, he will not own it; you ſee we have been fain to fetch it out of the fire, and yet this is one of *England*'s and its Liberties valiant Champions.

Lieut. Col. *Lilburne.* You have done no more to me, than the Scribes and Phariſees did to Jeſus Chriſt; and in my dealing with you, I have but walked in the ſteps of my Lord and Maſter Jeſus Chriſt and his Apoſtles. For I am ſure of it, Jeſus Chriſt, in his Pilgrimage on Earth, freely, openly, and publickly taught and declared himſelf to be the Son of God, the Meſſias or Saviour of the World that was propheſy'd of; and yet when he came amongſt the Scribes and Phariſees, and *Pilate* the *Roman* Governour, who by Queſtions went about to inſnare him, he confeſſeth nothing, but ſaith, I ſpeak openly to the World, I ever taught in the Synagogues and in the Temple, whither the *Jews* always reſort, and in the ſecret have I ſaid nothing; why askeſt thou me? Ask them which heard me what I have ſaid unto them: Behold, they know what I have ſaid. And when *Pilate* adjured him to anſwer him whether he was ſuch a one, or no, Well, ſaith he, thou ſayeſt it: So ſay I, Thou, Mr. *Prideaux* ſayeſt it, they are my Books; but prove it.

Mr. Attorney. But I think here are enough, and too many: And therefore, Gentlemen of the Jury, if you reſpect the Government of the Parliament, the Honour of the Council of State, the Honour of the Nation, or of the Army, or the Preſervation of the Law of the Nation, you cannot ſay but that the Priſoner is guilty of ſuch Crimes and Treaſons as he is now accuſed of, and accordingly find him ſo: For it cannot be ſuppoſed that you will lay him in a ſingle Ballance againſt the Honour of all the Powers in the Nation, and alſo the Peace thereof.

Foreman. We deſire the Act of Treaſons to make uſe of.

Lieut. Col. *Lilburne.* I beſeech you hear me a few Words: They deſire to have it along with them. Sir, with your favour, I ſhall humbly crave Liberty to ſpeak a few Words: I ſhall keep me cloſe to that which is my Right and my Duty, and that is to the Matter of Law in my Indictment. There are many Things put into the Indictment by the Teſtimonies of Witneſſes now ſworn, that are pretended to be acted in ſeveral Counties. Whether that be according to Law, or no, I do not know whether you will judge it ſo, or no; but ſure I am, if either thoſe expreſs Statutes that I have already cited to the Jury, or the third Part of *Coke's Inſtitutes*, be Law, I ought not to be tried for Treaſon but by a Jury of the next Neighbourhood, in the ſelf-ſame County the Fact is pretended to be committed in. And therefore it is very queſtionable to me whether my Indictment be legal, for that it chargeth me with Facts of Treaſon committed in three ſeveral Counties; and that being Matter of Law, I deſire Counſel to argue that Point in the firſt place. There are alſo a great many other Exceptions I have to make againſt the Illegality of the Indictment; and having particularized one, I humbly crave that which is my Right by Law, that I may have Counſel aſſigned unto me. You have ſaid you will do what ſhall become ingenuous and underſtanding Men and juſt Judges in it; and therefore I crave leave, according to my undoubted Right, to have Counſel aſſigned to plead in Matters of Law to the Inſufficiency of the Indictment, and particularly to that Point I have nominated. There are alſo a great many Things ariſes out of the Matter of Fact that will be Points of Law likewiſe, and ſome of them appear to be ſo. There was never two clear and poſitive Witneſſes to one Fact ſworn againſt me; but to moſt of the particular Treaſons there is but one a-piece; and I cannot yield that to be legal, but queſtionable in Law, which I deſire Counſel to diſpute. I know not any of all the Books fixed upon me, but the *Outcry*, that hath two plain Witneſſes to it; and yet it is not ſworn that I am the Author of it. The State of the firſt is this: That I was at the Printer's before the Copy was taken away; and that I gave one of thoſe Books to a Soldier. To ſum up the Notes of the Matter of Fact that thereon hath been endeavoured to be proved, is too hard a Task to be done by me immediately; and therefore I conceive it but juſt for you to aſſign me Counſel, to agree with the

the Counſel againſt me what are the Points of Fact upon the Proof, from which the Points of Law are to be deducted. And whatever you, that call your ſelves my Judges, may think of this, yet I hope and verily believe that theſe my honeſt Fellow-Citizens, that are the Gentlemen of my Jury, who have (thereby) as Men, the Iſſues of my Life and Death in their hands, and will think it but a juſt and rational Motion and Requeſt; and therefore, before them again, I deſire to have Counſel aſſigned, to plead in Law to the Errors of the Indictment, and alſo to the Law ariſing upon the Fact. This, with a larger Privilege, was granted by one of your own Brother Judges to Major *Rolfe* laſt Year, as his Right by Law; and I do again appeal to Mr. Juſtice *Nichols*, then one of *Rolfe*'s Counſel, for the Truth of this. I pray ſpeak, Sir: Is it not true? [But the Judge ſitting as if he had neither Life nor Soul, Mr. *Lilburne* further ſaid,] I hope, Sir, it doth not enter into your Thoughts preſently to put me to an undigeſted extemporary Anſwer to ſo large an Indictment as that is that hath been read againſt me, that it is impoſſible for any Man's Brain, if it were as big as the biggeſt Magazine in *London*, to carry it in his Head: And, Sir, I hope you do not conceive that my Memory is of a greater Largeneſs than the greateſt Magazine in this City. You engaged unto me when I pleaded firſt to my Indictment, that you would not take Exceptions or Advantage againſt me for my Ignorance in the Formalities of the Law: I deſire you to make good your Promiſe now unto me, and aſſign me Counſel to help my Ignorance, that ſo the Counſel againſt me and my Counſel may agree, as I have ſeen it done heretofore in the Caſe of Duke *Hamilton*, upon the Points of Fact, from which Law is to be deducted. And if you pleaſe to grant me this legal and equitable Favour, I ſhall think my ſelf very much obliged unto you: Without which Juſtice, I cannot conceive upon what ground it can be apprehended I can go on; for my Time and Strength now it is ſo far ſpent, that I conceive you cannot think my Body is made of Steel, to ſtand here four or five Hours together, ſpending my Spirits, to anſwer ſo many as I have to deal with, and be able, after all this, to ſtand to return an Anſwer to above five Hours Charge, and that upon Life, when it ſeems you will ſuffer me to mend no Blots. I hope you do not lie upon the Catch, to weary and tire me out, by putting more upon me than a Horſe is able to endure; and then go about to hang me, becauſe I, through Tiredneſs, want bodily Strength and Abilities to make and pronounce my Defence.

Sir, to my Apprehenſion, there does ariſe upon the Matter of Fact divers Diſputes in Law: I beſeech you therefore allow me my Right in Law, by aſſigning me Counſel to help me where I am ignorant, and you ſhall ſee I ſhall do that which ſhall become an ingenuous and rational Man, and I will put my ſelf clearly upon the Tryal of the Country, or my Jury, according to the Law.

Ld *Keble*. *Lilburne*, this that you have heard, and that we have patiently ſat to hear, and prepared a Stool for you to have ſat upon, to have given you that Liberty that no body ſhould interrupt you more than us; you have heard the fair Courſe that hath been taken in it. The Books, the Charges upon the Matter, they are but three, they are not hard for your Memory. The Particulars of thoſe we do not expect that the Jury ſhould remember them. The Books are here; they have of them: But amongſt them there are many more. But free your ſelf from the Matter of Fact, if you can, and theſe Books: And when you have freed your ſelf from the Matter of Fact charged upon you, and then make it appear that from the Matter of Fact Law ariſes; and then, if you can, when the Matter of Fact is clear, and Law doth ariſe, you ſhall have Counſel, and you ſhall have no Defect in us to interrupt you, but to help you in what we may properly know as our Right to do. But if you do not firſt clear and make out this, which is the Iſſue upon the Point, to anſwer the Matter of Fact, we cannot allow you any Counſel. The Thing that is to be diſputed cannot poſſibly be much on your ſide; it will be but very ſhort: For it is not poſſible, I ſay, to be much in Time, or Confuſion of your Memory, to give an Anſwer to this particular Matter of Fact: The firſt is the publiſhing of thoſe Books, and the owning of them; and the next is the Books of themſelves. But this muſt be firſt cleared, before you can have any Counſel aſſigned you at all.

Lieut. Col. *Lilburne*. I muſt confeſs it is a very hard Task for me to conteſt with the preſent Power, whoſe Agents have free Liberty to ſay againſt me what they pleaſe; and I am denied, and that upon my Life, all the Privileges of an *Engliſhman*, and with your Inſinuations and great Words drawn on by my Ignorance to inſnare my ſelf: and notwithſtanding all your Promiſes to take no advantage againſt me for my Ignorance in the Formalities of the Law, yet are the Punctilio's and Niceties thereof more urged againſt me, than they have been againſt hoſtile Enemies. And yet, for my part, no Man can tax me for being in Hoſtility at any time againſt them in preſent Power; and yet upon my Life I am denied that which I had from thoſe, as my Right by Law, againſt whom I have been in Arms, and fought againſt in the Field; yea, and that which, in a higher nature than I deſire, hath been acknowledged juſt and legal by ſome of your own Brother Judges but the laſt Year, which they have granted to ſome of my own Countrymen, Freemen of *England*, but this laſt Year, in a higher nature by many degrees than I plead for. There is Judge *Nichols*, that I underſtand was one of Major *Rolfe*'s Counſel: And I underſtand from Mr. *Maynard*'s own Mouth, that he and Mr. *Maynard* was by Baron *Wyld* aſſigned of *Rolfe*'s Counſel in caſe of the higheſt Treaſon that the Law of *England* ever knew, and that before the Grand Inqueſt found the Indictment; and that Mr. *Maynard*, *&c.* had Liberty, as Major *Rolfe*'s Counſel, by Baron *Wyld*'s Order, to ſtand in the Court, not only to hear the Witneſſes ſworn, but alſo to hear the Words of their Teſtimony, then cauſed by the Judge to be given in open Court. And there being but two Witneſſes to two Facts contained in the Indictment, Mr. *Maynard*, upon the Allegation of the two Statutes of *Edward* the Sixth, that requires two Witneſſes to the Proof of every Fact of Treaſon, and that to be plain and clear, overthrew *Rolfe*'s Indictment in Law, that it was never found; and ſo ſaved the poor Man's Life, who, in likelihood, had periſhed, had it not been for the Ability and Integrity of his Counſel. And all this Mr. Juſtice *Nichols* knows is very true, and that I have told you nothing about it but what is juſt. It's true, I have read part of the plain Law of *England*, that is in *Engliſh*; but I am ignorant of that part of your Law, which is three times ſo much as that which is in *Engliſh*; and that Law, or the practick Part of the Law is in *French* and *Latin*, which I have truly told you I can neither read nor underſtand: Therefore I humbly crave my Privilege

and undoubted Right by the Law of *England*, (which in a higher nature was granted to Major *Rolfe*, as his unqueſtionable Right) to have Counſel aſſigned me, to help me in thoſe Things I am ignorant of, I mean the Formalities and Bottom of your Law. I beſeech you, Sirs, do not put me upon Extremities, and upon extraordinary Things, but conſider among your ſelves that righteous Rule of Jeſus Chriſt, and of the Scripture, *To do as you would be done to*; and do not put Impoſſibilities upon me, by over-ruling by your Power all my juſt Claims and Pleas in Law, and require more of me than I am capable to perform. And therefore I beſeech you, as you would approve your ſelves to be as righteous Judges before the Eye of that God that ſees your Heart, and knows whether malicious and Forethoughts of Malice harbours therein againſt me his faithful Servant; do not cunningly and deſignedly deſtroy me for my Ignorance in the eſſential or circumſtantial Matter or Form of that huge Indictment, that has ſo much Matter of Law in it as it hath, and to take away my Life by denying me that which is the unqueſtionable legal Right of the Freemen of *England*; the which if you will but allow me, I do not doubt but to come off clearly and freely.

Ld *Keble*. Mr. *Lilburne*, you are now at a full Point, and this you have ſaid now, you have ſaid often, and we have heard it; and that which you ſay now, we have anſwered before.

Lieut. Col. *Lilb*. Sir, it's your own Law; Sir *Edward Coke* declares I ought to——

Ld *Keble*. Mr. *Lilburne*, I ſhall add this more to it, that you at this time have here ſuch a Court, which never any of your Condition ever had in *England*, ſo many grave Judges of the Law.

Lieut. Col. *Lilb*. Truly I had rather have had an ordinary one; Sir, I mean a legal and ordinary Aſſizes or Seſſions.

Ld *Keble*. But this you have, and this is to take off, or prevent that which you would do now, if there had been one Judge and no more; and if you had not had this great Preſence of the Court, you would have been malepert, and have out-talked them, but you cannot do ſo here.

Lieut. Col. *Lilb*. Truly, Sir, I am not daunted at the Multitude of my Judges, neither at the glittering of your Scarlet Robes, nor the Majeſty of your Preſence, and harſh auſtere Deportment towards me, I bleſs my good God for it, who gives me Courage and Boldneſs.

Ld *Keble*. That your Tryal is ſo publick, as your Offence is, for this end, that all Men may take notice, that you have fair Play: and therefore according to Law, you ought to make your Caſe, in Matter of Fact, clear; for that I muſt tell you again, and once is as good as if I had told you a thouſand times over, unleſs you can clearly do that, you ſay nothing to it. If you will take that for clear Proof that hath been alledged againſt you, you may ſhorten your ſelf; but otherwiſe make that Defence that you judge moſt ſufficient to diſprove the Fact: for till that time, you are clear gone in Law, and no Counſel muſt or can be aſſigned you.

L. Col. *Lilb*. I have been a great while yeſterday pleading my Right by Law for Counſel, and now I have ſtood many Hours to hear your Prooſs to the Indictment. I hope you will not be ſo cruel to put me to a preſent Anſwer, when bodily Strength is ſpent.

Ld *Keble*. We know it as well as your ſelf you were here, and ſtood divers Hours yeſterday, and to-day you have done the like; but we came before you, and ſtand after you.

L. Col. *Lilb*. Sir, will you put a Man to more than a Horſe is put to, or is able to go through with? The righteous Man is merciful, even to a very Beaſt.

Ld *Keble*. We have been as long as you have.

Lieut. Col. *Lilburne*. But, under favour, you have ſat.

Ld *Keble*. You had that Liberty too; diſpute no more, we muſt go on.

L. Col. *Lilb*. I deſire but a Week's time to return you an Anſwer to your large Indictment; and if not ſo long, then give me leave but till to-morrow Morning to conſider of my Anſwer. I am upon my Life.

Ld *Keble*. No, you muſt diſpatch it now.

Lieut. Col. *Lilburne*. Then give me leave but to withdraw into any private Room for an Hour to recollect my Thoughts, peruſe my Notes, and refreſh my Spirits. [And hereabouts Judge *Jermin* did whiſper the Lord *Keble* in the Ear; and preſently ſaid Judge *Jermin*, it's againſt the Law to allow you any more time, the Jury ſtand here charged, the Evidence is given, you muſt immediately go on, or yield that for Truth which hath been proved againſt you.]

Lieut. Col. *Lilb*. Well then, if it muſt be ſo, that you will have my Blood right or wrong; and if I ſhall not have one Hour's time to refreſh me, after my Strength is ſpent, and to conſider of that which hath been alledged againſt me, then I appeal [*which he uttered with a mighty Voice*] to the righteous God of Heaven and Earth againſt you, where I am ſure I ſhall be heard, and find Acceſs; and the Lord God Omnipotent, and a mighty Judge betwixt you and me, require and requite my Blood upon the Heads of you and your Poſterity, to the third and fourth Generation. [Immediately after the uttering of which the Scaffold fell down, which was on the left Hand, which occaſioned a great Noiſe and ſome Confuſion by reaſon of the People's tumbling; but Silence being made, the Priſoner was buſy at his Papers and Books, being invited by Sheriff *Pack* to come out of the Bar, for fear he ſhould have fallen with the reſt, and ſo he might have loſt his Priſoner.]

Ld *Keble*. How came the Priſoner there?

Lieut. Col. *Lilburne*. I went not thither of my own accord, but by Mr. Sheriff's Invitation; and if I am in a place where I ought not to be, blame Mr. Sheriff, and not me.

Ld *Keble*. Diſpatch, Sir.

Lieut. Col. *Lilburne*. Sir, if you will be ſo cruel as not to give me leave to withdraw to eaſe and refreſh my Body, I pray you let me do it in the Court. Officer, I entreat you to help me to a Chamber-pot. [Whilſt it was fetching, Mr. *Lilburne* followeth his Papers and Books cloſe; and when the Pot came, he made water, and gave it to the Foreman.]

Ld *Keble*. Proceed, Mr. *Lilburne*. [But he preſſed for a little Reſpit, which was granted him with much ado, as alſo a Chair to ſit down upon; but within a very little ſpace the Lord *Keble* ſaid,]

Ld *Keble*. The Court cannot ſtay for you, proceed on to anſwer.

Lieut. Col. *Lilburne*. Good Sir, would you have me to anſwer to Impoſſibilities, will you not give me Breath? If you thirſt after my Blood, and nothing elſe will ſatisfy you, take it preſently, without any more to do. [But the Priſoner ſtruggled out a little Reſpit.]

Ld. *Keble*. The Court can ſtay no longer, take away his Chair, for I cannot ſee the Bar, and

plead

plead what you have to ſay, for it grows very late.

Lieut. Col. *Lilburne.* Well, ſeeing I muſt to it, the Will of God be done. [But his Brother being next to him, was heard to preſs him to pauſe a little more :] No, Brother, ſaith he, my Work is done; I will warrant you by the Help of God, I will knock the Nail upon the Head. And ſo he went into the Bar, and ſet the Chair before him, and laid his Law-Books open upon them, in order, as he intended, to uſe them; and being ready, ſaid, Sir, I humbly crave the favour, ſince it is my hard Lot and Fortune, at leaſt in my own Apprehenſion, to have ſo much hard Meaſure and Injuſtice as I have, to know whether or no you will permit me, after that I have pleaded to a Matter of Fact, according to the Law of *England*, that has been allowed to the higheſt Traytors, in all the Books that I have read of, that I may ſpeak in my own behalf unto the Jury, my Countrymen, upon whoſe Conſciences, Integrity and Honeſty, my Life, and the Lives and Liberties of the honeſt Men of this Nation now lies; who are in Law Judges of Law as well as Fact, and you only the Pronouncers of their Sentence, Will and Mind: I ſay, I deſire to know, when I have pleaded to Matter of Fact, whether you will be pleaſed to give me leave to ſpeak to them a few words beſides.

Ld *Keble.* Maſter *Lilburne*, quietly expreſs your ſelf, and you do well; the Jury are Judges of Matter of Fact altogether, and Judge *Coke* ſays ſo: but I tell you the Opinion of the Court, they are not Judges of Matter of Law.

Lieut. Col. *Lilb.* The Jury by Law are not only Judges of Fact, but of Law alſo; and you that call your ſelves Judges of the Law, are no more but *Norman* Intruders; and in deed and in truth, if the Jury pleaſe, are no more but Cyphers, to pronounce their Verdict.

Judge *Jermin.* Was there ever ſuch a damnable blaſphemous Hereſy as this is, to call the Judges of the Law, *Cyphers?*

L. Col. *Lilb.* Sir, I intreat you give me leave to read the Words of the Law then; for to the Jury I apply, as my Judges, both in the Law and Fact.

Ld *Keble.* We will not deny a Tittle of the Law.

Judge *Jermin.* Let all the Hearers know, the Jury ought to take notice of it, That the Judges that are ſworn, that are Twelve in number, they have ever been the Judges of the Law, from the firſt time that ever we can read or hear that the Law was truly expreſs'd in *England*; and the Jury are only Judges, whether ſuch a thing were done or no, they are only Judges of Matter of Fact.

Lieut. Col. *Lilburne.* I deny it, here's your own Law to diſprove you; and therefore let me but read it. It is a hard caſe when a Man is upon the Tryal of his Life, that you will not ſuffer him to read the Law to the Jury, for his own Defence; I am ſure you have cauſed to be read at large thoſe Laws that make againſt me.

Ld *Keble.* But I ſhall pronounce to clear the Righteouſneſs of that Law, whatſoever others will pretend againſt it that know it not.

Lieut. Col. *Lilburne.* Sir, under favour, I ſhall not trouble my ſelf with any thing, but what is pertinent to my preſent purpoſe: Here is the firſt Part of *Coke's Inſtitutes*, it is owned by all the Lawyers that I know, or ever heard of in *England*, for good Law.

Ld. *Keble.* If you can convince us, that Matter of Law does concern the Jury, you ſay ſomething.

Lieut. Col. *Lilburne.* Sir, I have been ſhuffled too much out of my Liberties already, give me leave to read but the Law to the Jury; I will make uſe of nothing now to them, but your own Words; and when I have done, I will leave my ſelf to them, and the Guidance of God upon their Conſcience. And having the Book open in his Hand, he ſaid in the firſt Part of *Coke's Inſtitutes*, *Sect.* 366. *fol.* 226, 227, 228. in his Expoſition of *Plowden*, hath theſe Words.

Ld *Keble.* Have we dealt ſo fairly with you all this while? Pray be confident, thoſe that are Quotations there, are not for your purpoſe; but I thought how good a Lawyer you were, for to ſet *Coke's Commentaries* upon *Plowden*, when there is no ſuch Book or Commentary. Go to your Matter of Fact, which is clear; but for this, let it fall down, and ſpare your ſelf, and trouble your ſelf no more with *Coke*; he has no Commentary upon *Plwoden.* [But Maſter *Lilburne* preſs'd to ſpeak.]

Judge *Jermin.* Hold Sir.

Lieut. Col. *Lilburne.* What will not you allow me Liberty to read your Law? O unrighteous and bloody Judges!

Judge *Jermin.* By the Fancy of your own Mind you would puzzle the Jury; we know the Book a little better than you do; there is no ſuch Book as *Coke's Commentary* upon *Plowden.*

Ld *Keble.* Sir, you ſhall not read it.

Judge *Jermin.* You cannot be ſuffered to read the Law; you have broached an erroneous Opinion, That the Jury are the Judges of the Law, which is enough (a) to deſtroy all the Law in the Land; there was never ſuch damnable Hereſy broached in this Nation before.

The Cryer cries out, Hear the Court.

Lieut. Col. *Lilburne.* Do your pleaſure, then here I'll die: Jury take notice of their Injuſtice; but ſeeing they will not hear me, I appeal to you, and ſay, It is an eaſy matter for an abler Man than I am, in ſo many Interruptions as I meet with, to miſtake *Plowden* for *Littleton*; I am ſure here are *Coke's Commentaries* upon *Littleton*, and theſe be his Words; *In this Caſe the Recognitors of the Aſſize may ſay and render to the Juſtices their Verdict at large upon the whole Matter.* Which I am ſure is good Law, foraſmuch as we ſee it continually done in all Actions of Treſpaſs or Aſſault, where the Jury doth not only judge of the Validity of the Proof of the Fact, but alſo of the Law, by aſſigning what Damages they think is juſt.

Ld *Keble.* I am ſure you are in an errour, in a groſs one, as poſſible a Man can be in; this is ſo groſs, that I thought it could not have come from Maſter *Lilburne*, that profeſſeth himſelf to be a rational and knowing Man.

Lieut. Col. *Lilb.* And in another place he ſaith, 'For as well as the Jurors may have Cognizance of 'the Leaſe, they alſo may have Cognizance of the 'Condition.' And further there *Coke* ſaith, 'Here 'it is to be obſerved, That a ſpecial Verdict, or at 'large, may be given in any Action, and upon any 'Iſſue, be the Iſſue General or Special.' And in

(a) *Yes, but there was at* Reading, *when Colonel* Martin, *after they were ſworn, cauſed all the Jury before the Judges ſitting upon the Bench, to put on their Hats, as their Right; being they were then the chief Judges in the Court, and the other inferiour to them.*

Section 368. *Littleton* hath these Words; 'Also in 'such Case, where the Inquest may give their Ver- 'dict at large, if they will take upon them the 'Knowledge of the Law, upon the Matter they 'may give their Verdict generally.' *Coke's* Words upon it are fully to the same purpose, who saith, 'Although the Jury, if they will take upon them (as *Littleton* here saith) 'the Knowledge of the 'Law, may give a general Verdict.' I am sure this is pertinent to my purpose, and now I have done, Sir.

Ld *Keble.* You have spent a little time, but you have done your self no good; I thought you had understood the Law better than I see you do.

Lieut. Col. *Lilburne.* Now, Sir, as to Matter of Fact, according to your own desire, seeing you will have broke your Promise, and will allow me no Counsel, but lie at catch with me, I shall come to it without any Preamble. The Statute of 1 *Edward 6. chap.* 12. (I desire the Jury may take notice of the Statutes) and the 5th and 6th of *Edward* the Sixth, *chap.* 11. here's the Statute-Book, which doth expresly declare, That no Man shall be condemned for Treason, Petty-Treason, or any such like Crime, but by the Evidence and clear Proof of two legal and sufficient Witnesses. Sir *Edward Coke* in his third Part of *Institutes, Chap.* of *High Treason*, is absolutely of the same Opinion, *fol.* 12. *In this Branch*, says he, *four things are to be observed. First, this word* (provablement) *provably; that is, upon direct and manifest Proof, not upon conjectural Presumptions, or Inferences, or Strains of Wit, but upon good and sufficient Proof of two Witnesses.* And this is *fol.* 12. And herein the Adverb (*provablement*) provably, hath a great Force, and signifieth a direct and plain Proof.

And, secondly, this Word (attaint) *necessarily implieth, That he be proceeded with, and attainted, according to the due Course and Proceedings of Law, and not by absolute Power, or by other Means, as in former times it hath been used.*

And *fol.* 24. *chap. Petty-Treason*, he saith, *It hath been holden, That upon the Tryal of Misprision of Treason, there must be two lawful Witnesses, as well upon the Tryal as the Indictment*; as it was resolved by the Justices in the Lord *Lumley's* Case, *Hill.* 14 *Eliz.* reported by the Lord *Dyer* under his own Hand; and in the Margin he hath this Note upon it, *That this is the last Resolution of the Judges upon it.* And a little below, in the same *fol.* and *fol.* 25. he saith, *Therefore upon the Indictment, which is in manner of an Accusation, by the Statutes of* 1 Edward 6. cap. 12. *and* 5 *and* 6 Edward 6. cap. 11. *two lawful Witnesses are requisite.* And in *fol.* 240. he hath the same, his Words are these; *Attainders of Treason*, &c. *ought to be upon plain and direct Evidence*, (as before is said) *for if the Party be executed, Restitution may be had of his Lands, but never can be had of his Life.* Now I have done, Sir.

Ld *Keble.* I hope the Jury hath seen the Evidence so plain, and so fully, that it doth confirm them to do their Duty, and to find the Prisoner guilty of what is charged upon him.

Judge *Jermin.* This that you have said, makes much for the Jury.

Lieut. Col. *Lilburne.* We shall see that by and by; but I shall proceed on to answer your Proof to the Indictment, and that in the same Method that your Witnesses swore. And therefore, Sir, in the first place, to the first, which is *Thomas Newcomb* the Printer, he swears in these Words, That I was present with Captain *Jones*, from whose Hands he says he received the last Sheet of the Book, called *The Out-cry of the Young Men and Apprentices of* London: But he says, Captain *Jones* agreed with him for the printing of it, and not I; for in that Particular he doth not in the least accuse me, neither doth he in the least accuse me in any manner in the world of being the Author of it; and that I did any more at his House, but take away a single Sheet of it before it was corrected; which, says he, I brought away with me. In answer to whose Testimony I return this; and I earnestly entreat you, Gentlemen of the Jury, to observe it well; and therefore, in the first place, he is but a single Testimony to this. But, secondly, I answer, That he confesses moreover, that before he had compleated that Sheet that he received from Captain *Jones*, he was taken; and not only he, but his Forms also were taken from him. So that by his own Confession, that Copy that was brought by Captain *Jones* when I was present with him, proved abortive, it was never wrought: For he says, it was taken before he had perfected it; and to my knowledge they had it in their possession. So that it clearly appears, it was never perfectly wrought off, and therefore the Books were never perfected: therefore I hope that it will not be Treason in me, being a Freeman of *England*, to walk the Streets with my Friend, and to go into a House with him where he hath business to do; admit it be a Printing-house, where he intends to have a Sheet of Paper printed: his Affairs, Business or Actions are nothing to me, neither are they now in the least laid to my charge; and if they were, as they are not, yet that Sheet miscarried, and was taken before it was perfected. So that truly, Sir, you may go seek the Printer of it; for you see that miscarried that Captain *Jones* delivered to the Printer in my Company; and that Sheet which he saith I had away, was an uncorrected one, which could serve me for no other Use, but waste Paper, and cannot be adjudged to be a true Copy of that which was contained in the Indictment: neither doth he or any other swear, that at the Printer's they see, or know where was done the Title of that *Out-cry* contained in the Indictment. So that for any thing the Jury knows, the first Part of that Book hath no dependance upon the Sheet that was spoiled, and not brought to maturity in Master *Newcomb's* Hands, as he himself upon his Oath declares. So that truly, Sir, in Law Mr *Newcomb's* Testimony proves nothing at all against me, as to that Book mentioned and contained in the Indictment: and therefore you Gentlemen of the Jury, my Life is in your hands, I beseech you take notice, That in all his Testimony, there was not one Word that he declared, to accuse me to be the Author of that Book, or that my Name was to it; for you shall find the Names of ten that own it, so that I think his Testimony is gone, and is not worth a Straw.

In the next place, there were three Soldiers, *viz. John Tooke, Thomas Lewis*, and *John Skinner*, that swear against me: The Substance of all their Testimonies centers in one; and *John Tooke* in the first place saith, about seven Weeks ago he met with Lieut. Col. *John Lilburne* in *Ivy-Lane*, where *Lewis* knowing of him, gave him a Salute: and they being glad to see him that he was well in health, and the like, out of Friendship went to drink a Cup of Beer together at the *Red-Cross* in *Newgate-Market*, where he saw a Book, called *The Apprentices Outcry*, given unto Master *Lewis*, and he heard these words uttered by Lieut. Col. *Lilburne*, *You Soldiers are those that keep us in Slavery.* The second Witness, being *Thomas Lewis*, saith, That the sixth

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of *December* or *September*, for ſo was his words, he met me in *Ivy-Lane*, and took acquaintance of me, asked me how I did, and I thank'd him: and he further declares, That he was very much refreſh'd to ſee me, that I was well, and in health, and was glad to ſee that thoſe things that were given out of me by common Fame (that I was kill'd or dead) that they were not true. Therefore he being my old Acquaintance, as he ſaith, we went to drink a Cup of Beer together; and ſays he, (as he remembers) Lieut. Col. *Lilburne* asked him if he had ſeen a Book call'd *The Apprentices Outcry*, and he ſaid no, he had not ſeen it, but he had heard of it, and was thinking to go and buy one of them, for that he longed to read it, and heard it was publickly ſold: and ſays he, Lieut. Col. *Lilburne* ſaid he had one which was given him, and if he pleaſed he would give it me, which he thankfully received; and afterwards we ſtaid a little time to drink a Cup of Beer, and had ſome Diſcourſe. But he doth fix no Evil upon me, that fell from me in that Diſcourſe, neither doth he ſay, that I did ſtir him up to mutiny, or to make diviſion in the Army; only he ſaith, I told him that if he went to ſuch a Man, whoſe Name he hath forgot, it is poſſible he might buy ſome more of them, for they were publickly ſold all over the City. So that you Gentlemen of the Jury may take notice, that he declares the things by common Fame were publickly ſold, and one of them he ſays was given to me, and I gave it to him. Truly I hope the Jury hath more Conſcience in them, than to go about to take away my Life for giving away a ſingle Sheet and a half of Paper, that no Man ſwears I was the Author of, or the Cauſer of it to be printed and publiſhed: but the moſt that can be fix'd upon me, is, That I had one of them given me, and I gave it to a Soldier, my familiar Friend, who had a great deſire to ſee it, and was going to buy one of them, being publick up and down *London* at that time, which is all that he doth charge upon me; only he ſays further, that there was a little Diſcourſe: but his Teſtimony doth not reach to accuſe me of any evil or malicious Counſel given them, or any Aggravations of Spirit, as tho I did incenſe him or them againſt their Officers or Fellow-Soldiers, thereby to ſtir them up to Mutiny and Rebellion. For truly I have made it my work, for to be as ſparing in my Diſcourſe as could be, in the company of any belonging to the Army; yea, and to ſhun coming nigh the place, if I can avoid it, where they are. And he ſaith, I had no aggravating Spirit within me, nor uttered any Provocations to make them riſe in Mutiny againſt their Officers; and there is none of them all that does in the leaſt fix that Book upon me, to be mine, as the Author of it.

Only he ſaith further, That upon his declaring he longed to ſee the Book, that Lieut. Col. *Lilburne* told him that ſuch a Man, whoſe Name he hath forgot, might poſſibly ſell them ſome of them, if they had a mind to them, or to get ſome of them: and truly I do not believe that Treaſon.

Further he ſays, all the worſt Diſcourſe I had with them, was, that I asked them a queſtion, which was, when they had any Pay? and they told me, they had not had any Pay in five weeks: and that was the worſt of all. There proceeded from me no aggravating Expreſſions upon it, or mutinous Provocations. But truly that this Diſcourſe ſhould come within the compaſs of Treaſon, to ask my old Acquaintance a queſtion, that had oftentimes viſited me when I was the Lords Priſoner in the *Tower*, or to drink a Cup of Beer with him, or give a Sheet and a half of Paper that was publickly ſold; truly I hope there will be no righteous Jury in the world, that will give a Judgment againſt me for Treaſon therefore; no, I hope for more righteous Juſtice from a Jury of Citizens of *London*, whom I hope to find Men of Conſciences and Judgment, yea, of ſuch righteous Judgment, as that they will abhor to go about to take away my Life, and my Blood, and lay the Blemiſh and Stain of Treaſon upon me and my Poſterity for ever, upon ſuch a thing as this is. And this is all, and the utmoſt of all, that the Evidence doth witneſs againſt me.

Then in the third place there was *John Skinner*, who was the third; and he ſays the ſame in effect, and no more: and therefore I need not to go upon that any further, but ſhall leave it I hope to the enlivened Conſciences of my Jury, my Fellow-Citizens of *London*.

In the next place, the ſecond thing laid to my charge, is the *Salva Libertate*, delivered to the Lieutenant of the *Tower*, as he ſays. Now truly the Lieutenant of the *Tower* is but a ſingle Witneſs to this, and the Law ſaith poſitively there ſhall be two legal Witneſſes, to prove every Fact of Treaſon, whoſe Teſtimony or Evidence ought to be as clear and evident as the Sun at Noonday, without any conjectural Preſumptions or Inferences, or Strains of Wit: and truly the Lieutenant is but a ſingle Witneſs at moſt. I ſhould be loth to reproach or beſpatter the Man, yet I muſt ſay this, being upon my Life, that he is not only a ſingle Witneſs, but a Gentleman in whoſe cuſtody I was Priſoner contrary to Law; who kept me priſoner in times by-paſt, above twelve months together at the Houſe of Lords illegal Command, contrary unto Law and Juſtice: for which above a year ſince, I did commence at the Common Law an Action of four or five thouſand Pound againſt him, as I did alſo againſt Colonel *Tichburn*, that I have ſeen upon this Bench, ſitting as one of my Judges; which I think is not equal, nor juſt, nor legal, that he with whom I have a Suit of four or five thouſand Pound depending, when thereby my profeſs'd Adverſary, ſhould be one of my Judges: and therefore I deſire he may be commanded off the Bench, and withdraw, as being my profeſs'd Adverſary, and therefore in Law uncapable to be my Judge. And truly having the ſame Action depending ſtill againſt the preſent Lieutenant of the *Tower*, before the Judges of the *King's-Bench*, for his detaining me in Priſon above a Year together, contrary to Law; he is thereby in the eye of the Law my profeſſed Adverſary, and therefore in Law cannot be admitted as a competent Witneſs againſt me, upon my Life. Yet the Lieutenant of *Tower* doth not in the leaſt ſwear that the Hand is mine, or that he did ſee me write it; but only he ſaith, that I did deliver ſuch a Paper to him: but he is but a ſingle Witneſs, and ſo I ſay by the Law of the Land not valid or good, but his Teſtimony is clearly gone and wiped off, as alſo all things that doth depend thereupon. There is beſides five or ſix Witneſſes produced to ſeveral Charges; but the Law expreſly ſaith, that there muſt be two plain and clear Witneſſes to every particular Charge, or Fact of Treaſon, that muſt take away my Life, and this is your own Law: and therefore he is but a ſingle one, and therefore invalid, and altogether not ſatisfactory or binding. And then beſide, which is conſiderable, truly I think the Tower of *London*, in the place where he ſaith I gave him

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thoſe Papers, is not within the Juriſdiction of the City of *London*; and how I ſhould come to be arraigned by a Jury of my Fellow-Citizens here in *London* therefore, againſt whom I muſt confeſs that for my part I have nothing for their Honeſty and Integrity to object, I know not: for I know not the Faces of any two of them, and therefore impoſſible for me to ſay any thing againſt them. I ſay, I know not how by a *London* Jury I can be try'd for a Fact fix'd upon me to be committed in *Middleſex*? I beſeech you, Gentlemen of the Jury, miſtake me not; for I have nothing to accuſe you of, and I hope you will be ſo conſcientious and tender in the Tryal of me for my Life, that you will put your Caſe as my Caſe, and do by me as you would be done unto by me, if you were in my Caſe and Condition; and the righteous God of Heaven and Earth direct you ſo to do. And therefore the Lieutenant of the *Tower* being but a ſingle Witneſs at moſt, and in Law not a competent one neither, being my profeſſed Adverſary, that hath moſt illegally kept me in Priſon, for which I have commenced long ſince my Action at Law for my legal Reparations againſt him; I ſay, therefore in the eye of the Law his Teſtimony ſticks not, and I hope, in the righteous Opinion of the Jury, can do me no harm: and if ſo his Teſtimony be invalid, then the *Salva Libertate* cannot reach me, to do me any hurt; but it and all thoſe my pretended Books call'd by my name, are all waſh'd away and gone, and my Adverſaries muſt go ſeek new Authors for them, or at leaſt procure new and better Teſtimony to prove them mine; for that which they have produced hitherto, is worth nothing.

Then the next is *Thomas Daffern*; and he ſays, that the twelfth of *Auguſt* 1649, he met with Lieut. Col. *Lilburne* upon the Bridge, as he was going home to viſit his ſick and diſtreſſed Family, and he went back with him to his Houſe in *Southwark*, at *Wincheſter-Houſe*, which I am ſure is not in *London*; and therefore at *Guildhall* in *London*, by a *London* Jury, in Law cannot be try'd: for he poſitively ſaith, That at *Wincheſter-Houſe* in *Southwark*, which is in the County of *Surrey*, Lieut. Col. *John Lilburne* gave him a Book to carry to Col. *Ayres*, a Priſoner at *Warwick-Caſtle*; but he does give in no Teſtimony at all that it is mine, or that that Book was Lieut. Col. *Lilburne*'s Book, of his making or penning: but a Book he gave him, and that is all he ſays; which is no more but that he received a Book at *Wincheſter-Houſe* in *Southwark* from the hands of Lieut. Col. *Lilburne*, to carry to Col. *Ayres*, now a Priſoner at *Warwick-Caſtle*. Now truly he is but a ſingle Teſtimony, and he ſwears nothing particularly as to me; and beſides, what he ſwears is to a Fact done in another County, and therefore his Teſtimony is not worth a ſtraw; it's gone, it's invalid in Law, it ſignifies nothing, it is not ſo good as a Spider's Web. By virtue of which, the Marſhal's Teſtimony and the Governour's of *Warwick-Caſtle*, as alſo Col. *Purefoy*'s, need no other Anſwer from me, but to pity them for the long Journey they have made to no purpoſe.

The next thing charged upon me, is the *Preparative to an Hue and Cry after Sir* Arthur Haſlerig; to which the Lieutenant of the *Tower* ſays, that Lieut. Col. *John Lilburne* gave him one of thoſe Books in the *Tower*, which truly I am confident is in *Middleſex*: and truly I conceive, under favour, it will be a Point diſputable in Law, that I ſhould be try'd for my Life in this place, admit there were a thouſand Witneſſes to make it good that the Lieutenant of the *Tower* had one of them from me, either in the place he formerly named, or at his own Houſe; for that Fact was done in the *Tower*, that is out of the County of *London*, and ſo not tryable by a Jury of Citizens of *London*. But he further ſaith, whether the Book that he now has, be the ſame that he received from the hands of Lieut. Col. *Lilburne*, that he is not able to depoſe.

Then the reſt of the Witneſſes that do depoſe againſt me in relation to the *Hue and Cry*, are *James Nutleigh* and *Edward Radney*, both of them Mr. *Prideaux*'s Servants: and the moſt that they ſay, is, That when I was before their Maſter, upon the 24th of *September* 1649, at his Chamber in the *Temple*, to be examined by him, they ſay they ſaw me deliver *A Preparative to an Hue and Cry after Sir* Arthur Haſlerig, to their Maſter's hands, and tell him that that was mine, and I would own it ſaving the Printer's Erratas; which, ſays the Lieutenant of the *Tower* upon his Oath, I expreſſed to be many.

In anſwer to which, I ſay, I do not know whether the *Temple* be within the Liberties of *London* or no; and if it be not, I know no Ground in Law, wherefore a *London* Jury ſhould try me here. But more fully I ſay, for any thing the Jury knows, or for any thing the Witneſſes ſwear, the Printer's Erratas, which are many, are all and every of thoſe Clauſes that Offence or Exceptions are taken againſt; for not one of thoſe Clauſes which you except againſt, are not proved to be the Printer's Erratas: and therefore there is no Validity or Weight in thoſe Teſtimonies alſo, for they do not prove in the leaſt that any ſix Lines of the Book is mine, all of them ſay that I owned no more of the Book than was free from the Printer's Erratas. And the Lieutenant of the *Tower* ſwears that the Clauſe was added, *Which are many*: And therefore you the Gentlemen of the Jury, I appeal to your Conſciences, and to your Judgments, and the Lord ſet it home to your Underſtandings, that you may not be guilty of the Blood of an innocent Man, by Partiality, Fear or Affrightment of Spirit; for in Law, Equity and Juſtice, all their three Teſtimonies put together has no Validity, no Strength, nor Force in them: and ſo much for that.

The next thing fix'd upon me, is *The legal fundamental Libertys of the People of* England *revived, aſſerted and vindicated*; and truly all that's brought to prove *The legal fundamental Liberties of* England to be mine, is but merely the Relations that are in the forementioned Books: for I do not remember (nay, I am ſure of it) that there is ſo much as a ſingle Teſtimony that does give in any Evidence againſt me that it is mine; and therefore I can anſwer to that nothing more than what I have ſaid already. The Teſtimonies all being invalid, at leaſt in the Eye or the Law; and therefore that's gone too, and blown away as Chaff before the Wind.

Laſtly, For the *Agreement of the People*, truly that is dated the firſt of *May*, 1649. And truly, for ought I know, and I am ſure of it too, it is before the Date of any of thoſe Acts upon which I am indicted for my Life, and therefore not within the Compaſs of it. For *Paul*, that great Apoſtle, ſaid; and he that ſpoke by the Spirit of God that dwelt within him, and to whom it was given in an extraordinary manner, that ſo he might thereby be enabled to write the infallible Truths of God, ſaid, *Where there is no Law, there can be no Tranſgreſſion.* But that Agreement was in being, and publickly abroad with a legal Imprimatur to it,

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before any of the Acts, upon which I am arraigned, had a Being: And therefore, admit it ſhould be granted to be mine, yet it can be no Tranſgreſſion, or any thing prejudicial in the Eye of the Law unto me. But beſides, there is not any Teſtimony at all, that ſo much as lays it to my Charge to be mine; and therefore it pinches me not, nor does any of all the reſt of your Charges. And beſides all that I have already ſaid in my own behalf, to ſhew in Law the Invalidity and Inſufficiency of all the Teſtimony you have produced againſt me, I add this by way of Addition to it, That there hath not been ſo much as one ſingle Witneſs or Teſtimony to prove that the Books laid to my Charge are rightly and truly dated, and not poſt-dated; which if any of them, or all of them ſhould be, admit the Proofs were ſufficient in Law, yet unleſs the Days of them be firmly proved to be exactly according to the original Copies, and not poſt-dated, for any thing the Jury knows, they might be made and writ before ever the Acts, they are ſaid to tranſgreſs, had a Being. And therefore if there were ſo many Teſtimonies in Law to prove the Books mine, (which there is not in the leaſt) yet, I ſay, admit there had been a thouſand Witneſſes to the Proof of every one of thoſe Books, yet notwithſtanding in the Eye of the Law, I leave it to the Conſciences of my Jury, whether I be not free in that particular, ſeeing there is none ſwears punctually and poſitively to the Dates of them. But to put all out of danger, as I deny nothing, ſo in that particular I do not own a Jot, a Line, a Word, a Syllable of any of them. Now, Sir, having done ſo far as I have, and clearly diſcovered to the Jury, and all that hear me this Day, that all the Proofs alledged againſt me does not ſtick, in the leaſt, any Guilt upon me, truly I have clearly anſwered and invalidated all the verbal Proofs, according to the clear Letter and true Intention of the Law. I have no more to ſay to all the Evidences that have been read in Books againſt me: I leave it to the Conſciences of my Jury, believing them to be a Generation of Men that believe in God the Father, and believe they ſhall have a Portion in the Reſurrection of the Dead, and ſtand before the Tribunal of the Lord Almighty, to give an Account unto him, the Lord of Life and Glory, and the Judge of all the Earth, of all their Actions done in the Fleſh: I leave it to their Judgments and Conſciences, to judge righteouſly between me and my Adverſaries; and the Lord of Life and Glory, to judge right between me and you, that in all thoſe Things in your long Scrowl you pretend me guilty of, I hope I have ſo clearly and fully anſwered all and every of your Proofs, that not any one Thing ſticks. And to their Conſciences I caſt it; hoping that they do look upon themſelves as ſtanding in the Preſence of him that ſees their Hearts, and knows now whether there be any Malice in them towards me, or no; which, for my part, I do not believe there is; for I profeſs I know no Wrong I have particularly done them as Men, or generally as *Engliſhmen*. My Conſcience is free and clear as in the ſight of God, and I hope of all unbyaſſed Men. And, to my Knowledge, I never ſee the Faces of any two of them before this Day; and therefore, entirely as an *Engliſhman*, that loves and honours the good old Laws of *England*, and earneſtly deſires, and endeavours, and ſtruggles for the Preſervation of Juſtice and juſt Magiſtracy, which I wiſh with all my Soul may be preſerved; and therefore having ſuffered much for the Preſervation of the common and juſt Liberties of *England*, to their Conſciences and to their Judgments I leave both this Matter, and the conſtant Series of all my Actions in this my Pilgrimage and Vale of Tears here below.

Ld *Keble*. Mr. *Lilburne*.

Lieut. Col. *Lilburne*. Your Pleaſure, Sir?

Ld *Keble*. Nothing, Sir, but this: Our Conſciences are before God, as well as yours; and therefore you need not ſpeak thus.

Lieut. Col. *Lilburne*. Sir, I have only two or three Words more, which I have ſpoken to you: But thoſe Men, that are my Jury and Judges, in whoſe hands only are the Iſſues of my Life, have not as yet heard them. I pray you give me Liberty, according to your Promiſe, to go on without Interruption. You Gentlemen of the Jury, I have many material Things to produce Witneſſes unto for my Juſtification; but no Time in the leaſt will be allowed me, as you ſee, to produce them, which I ought by Law to have had; eſpecially conſidering I have been lock'd up ſo long cloſe Priſoner, and have nothing for which I was firſt impriſoned laid unto my Charge, and have ſo high, potent, and mighty Adverſaries as I have; and truly every Man is ſhy of me, for fear he may come into trouble for coming near me. And therefore, I have but two or three Words more to ſpeak to the Jury, I beſeech you let me freely go on.

Ld *Keble*. Make them thirty to your Defence, and you may ſpeak them.

Lieut. Col. *Lilburne*. I ſhall, by God's Aſſiſtance; I ſhall keep cloſe to my Defence. Now Gentlemen of the Jury, I think I have ſufficiently pleaded for my ſelf at this preſent; and that to clear up fully unto your Judgments, and to your Underſtandings, that by the Law of *England* there is not ſo much as any one Fact proved againſt me; for the Law is expreſs, that to every particular Fact of Treaſon there muſt be two ſufficient Witneſſes, not by Conſtructions, or the like: Upon which Score and Plea that Gentleman, Maſter *Nichols*, that ſits there as a Judge, and Maſter *John Maynard*, ſaved Major *Rolfe*'s Life, being to be arraigned for the higheſt of *Engliſh* Treaſon before Baron *Wyld*. Now, Gentlemen, if, notwithſtanding what I have ſaid, any Thing ſhall yet ſtick upon your Spirits, I ſhall entreat you to conſider the Intention of the Law of *England*: It is repeated ſeveral times in Sir *Edward Coke*'s *Inſtitutes*; it is a Maxim in the Law, I have it here in the third Part of his *Inſtitutes*, *fol. 6. Et actus non facit reum, niſi mens ſit rea*. Sir, if you pleaſe to do me the Favour but to *engliſh* it, and explain it for the Jury? For tho I underſtand the Subſtance of it, yet I am not exactly able to *engliſh* the *Latin*, but only to underſtand the Senſe of it. I conceive the Senſe of it is this, It is not the Act, but the Intention of the Mind, that declares Guilt. But therefore as in reference unto that, I ſhall ſay no more but only this to them, That the conſtant Series of all my Actions, from my Youth hitherto, have manifeſted that I have, with an affectionate and compaſſionate *Engliſh* Spirit within me, that hath put me forth for many Years together really to endeavour the Proſperity and Good of the Land of my Nativity, and not its Miſchief and Deſtruction; and that hithertoward, in all my Conteſts, I have had the Law and the declared publick Juſtice of the Nation on my ſide, having never done any Miſchief to my Country, unleſs it be a Miſchief to oppoſe great Mens Wills. I have now been ſeven Months in Priſon, I know not wherefore, altho originally I was committed to Priſon pretendedly for Treaſon: And both the Acts, upon which now I am indicted, have been made long ſince my firſt Commitment. There

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is not any one Syllable of all thoſe Things for which I originally in general, without Accuſer or Proſecutor, was voted a Traytor by the preſent Power; and for which I was proclaimed a Traytor throughout all the Market and great Towns in *England* ſix Months ago: There is not now, I ſay, any one of thoſe Things laid to my Charge. But truly I have been laid into Priſon for nothing, as by this Day's Work clearly appears, by the Men in preſent Power. Unto divers of whom I have often ſent, to know what it is they require at my hands; and have alſo from time to time declared my ready Willingneſs to compoſe and end all Differences that concern me, having proffered again and again to refer my ſelf unto the final Determination of four of their own Members, finally to end and determine all Differences betwixt them and me; whereof I was willing that Judge *Rigby* ſhould be one of them: A Gentleman (though now a Judge) I have found very honeſt and faithful, and to whom I have been much obliged for many hearty Favours I have from time to time received from him. I ſay, I have ſent to him and Colonel *Martin*, and abundance of Members beſides, from time to time; to ſome of whom I have written, with ſome of whom I have ſpoken. I ſay, I have ſent many Meſſages with the earneſteſt Deſire in the World, That if I had offended any Man in the Houſe, that if he would be pleaſed fairly and friendly to refer it to the final Judgment and Determination of four Members of their own Houſe, and would ſtand to it. And let all the World judge whether, or no, this Propoſition was not ſuitable to a Chriſtian, and ſuitable to an honeſt Man; yea, to a Man that judged himſelf in the ſtricteſt Scrutiny of his own Conſcience to be free and innocent in his own Soul, and in his own Conſcience, from all Guilt, Crimes, or Treaſons; or elſe, if I had not, I would not have put my ſelf upon the Judgment of thoſe that were engaged in Intereſt and Self-preſervation againſt me: And yet for the Things that they impriſoned me for as a Traytor in general, which I hear nothing of this Day, which is wonderful ſtrange Law and Proceedings to my Underſtanding. But beſides, Sir, under favour, I have not only done this, but I have yet Thouſands of my Friends, I will undertake I could produce ten thouſand of old and young Males and Females, Citizens and Countrymen, Men of Honeſty and Integrity, that have in the common Cauſe always adhered to the Freedoms of the Nation, that have petitioned the Parliament ſeveral times, yea, from time to time, with abundance of rational and fair Petitions, and truly ſtated my Caſe to them, and acquainted them with my Condition, and with the reſt of my Fellow-Priſoners, and earneſtly begg'd and entreated of them that they would not be haſty in condemning and deſtroying me before they had heard me, and afforded me a legal Tryal, from firſt to laſt, according to the due Forms and Proceſs of the Law of *England*. And yet for all this, till I came before you, I never ſaw Accuſer or Proſecutor, nor Indictment or Charge, nor nothing in all the Earth, legally to demonſtrate me ſo much as a ſuppoſed Offender. And yet for all this no Satisfaction in the world would be received; notwithſtanding in one Petition they deſiring that they would be pleaſed, ſeeing they were incenſed againſt us, and that they had taken Indignation againſt us, they did not deſire to juſtify us in any Thing we had done; but in regard, to their own Knowledge, we had been all four faithful, zealous, and ſerviceable Inſtruments in the common Cauſe of the Nation: In which, to the Hazard of my Life an hundred times over, I have engaged for them, with my Sword in my Hand, with as much Reſolution, and as much Faithfulneſs, as any Man on Earth ever ſerved a Generation of Men; having never betrayed my Truſt, or ever given any Suſpicion in the leaſt that I would, or ever ſo much as ſtaggered in my Principles, nor ever ſo much as diſputed any Commands, though never ſo deſperate, that was laid upon me; no, nor ever turned my Back in the Field of their Enemies in any of their Services, ſo long as it was poſſible for a Man that had any Brains left him to ſtand; but was one of thoſe ſeven hundred Men at *Brentford*, (my ſelf being there a Volunteer, without any particular Command) that with Dint of Sword ſtood it out againſt the whole Body of the King's numerous Army for many Hours together, and never ſtirr'd off the Ground till both Horſe and Foot had, as it were, encompaſs'd us round, and till we came to a Readineſs to beat out one another's Brains with the But-end of our Muſquets: where I was taken a Priſoner, and led captive in a moſt barbarous and diſgraceful manner to *Oxford*, where I ſuffered abundance of unexpreſſible Hardſhips, and underwent the Shock, and rid the Storm, as ſtoutly as any Man there, although I believe I was as much courted by Meſſages from the King himſelf, as any or all the Parliament-Men that were there my Fellow-Priſoners; for there I have had no leſs than four Earls and Lords in one Day ſent unto me by him, to draw me over to them: But I bleſs God, that kept me upright and entire unto my Integrity and Principles, and ſuffered me not to turn my Back upon them. But, Sir, notwithſtanding all this, (I ſay) our Friends deſired of the Parliament that they would be pleaſed to take ſufficient Security, according to the Law, for our forth-coming at all times, to anſwer ſuch Things as ſhall be laid to our Charge: But their Petitions were contemned, themſelves ſlighted and abuſed, and by no means could get any ſatisfactory Anſwers to them. Sir, I ſpeak here to you, and to my Fellow-Citizens the Jury, as in the ſight and preſence of God, that knows I lye not: And if you find me to be in a Lye, in the leaſt, in what I have ſaid, then never credit Man of my Profeſſion again for my ſake. Truly, Sir, I ſay, they deſired them that we might be releaſed from our Impriſonment, putting in Security to anſwer whatſoever legally could be charged upon us; only they craved we might have the ſame legal Privileges that they demanded at the hands of the King, when he impeached the Lord *Kimbolton* and the five Members of High Treaſon; which Privileges is eaſily and plainly to be read in their own firſt *Primitive Declarations*, *pag.* 38, 39, & 76, 77. Now abundance of the Free People of this Nation, in my behalf, having craved the ſame Privileges that was demanded for the Lord *Kimbolton*, and in the behalf of the five Members, and the like, all that they deſired was no more but the ſame Privileges that they craved for them; which was, That I might have the due Proceſs of the Law, from firſt to laſt; and I and my Accuſers come Face to Face at the beginning before an ordinary Magiſtrate; and if they had any thing to lay to my Charge, that they would legally, according to Law, proceed with me. But, I ſay, none of theſe would be granted, altho themſelves in ſeveral of their Declarations have declared all theſe Things to be the common Right of all or any of the People of *England*, as well as Parliament-Men. Yet notwithſtanding all this, they continued in their incenſed Condition againſt me, and would come to no legal

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nor fair Iſſue with me; nor let me in the leaſt know what was the end or thing they required of me, or what was the thing that would ſatisfy for the Extenuation of their Indignation againſt me; but contrariwiſe dealt harder and harder with me; in laying new and freſh inſupportable Burdens and Provocations upon me: For, after all this, they cauſed me to be lock'd up cloſe Priſoner in the Heat of Summer, ſet Sentinels Night and Day at my Door, denied me the Acceſs of my Wife and little Babes; for a certain Seaſon neither Wife nor Child could ſo much as ſet their Feet within the Gates of the Tower to ſee me, or comfort me in my Diſtreſs.

Ld *Keble.* Mr. *Lilburne*, is this your Defence?

Lieut. Col. *Lilburne.* I beſeech you, as either the Law, or Fear of God, Conſcience or common Honeſty dwells within you, let me have a little fair Play to go on to ſpeak for my Life without Interruption; I ſhall not trouble you long, for I have almoſt done.

Ld *Keble.* When your Matter of Fact is to defend your ſelf, and to anſwer the Proof upon that; and that is it we are to hear, and not to hear you tell the Story of all your Life: and then if we ſhould reply to theſe particular things, they will be ſuch as moſt of them will vaniſh, and do you no Service, but take up a great deal of time. Do not tell us a Story, but go on to finiſh the Matter of Fact.

Lieut. Col. *Lilburne.* It has been your Favour to give me leave to tell it over to you, I pray give me leave to declare it to my Jury, who hath not heard it before; and it is very material to my Preſervation, and my Life lies upon it: therefore do not deal with me as Proctors, and engaged Men, with thoſe that thirſt for my Blood; and laying aſide that Evenneſs of Hand betwixt both Parties, that ought to be in all juſt and righteous Judges.

Ld Keble. 'Tis nothing to this; if it be any thing in the World to do you good, in the way of your Courſe of Defence, you ſhould have it.

Lieut. Col. *Lilburne.* Well, if you will let me go on no further to make my Defence, I cannot over-rule you, though you over-rule me; my Blood be upon your Heads, and the Lord God of Heaven and Earth reward you for all your blood-thirſty Cruelty towards me his innocent Servant this Day; and ſo I have done with it: and what I have ſaid, I have done with it, and leave it to the Jury, earneſtly begging and intreating them to take notice of your cruel and unjuſt dealing with me, in denying me all the Privileges of an *Engliſhman*, when I am upon my Life.

Ld *Keble.* What is material, you ſhall not be debarred in it.

Lieut. Col. *Lilburne.* O Lord, Sir! What ſtrange Judges are you, that you will neither allow me Counſel to help me to plead, nor ſuffer me my ſelf to ſpeak for my own Life? Is this your Law and Juſtice, Sir? I have no more to ſay but this, ſeeing you ſtraighten me; although you ſaid you would hear me till midnight. I hope I have made it evident to all rational Men, that all or any part of the Teſtimony given in againſt me, does not in the exact Eye of the Law, in the leaſt touch me, although I have been moſt unjuſtly impriſoned, and moſt barbarouſly uſed, and tyrannized over; yea, and my Eſtate by Will and Power taken from me, that ſhould have kept me and mine alive, and the legal and cuſtomary Allowance of the Tower denied me to this Day. And although I have uſed all chriſtian and fair Means to compoſe my Differences with my Adverſaries, but nothing would ſerve their turns, but I muſt have Oppreſſion upon Oppreſſion laid upon me, enough to break the Back of a Horſe; and then if I cry out of my Oppreſſions in any kind, I muſt have new Treaſon-Snares made to catch me, many Months after their Oppreſſions were firſt laid upon me, that if I ſo much as whimper or ſpeak in the leaſt of their unjuſt dealing with me, I muſt die therefore as a Traytor. O miſerable Servitude! and miſerable Bondage, in the firſt Year of *England's* Freedom! I have now no more to ſay unto you, but only this; your own Law tells me, Sir *Edward Coke* ſpeaks it three or four times over in his *3d Part of Inſtitutes*, That it is the Law of *England*, that any By-ſtander may ſpeak in the Priſoner's behalf, if he ſee any thing urged againſt him contrary to Law, or do apprehend he falls ſhort of urging any material thing that may ſerve for his Defence and Preſervation. Here's your own Law for it, Sir; *Coke* is full and pregnant to this purpoſe in his *3d Part of Inſtitutes*, *fol.* 29, 34, 37. But this hath ſeveral times been denied me in the Caſe of Mr. *Sprat*, my Sollicitor; and now I demand it again, as my Right by Law, that he may ſpeak a few Words for me, according to his often Deſire, both to me and the Court. I have almoſt done, Sir, only once again I claim that as my Right which you have promiſed, That I ſhould have Counſel to Matter of Law; and if you give me but your own promiſe, which is my undoubted Right by your own Law, and I fear not my Life: But if you again ſhall deny both theſe legal Privileges, I ſhall deſire my Jury to take notice, That I aver you rob me of the Benefit of the Law, and go about to murder me, without and againſt Law: and therefore as a free-born *Engliſhman*, and as a true Chriſtian that now ſtands in the Sight and Preſence of God, with an upright Heart and Conſcience, and with a cheerful Countenance, caſt my Life, and the Lives of all the honeſt Freemen of *England*, into the Hands of God, and his gracious Protection, and into the Care and Conſcience of my honeſt Jury and Fellow-Citizens; who I again declare by the Law of *England*, are the Conſervators and ſole Judges of my Life, having inherent in them alone the judicial Power of the Law, as well as Fact: you Judges that ſit there being no more, if they pleaſe, but Cyphers to pronounce the Sentence, or their Clerks to ſay *Amen* to them; being at the beſt, in your Original, but the *Norman* Conqueror's Intruders. And therefore, you Gentlemen of the Jury, are my ſole Judges, the Keepers of my Life, at whoſe hands the Lord will require my Blood, in caſe you leave any part of my Indictment to the cruel and bloody Men. And therefore I deſire you to know your Power, and conſider your Duty, both to God, to Me, to your own Selves, and to your Country: And the gracious aſſiſting Spirit, and Preſence of the Lord God Omnipotent, the Governour of Heaven and Earth, and all things therein contained, go along with you, give counſel and direct you, to do that which is juſt, and for his Glory.

[The People with a loud Voice cried, *Amen, Amen*, and gave an extraordinary great Hum, which made the Judges look ſomething untowardly about them, and cauſed Major-General *Skippon* to ſend for three more freſh Companies of Foot-Soldiers.]

Mr. Attorney. Gentlemen of the Jury, you have heard the Evidence in behalf of the State; you have heard the Inſinuations of the Priſoner upon them,

them, as calling you his Fellow-Citizens, and the like: He hath ſaid, and ſpoken; we have proved, and it is in your Conſciences to believe Proof, before Saying. The Priſoner begun to cite you two Acts of Parliament; the one in the 1ſt of *Edward* the Sixth, and the other 5th and 6th of *Edward* the Sixth; and by thoſe two Acts he would ſignify to you, that you ſhould have two plain and evident Witneſſes to every particular Fact: yet he did forget to cite another Statute made in the firſt and ſecond Years of *Philip* and *Mary*, that overthrows and annihilates thoſe two Statutes that would have two plain Witneſſes to every Fact of Treaſon; and in all Caſes of Treaſon will have them freed, according to the common Courſe of Law, the Common Law for the Tryal of them. If that muſt be material, or if that ſtick with you, that you cannot determine it, my Lords the Judges will direct you in it, and in all other Points of Law. But certainly that Exception was a little vain too; for we did not inſiſt with one particular Witneſs in nothing at all: for that of *Newcomb*, the Priſoner did not repeat fully what he ſaid; for I remember he ſaid this, That Mr. *Lilburne* and Captain *Jones* came together, and brought the Copy of the laſt Sheet that was to be printed: if one come with him, and the other delivered it to the Printer, they are both equally guilty alike. They came again the ſame Day at Night, and when the firſt Sheet was printed, to be ſure it was true and right, that Mr. *Lilburne* did take the pains to take one of the Copies into his Hand, and corrected it.

Lieut. Col. *Lilb.* By your favour, Sir, he urg'd no ſuch thing: by your favour, Sir, they are the expreſs Words of the Teſtimony, to the quite contrary; and I wonder, Mr. *Prideaux*, you are not aſhamed to aver ſuch notorious Falſhoods, as you do, in the open Face of the Court, before thouſands of Witneſſes; for *Newcomb* ſaid no ſuch thing, as you falſly affirm; neither is there any ſuch Statute in Queen *Mary*'s time that doth aboliſh thoſe two Statutes of *Edward* the Sixth, that I inſiſt upon for two Witneſſes: name your Statute if you can, here's the Statute-Book, let the Jury hear it read, and do not abuſe them with your impudent Falſhoods.

Mr. Attorney. Well, Sir, I leave it to the Judgment of the Jury, Sir. My Lord, as for all the reſt, and particularly for that of the *Salva Libertate*, it is true, there is but one Witneſs, which is ſufficient enough by the fore-mentioned Act of Queen *Mary*: but, my Lord, it is under Mr. *Lilburne*'s own Hand, he will not deny it.

Lieut. Col. *Lilb.* By your favour, there is no Man ſo ſwears, in the leaſt, that it is my Hand: Jeſus Chriſt denied none of his Accuſation; yet when they went about to enſnare him by Queſtions, he anſwered *Pilate*, &c. *Thou ſayeſt ſo; go to thoſe that heard me, they know what I ſaid; why ask you me?* Sir, I beſeech you produce your Act of Parliament in Queen *Mary*'s time, to prove, in Caſes of Treaſon, there ought to be but a ſingle Witneſs.

Mr. Attorney. Do not interrupt me, Mr. *Lilburne.*

Lieut. Col. *Lilb.* I pray you then do not urge that which is not right nor true, but notoriouſly falſe; for if you perſevere in't, I will interrupt you, and tell you of it to the purpoſe.

Juſtice *Jermin.* Though you do recite many things, yet I muſt tell you, the Law of the Land ſaith, The Counſel for the Commonwealth muſt be heard.

Lieut. Col. *Lilburne.* I beſeech you then let there be no more added to the Teſtimony, than Right and Truth; for my Life lies upon it, and I muſt and will declare the buſineſs, and the Falſeneſs of it.

Mr. Attorney. I would not do the tenth part of the Hair of your Head wrong; but being intruſted, I ſhall do my Duty, and diſcharge my Conſcience in my Place, which is fully and plainly to open that unto them, which in my Conſcience I think is right and juſt.

Lieut. Col. *Lilburne.* I do repeat it thus, as in my Conſcience, that he did ſay, when the Copy was firſt brought, Capt. *Jones* gave him the Copy, and Capt. *Jones* did agree with him for the printing of it; and Capt. *Jones* did read the Original to his Corrector, which Corrector amended the Printer's Faults, and that I had an uncorrected Sheet away; and that his Forms were taken before he had perfected that.

Mr. *Attorney.* And Mr. *Lilburne* came the ſecond time.

Lieut. Col. *Lilburne.* Will you ſpend all day in vain Repetitions? You would not give one leave to breathe, nor freely to ſpeak truth, without Interruption, although you were laying load upon me for five Hours together: I pray, Sir, do not now go about to tire the Jury with tedious Repetitions, nor to ſophiſticate or adulterate their Underſtandings with your Falſhoods and Untruths.

Juſtice *Jermin.* Mr. *Lilburne*, the Law of the Land is, That the Counſel for the State muſt ſpeak laſt.

Lieut. Col. *Lilb.* Sir, your Law is according to the Law of God, you ſaid; and that Law, I am ſure, it will have no Man to bear falſe witneſs: why doth Mr. *Prideaux* tell the Jury ſuch Falſhoods as he doth, and takes up ſix times more time to tak away my Life, than you or he will allow me to d - fend it?

Mr. Attorney. For the *Salva*, that it was delivered in the Tower, which is not in *London*, I hear not one Witneſs to prove that.

Lieut. Col. *Lilb.* That is a diſputable Point in Law, whether it be in *London* or *Middleſex*.

Mr. Attorn. And then, my Lord, as for the *Agreement of the People*, Mr. *Lilburne* ſays, it was dated the 1ſt of *May*, 1649. and it was before the Act was made that is dated *May*, 1649. and it is before the Law was made in *July*, 1649. we do not queſtion him for that; but when he comes to bring in thoſe Books in *Auguſt* laſt, then he does new publiſh that *Agreement of the People*: he incites them to ſet it up as their Center, Standard and Banner.

Lieut. Col. *Lilb.* Let me not thus be abuſed; that Book was never fix'd upon me, I was never tax'd to be the Author of it, or ſo much as the Diſperſer of one of them; what Baſeneſs is this in you Mr. *Prideaux*, thus falſly to uſe me?

Ld *Keble.* He does you no Wrong, but all the fair Play that can be; he doth fix that *Agreement* no otherwiſe upon you, than by your Books it is.

Mr. Attorney. I do acknowledge the *Agreement of the People* that you are charged with, is dated the 1ſt of *May*, 1649. and that the Evidence may allow this; as alſo, that that *Agreement of the People* that was then publiſhed, and which you in your Books did own, was and is ſigned by Mr. *Walwin*, Mr. *Prince* and Mr. *Overton*, your Fellow-Priſoners, as well as your ſelf.

Lieut. Col. *Lilburne.* There is no Book yet proved mine; and if that *Agreement* were mine, yet it is dated before both your Acts, and was in print before

before they had a Being; and therefore in the Eye of your own Law, can be no Tranſgreſſion; and you yourſelf doth not ſo much as accuſe me for publiſhing or diſperſing one of them, ſince your Acts were publickly declared.

Mr. Attorney. That which you owned and ſigned, Mr. *Lilburne.*

Lieut. Col. *Lilburne.* By your favour, Sir, I never owned or ſigned any Book that is proved againſt me yet; and no Book in the eye of the Law can be accounted mine, until it be legally proved mine, or voluntarily confeſſed to be mine by myſelf.

Mr. Attorney. My Lord, that is own'd to be ſo printed. When he muſt come and incite the People, and ſtir them up upon thoſe Particulars therein contained, to inſiſt with Particulars, as the diſſolving of the Parliament, the having of a new, and ſuch other Particulars therein contained; and that this *Agreement* ſhall be the Center, the Banner, and the waved Standard, unto which they ſhall flock, and to ſend Agents into ſeveral Countries to put this into execution. Now, my Lords, for this Book it is not doubted but that there are two Witneſſes that the *Preparative to the Hue and Cry* was own'd by Mr. *Lilburne* to be his own, the Erratas of the Printer only excepted; and that the Lieutenant of the *Tower* likewiſe joins in it. My Lords, I think there was not a Clauſe read to you out of it, but what is full and home to the purpoſe: and as for the *Outcry*, the Printer's Teſtimony is compleat. And *The legal fundamental Liberties* is owned by him in his *Impeachment of High Treaſon againſt Lieut. Gen.* Cromwell, *and his Son-in-Law Commiſſary* Ireton; and he doth there alſo ſufficiently own the *Agreement* of the firſt of *May*: And, my Lords, I do not know there was any thing that was offered here in that Book, but was firſt proved in the Court. We do not offer any thing of Error that was paſt, to take Mr. *Lilburne* upon any Speeches that fell from him unawares, although he hath ſufficiently done it: but in much ſpeaking there wants not offence; it falls out here in this. Mr. *Lilburne* hath been very free in his writing, in his ſpeaking, in his printing, and it now riſeth in Judgment againſt him, and the Law muſt now give him his due; which you, my Lords, are ſole Judges of, and from whom the Jury and the Priſoner both muſt receive it, for all that which Mr. *Lilburne* hath ſaid to the contrary. And the Jury anſwers to the Matter of Fact, and they are upon their Oaths ſworn to do the things that are juſt and right. My Lords, I ſhall leave the Evidence to them, with this Note or Obſervation upon it, That notwithſtanding all Mr. *Lilburne* hath flouriſhed and ſaid, I will not ſay as he hath done, and ſeek by gloſſing Speeches or Inſinuations to wind into the Affections of the Jury, as he cunningly and ſmoothly hath done, by calling them his Fellow-Citizens, and the like. You Gentlemen of the Jury, you are to anſwer now according to your own Conſciences, betwixt God and you; your Oath is, That you are not to reſpect Favour or Affection, nor to meddle with him upon any reſpect, than in Juſtice, and as it is already clearly witneſſed and proved before you. My Lords, you have heard the ſeveral Charges he is accuſed upon, you have heard a great deal of foul Matter and Dirt, that is fit for nothing but to be caſt upon the ground, and returns to Mr. *Lilburne* again; for truly when he caſt it upon the pureſt Marble or Braſs, it falls off again: God be thanked that it returns to Mr. *Lilburne*, the right Owner. The Priſoner hath caſt theſe Accuſations and theſe Blemiſhes upon others, but now they are upon the ground they will fall off, and do retort and return upon his own face: he hath taken a great deal of pains to dig deep for Miſtakes, nay, for notorious and groſs Calumniations; had he the Ingenuity to remember the Words of the Scripture, *That the Pit he hath digged for others, he is fallen into himſelf,* he would have ſome Remorſe of Conſcience in him: but all the Miſchiefs and all the Evils that can be thought upon, which he imagined to heap upon others, is now moſt juſtly fallen upon himſelf. It is ſaid of thoſe Flies whoſe Matter is Corruption, they always light upon ſore places, upon galled Backs, upon Carrion; other Birds, when they fly upon fair Meadows, will not touch theſe. Certainly the Parliament of *England*, the Army, all the Officers of it, (whoſe Fame both as Parliament and Army, all Men know in an extraordinary manner) are now put in a ballance againſt Mr. *Lilburne*: but for the Army and the Officers of it, no Man can ſay but they have been faithful and true to their Truſt, gallant and courageous, and extreme ſucceſsful to the Peace and Happineſs of this Nation; and God is pleaſed at this inſtant to own them, and bleſs them in a miraculous manner.

Lieut. Col. *Lilburne.* And yet notwithſtanding, did not you help to vote them Traytors once? I am ſure I was in a Chamber in *Whitehall* laſt year, when their Commiſſioners (now Members of your Houſe) put your Name down in their black Bill for a Malignant: but it ſeems you have recanted your Errors, and engaged to be a good acquieſcing Creature, or elſe you had not been here this day in the condition you are in. But for all their Faithfulneſs, *&c.* have they not rebelled twice againſt their Creators, Lords and Maſters?

Mr. Attorney. Never Army hath done greater things, and yet they have not ſcaped Mr. *Lilburne*'s Tongue and Pen; they have not ſcaped it, my Lords, but he hath laſhed them to the purpoſe. I ſhall be as good as my Word, not to aggravate the Offences, for they are ſo vile, they aggravate themſelves enough; and therefore I leave it thus, the naked Truth, and the Worth of it, as the Books themſelves have offered themſelves. But I ſhall ſay thus much more, the Honour of the Parliament of *England*, all the Magiſtracy therein, the Honour of the Government, the Honour and Renown of the Army, that hath done ſuch great and wonderful things, is now at ſtake againſt Mr. *Lilburne*; and there being a Law publiſh'd, that did give warning: and Mr. *Lilburne* had been try'd for his Life ſooner, upon my knowledge; I ſay, Mr. *Lilburne* had been ſooner try'd, and ſooner condemn'd and executed, if the Law had been ſooner made and publiſhed. But as he ſaith right well, *Where there is no Law, there is no Tranſgreſſion*; and therefore there being a Law againſt which he hath offended, he muſt ſmart for it.

Lieut. Col. *Lilburne.* I am ſure I was impriſoned moſt unjuſtly, without any the leaſt ſhadow or colour in Law, many Months before your Acts were made, and extremely oppreſſed; and now you go about to hang me as a Traytor, for at moſt but crying out of your Oppreſſion. O unrighteous Men! the Lord in Mercy look upon me, and deliver me and every honeſt Man from you, the vileſt of Men.

Mr. Attorney. And that Law was publiſhed and proclaimed in this City, by means of which, Mr. *Lilburne* and others had timely notice that they ſhould not do ſuch things as are there forbidden; it alſo told them the Penalties of it, which are

those that are due for the higheſt High Treaſon: and yet notwithſtanding you ſee with what boldneſs, with what confidence, in deſpight of all Law and Authority, theſe Books have been made and publiſhed by Mr. *Lilburne*. And whereas he is pleaſed to ſay many times, that many Men have petitioned for him to the Parliament, he will not affirm to you that ever he petitioned himſelf; but in all his Diſcourſe here, he calls them *the preſent Men in Power, the Gentlemen at* Weſtminſter: nay, my Lord, he hath not ſo much as owned the Power of the Court ſince he came before you, but hath often called you Cyphers, and the like.

Lieut. Col. *Lilburne*. That's no Treaſon, Sir: they intitle themſelves *the preſent Power*; and would you hang me for not giving them a better Stile, than they themſelves give to themſelves? I think the Stile of preſent Power or preſent Government, is a very fit Stile for them.

Mr. Attorney. My Lord, I have told you long, it is the Jury that are Judges upon the Fact; and to you I muſt appeal for Law, if you do believe the Evidence is plain and full againſt him, for which he ſtands indicted: and ſo God direct all your Judgments, I have done.

Lieut. Col. *Lilburne*. Sir, by your favour, I ſhall deſire to addreſs myſelf in one word to you; which is, to deſire that the Jury may read the firſt Chapter of Queen *Mary*, in the Statute-Book, and the laſt Clauſe of the Chapter of the thirteenth of *Elizabeth*; where they ſhall clearly ſee, eſpecially in the Statute of Queen *Mary*, that they abhorred and deteſted the making of Words or Writing to be Treaſon, which is ſuch a Bondage and Snare, that no Man knows how to ſay or do, or behave himſelf, as is excellently declared by the Statute of *Hen.* 4. *v.* 2. I have done, Sir.

Ld *Keble*. Gentlemen, you of the Jury, you are ſworn; you are Men of Conſcience, Gravity, and Underſtanding: To tell you of the Duties of your Place, that have gone through it ſo often, is a vain thing. The Sacredneſs of an Oath, which a Man muſt not tranſgreſs in the leaſt, not to ſave the World; you have gone ſo often through it, and underſtand it, that I need ſay no more. The Charge you have heard, and the Proofs; but for Proof ſingle, or double, or treble, as ſome of them do amount unto a Witneſs in this, yea, that doth double another Man's Witneſs; if I ſwear this thing, and another ſwear the ſame, a third the ſame, that is doubled upon all their Teſtimonies. Mr. *Lilburne* hath cited two Statutes of *Edward* the Sixth, to prove there muſt be two Witneſſes; but I muſt tell him, were there but one to each Fact, it were enough in Law: for as for that which was cited of King *Edward* the Sixth, you have had it fully anſwer'd by a later Law of Queen *Mary*, which doth overrule that, and alſo enacts that the Common Law of *England* ſhall be the Rule by which all Treaſons ſhall be try'd; which reacheth to this Caſe too, that there need no more but one Witneſs, and this is Law: and therefore, Gentlemen of the Jury, that muſt not ſtick with you. That which you have heard, to concern you, of the Truth of the Matters, is this, You are not bound affirmatively to have two Witneſſes, but in that one Witneſs with the Circumſtances concurs, that is ſufficient: That which ſhould prevail with you, is to conſider the Strength of the Accuſation, which reſts in the Books, and doth conſiſt of three Heads, which are laid down in the Books themſelves; which doth in the firſt place ſo firmly expreſs, and ſo far vilify the Parliament and State, as it is now eſtabliſhed in *England*; the ſecond doth look unto the Counſels and Incitations of him for the ſtirring up of Tumults, Commotions, and Wars in this Nation; and the third, are the things cited in his Books to that end and purpoſe, to divide the Army, and then the other will take the better effect. Theſe are the three main Charges, and theſe the Books that come from him do ſo plainly teſtify: that the Books are proved to be his, you are fit Judges of; but it clearly appears by thoſe his Books, that theſe things were in his Intention.

For that he ſays, it is *Mens* that does make a Man guilty, the Mind, that is intended as it is expreſs'd: *Actus non facit reum, niſi Mens ſit rea.*

Now that Mind is *rea*, when there is Faith publiſhed; but I tell you this, theſe Books being admitted true, I ſay that never Man that acted the higheſt of Treaſons, as he hath done, hath had ſo much liberty as he hath had: and as I ſaid before, never Man of his Condition, nor any Condition in *England*, that was indicted in ſuch a caſe, ever had a Tryal in ſuch a Court, in ſuch an Auditory, ſuch a Preſence as he has had.

Lieut. Col. *Lilburne*. The more's my Sorrow.

Ld *Keble*. The more's your Sorrow indeed! You have good cauſe to be ſorrowful indeed for this Act of yours thus declared: if your Intentions had taken effect, your Plot was the greateſt that ever *England* ſaw, for it ſtruck at no leſs than the Subverſion of this Commonwealth, of this State, to have laid and put us all in Blood; your Plot was ſuch, that never ſuch was ſeen in the world before, to proceed from a private Man as you are; therefore it muſt needs be heavy upon your Conſcience. Therefore my Maſters of the Jury, look into your Conſcience, and ſee what that ſaith unto you, which he ſtands ſo much upon: The Witneſſes Teſtimonies are now plain and good in Law, in this Cauſe they are multiply'd; I do not know in one Particular that there is a Teſtimony ſingle, but it is aggravated with many Circumſtances: therefore let not that trouble you, you are the proper Judges of the Matter of Fact, being of the Country; and if you have fully apprehended the dangerous things plotted in thoſe Books of Mr. *Lilburne*'s, you will clearly find that never was the like Treaſon hatch'd in *England*. And ſo in God's name, as the Priſoner doth lead to your Conſciences, ſo go and do.

Lieut. Col. *Lilburne*. I deſire your Favour, that there may be a Courſe taken, that neither my Proſecutors, nor any belonging to them, may have acceſs unto the Jury till they have done.

Juſtice *Jermin*. You Gentlemen of the Jury, I did expect it, it was expected by the Court, that ſome Matter of Law, or ſome Queſtion of Law, might ariſe upon the Evidence; which if it had, it was the Duty of the Court to have cleared it: but there does not appear, and therefore there is an end, as to the Diſpute of the Law.

Foreman. We are no Lawyers indeed, my Lord.

Lieut. Col. *Lilburne*. I have begged it, and you have promiſed it, that I ſhould have liberty to plead in Law to the Illegalities of the Indictment; but you have deny'd me that legal Right: yea, you will not permit my Sollicitor to ſpeak a few words for me. I dare undertake, there was never ſuch a Tryal upon *Engliſh* Ground as this hath been; where a Man hath been deny'd all the legal Rights of an *Engliſhman*, as I have been. You Gentlemen of the Jury, who now are my ſole Judges, I pray you take notice of it.

Juſtice

Juſtice *Jermin.* There was never any ſuch kind of Abuſe offered to a Court as you have given, nor never was ſuch Language uſed to any Court of Juſtice before, that I did hear of, as you have given: and certainly the Behaviour at the Bar doth ſet forth what the Humours and Character of the Man is; for in this caſe, if any ſuch dangerous thing of acting of Commotion or Mutiny in the Army or in the Nation ſhould have follow'd, it had been too late then to have thought of the Remedy. Therefore the Wiſdom of the Parliament hath declared, That whoſoever ſhall by writing, printing, or by openly declaring, publiſh that the preſent Government of *England* is Uſurped or Tyrannical, it is Treaſon. There is the Fact, upon which all the Evidence does depend; and you are to judge, whether in all thoſe Books there be not by Mr. *Lilburne* a traitorous Fact committed; and how clearly this does appear unto you, with all Circumſtances thereunto belonging, I leave you to judge: and how ſhort his pretended Replies are to be ſeen, or invalidate the Strength of the Witneſſes, I alſo leave you to judge. I ſay, I might eaſily ſhew you, how ſhort his pretended Anſwers are of real Satisfaction, but I leave it to your Judgments.

Lieut. Col. *Lilburne.* Sir, my Anſwers are real Anſwers, not pretended ones, as you are pleaſed to call them.

Juſtice *Jermin.* But in this Buſineſs the Evidences are ſufficient to make a Man guilty of Treaſon; for here was not ſimply a paſſionate Act, or inconſiderate Speech, but what he hath done, he hath done deliberately and adviſedly, which is ſufficient to make him, or any Man that ſo doth, guilty of Treaſon. All this that was publiſhed was in *Auguſt*, the Act is in *July* preceding. Now it is very true, and I will *engliſh* it: for, Mr. *Lilburne*, *Actus non facit reum, niſi Mens rea:* The Act of a Man does not make him guilty, unleſs his Mind be guilty. But I pray, how ſhall any Man know the Guilt of a Man's Mind, but by thoſe polluting and poiſonous Words that come out of his mouth? that's the Mind. What I hear a Man ſay, I may lawfully ſay he thinks; and it is a Rule in Law, that the outward Acts do ſhew forth inward Intentions: that very Rule I will not ſpeak it in *Latin*, becauſe I ſpeak to one that does ſay he does not underſtand *Latin*, otherwiſe I could ſpeak more *Latin*. Now here is the matter, whether or no, upon the whole Evidence that you have heard, there does not appear ſufficient matter to make this Priſoner guilty, not of raſh, but of adviſed and deliberate Treaſon; and as plainly of plotting and contriving to raiſe Mutiny and Sedition in the Army, thereby totally to ſubvert and deſtroy the preſent Government: and truly, I have not heard more of Skill has been uſed, and more Attempts made, than I think you have heard, and do remember. I doubt not, but as you will take care of the Life of a Man, that you muſt not take away the Life of an Innocent; ſo will you be as careful of your own Souls, and the publick Safety: and that's all that I deſire, and I pray God to direct you for the beſt.

Lieut. Col. *Lilburne.* If you will not let me have Counſel, let my Sollicitor ſpeak Matter of Law for me.

Juſtice *Jermin.* Mr. Attorney, you muſt take ſome care to ſuppreſs this, he will not be anſwered by us, I pray demand Juſtice of the Court againſt him.

Lieut. Col. *Lilburne* Well, Sir, then I have done.

[The Foreman deſires the Act for Treaſon, and one of the Jury deſired to drink a Cup of Sack, for they had ſat long, and how much longer the Debate of the Buſineſs might laſt, he knew not; and therefore deſired, that they might have amongſt them a Quart of Sack to refreſh them.]

Juſtice *Jermin.* Gentlemen of the Jury, I know for my part in ordinary Juries that they have been permitted to drink before they went from the Bar; but in caſe of Felony or Treaſon, I never ſo much as heard it ſo, or ſo much as ask'd for: and therefore you cannot have it.

[But one of the Judges moved they might have it.]

Juſtice *Jermin.* I may not give leave to have my Conſcience to err; I dare not. And thus if the reſt of the Judges be of opinion, you ſhall have a Light if you pleaſe, the Fellow that keeps you ſhall help you to it; but for Sack, you can have none, and therefore withdraw about your Work.

Lieut. Col. *Lilburne.* Sir, I underſtand the Officer that is to keep their door hath declared ſomething of Bitterneſs of Spirit againſt me; I deſire therefore he may have ſome indifferent Man joined with him, to ſee I have fair play: which was granted, and he ſworn.

The Jury go forth about Five a-clock, the Court adjourned till Six a-clock, and the Court commands the Lieutenant of the *Tower* and the Sheriffs to carry the Priſoner into the *Iriſh* Chamber, which they did. The Priſoner ſtays about three quarters of an hour, and the Jury being come into the Court again, the Priſoner was ſent for, and after the Cryer had cauſed ſilence, the Juries Names were called, *viz.*

1. *Miles Petty*,	7. *Edmond Keyſar*,
2. *Stephen Iles*,	8. *Edward Perkins*,
3. *Abraham Smith*,	9. *Ralph Packman*,
4. *John King*,	10. *William Commens*,
5. *Nicholas Murren*,	11. *Simon Werdon*,
6. *Thomas Dainty*,	12. *Henry Tooley*.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. Our Foreman.

Cryer. John Lilburne, hold up thy Hand. What ſay you, (look upon the Priſoner) is he guilty of the Treaſons charged upon him, or any of them, or not guilty?

Foreman. Not guilty of all them.

Clerk. Nor of all the Treaſons, or any of them that are laid to his charge?

Foreman. Not of all, nor of any one of them.

Clerk. Did he fly for the ſame?

Foreman. No.

[Which *No* being pronounced with a loud Voice, immediately the whole Multitude of People in the Hall, for joy of the Priſoner's Acquittal, gave ſuch a loud and unanimous Shout, as is believed was never heard in *Guild-Hall*, which laſted for about half an hour without intermiſſion: which made the Judges for fear turn pale, and hang down their heads; but the Priſoner ſtood ſilent at the Bar, rather more ſad in his Countenance than he was before. But Silence being made:]

Clerk. Then hearken to your Verdict, the Court hath heard it: You ſay, that *John Lilburne* is not guilty of all the Treaſons laid unto his charge, nor of any one of them, and ſo you ſay all, and that he did not fly for it?

Jury. Yes, we do ſo.

Clerk. Gentlemen of the Grand Inqueſt, the Court doth diſcharge you. And you Gentlemen of Life and Death, the Court doth diſcharge you alſo. Lieutenant of the *Tower*, you are to carry your Priſoner to the *Tower* again, and Major-General *Skippon* is to guard you; and all whom you ſhall deſire, are to aſſiſt you.

The Priſoner withdraws, and the Court adjourned till Wedneſday following.

Extraordinary were the Acclamations for the Priſoner's Deliverance, as the like hath not been ſeen in *England*; which Acclamations, and loud rejoicing Expreſſions, went quite through the ſtreets with him to the very Gates of the *Tower*, and for joy the People cauſed that night abundance of Bonfires to be made all up and down the ſtreets. And yet for all his Acquittal by the Law, his Adverſaries kept him afterwards ſo long in Priſon, that the People wonder'd, and began to grumble that he was not diſcharged; and divers of his Friends went to the Judges, the Parliament, and Council of State, by whoſe Importunities, by the ſeaſonable Help of the Lord *Gray* of *Grooby*, Col. *Ludlow*, Mr. *Robinſon*, and Col. *Martin*, his Diſcharge was procured, a Copy of which thus followeth.

WHEREAS Lieutenant-Colonel John Lilburne *hath been committed Priſoner to the* Tower, *upon ſuſpicion of High Treaſon, in order to his Tryal at Law; which Tryal he hath received, and is thereby* * *acquitted: Theſe are therefore to will and require you, upon ſight hereof, to diſcharge and ſet at liberty the ſaid Lieutenant-Colonel* John Lilburne *from his Impriſonment; for which this ſhall be your ſufficient Warrant.*

* The Jury juſtified in their Verdict by the Council of State.

Given at the Council of State, at *Whitehall*, this 8th Day of *November* 1649.

To the Lieutenant of the Tower of London, *or to his Deputy.*

Signed in the Name and by the Order of the Council of State, appointed by Authority of Parliament.

John Bradſhaw, *Preſident.*

The Examination of the Jury who try'd Lieutenant-Colonel John Lilburne, *at the Seſſions-Houſe in the* Old-Bailey, *upon Saturday the 20th of* Auguſt, 1653. *Taken before the Council of State the 23d of the ſame Month, in purſuance of an Order of Parliament of the 21ſt.*

THOMAS GREENE, of *Snow-Hill*, Tallow-Chandler, Foreman of the Jury, being ask'd what the Grounds and Reaſons were that moved him to find the ſaid Lieutenant-Colonel *John Lilburne* not guilty upon the Indictment preferred againſt him at the Seſſions-Houſe in the *Old-Bailey*, ſaith, 'That he did diſcharge 'his Conſcience in what he then did, and that he 'will give no other Anſwer to any Queſtions 'which ſhall be ask'd him upon that matter.'

And being in particular demanded of him, whether he conceived it not ſufficiently proved, that the Act whereupon he was indicted was an Act of Parliament; whether he was not ſatisfied that the Copy of the Act produced, was a true Copy of the Act itſelf, or that the *John Lilburne* at the Bar was the *John Lilburne* mentioned in the Act; and what other thing it was, which moved the Jury to find as aforeſaid: the Examinant anſwered, 'That he will give no other Anſwer, as above-'ſaid, and deſired that he might be no further 'preſs'd therein.'

And being further ask'd, why he would not give an account of the Grounds and Reaſons of their Verdict, he ſaid, 'He would not do it, for Rea-'ſons beſt known to himſelf.'

MIchael Rayner, of *Friday-Street*, Leather-Seller: He ſaith, That he was one of the Jury that tried Lieutenant-Colonel *John Lilburne*, upon Saturday the 20th inſtant; and that he was ſummoned to ſerve the Jury upon Wedneſday was Sevennight, and did conſtantly attended in Court, and upon the Service, until the Tryal was over; and that he was not ſollicited by *John Lilburne*, nor any other on his behalf. And the Queſtions mentioned in the foregoing Examination being asked him, he anſwered, 'That he was ſatisfied in the Verdict 'he gave in that Caſe; and that he ſhould give no 'other Anſwer thereto.'

And being further preſs'd therein, he deſired that a Day's Time might be given unto him, to conſider of it, and he ſhould give Satisfaction to the aforeſaid Queſtions.

He was further asked who adviſed him to make this Anſwer to the Council: Whereunto he anſwered, 'That the Jury were all of that Mind; 'and that they agreed to give this Anſwer at a 'Meeting they had all together at the *Windmill-Ta-'vern* in *Coleman-Street* this Morning; which Meet-'ting they had upon occaſion of the Order of Par-'liament for examining this Buſineſs: And that he 'had notice to come to this Meeting by one or two 'of his Partners, whoſe Names (he ſaith) he doth 'not well know.'

And being further demanded of him, Whether Mr. *Scobell*, Clerk of the Parliament, did not give Evidence that Lieut. Col. *John Lilburne* at the Bar was the very *Lilburne* againſt whom the Act was made? He ſaid he did give that Evidence; and that he did believe he ſaid true; and that the Copy of the Act of Parliament produced was a true Copy: But ſaith, 'That he and the reſt of the Jury took themſelves 'to be Judges of Matter of Law, as well as Mat-'ter of Fact; although he confeſſed that the Bench 'did ſay that they were only Judges of the Fact.'

He further ſaid, He was very unwilling to be of the Jury.

THomas Tunman, of *Cow-Lane*, Salter, another of Lieutenant-Colonel *John Lilburne*'s Jury, who ſaith that the Verdict was Not guilty. And being

being asked the Questions in the first Examination, he saith, 'That he was sworn to find according 'to the Issue and Evidence, and that he did find 'according to his Conscience; and positively refu- 'sed to give any other Answer: And did deny 'that the Jury, aforesaid, had agreed together to 'give one and the same Answer to the Council, or 'that they had met together this Morning, or at 'any other time since Saturday-night last, until they 'came to the Council.' And being asked in particular whether the said Jury did not meet together this Morning at the *Windmill-Tavern* in *Coleman-Street*, he positively answered they did not.

Emanuel Hunt, of *St. Sepulchres*; who saith, He was one of *John Lilburne*'s Jury, upon his Tryal on Saturday last; and that the Jury found him not guilty: But his Memory being short, doth not well remember the Issue.

He being asked whether it was not proved that the Prisoner was the *John Lilburne* mentioned in the Act, saith, 'He was not satisfied that it was so 'proved; and that there are many *John Lilburnes*; 'and that *John Lilburne* was indicted of Felony, 'which he did believe he was not guilty of; and that 'what was found was done by the Consent of all, 'and did satisfy their Consciences therein; and 'refused to give any other Answer than as afore- 'said.'

And it being demanded of him whether the Jury had not met together, to agree of the Answer they were to give to the Council, he answered, 'They met together the Night of the Tryal to 'drink a Pint of Wine; and that they met not 'since until this Day.' And being asked what time of the Day, he answered, 'Five of them met 'here.' But being asked particularly whether they met not at the *Windmill-Tavern* in *Coleman-Street* this Morning, he did acknowledge they did, and that Mr. *Tunman* in particular was there: But refused to declare who gave him notice of this Meeting.

James Stephens, of the *Old-Baily*, Haberdasher; who saith, That he was one of Lieutenant-Colonel *John Lilburne*'s Jury; and that having considered of the Matter whereof he was indicted, they found him not guilty. And being asked the Questions in the first Examination, he acknowledged, 'That he was satisfied that the Prisoner 'was the *John Lilburne* mentioned in the Act; nor 'did he yet question the Validity of the Act: But 'the Jury having weighed all which was said, and 'conceiving themselves (notwithstanding what was 'said by the Council and Bench to the contrary) 'to be Judges of Law as well as of Fact, they 'found him not guilty.'

He acknowledged that all the Jury met this Morning at the *Windmill-Tavern* in *Coleman-Street*, to consider what Answer to give to the Council; and that the *Foreman* of the Jury spoke to him to be there, telling him he had heard there was an Order of Parliament for summoning them before the Council: And further saith, That *Tunman* was at that Meeting.

Richard Tomlins, of *St. Sepulchres*, Book-Binder, who saith he was one of Lieutenant-Colonel *John Lilburne*'s Jury; and that the Jury found him not guilty. And being asked what was the Point in Issue, he desired to be excused in that, saying, 'What he can tell, is one thing; but to accuse 'himself, is another thing.' It being further demanded of him, whether he was satisfied that the Prisoner was the *John Lilburne* mentioned in the Act, he said he was not. And being asked what made him think so, he answered, 'He was not 'bound to give any account of what he did in that 'Business, but to God himself.'

William Hitchcock, of *Watling-Street*, Woollen-Draper; who saith he was of Lieutenant-Colonel *John Lilburne*'s Jury, and that the Jury found him not guilty. He being asked the Questions expres'd in the Foreman's Examination, he answered, 'He had discharged his Conscience in what 'he had done; and desireth the Council not to ask 'him any Questions, for he can give no other An- 'swer, and is resolved to give no other Answer.'

And being asked concerning the Meeting of the Jury, to agree of an Answer to be given to the Council, he first denied that they had any other Meeting than what they had the same Night his Tryal was. But being asked particularly if they met not at the *Windmill-Tavern* in *Coleman-Street* this Morning, he acknowledged they did; 'But 'denied he heard of any Order of Parliament for 'sending for the Jury; nor did they meet upon the 'Business of *John Lilburne*, or that they did at 'the Meeting speak of it: but only met to drink 'a Pint of Wine, as they had agreed to do the 'same Night they gave up their Verdict.'

Thomas Evershot, of *Watling-Street*, Woollen-Draper; who saith he was one of *John Lilburne*'s Jury, and that they found him not guilty: But denied to give any Answer to any further Questions, saying, 'He was satisfied in his own Conscience 'in what he did.' And being asked whether the Jury did not meet this Morning, to agree of an Answer to be given to the Council, denied that they did, or that they met at all since the Night of the Tryal, until they met at the Council.

The Persons following were examined the 29th of August, 1653. *in the Morning.*

Thomas Smith, of *Cornhill*, Haberdasher of Small Wares: He saith he was of *John Lilburne*'s Jury, and found him not guilty. But refused to answer to any other Questions; saying, 'He was called to 'serve his Country in this Particular; and that he had 'done it according to the best of his Understand- 'ing: Acknowledgeth the Meeting of the Jury at 'the *Windmill-Tavern* yesterday Morning.'

Gilbert Gayne, of *Dunstan's* in the West, Grocer: He saith he was one of *John Lilburne*'s Jury, and found him not guilty. And he being asked what the Issue was, he acknowledgeth that he was indicted for Felony, for coming into *England*. But saith, 'That the Jury did find as they did, because 'they took themselves to be Judges of the Law, 'as well as of the Fact: And that although the 'Court did declare they were Judges of the Fact 'only, yet the Jury were otherwise persuaded 'from what they heard out of the Law-Books.' He confesseth he himself did at first differ from the Jury, but was convinced by their Reasons. He confessed the Meeting of the Jury.

Griffith Owen, of *Bishopsgate* Ward, Brewer: He acknowledgeth he was of Lieutenant-Colonel *John Lilburne*'s Jury, and that they found him not guilty, 'Because he was not satisfied that the 'Pri-

'Prisoner was the *John Lilburne* mentioned in the 'Act; and that he had never seen *John Lilburne* be-'fore that Day, nor was he sollicited in his behalf 'by any Person.' He acknowledgeth the Jury met yesterday Morning at the *Windmill-Tavern*; but made no Agreement what Answer to make the Council.

The Tryal of Mr. Christopher Love, *before the High Court of Justice in* Westminster-Hall, *the* 20*th of* June, 3 Car. II. 1651.

THE Court being set, and called over, the Lieutenant of the *Tower* was commanded to bring forth his Prisoner: And Master *Love* was brought to the Bar. After the reading of divers late Acts of Parliament concerning Treason, Master *Prideaux*, the Attorney-General for the Commonwealth, spake as followeth:

Attor. Gen. My Lord, you have heard several Acts of Parliament read, and the Offences therein mentioned. My Lord, I have here a Charge against Mr. *Love*, the Prisoner at the Bar; and I humbly desire that it may be read. And you may please to take his Reply to it, whether by Confession, or otherwise.

[The Clerk is commanded to read the Charge.]

The Clerk. A Charge of High Treason, and other High Crimes and Offences, exhibited to the High Court of Justice by *Edmond Prideaux*, Attorney-General for the Commonwealth of *England*, for and on the behalf of the Keepers of the Liberties of *England*; by Authority of Parliament, against *Christopher Love*, late of *London*, Clerk; by him preferred and commenced against the said *Christopher Love*.

That is to say,

THAT he the said Christopher Love, *as a false Traytor and Enemy of this Commonwealth and Free State of* England, *and out of a traitorous and wicked Design to stir up a new and bloody War, and to raise Insurrections, Seditions, and Rebellions within this Nation, did in several Days and Times, that is to say, in the Years of our Lord* 1648, 1649, 1650, 1651. *at* London, *and at divers other Places within this Commonwealth of* England, *and elsewhere, (together with* William Drake, *late of* London, *Mercer*; Henry Jermin, *late of* London, *Esq*; Henry Piercy, *late of* London, *Esq*; John Gibbons, *late of* London, *Gentleman*; Edward Massey, *late of* London, *Esq*; Richard Graves, *late of* London, *Esq*; Sylas Titus, *late of* London, *Gentleman*; James Bunce, *late of* London, *Alderman*; *and other their Accomplices, yet unknown) traitorously and maliciously combine, confederate, and complot, contrive and endeavour to stir and raise up Forces against the present Government of this Nation, since the same hath been settled in a Commonwealth and Free State, without a King and House of Lords, and for the Subversion and Alteration of the same.*

And the better to carry on and accomplish their said traitorous and wicked Design, he the said Christopher Love, *together with the said* William Drake, Henry Jermin, Henry Piercy, Richard Graves, Edward Massey, John Gibbons, Sylas Titus, James Bunce, *and others, (since the Death of* Charles Stuart, *late King of* England, *who, for his notorious Treasons, and other Tyrannies and Murders, by him committed in the late unnatural and cruel Wars, was, by Authority derived from Parliament, justly condemned to Death and executed) several Days and Times, in the respective Years aforesaid, at* London *aforesaid, and at sundry other Places of this Commonwealth, and since this Nation was settled in the way of a Commonwealth or Free State, as aforesaid, did traitorously and maliciously declare, publish, and promote* Charles Stuart, *the eldest Son of the late King of* England, *to be King of* England, *(meaning this Commonwealth) without the Consent of the People in Parliament first had and signified by Authority and Ordinances to that purpose.*

And further, to carry on and accomplish their said traitorous and wicked Design, he the said Christopher Love, *on several Days and Times in the respective Years aforesaid, at* London *aforesaid, and in divers other Places within this Commonwealth of* England, *and elsewhere, together with the said* William Drake, Henry Jermin, Henry Piercy, Richard Graves, Edward Massey, John Gibbons, Sylas Titus, James Bunce, *and other their Accomplices, as aforesaid, did traitorously and maliciously invite, aid, and assist the* Scots, *being Foreigners and Strangers, to invade this Commonwealth of* England, *and adhered to the Forces of the Enemy, raised against the Parliament and Commonwealth aforesaid, and Keepers of the Liberties of* England *aforesaid.*

And further, to carry on and accomplish the said traitorous and wicked Design, he the said Christopher Love, *divers Days and Times between the 29th Day of* March, 1650. *and the 1st Day of* June, 1651. *at* London, *and other Places, as aforesaid, did traitorously and maliciously give, hold, use, and maintain Correspondence and Intelligence by Letters, Messages, Instructions, and other Ways, prejudicial to this Commonwealth, with the said* Charles Stuart, *Son of the late King, and with the late Queen, his Mother, and with the said* Henry Jermin, Henry Piercy, *and divers other Persons, being of Counsel, and abiding with* Charles Stuart.

And further, to carry on and accomplish the said traitorous and wicked Design, he the said Christopher Love, *several Days and Times in the respective Years aforesaid, at* London *aforesaid, and divers Places within the Commonwealth of* England, *and elsewhere, as aforesaid, did traitorously and maliciously use, hold, and maintain Correspondence and Intelligence with divers Persons of the* Scotish *Nation; that is to say, with the Earls of* Argyle, Lowdon, Lothian, *and* Belcarras, *and with one* Bayley *Gent. and divers other Persons of the* Scotish *and other Nations, whom he the said* Christopher Love *well knew to adhere to the said* Scotish

Scotiſh *Nation in this War againſt the Parliament and Commonwealth of* England.

And further, he the ſaid Chriſtopher Love, *within the Times, and at the Places before mentioned, did traitorouſly and maliciouſly abet, aſſiſt, countenance, and encourage both the* Scotiſh *Nation, and divers other Perſons, adhering to them in this War againſt the Parliament; and did ſend and convey, or cauſe to be ſent and conveyed, Moneys, Arms, Ammunition, and other Supplies, to* Scotland, *and other Places, and to the ſaid* Titus, Maſſey, *and others in Confederacy againſt this Nation, without ſpecial Leave and Licence from the Parliament of* England, *or Council of State, or the Captain-General of the Parliament's Forces.*

And further, to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid Chriſtopher Love, *within the Times, and at the Places before mentioned, did traitorouſly and voluntarily relieve the ſaid* Sylas Titus, Edward Maſſey, *Colonel* Bamfield, *and one* Maſon, *late of* London, *Gent. and one* Sterks, *late of* London, *Gent. who then were, and yet are under the Power of the* Scotiſh *Nation, and in Arms againſt the Parliament and Commonwealth of* England, *with Moneys, Arms, and Ammunition. All which Treaſons, and traitorous and wicked Practices and Deſigns of him the ſaid* Chriſtopher Love, *were and are to the apparent Hazard of the publick Peace of this Commonwealth and Free State, Parliament and People of* England, *and to the manifeſt Breach, Contempt, and Violation of the Laws of the Land, and contrary to the Form of divers Statutes and Acts of Parliament in ſuch caſe made and provided.*

And Maſter Attorney-General (by Proteſtation, ſaving to himſelf in the behalf of the Keepers of the Liberties of England, *to exhibit any other Charge againſt the ſaid* Chriſtopher Love, *and to reply to the Anſwer he ſhall make to the Premiſes) doth for the ſaid Treaſons, on the behalf of the Keepers of the Liberties of* England, *impeach the ſaid* Chriſtopher Love *as a Traytor and publick Enemy to this Commonwealth and Free State of* England: *And doth pray that he may be put to anſwer all and ſingular the Premiſes; that ſuch Proceedings, Tryal, Examination, Judgment, and Execution, may be thereupon had againſt him, as ſhall be agreeable to Juſtice.*

The Clerk. Chriſtopher Love, *you ſtand charged on the behalf of the Keepers of the Liberties of* England, *by Authority of Parliament, of High Treaſon, and other High Crimes and Offences againſt the Parliament and People of* England: *This High Court therefore requires you to give a poſitive and direct Anſwer, whether you are guilty or not guilty of the Crimes and Treaſons laid to your Charge.*

Mr. *Love.* My Lord, before I plead, I humbly crave leave to expreſs my ſelf in a few Words to this Court; and afterwards to make humble Propoſals of what I deſire in order to this Tryal. In the firſt place, being I am this Day called to a great and weighty Work, in the entrance to it I do earneſtly beg the Prayers of all them that have an Intereſt in God, that he would carry me through this whole Tryal with ſuch Gravity, Godlineſs, and Meekneſs of Wiſdom, as becomes a Profeſſor and Preacher of the Goſpel; and that he would keep me in this Hour of Temptation rather from Sin than from Suffering. Sir, I am this Day made a Spectacle to God, Angels, and Men; ſingled out from among my Brethren to be the Object of ſome Mens Indignation and Inſultation. By my appearing in this Place, I am made a Grief to many that are godly, and a Laughing-ſtock to the Wicked.---[Here he was interrupted by the Court.]

Lord Preſident of the Court. Mr. *Love*, how long time do you intend to take up?

Mr. *Love.* I will be brief, Sir.

Ld Preſident. We have been calling upon God to direct us and you, and all good People, that Juſtice may be done; and you would glorify God rather than Man, if you would confeſs, knowing what was done in that great Sin of *Achan*; there was great pains taken, and the whole Nation was fain to be examined, and their Houſes divided, and at laſt when it came to *Achan*, you know what *Joſhua* ſaid to him, *Confeſs and tell the Truth, and glorify God.* This is that, that if you reſpect God before Man, you may now clear your ſelf, and ſet forth his Glory upon Earth; and your next work is to plead Guilty or Not Guilty. For we ſee that thoſe ways you go, would take up time, and we have taken all into our thoughts before-hand.

Mr. *Love.* I do not deſire to protract time, but I would not lie under a Prejudice.

Ld Preſident. When you go out of your way, we muſt help you; and know, if any be under a Prejudice here, their prejudging is rather in Mercy than in prejudice to you.

Mr. *Love.* I hope you will not be more ſevere to a Miniſter, than you were to Lieut. Col. *John Lilburne.* When you were at the Court at *Guildhall*, at the Tryal of *Lilburne*, you gave him the liberty of two Hours to plead, before he pleaded Guilty or Not Guilty.

Ld Preſident. To a Miniſter! you ſay well: but I tell you, we do more to a Chriſtian than to a Miniſter; and we are all Chriſtians, and your Miniſtry is but an Office; and therefore what Mr. *Lilburne* had, it was the Favour of the Court then: but time is ſpent, and pray do not you follow that now.

Mr. *Love.* Whereas your Lordſhip is pleaſed to urge the Caſe of *Achan* to me, if my Caſe were the ſame as *Achan*'s was, I ſhould do as *Achan* did, confeſs and give Glory to God; but *Achan*'s was a peculiar and extraordinary Caſe, and therefore I pray it may not be laid to me. God was the Informer and Diſcoverer, and God did by Lot diſcover *Achan* to be the Man.

Ld Preſident. Will you plead?

Mr. *Love.* I deſire Liberty to ſpeak a Word. I had not diverted my Diſcourſe, but upon your Lordſhip's Words.

Attorn. Gen. My Lord, I hope he will be ſo ingenuous, as not to be long.

Ld Preſident. Take this in your way, Mr. *Love*, God is as preſent here, as he was in the Caſe of *Achan*. Go on.

Mr. *Love.* Sir, by my appearing in this Place, I am made a Grief to many that are godly, and a Laughing-ſtock to the Wicked, and a Gazing-ſtock to all; yet, bleſſed be God, not a Terror to my ſelf. Sir, I am, as *Jeremiah* was, born a Man of Strife and Contention: Not actively, I ſtrive and contend with none; but paſſively, many ſtrive and contend with me. Yet I truſt God will make me, as he did *Jeremiah*, an Iron Pillar and Brazen Wall againſt thoſe that do oppoſe me, that I ſhall not be diſmayed at their Faces, leſt I be confounded before them. Strong Suggeſtions againſt me are generally received; and great Oppoſition ſtrongly maintained: And in this Condition no Man dares ſtand by me: But God ſtands by me, and ſtrengthens me.---[Here he was interrupted again.]

Ld Preſident. Sir, come to the Buſineſs in hand.

Mr. *Love.* I beſeech you, Sir, ſpare me: You gave Mr. *Lilburne* more Time.

Attorn. Gen. My Lord, when he ſhall come with ſuch Speeches that are nothing to the Buſineſs in hand! My Lord, he inſtances in *Lilburne*'s Caſe: You know that Debate; it was in relation to a Narration.

Mr. *Love.* Sir, it was the Narration of his Doings and Sufferings, that he might not be miſrepreſented to the Court.

Attorn. Gen. You know you are a Miniſter: And if it be your Purpoſe to ſpin out Time, to think to ingratiate your ſelf to the People, it will not do. My Lord, this is a Court of Juſtice, that proceeds according to the eſtabliſhed Laws, and Laws that have been read to him. Mr. *Love* is a Miniſter; and had he applied himſelf to God, as he might have done, he need not have been brought hither, if he had not gone that way he did. But, my Lord, I deſire he may go on to the Charge, and give his Anſwer to it. My Lord, before we have done, we ſhall have many occaſions of Diſcourſe between him and I.

Mr. *Love.* I beſeech your Lordſhip allow me that Favour that you allow to every one you try, that I may not ſtand under Miſrepreſentations to you, who are my Judges.

Ld Preſident. Are not we of as much Credit as you? And are not we judged Miniſters as well as you, and more than you? And I tell you, that which you require we have already done, and wiſh you as much Happineſs as to our Brother: And for you to ſpend Time about that which is nothing to the Buſineſs, it muſt not be ſuffered.

Attorn. Gen. My Lord, let the conſtant known Laws of the Commonwealth of *England* be obſerved, as well as other Laws; of which that is one, That he ought not to ſpeak any thing till he hath pleaded guilty, or not guilty. My Lord, I deſire to take my Courſe. I do not make Speeches againſt him, to miſrepreſent him to you, otherwiſe than he ſtands charged. And, my Lord, I would not have him to clear himſelf till he come to the Tryal, whether he be not accuſed juſtly. It is not my Nature, but the Duty of my Place; and the Duty of his Place, as a Priſoner, is to plead, and to put himſelf upon Tryal. That being done, there will be occaſion enough for him to plead his own Innocency. My Lord, to take up two Hours time in talking of that which is not material, ſhould not be.

Mr. *Love.* I inſiſt upon that Liberty that Mr. *Lilburne* had.

Ld Preſident. He did plead firſt.

Mr. *Love.* No, my Lord, he did not plead firſt: and I have much to move before I plead.

Ld Preſident. You can ſay nothing till you plead.

Mr. *Love.* My Lord, I deſire not much Time.

Attorn. Gen. My Lord, let the Time now inſiſted on be what Time it will, Mr. *Love* will have Time to ſpeak for himſelf; and it is ſo far from being to the Point, that it is trifling: And this rather makes him ſeem guilty, than it gives him any Acquittance.

Mr. *Love.* Prove me guilty firſt, Sir. Sir, do not prejudge me.

[Then command was given to read his Arraignment.]

The Clerk. Chriſtopher Love, *you ſtand charged, on the behalf of the Keepers of the Liberties of* England, *by Authority of Parliament, of High Treaſon, and other High Crimes and Offences, againſt the Parliament and People of* England: *This High Court therefore requires you to give a poſitive and direct Anſwer, whether you are guilty, or not guilty, of the Crimes and Treaſons laid to your Charge.*

Mr. *Love.* I refuſe not to plead; but I beſeech you give me leave to ſpeak before I anſwer.

[Mr. *Love* having a Paper in his Hand, the Judge ſaid:]

Ld Preſident. How many Leaves is it?

Mr. *Love.* But two or three: And if this Court be more ſtrict and ſevere to me, than that was to Mr. *Lilburne*, I cannot help it. What I ſhall ſay, ſhall be ſomething in general; and I beſeech you give me leave to ſpeak to it.

Attorn. Gen. Sir, not before you plead.

Mr. *Love.* Yet I have this Liberty, That when Matter of Law ariſeth in the Indictment, to make a Motion, and to move for Counſel, and to ſhew the Illegality of it: And though I confeſs I am extremely ignorant of the Law, yet I underſtand that after I have pleaded, I am not capable of Counſel.

Ld Preſident. You are miſtaken, Maſter *Love.*

Mr. *Love.* I ſuppoſe I am not miſtaken: For in the third Part of Judge *Coke*'s *Inſtitutes* I find it thus; 'The Priſoner, when he pleads not guilty, 'whereby he denies the Fact, after the Plea of not 'guilty, can have no Counſel: But if he have any 'Matter of Law to plead before, he may urge it.'

Ld Preſident. He pleads he is ignorant of the Law, and yet can make uſe of it.

Mr. *Love.* I am to plead for my Life: And I am to uſe Scripture, Law, and any other lawful Means to ſave my Life. *Paul* did plead the *Roman* Law.

Ld Preſident. Some of us know as much of *Paul* and Scripture as you do.

Mr. *Love.* Sir, I make no Compariſons. [Then Mr. *Love* reads out of Judge *Coke*'s *Inſtitutes*: 'The 'ſafeſt way, for the Party indicted, is to plead up- 'on his Arraignment the ſpecial Matter for the 'Overthrow of the Indictment:'] And this muſt be done before I plead. ['And to require Counſel 'for the pleading thereof, which ought to be 'granted; and to require a Copy of ſo much of 'the Indictment which is neceſſary for framing his 'Plea, which ought to be granted. And theſe 'Laws ought to be conſtrued favourably; for that 'the Indictment is commonly found in the Abſence 'of the Party.']

Ld Preſident. But your Indictment is in your Preſence. You are out of your Way.

Mr. *Love.* Sir, you bring me out of my Way.

Ld Preſident. Your Indictment is not yet found: There is nothing done behind your back, only the reading of this; but that is nothing but a written Parchment till you plead unto it.

Mr. *Love.* I have ſomething to except againſt the Legality of this Indictment.

Ld Preſident. Go on then.

Mr. *Love.* Sir, the firſt Motion I ſhall make is for Counſel, to adviſe in Matters of Law relating to this Tryal: And as I do gather from hearing the Indictment, there are ſeveral Matters of Law that do ariſe, in which I deſire to have Counſel aſſign'd me. And the firſt is, Whether the Act, by which this Court is conſtituted, of the 26th of *March*, 1650. that forbids receiving or ſending Letters or Meſſages to or from *England* or *Ireland*, do enable you to receive a Charge againſt me concerning Letters to or from *Scotland*, *Scotland* not being mentioned in that Act by which you are conſtituted.

There-

Therefore ſeeing this is Matter of Law, I deſire I might have Counſel to adviſe with about it.

Attorn. Gen. Mr. *Love* then doth admit that he hath received and ſent Letters to *Scotland*.

Mr. *Love.* I admit nothing, Sir; you charge me with it, but I do not grant it.

Attorn. Gen. Then you will give us leave to prove it. If he will admit that he hath ſent and received Letters from *Scotland*, and ſo demur that it is not in your power, I will join with him. But, my Lord, there was a particular Act read, that doth relate particularly to *Scotland*; and that this Court hath Cognizance of that Act, was read beforehand, but Mr. *Love* did not obſerve what was read to him: and it is ſo far in favour of Juſtice to him, that you read him the Laws and Clauſes upon which he ſtands impeached; and that there is a Law againſt ſending to *Scotland*. But, my Lord, theſe Debates are lingring of time; if a Man will demand Counſel, he admits the Fact, that the Fact is true; but being true, he ought not to be condemned upon it: if ſo, I will join with him; but if he plead Not Guilty, I ſhall be ready to prove it.

Mr. *Love.* I beſeech you, Sir, I do apprehend there is another Matter of Law ariſeth, and that is from the Act of the 26th of *March*, 1650. there is a Prohibition of ſending Letters or Meſſages to any in Arms againſt the Parliament; now I am charged with ſending and writing in Letters to *Scotland*; now it doth not appear to me that *Scotland* was in Arms againſt the Parliament of *England*, but for their own Preſervation. Therefore I deſire Counſel in this, Whether I that am accuſed of writing and ſending into *Scotland*, am therefore accuſed of writing and ſending to thoſe who are in Arms againſt the Parliament of *England*; or whether they were in Arms for the Preſervation of *Scotland*, or in oppoſition to the Parliament of *England*.

Attorn. Gen. If you will admit ſtill, that you have ſent or received from *Scotland*, then I readily grant it.

Mr. *Love.* I will admit of nothing: I have ſo much of a Chriſtian in me, that I will deny nothing that is proved to be true; and ſo much of an *Engliſhman*, that I will admit of nothing that is ſeemingly criminal.

Ld Preſident. You are a Chriſtian, and you are here in the Preſence of God as *Achan* was.

Mr. *Love.* If it be proved againſt me.

Ld Preſident. Then your Denial of it will be a high Tranſgreſſion againſt God.

Mr. *Love.* I could urge the Caſe of Jeſus Chriſt, who, when he was accuſed before a Judicatory, anſwered not a word.

Ld Preſident. You are out.

Mr. *Love.* When Chriſt was accuſed in a civil Buſineſs, to be a Mover of Sedition (as now I am) they asked him, whether he was King of the *Jews*? and he anſwered them not a word. But this is that I doubt, whether there be not Matters of Law ariſing from the Charge read againſt me, and that in reſpect of the time of the Act of the 26th of *March*, 1650. which gives power to you to determine ſeveral Crimes, and to proceed to the Tryal of the Offender. And, Sir, it is alſo to me doubtful, whether this be not Matter of Law; *viz.* whether this Tryal ought not to be by a Jury of Twelve of the Neighbourhood, or whether in any different way from it. And I doubt it upon this Ground, your Lordſhip having given me this Hint; for I was preſent at the Tryal of Mr. *Lilburne*, and the Formality of the Law tied him to plead to this, That he muſt be tryed by God and his Country. He refuſed it, and your Lordſhip urged it upon him, that he might ſafely plead it by God, becauſe God was in all Judicatories; and by his Country, becauſe, ſaid you, by Country is meant the Jury of a Man's Equals: And this is a Tryal according to the Law of the Land. Now if you have declared that in *Guild-Hall*, I beſeech your Lordſhip inform me, whether a different way from this of a Jury of the Neighbourhood be according to Law in *Weſtminſter-Hall*?

Ld Preſident. You ſhall be informed: That was a Tryal by the Law, as it then ſtood; theſe now are all upon Acts of Parliament, and Laws of the Land, that are of as high a nature as they: thoſe are antient Laws, and theſe are Statutes lately made, and of an extraordinary nature, and were made to meet with ſuch Perſons as you, that have done ſuch things as you have done. And now for your Neighbourhood, I hope you have twenty or forty Neighbours that are within the Equity of that Law.

Mr. *Love.* If they be a Jury, I have Power to except againſt 35 of them.

Attorney-General. My Lord, he pretends Mr. *Lilburne*'s Tryal; but when you come to hear the Evidence, you ſhall hear what he was doing then: he was preparing himſelf then in his Buſineſs; he thought his Time might come; and I am informed, that ſince he hath been in the Tower, *Lilburne* hath been his Counſel.

Mr. *Love.* Mr. *Prideaux*, Sir, you are no God to know my Thoughts.

Attorn. Gen. I did ſay this from his own Expreſſion; he was a diligent Obſerver there, that he might know what was done there, that ſo he might prepare himſelf.

Mr. *Love.* Sir, you did declare this after the Change and Abolition of a King and Houſe of Lords, That a Tryal by a Jury of Twelve of the Neighbourhood was according to Law; and you urged Maſter *Lilburne* with this, That he might plead, and do no harm unto himſelf. And not only ſo, but the Houſe alſo declared, That ſince the Change of Government, they would never alter that way of Tryal: and upon the ninth of *February*, 1648. they did declare, That though they thought fit to aboliſh the Kingly Office and the Houſe of Lords, yet they reſolved they would ſtill retain and preſerve the Fundamental Laws of the Nation, for and concerning the Preſervation of the Liberties, Lives and Eſtates of the People. Now, Sir, they declaring they would never alter this way of Tryal, and you declaring this way of Tryal by Juries to be according to the Fundamental Laws of the Land, I beſeech you give me the Reaſon why it is denied to me.

Attorn. Gen. My Lord, it is very unuſual for a Priſoner to debate with the Court; here he is to be controlled: let him know he is a Priſoner upon the Tryal of his Life, before that Court that hath been impowered by the Parliament; they who did never bind their own Hands: I muſt ſay, my Lord, they cannot bind their own Hands; and it is this Tryal that they have thought fit to give him. And for his excepting againſt 35, then you will hardly be a Court left. My Lord, I think, if he look upon the Court, he will find no Enemies here, knowing them to be of his Neighbourhood, and moſt of them of *London*, and, I think, he known to them, and they to him, the moſt of them. But, my Lord, theſe Diſputes are not allowed to

others; and the Gentleman will (I hope) have ſo much Modeſty at laſt, that he will think he hath ſaid a little too much to the Court; and I think it is not good to provoke too far. And, my Lord, he hath ſaid much, and you have given him fair Anſwers, and thoſe that are clear and undeniable. But if he ſpeak of the Juriſdiction of the Court, and that he will not plead, let him ſpeak in plain *Engliſh*, and he ſhall hear me in plain *Engliſh*.

Mr. *Love*. Although I am not ſatisfied as to the Foundation and Original of this Court, yet I refuſe not a Tryal, hoping that Tenderneſs of Conſcience will appear in you, and Clearneſs in me, and Weakneſs of Proof againſt me. Upon this I do not refuſe a Tryal, but I will plead, if I may have that which the Law allows me. And according to my weak Meaſure and Unskilfulneſs in the Law, upon the Charge read againſt me, I do apprehend there may be ſome things objected againſt the Legality of the Indictment, and many things to take it off, both for Matter of Time and Form, and other things, by a Lawyer. Therefore I entreat I may have Counſel to be with me, both in my Chamber, and here in the Court; and then I will plead.

Attorn. Gen. I am not here to make a Bargain; but this I will ſay to him, He hath had ſo much Tenderneſs and Reſpect, as few Men more. He hath had notice of his Tryal above a Fortnight; and, my Lord, he hath not been denied Counſel.

Mr. *Love*. I could do nothing in order to my Tryal, becauſe I have ſent for Counſel, and they would not come near me, becauſe they were not aſſigned by this Court; and my Studies being another way, and being unskilful in the Law, therefore I could do nothing in Preparation to my Tryal. Therefore I pray do not deſtroy me in a hurry: The more fair the Tryal is, the more juſt you will be, and I the more guilty, if it be proved againſt me.

Attorn. Gen. I appeal to Maſter *Love*, whether or no it was not denied to *Lilburne*; and there is none that hears him, but ſees he hath prepared himſelf, and peruſed ſeveral Acts whereupon he is impeached. But theſe are Diſcourſes, my Lord, which if he will put too nigh upon the Court, that we ſhould diſpute, we cannot force words from him.

Mr. *Love*. Mr. *Prideaux* is pleaſed to urge Mr. *Lilburne*, but I have more Matter of Law ariſing from the Charge than he had; and have not that Tryal by way of a Jury as he had; and there are many things in the Charge ſaid to be done before the Act of the 29th of *March*, 1650. which gives you Cognizance only of things done from that time; ſo that many things there are, in which Counſel would adviſe me: therefore I beſeech you deny me not that Right and juſt Favour.

Ld Preſident. You do not breathe the ſame Air and the ſame Breath, for it comes from you both Yea and Nay: for you ſay you are ignorant, and yet will not be informed by any thing that can be ſaid; and ſo your Ignorance is wilful. But in this Caſe, I am ſure, what Law ſoever you can plead, yet there be ſome Acts and Matters you have denied.

Mr. *Love*. I have urged Matter of Law ariſing out of the Charge, from the 29th of *March*, 1650. there was no Act then, that I know of, that did prohibit the ſending of Letters or Meſſages to or from *Scotland*; and I am indicted for Letters or Meſſages ſent to, and received from *Scotland*, before that time.

Attorn. Gen. I would fain give you ſatisfaction: do not caſt away your ſelf. My Lord, we do uſe in Law to lay it ſo for the Fact, we cannot tell what the Proof will be; whether the Proof will be within theſe three Months or ten Months; and it is laid in relation to other Offences.

Mr. *Love*. I have here the Letters of ſeveral Counſellors, and they return to me their Denial; if I could have got their Counſel, I would: and yet if I had had it, I could not tell what they ſhould have adviſed me in, not having a Copy of my Charge.

Ld Preſident. If you had deſired a Copy of your Charge, you might have had it. You muſt know you are before thoſe that have Law and Conſcience, and that are bound to be of Counſel for you, and that is the Court; and it is their Duty to ſee that whatſoever the Law of *England* allows you to have, that that you ſhould have: but you muſt have it in a due and proper Time and Manner of Law appointed. You are not now for the preſent where *Lilburne* was, nor before ſuch a Court; he was before a Commiſſion of *Oyer* and *Terminer*, who are to proceed according to thoſe Laws, and upon that the Commiſſion directs; and that is by that which the known and fundamental Laws of *England* direct unto: but this is not in all Particulars the like; the Jury there hath a large Latitude, who proceed by way of Grand Jury and Petty-Jury, which are both included in this Court: ſo that in all things the Proceedings upon that, are not as upon this. But thus far the Proceedings are alike; you have your Charge, and you are to plead to it, for that is the firſt thing to be done; there is nothing can anſwer your Charge, but whether you be Guilty or Not Guilty: if you plead Not Guilty, then the Evidence will be called; and if then any Matter of Law ariſeth upon the Evidence, it is the uſual Courſe to aſſign you Counſel, and to be Counſel for you, and to tell you it is Law to have Counſel: but for you to demand Counſel, and firſt to have Counſel aſſigned you, it is againſt that Form and Legality that the Law of *England* appoints; for till you put your ſelf upon Tryal, we cannot allow you Counſel to the Tryal; ſo that you muſt plead, and it is our Duty to tell you ſo. And it is the Duty of this Court to be as careful when you have put your ſelf upon Tryal, that all the Benefit of the Law may be afforded you; therefore you need not fear it, for if any of theſe things ariſe, you now fear upon the Evidence, then will be your time and our time to ſtand upon this you now do, touching Matter of Law: but in the mean time, in truth that which we are to tell you, and which we are bound in Juſtice and Conſcience to let you know, is this, That you are out of your way; and therefore do not deſtroy your ſelf: for if you refuſe to plead, there is nothing then but a plain downright Judgment.

Mr. *Love*. In ordinary Courts of Judicature the Judges do counſel for the Priſoner; but you are here Judges not only in Matter of Law, but of Matter of Fact alſo; and therefore I cannot adviſe with you: For ſhould I confeſs any thing, then it ariſeth out of my own Mouth, and you will condemn me upon it. Seeing therefore both lie in you, both Matter of Law, and Matter of Fact, I beſeech you afford me Counſel, and let me have a Copy of my Charge, and Sollicitors, that they may be here with me in Court, and then I ſhall willingly plead.

Attorn. Gen. This cannot be done, nor ever was done, to have Counſel aſſigned, until upon Matter

of

of Fact ſomething did appear; and for the Copy of the Charge, it was never demanded, I think, before; and it is in vain for us to ſpeak, if the Gentleman do refuſe to plead: I ſhall then preſs you for Juſtice.

Mr. *Love.* I do not refuſe to plead; but yet I ſhould be guilty of my own Blood, ſhould I not plead for that juſt and neceſſary Means for the Preſervation of my Life: through my Ignorance I may run my ſelf into Hazard and Danger, therefore I beſeech you deny me not that juſt Favour.

A Lawyer, a Member of the Court. Mr. *Love*, you are not prodigal, you ſay, of your Blood; nor are we, I hope, prodigal of your Blood; we are to anſwer for all; therefore I pray let me beg thus much of you. If you plead Not Guilty to the Charge, then there is a Proceeding to be by Maſter Attorney, to prove you guilty of it; and if by any Evidence that he ſhall produce, or in any thing that ſhall fall out from your ſelf, in anſwer to the Evidence, there ſhall ariſe Matter of Law, truſt us, I pray you, we do promiſe you that we will give you the Benefit of the Law in it; and when there comes Matter of Law to be decided, which we are perſuaded is Matter of Law, then you ſhall have Counſel aſſigned you; but there is no Counſel to be allowed till the Priſoner deſire it, and ſhew Matter of Law, for which he deſires it.

Another Lawyer of the Court. The main thing you ſtand upon, Mr. *Love*, is this, That there is no mention made in any Act, that this Court can take cognizance of ſending to, or receiving from *Scotland*; but therein you are miſtaken: for the buſineſs of holding Correſpondency with *Scotland*, is in expreſs words appointed to be under the Juriſdiction of this Court; therefore I think you are utterly miſtaken in that. Then, Sir, for Counſel, if there comes any thing in the world that is legal, and is a fit thing Counſel ſhould be heard in, I think I may promiſe it, we will not make our ſelves ſo far guilty of your Blood, as to deny you that Juſtice that belongs to any Man; for it is your juſt Right to have it, and we cannot deny it, when a Point of Law ariſeth. And you do not urge Matter of Law, only you queſtion the Juriſdiction of the Court, and we muſt over-rule you in that; for we are not to diſpute the Power of the Court: For if the Parliament give us Juriſdiction, and by a ſpecial Act appoints, That the buſineſs of holding Correſpondency with *Scotland*, ſhould be within the Cognizance of this Court, we muſt obey, and not diſpute.

Mr. *Love.* I ſuppoſe, Sir, a Man may demur concerning the Juriſdiction of a Court to one Point; as if he be accuſed for Treaſon at the *Common Pleas*, he may demur to the Juriſdiction of that Court in that: ſo, Sir, I apprehend there are ſome things read againſt me in the Charge, of which this Court cannot take Cognizance, for that they are ſaid to be done before the Act for the conſtituting of this Court came forth; ſo that I may demur to the Juriſdiction of the Court in that Particular.

Ld Preſident. For you to anticipate your Evidence before we come to it! we do not tie you to the Charge, but to the Proof; and we muſt apply our ſelves to the Proof, and not to the Charge.

Attorn. Gen. And for the Buſineſs of *Scotland*, which troubles him much, it is expreſs'd in this very Act, That the ſame Offences are to be inquired, tried and judged by the High Court of Juſtice, in ſuch Manner and Form, as other Offences are to be tried, in expreſs Terms.

Mr. *Love.* But there is no time mentioned; for there are two Acts, wherein if the Priſoner be not indicted within a Year, then the Fact ſhall not be proſecuted. Therefore I muſt demur to the Charge, as not legal in Matter of Form. There are two Acts declaring what Offences ſhall be Treaſon, wherein it is ſaid in thoſe two Acts, That if the Party be not indicted within a Year, he ſhall not be indicted at all. Now the Indictment that is againſt me, looks back to things that are pretended to have been done by me in 1648, and 1649. and ſo according to thoſe two Acts I am not to be queſtioned for them, it being above a Year before I was indicted.

Ld Preſident. How is it poſſible that this comes to be an Exception until you hear the Evidence? If you hear the Evidence, and do find that the Witneſs do ſpeak to this not within the time of the Limitation, then is your Exception proper; but no Counſel can divine what time they can give Evidence for.

Mr. *Love.* Sir, I am now to look to the Charge of Treaſon read againſt me, and not to the Evidence; and in the Charge I am indicted for thoſe things, for which I apprehend I ought not to be indicted. For according to thoſe two Acts, I ought not to have been indicted for things pretended to have been done by me ſo long ago: and this I apprehend to be Matter of Law. And for the Witneſſes, let them ſpeak to what time they will, yet this I am ſure, they cannot prove that I was indicted within a Year for thoſe things that are charged upon me to be done in 1648, and 1649. for that were to prove an Impoſſibility: So that it appears to me, I am indicted for thoſe things for which I ought not to be indicted.

Ld Preſident. It may be ſo; and if ſo, thoſe things will fall off of themſelves; there may be ſome things true, and ſome things not true; and the Counſel may fail in Proof of ſome of them, and you may clear your ſelf: yet this cannot be before the pleading. When you come to plead, if the matter be not proved againſt you, and within the time limited, it will fall off of it ſelf without any Words at all; and all this time is loſt to all this Auditory, and no Counſel can give you Advice in this.

Mr. *Love.* I ſtill ſay, I do not refuſe to plead, but if you would afford me Counſel, I ſhould think my Life in a great deal leſs danger. For I do not know, whether I may not, by the Advice of Counſel, confeſs ſome part of the Indictment; whether I may not demur in Law upon ſome part, or a great part of the Indictment, which I have done already: as that I am charged for Treaſon for thoſe things that are not within your Cognizance or Power, as I apprehend, and things done before your Acts; and for ſuch things, that if I had done them, I muſt have been indicted for them within a Year, or elſe not at all: and theſe I deem legal Exceptions.

A Member of the Court. My Lord, he is very ignorant of the Law; for the Fact muſt be put in queſtion before Matter of Law can ariſe: for if the Fact be one way, then the Law falls out that way; if the Fact be falſe, then another way. Now if Mr. *Love* brings in any of theſe Exceptions for Matter of Fact upon Proof, whether he ſent Letters into *Scotland*, or in ſuch a time, whether that be any Offence, that will all ariſe after the Matter of Fact proves true or falſe: But before that, under favour, none can ſpeak to any thing againſt an Indictment, unleſs he ſpeak againſt the Juriſdiction of the Court. And then for other Matters, they are ſaved unto him. And you will, I ſuppoſe, admit of Counſel in Matter

ter of Law; but his Deſire cannot be granted unto him until he plead, and until the Matter of Fact be ſome way determined.

Mr. *Love.* I beſeech you acquaint me then with the Meaning of theſe words in Judge *Coke*'s Inſtitutes, *The Priſoner at the Bar may have Counſel to overthrow the Indictment.* It muſt be either to overthrow a part of the Indictment, or to help the Plea, either to plead *Not Guilty* in part, or to demur in part. Let me hear then, I beſeech you, what is the Meaning of thoſe words, That *the Priſoner at the Bar may have Counſel to overthrow the Indictment.* I cannot overthrow the Indictment when I plead; for then Witneſs comes in againſt me.

Attorn. Gen. He may overthrow the Indictment by the Witneſs; and I believe he is convinced, that the Court hath Juriſdiction in as full and expreſs terms as Law and Authority can give them. And for the next, I may ſay, your Lordſhip and the Court did never allow a Counſel to pick holes and find faults. But if he object that to you that is juſt and probable, and that which is dubious and doubtful, and fit to be debated in Law, aſſign him Counſel. You have heard all his particular Exceptions, and given your Judgment upon them all. But I hope, he doth not here expect to have Lectures of Law read him, and to make him underſtand them. But as to thoſe particular Exceptions that he hath made to you, I think ſome Satisfaction is given, and that every Man is ſatisfied, and that there is no Colour of Doubt there, for Matter of Fact, and the Times that he inſiſts upon. For the Act directing what Offences are Treaſon, and not to be arraigned unleſs they be proſecuted within a Year, I muſt tell him, the Impeachment is laid from 1648 to 1651. Yet, my Lord, I ſhall make it appear, that the Indictment doth look backward to ſome Offences, and forward to others. It is laid firſt in general: he committed ſuch and ſuch Treaſons and Offences in ſuch and ſuch Years. And I ſhall come with the Evidence, and apply them to ſuch Times that are within your power, and in which the Law makes them Offences: and this is to be debated then, and not to be once ſpoken of now. My Lord, I ſhall begin from 1648, and run on with him, that he hath continued in a treaſonable Diſpoſition, and in treaſonable Plottings, to the time he was laid up, and ſince; and will juſtify all: and therefore it behoves him to inſiſt upon it. And I will make it appear, that he was one of the firſt that ever did appear againſt this Commonwealth in plotting; and he did continue ſo until the time of his Reſtraint, and after that time.

Mr. *Love.* Sir, you are no Witneſs; if you be a Witneſs, come and ſwear.

Attorn. Gen. I will uſe you with all the Duty of my Place; and if you give me not occaſion, I ſhall not do otherwiſe.

Mr. *Love.* I ſhall give you no occaſion.

Ld Preſident. This will make all that hear him to think that this is the very beſt of his Caſe; as we know it is.

Mr. *Love.* Sir, altho I do not come here to have the Law expounded to me, yet I do come here to have the Benefit of the Law; and if the Law allows me this Benefit (I being unskilful) that if I can find in the Charge Matter of Law ariſing, then to have Counſel to adviſe me, and to overthrow the Indictment: Why ſhould I be deny'd this Benefit? And I do not yet, according to my Underſtanding, ſee that you afford me the Benefit of the Law, you not granting me Counſel to adviſe me to overthrow the Indictment.

One of the Court. Mr. *Love*, if it were poſſible, I deſire you might have ſatisfaction, for this that you deſire is very juſt; and when it comes to its proper time, then you ſhall have it: but do not by diſorderly demanding of it out of your time, loſe the Benefit you might have of it when it comes to your time. That which you ſtand upon, and call Law, is not Matter of Law; nor can you call it Law, till you hear what the Fact is. For can any Man judge what is Matter of Law, till he know the Matter of Fact? as it hath been told you well, that the Law ariſeth out of the Fact: ſo that if you will anticipate the Evidence, and the Proof of the Fact, by urging this Matter of Law which you did hear read in the Charge, you will do yourſelf wrong, and you are miſtaken in it; for there is no Matter of Law appears there, for it is barely, *Thus you have done.* And if you ſay this is Law, you exclude all the Witneſſes. Whether you have done it or no, we cannot tell; and if you have done it, whether contrary to Law or no, we cannot tell, becauſe we muſt apply the Witneſs to the Acts of Parliament that authorizeth us to ſit here: and if we find that the Doubt grows upon what the Witneſſes ſay, and upon what the Law ſaith, then doth Matter of Law ariſe, and then it is time for you to ſay, it appears not by this Witneſs that it is within the Act. I do the rather ſpeak this, becauſe we do extremely deſire you ſhould receive Satisfaction, for I would not have any here have any thing put upon him, that may not appear juſt and according to Law; and none can ever ſay that a Man had Counſel aſſigned him, before he pleaded here.

Ld Preſident. It is now the Seſſions at *Newgate*, and there may be many Priſoners; and if every Priſoner ſhould take the liberty to plead Matter of Law, and ſay, I am no Lawyer, let me have Counſel aſſigned me, and I will anſwer, when ſhould we have any Man anſwer? when would Men be executed for robbing, and ſtealing, and killing?

Mr. *Love.* That Court is different from this, you here are Judges both of Law and Fact, there the Judges are Judges of Law, and the Jury of Matter of Fact. But, Sir, ſatisfy me in this; if there be any thing in Law before pleading to overthrow the Indictment, (as I perceive by Judge *Coke* there is, and to which I have received no ſatisfactory Anſwer) let me have that legal Benefit to overthrow the Charge. I have ſaid what I can; but if I had Counſel here, they could ſay a hundred times more.

Ld Preſident. You have heard no body but yourſelf, for whatſoever hath been told you by the Court and your Friends about you, hath not been hearken'd unto. We have ſpent thus much time, and People are weak, and if you will plead, do. Read his Charge once again; and I tell you the next is Judgment.

The Clerk. Chriſtopher Love, *you ſtand charged on the behalf of the Keepers of the Liberties of* England, *by Authority of Parliament, of High Treaſon, and of other high Crimes and Offences againſt the Parliament and People of* England; *this High Court therefore requires you to give a poſitive and direct Anſwer, whether you are Guilty or Not Guilty of the Crimes and Treaſons laid to your charge.*

Mr. *Love.* I am not ſatisfied, but that Matter of Law doth ariſe from this Charge; and I do earneſtly preſs I may have Counſel, and then I will plead.

* *Att.*

Att. Gen. I do as earneſtly preſs, that you would as poſitively ſay, that you cannot allow him Counſel till he hath pleaded.

Mr. *Love.* I now ſee Mr. Attorney's words to be true. When he came to me to the *Tower*, and examined me, the 16th of this Month, he ſaid, That ſeeing I would not acknowledge (as he called them) my Treaſons, I was judged peremptory and obſtinate: and I remember he ſaid theſe words to me; *Mr.* Love, *though you are too hard for me in the Pulpit, yet I will be too hard for you at the Bar.* And truly now I find it ſo: and it is an eaſy matter for a Lawyer, armed with Law and Power, to be too hard for a poor naked Scholar, that hath neither Law nor Power.

Ld Preſident. Doth this do any good to you? If it were ſo that you are too hard for him, (for you are too hard for every Man in the Pulpit) yet you ſometimes are ſo out, and in that you are controulable. If Maſter Attorney be too hard for you here, let him be too hard for you; but it is the Court that are to deal with you here: we will not do it becauſe of his Saying, but you muſt think that the Court will be led by their Evidence, and not by Mr. Attorney.

Mr. *Love.* You gave this Favour to Maſter *Lilburne*, and I do not deny to plead: but I am not prodigal of my Blood, therefore I crave Counſel.

Ld Preſident. I do not know what to ſay more to give you ſatisfaction, than what I have ſaid. You ſay you do not deny to plead, and yet you do not plead; you ſay Mr. Attorney is too ſtrong for you, but you know it is not he, but the Evidence may be too ſtrong for you. And do not you think that you have ſuch Judges, as will let you receive any prejudice. Mr. *Love*, you are a Miniſter, I pray ſhew forth the Spirit of a Miniſter of Jeſus Chriſt; carry yourſelf ſo, as that you may not either wrong yourſelf or the Court. I would have you behave yourſelf without recriminating. You ſpeak of Mr. Attorney, as if he could be too hard for you, as if we were all of his ſide, be it right or wrong: know that we are Men of Conſcience, and have Souls to ſave as well as you.

Mr. *Love.* The Charge is long, and I never heard of it before, nor knew of it before.

One of the Court. We give you our Faith and Credit, that if any Matter of Law ariſeth, we will not make ourſelves guilty of your Blood, but we will allow you Counſel: yourſelf hath read a Book in the Court, that ſhews the Court cannot allow you Counſel till you plead.

Ld Preſident. Did you ever conſult with the Lieutenant of the Tower? What, will you caſt away yourſelf?

Col. *Weſt, Lieut. of the Tower.* I could, my Lord, adviſe him no more than what I knew, and that was the time of your ſitting.

Mr. *Love.* I hope you will not in a hurry ſpill my Blood.

Lieut. of Tower. Since Saturday was ſeven-night he was not reſtrained.

Ld Preſident. Your Profeſſion goes much in Profeſſion; but when it is abuſed, it is the higheſt Tranſgreſſion; you would evade things with mental Reſervations, and ſay and unſay at the Bar, as high as any Jeſuit can do.

Mr. *Love.* I will not lye for my Life; you may ſay what you pleaſe, and do what you pleaſe, I ſpeak before God and this Audience.

Ld Preſident. Mr. *Love*, know that we are here in as ſacred a poſture, as you are in the higheſt Place of your Calling; and if we do not know that God is here preſent, we are the miſerableſt Creatures in the world: and therefore if your Office and ours do not make us know that we are in the preſence of God and Jeſus Chriſt, it will be but ill for us; and yet you hurry out, that it ſhould be ſuch a terrible thing in you, more than in us. You have ſpoken many Words as a Shadow in the Air, there is nothing material in them, but the Strength of your Will againſt the Judgment of the Court.

Mr. *Love.* If I do plead to the Charge, I do allow the Matter and Form of the Charge to be legal. I deſire to have Counſel to come to my Chamber; I do not ſay, to come to this place, but to have liberty for them to come to my Chamber.

Mr. *Steele*, Recorder of *London.* I did not think to have ſpoken, nor have I uſually ſpoken in this Court, yet I will ſpeak a word out of tenderneſs to yourſelf. You have very often inſiſted upon it, that you ſhould have Counſel aſſigned before you plead, that is it you plead for: truly the Courſe of Law is this, That if the Priſoner charged at the Bar, before he plead ſhall demand Counſel, he muſt of neceſſity put in ſome ſpecial Plea before the time he can demand Counſel. The Court doth not inforce you to plead Guilty or Not Guilty to all the Matter of Fact; but they ſay, of neceſſity you muſt plead. If you put in a ſpecial Plea, and tell them that it is a ſpecial Plea, and deſire Counſel upon it, they will conſider it: but till you can declare what that ſpecial Plea is, for there is a general Plea, and a ſpecial Plea; the general Plea is *Not Guilty*, the ſpecial Plea is in ſome Particulars. Now for you to alledge neither the ſpecial Plea nor the general Plea, it is impoſſible that Counſel can be aſſigned you. And whereas you ſay you are concluded if you plead, and cannot object againſt the Indictment afterwards; no, Sir, I tell you in the name of a Chriſtian, and one that knows a little of the Law, that all the Objections you have againſt the Indictment, the Formality of it, and thoſe things you ſpeak of, as that of your Fact not being committed in ſuch a time that the Act holds out, that the High Court hath no relation to try you for *Scotland*; all theſe will be ſaved to you, if they ariſe upon Matter of Fact from the Evidence. True, if you make an Objection againſt the Juriſdiction of the Court, that hath no relation either to the ſpecial Plea or general Plea, it cannot be. It is impoſſible an Objection ſhould be received againſt the Eſſence of the Court, there is none can poſſibly over-rule that for you but themſelves; it is ſuch a thing, that no Counſel can be aſſigned you as to that, becauſe it ſtrikes at the very Being of the Court. Now therefore I beſeech you in the name of a Chriſtian, that you will not do yourſelf that prejudice; for Nature teacheth every Man to preſerve himſelf by all juſt ways and means: and I do believe that in this Buſineſs you have apprehended it for your Preſervation, and that you are loth to do any thing that tends to your deſtruction; but you may ſatisfy your Conſcience, in that you have done what you can. And when you have pleaded, and uſed all the Arguments you can, and have heard the Judgment of the Court in it, you may ſatisfy your Conſcience, that in the words of honeſt Men (unleſs it be the Juriſdiction of the Court, though you have tacitly ſpoken there) you ſhall have that Right and Privilege which the Law allows you. I confeſs, I never ſpake here before, and it is a Rule amongſt us, that none but the Preſident ſhould ſpeak; and we have done more to you, than to the greateſt Perſon

that

that ever ſpake here, becauſe we think ſome neceſſity lies upon us towards you, (in regard of your Calling, and the Worth that hath appeared in you) to direct you what you have to do.

Mr. *Love*. Sir, a Man may demur touching the Juriſdiction of any Court, if he can ſhew any thing in the Indictment that the Court cannot take cognizance of, which he is charged with; tho he do not demur ſimply as to their Juriſdiction in general, yet as to that Particular he may demur: as a Man may demur in Chancery, when a Cauſe is only tryable at the Common Law.

Ld Preſident. You muſt know, that he that ſpeaks againſt the Juriſdiction of the Court, ſpeaks againſt the Juriſdiction of the Parliament of *England*.

Mr. *Steele*, Recorder of *London*. Mr. *Love*, to help your Underſtanding, I did not ſay that Mr. *Love* did expreſly ſpeak againſt the Power of the Court, as if they had no power to try him; but this he ſeemed to ſay, That what he hath offered againſt the Juriſdiction of the Court, in any thing he is queſtioned for, if he have not Counſel for it before, he cannot have it afterwards. Now if the Queſtion you offer be a mix'd Doubt, for your Objection is mix'd; for you ſay, the Court hath no power to try the Facts whereof you are indicted: now is it poſſible the Court can judge of that, or know there is Matter of Law ariſeth out of it, till the Fact appear out of the mouths of the Witneſſes? It may be the Fact will not be proved, then there will be no Matter of Law ariſing; if the Fact be proved that it was done at ſuch a time, before the Act was made, when that appears to them, the Court then will ſtrike it off, you ſhall not need Counſel, then we ſhall not regard it: if upon the Fact any other Doubt ariſeth in relation to *Scotland*, (for it muſt be from two Witneſſes, your Doubting being mixed with Matter of Fact) we ſhall then be able to judge of it.

Mr. *Love*. Sir, if any Crime be laid to my charge, that ought not to be laid, and that this Court can take no cognizance of, I ſhould have Counſel in it.

Ld Preſident. We have ſpoken more to you than became us, perchance, and that from Tenderneſs to you; and if nothing can give you ſatisfaction, but over and over with the ſame things again, we can but ſpeak our Conſciences, and leave it to yourſelf.

Mr. *Love*. I do declare I do ſubmit to the Tryal, and am willing to do it; but it behoves me to uſe all juſt Means for the preſervation of my Life: if you will, give me but a day's time to conſult with Counſel.

Ld Preſident. That is in your Learning ſufficient to ſay, you will do it, and yet do not do it; becauſe I ſay I will ſubmit, therefore I do ſubmit; this is no Obedience at all. I know no ſuch Logick as this; it is ſubmitting, that muſt do it; you will ſubmit, but you will not act: pray, Mr. *Love*, be ſo charitable as to take us to be Chriſtians.

Mr. *Love*. What prejudice, Sir, can it be to this Court, being I have not ſpoken with any Lawyer, to give me but a day's time? I will deſire no more.

Attorn. Gen. I would fain know, why may not the next Priſoner ſay, You have done ſo in Mr. *Love*'s Caſe?

Mr. *Love*. You have accepted of ſpecial Pleas, you did it in the Caſe of Sir *John Stowel*; and if I thro my Ignorance in Law cannot urge the Strength of Law, and a ſpecial Plea, as otherwiſe I might do, I beſeech you let me not be prejudiced by it.

Ld Preſident. Sir *John Stowel* inſiſted upon ſpecial Matter he had to plead, and that was, the Articles of *Exeter*; but he did firſt plead to the Charge, Not Guilty: yet we gave him that benefit; and he had that which did laſt a great Debate of this Court, and ſo did *Hamilton*, and divers others: we will do no otherwiſe with you than with them.

Mr. *Love*. If you now deny me my ſpecial Plea, I cannot help it; which is this, That the writing or ſending Letters (if it could be proved againſt me) into *Scotland*, doth not come within your Act; and that it is only for *England* and *Ireland* that are mentioned therein.

Ld Preſident. If there be a ſpecial Plea wherein there is no difficulty, then we give no Counſel; but a ſpecial Plea muſt have ſomething that is dubious in the Judgment of the Court: but for this, that in the Letter of the Law every School-Boy underſtands, the Judge will not allow you Counſel in a trivial matter; we have gone over and over with you again, and this is like other Diſcourſes with you: but certainly never was the like ſeen, that a Court was ſo trifled with.

Mr. *Love*. This is my humble Motion, allow me but Counſel to-morrow, that they may appear here.

Ld Preſident. You may have Counſel to-morrow, as the Caſe ſhall be.

Mr. *Love*. Shall I have the Copy of the Charge?

Ld Preſident. You ſhall have what is fit, you ſhall have nothing deny'd you when it comes to you to have it, you ſhall have that Reſpect; I do it not to flatter you: but refuſe to plead at your peril.

Mr. *Love*. Will you give me but this Favour, that I may have but an hour or two's time to conſult with a Lawyer?

Ld Preſident. I do not know but that this that is done, muſt be done for all that comes to the Bar.

Attorn. Gen. I had thought there would have appeared in him that calls himſelf a Miniſter of the Goſpel, more Meekneſs and Obedience to Authority, not out-facing Authority; and it is not well done of him. My Lord, I humbly beg, that having had thus much of your Patience, and Perſuaſion by Arguments, and all Means uſed to him, and nothing will prevail; that, my Lord, you will now be pleaſed to give your Judgment according to the Rules that the Law appoints you, upon him that refuſeth to plead.

Mr. *Love*. I do not refuſe to plead.

Ld Preſident. Doth a Man of your Learning ſay, you do not refuſe?

Mr. *Love*. A Man may demur to his Charge, and yet not refuſe to plead; and the Court may grant me a day's time, if they pleaſe; for I come here unarmed and unprepared.

Attorn. Gen. His Demur is to Matter of Fact.

Ld Preſident. Will you put that upon Law, for Law, which is not Law? And by your putting yourſelf upon that, you confeſs the whole Charge.

Attorn. Gen. I deſire one Favour, my Lord, which is of Juſtice to him; which is, that you would be pleaſed to command your Clerk to read that Act that ſays, *If any Perſon before you refuſe to plead, he may hear the Sentence of the Law upon him.*

Ld Preſident. Clerk, read the Act.

[The Clerk reads that part of the Act about refuſing to plead.]

Attorn. Gen. My Lord, we deſire his final Sentence.

Mr. *Love*. My Lord, I deſire but the favour of a Day's time to conſult with Lawyers.

[The

[The Lord Preſident conſults a while with the Court.]

Ld Preſident. I now do deliver it from all of the Court, and all of them are of that mind, and now plead, or you ſhall have Judgment.

Mr. *Love.* But if I plead, I deſire I may have Counſel to hear the Witneſſes.

Ld Preſident. We will not make a Precedent; for it will be ſaid, it was Maſter *Lilburne*'s Caſe, and Maſter *Love*'s Caſe.

Mr. *Love.* Will you promiſe me, that I ſhall have Counſel to hear the Witneſs?

Ld Preſident. We will promiſe you Juſtice. Read the Sentence.

[The Clerk goes to read the Sentence.]

Mr. *Love.* Not Guilty.

Attorn. Gen. My Lord, we do ſay in the behalf of the Commonwealth, he is guilty of the Crimes and Treaſons laid to his charge. And, my Lord, you now perceive, that when you have been long troubled, you ſee he comes very hardly to it; an innocent Man would not have made ſo much ado, and knowing his Innocency, would not have had ſo much Capitulation and Trifling with a Court of Juſtice. My Lord, for theſe Crimes, you are pleaſed to obſerve they are of ſeveral natures, and of long continuance. And now, my Lord, for the State of the Evidence, it is commended to the Charge of another Gentleman, that is, Maſter Sollicitor-General of the Commonwealth, to open to you the State of the Fact, by which he ſtands here impeached and accuſed, the Nature of it, and how it ſhould have been carried on, the Series of Time, the Perſons with whom he comply'd, how plotted and contrived to undermine this Commonwealth, even to the Foundations of it. My Lord, when that is opened, I will then produce the Evidence to make it good againſt him.

Mr. Sollicitor-Gen. My Lord, Mr. *Love* urgeth much for himſelf, but he doth not tell you what. For my part, I never ſaw his face till now; but his own Carriage, if that do not do him wrong, none will. He ſays, he is ſingled out from all the reſt of his Brethren, I ſuppoſe he means thoſe that are his Fellow-Conſpirators: the reaſon of that is, becauſe he was the firſt, he had a hand in the firſt Action and laſt Action; ſo that from the beginning to the end he was the principal Man, both by Counſel, Friends, Purſe, and Encouragement: and that is the reaſon he might juſtly be ſingled out to be firſt in the Puniſhment, becauſe he was firſt in the Fact. He ſays, God in *Achan*'s Caſe wrought the Diſcovery. My Lord, I think the Court will think, that God was the great Diſcoverer of this great Treaſon; for through the whole Series of it, it was preſs'd and carry'd on with as much Caution and Secrecy as the Wit of Man could contrive; and nothing but the Goodneſs of the God of Lights, the Father of Lights, could have brought this to light, who diſcovers the Secrets of all Hearts, and hidden things of Darkneſs; he hath diſcovered this. My Lord, the Nature of the Treaſon, it is not one or ten Treaſons, but it is a Myſtery of Treaſons, woven together during the ſpace of two Years, under the Notion of Religion. Many of them that were the Conſpirators giving out, that they were a Party diſtinct and ſeparate, and ſo they did behave themſelves like a Party ſeparate from the reſt of the Commonwealth. Firſt, This Party did aſſume to themſelves Sovereign Power, and did exerciſe it divers ways; they did take upon them to ſend Agents abroad to treat with foreign Princes and States, Enemies to this Commonwealth, and to give Commiſſion to that purpoſe, and to give Inſtructions to that purpoſe; they did demean themſelves in this point, as if this Party had been a Free State. My Lord, the very firſt of their Riſe was that in *February* 1648. When the *Scots* had declared for the King, then they ſend immediately to their Brethren here, theſe Conſpirators, to let them know that they intended to make Addreſſes to the new King very ſpeedily, and that there were Propoſitions drawing to that purpoſe; and did deſire a firm Compliance with them, promiſing them faithfully (and how they kept it, we ſhall hear) as their Brethren of *Scotland*, that their Intereſt ſhould be provided for as their own: and the Covenant, that was the ground of all. When they had thus promiſed, they believed their Brethren, and thereupon went about the Work, and eſtabliſhed a Council at *Dowgate*, and there they met, and plotted and contrived how in the firſt place to make an Agreement between the King and the *Scots*, to the intent that when they were agreed, they might come with united Forces to invade this Commonwealth. They were plotting and contriving this about *Midſummer* 1649. They were taken notice of abroad to be conſiderable Men; and the King of *Scots*, as they called him, thought fit to ſend an Agent to them, to treat with them, which was one *Maſon*, my Lord *Piercy*'s Man; his Errand here, was to reconcile both Parties, the Royal and Presbyterian Party, and to make them both ſubſervient to do his work. My Lord, he treated with the Counteſs of *Carliſle*, *William Drake*, and divers others, Citizens of *London*, and this was with the privity of the Miniſters. My Lord, he had Commiſſion from the King to aſſure theſe Conſpirators, that if they could procure the *Scots* to ſend more moderate Propoſitions than they had formerly ſent, (for the Treaty was broken off before, the Propoſitions were then immoderate) that they ſhould be ſatisfied. Thereupon they were ſo confident of themſelves, and ſo bold, (and in this Maſter *Love* had a principal hand) that without any more ado he frames a Letter to *Scotland*, to adviſe them, and to perſuade them by all means to ſend more moderate Propoſitions. The *Scots* return them this Anſwer, That they ſaw no cauſe to ſend more moderate Propoſitions; but they deſiring a good Succeſs of the Treaty, they ſhould ſend beforehand to the King, to prepare and move him to comply with the Propoſitions when they came. Thereupon they were as ready, where as they ſent with the one hand to the *Scots*, ſo with the other hand to the King. They framed a Letter to the King, and I will expreſs it in their own Language; this was the Subſtance of their Letter: Firſt, they let the Prince know, that there was a conſiderable Party in *England* ſenſible of their Sufferings there, (they made themſelves ſo conſiderable;) and by and by you ſhall ſee what became of that. Firſt, The King did underſtand them to be ſo conſiderable. Secondly, They were bound in Conſcience and Loyalty, to the utmoſt to help him to his juſt Rights, if he were once engaged with them by taking the Covenant, &c. and proſecuting the Ends of it. Thirdly, That there was no way to do this, but by cloſing with his Subjects of *Scotland*. Fourthly, That being done, all the Presbyterians were bound to aſſiſt him. And this, which they did, muſt be ſent away before Commiſſioners come, to prepare the

King to give them good Entertainment. With this Letter there was a Letter ſent to the late Queen, to deſire her by all means to work the King to a Compliance with the *Scots*. And there was a Letter ſent to my Lord *Piercy* and *Jermin* to that purpoſe; taking notice that the Queen, my Lord *Piercy*, and *Jermin*, were their very good Friends, and ready for this Conjunction: Whereof they took ſpecial notice, and did approve of it as a Thing very acceptable, and which ſhould be remember'd in due time. My Lord, this Letter was ſent; and afterwards *Maſon* he brings the Anſwer from the King, and Queen, and *Piercy*; all agreeing to this Work, That the *Scots*, if they came with Propoſitions, ſhould be complied withal. But *Piercy* and *Jermin* writ further, and did adviſe them, to the intent the King might not fall back again, that they would ſend a meet Perſon to be preſent about the King when the Commiſſioners came, that ſo he might ſee fair Play. And thereupon *Titus* was ſent away, to be an Agent there for them at this Treaty: And this Treaty was at *Jerſey*. But this Treaty took not effect, as was deſired: Whereupon they reſolved upon another Treaty at *Breda*. But at the Treaty at *Breda* the King adviſed in his Letter, (which I ſhall read) in the latter end of the Letter, that they would ſend Commiſſioners then to treat with him. My Lord, the Letter was written by the King back again to the Miniſters: Firſt, The King in the Letter took notice of the Miniſters Non-compliance with the preſent Power, and of their Loyalty and good Affection to him; and that if God reſtored him, he would requite them. Secondly, He promiſed all Satisfaction to the *Scots*. Thirdly, Made large Promiſes of high Favours, particularly to the Miniſters. Fourthly, Wiſhed them to ſend Commiſſioners ſufficiently inſtructed, to treat at *Breda*. Now, my Lord, in the Diary that came along with this, (for there was a Diary of all *Titus*'s Negotiations) in that Diary it did appear, that the King was very much ſatisfied with the Correſpondent's Application to him; and that that ſhould be a main Argument to him to ſatisfy the *Scots*. So, my Lord, if they had not thus moderated and perſuaded the King that they were a very conſiderable Party, he would never, in all probability, have cloſed with the *Scots*, but have thought them very inconſiderable. But when he was informed that if he cloſed with the *Scots*, he ſhould have a conſiderable Party in *England*, that made him think the *Scots* were worth cloſing with. My Lord, *Titus*, in his Negotiation at *Jerſey*, did aſſure the King, That the Miniſters were averſe to the preſent Government both in Pulpit and in Print; and that they were well affected to ſerve him and the Nation; and that the Nation was ready to eſpouſe his Quarrel, if he did join with the *Scots*. This he did aſſure him in the behalf of the Miniſters. And to ſhew how they did own this, they did like this Aſſurance ſo well, that they ſend him another Letter; and they did likewiſe ſend him a Letter of Thanks for his good Service he had done, in poſſeſſing the King how conſiderable they were. My Lord, after this Buſineſs of *Jerſey*, when *Titus* had done his good Service there, he was coming home to make his Relation; but hearing by the way that the Council of State had intercepted ſome Letters, he durſt not come farther than *Calais*: And from thence he ſends a Letter, to let them know all this; and withal, that he had ſomething to communicate to theſe Conſpirators, that was not fit to be communicated by Letter; and therefore deſired that ſome meet Perſon might be ſent to *Calais*. Thereupon this Letter being read in Mr. *Love*'s Study, (ſo ſecretly was it carried) there it was agreed that Major *Alford* ſhould be the Man that ſhould go to *Titus*, and ſhould receive all this Account from him. Whereupon *Alford* he went away to *Titus* preſently, and there he did ſpeak to him; and *Titus* did acquaint him with all theſe Proceedings; and withal, they did adviſe that a Commiſſion ſhould be ſent in the latter part of the Letter. So that now they had no more to do, but, ſince their Hopes failed them at *Jerſey*, to have an Eye to the Treaty at *Breda*, where they deſired to ſend Commiſſioners. My Lord, this Letter, to be preſented at *Breda*, was managed at Mr. *Love*'s Houſe. Colonel *Maſſey*, Colonel *Graves*, *Titus*, &c. theſe were the Parties. There were Letters ſent to them to act accordingly: And *Titus* ſent Letters to the King and Queen, and *Piercy*. And again, my Lord, for the Commiſſion, it was as tranſcendent a Boldneſs as ever was done by private Men: The Commiſſion was corrected by Mr. *Love*; for it was rough-drawn by *William Drake*, which was the *Engliſh* Agent here. But Mr. *Love*, in his Study, and Doctor *Drake*, did help to correct it. The Subſtance of the Commiſſion was this: 'We, the 'Presbyterian Party in *England*, do authorize you '*Francis* Lord *Willoughby* of *Parham*, *Edward Maſſey*, '*James Bunce*, *Richard Graves*, and *Sylas Titus*, to 'treat on our behalf, and the reſt of our Brethren 'the Presbyterians of *England*, with the King; and 'to aſſiſt our Brethren the *Scots* Commiſſioners in 'their Treaty with the King, and to do accord-'ing to the Inſtructions annexed.' My Lord, here be the Heads of the Inſtructions; That the Commiſſioners ſhould uſe all Arguments they could to move the King to give the *Scots* Satisfaction, and to take the Covenant; and particularly to inform him of the Condition of Affairs, and how Things ſtood in *England* at that time, all which then cried out for an Agreement with the *Scots*; giving them full Power of all Things; and what ſhould be concluded by them the Commiſſioners, ſhould be confirmed by the Confederates. I think, my Lord, here was a very large Commiſſion; whatſoever they thought fit, they were willing to comply with and make good. My Lord, at Mr. *Love*'s Houſe, at the ſame time it was moved, (according to a Letter from my Lord *Piercy* to *William Drake*) that a good Sum of Money might be ſent the King, as a great Means to diſpoſe the King to an Agreement with the *Scots*. But they did not think fit to be cozened of their Money; but if this Conjunction did follow, then to raiſe Money conſiderably. And they went on ſo far, as to debate how to raiſe this great Sum of Money for this pious Work, as you ſhall hear by and by, under what Notion when propounded. Thoſe Men agreed that the beſt way was, That the Miniſters ſhould have ſeveral Correſpondents; and that they ſhould propound the lending of ten, twenty, thirty, forty, or fifty Pounds for a charitable Uſe: But you muſt not ask what this charitable Uſe is for. And this charitable Uſe, what would it have been? If God had not bleſs'd the Battle at *Dunbar*, we ſhould have ſeen it. My Lord, a little before the Battel at *Dunbar*, when they had a Letter from *Maſſey*, or *Bailey*, or ſomebody, they then began to underſtand their Brethren better than before: For he did inform them, That notwithſtanding what was pretended, yet for all that there was no *Engliſh* imployed, nor was the King crowned. This did diſturb the Minds of the Conſpirators very much; inſomuch that they did expoſtulate with a large

Letter

Letter, written by Mr. *Love* and Dr. *Drake*, written in a Table-Book in Sack, and ſent there. They did expoſtulate with them, becauſe the Presbyterian Party, which was the over-ruling Party, were grown ſo confident of carrying all before them, that they did neither crown the King, nor mind the *Engliſh*. They did blame them for this, ſeeing this going upon a ſingle Intereſt, and upon one Party alone, which they did call Godly, would not do well. And, my Lord, it proved ſo indeed: They carried it on upon this till the Battel at *Dunbar* came, and then they began to be of another mind. After that Battel, there was a Letter from the Commiſſioners of Eſtates, preſſing for Arms and Ammunition; and Letters from *Maſſey* and *Titus* for Money to be ſent. My Lord, theſe good-natured Men, notwithſtanding they had been ſo handſomely dealt withal when their Brethren were in Power, yet for all that, ſo fierce and eager were they to carry on this great Deſign, which God knows what it would have come to, they notwithſtanding, upon Mr. *Love*'s Propoſition, (for he was the Man who did propound it) agreed to ſend five hundred Pounds preſently to *Maſſey*. My Lord, this Money was raiſed, and Subſcriptions taken by Mr. *Love* himſelf at his own Table. And this is proved by one who brought his ten Pounds: He brought it to Mr. *Love*, and would truſt no body elſe with it. And this was ſent away preſently by Captain *Maſſey*. My Lord, there was a large Letter ſent alſo with the Money, wherein was good Counſel; for beſides the Money, he did write to adviſe his Brethren, that it would be notable Service to endeavour after Union. The Letter was ſent; and that large Letter, inviting to Union, had been delivered to the Aſſembly; and that would help to quaſh the diſſenting Party in *Scotland*, who had made the King a Priſoner. But now the State and Church were all agreed: And this was the Fruit of Mr. *Love*'s Letter. And if they had not been ſo united, they could have done no Harm. This Letter came ſo ſeaſonably, that they conceived it very conſiderable. They preſſing to Union very much, by this means did quaſh the diſſenting Brethren; and by that means they came to be as now they are. My Lord, about *Chriſtmas* laſt there came a Letter from *Maſſey*, which gave an Account of crowning their King, and of great Preparations to take the Field; and that the Correſpondents here ſhould beware of unſeaſonable Riſing; and that they were moſt afraid that theſe Perſons would riſe too ſoon, and ſo ſpoil all. My Lord, in anſwer to this Letter, they write back again to *Maſſey*, to adviſe him, on the other ſide, to take heed that he came not into *England* but well provided, and not to depend much upon the Aſſiſtance here in *England*: They were afraid he was too weak, as he was afraid they were too forward. My Lord, after *Cook* was apprehended, then the Correſpondents met no more at publick Meetings; and yet they received Letters from *Drake*, *Maſſey*, *Bunce*, and the reſt, (whereof Mr. *Love* was ſtill made acquainted, as a principal Man) that told them of the hopeful Condition of the *Scots* Army, that they intended to engage in *England*; adviſing the Party here not to be too forward. This was the ſecond Advice. And ſee the Reaſon of it: For if Mr. *Love* ſat at the Helm, as he did, all the Meetings being at his Houſe, after *Drake* went away, he ſtill ſtating the Queſtion, drew theſe Letters, and corrected them. And if he were ſuch a main Stickler, truly there was very great Reaſon for his Advice. My Lord, about the middle of *March* laſt Colonel *Bamfield*'s Man brings an Anſwer to the Meſſage in the Table-Book, written in Sack, containing four or five Sheets of Paper. Upon this Packet there was nothing written but the Letter *L.* to deliver to one of the Conſpirators: And ſeeing nothing but the Letter *L.* written, he carried it to Mr. *Love*, and Mr. *Love* did own it as ſent to him. And that was the large Narrative of the State of Affairs in *Scotland*, after the Fight at *Dunbar*, how Things ſtood there. My Lord, with this Narrative was ſent alſo a Letter from Mr. *Bailey*, by Order from the General Aſſembly: They did order Mr. *Bailey* (which was the *Scotch* Correſpondent there) to write a large Letter. And there was another Letter from my Lords of *Argyle*, *Lowdon*, and *Lothian*, *&c.* It is worth your obſerving what this Letter was that came from theſe Men: Firſt, Thanks for the good Affections of Mr. *Love* and the reſt of the Conſpirators. Secondly, Incouragement to perſevere; and to credit *Bamfield*'s Negotiation for Money. Thirdly, Promiſes to repay all, whatever they ſhould lend. But when and by whom this Payment ſhould be made, the Letter will tell you; and that is, when God ſhall bleſs their Endeavours in procuring a Free Parliament in *England*. So the Parliament in *England* muſt pay all the *Scots* Debts, that theſe Conſpirators ſhall lend. Truly, I think it will be a very free Parliament indeed, when it comes ſo free out of the People's Purſes. My Lord, Mr. *Love* and others gave *Bamfield*'s Man, that brought this Narrative, out of their own Purſes ten Pounds, and ſent a Bill of Exchange of thirty Pounds to *Bamfield*: By one Witneſs it will be expreſly proved, that ten Pounds of this Money came out of Mr. *Love*'s Purſe. My Lord, *William Drake*'s laſt Letter did inform that *Maſſey* would break into *England* as ſoon as there was Graſs for his Horſes; and therefore he ſent to have a good Bank of Money provided in readineſs; and that they ſhould think of timing a Party; and that they ſhould neither riſe too ſoon nor too late, but juſt when *Maſſey* came in. This Mr. *Love* told Major *Adams*. My Lord, now we come ſo near to the Time, as that one of theſe Conſpirators is apprehended by the Council of State: When he had been in Reſtraint three Days, he ſent to Mr. *Love*; and Mr. *Love* came to him. But he had been at a kind of Faſt; for they did keep Faſts once a Fortnight, at leaſt, and Prayers for the good Succeſs of this Deſign; That God would bleſs this wonderful Treaſon, which was for the making, by the *Scots* Army, an utter Subverſion of this Commonwealth, and the free, and noble, and magnanimous People of *England* ſhould be made Vaſſals and Contributaries to the *Scots* Nation. This was the Deſign; and for this Deſign the Miniſters faſted and prayed: But it is plain God did abhor ſuch Things. And, my Lord, Maſter *Love* took upon him to ſpeak to the Perſon under Reſtraint; 'Take heed, 'ſaith he, what you do, leſt you wrong your ſelf 'or others.' And ſaid, 'It is true, *Titus*'s Man 'hath broken up Papers; but we are all well 'enough: But give notice to the reſt of the Confe'derates, that they may not be ſurprized: But be 'you not troubled, becauſe we have pray'd for you 'this Day.' And they implored the God of Truth that nothing of all this ſhould come to light, but that we ſhould be in the dark ſtill in generals. My Lord, this is the true State of the Evidence, as near as I can preſent it, with a frail Memory: And, my Lord, I have opened nothing but Generals; your Lordſhip and the Court will judge it; and Maſter *Love* will have the leſs to do to anſwer.

But it appears by this, that there hath been ſuch a Practice, ſuch a Series of Treaſon, Treaſon upon Treaſon, that one Act of Parliament is not enough to contain it; but all thoſe Acts of Parliament read, every one of them make him a Traytor. And, my Lord, I am ſorry I have taken up ſo much of your Time, eſpecially when you have ſpent ſo much Time before: If your Lordſhip therefore will be pleaſed to have the Patience to hear the Witneſſes, we ſhall prove more than I have yet opened.

Attorn. Gen. My Lord, this was an early Treaſon that began betimes to cruſh the Commonwealth in its Infancy; and, my Lord, Maſter *Love* being ſingled out for Juſtice, you will anon obſerve there was ſingular cauſe for it; and if he had had his Deſert, it had been long before now: but States can play ſometimes with Treaſons, and not take a time till they ſee fit. My Lord, this Treaſon, as I have opened it to you, began in the Year 1648. The King of *Scots*, ſo called, but take notice, that the ſame Nation and Perſons that proclaimed him King of *Scotland*, proclaimed him King of *England* alſo at the ſame Time, in the ſame Nation: and thoſe Perſons that proclaimed this Perſon King of *Scotland*, the ſame proclaimed him King of *England*. My Lord, you have heard ſome of the Conſpirators named, *Titus* and *Drake*, active Men both of them: Theſe Men have been ſo ingenuous, that they have fled for their Treaſons; notwithſtanding this Gentleman, a Miniſter of the Goſpel, he doth not do ſo: they have confeſs'd their Offences, and are fled for them; they dare not appear, they have ſo much Guilt within them that prompts them to keep away; but this Gentleman hath not ſo much. My Lord, *Drake* was ſo active, and it was carried on with ſo much Secrecy, and ſo much (as they thought) of Caution, that Maſter *Drake* writing, as that Gentleman next Mr. *Love* doth, in Short-hand, he burnt his Papers, and burnt all where any thing was to be ſeen; ſo that no Originals are to be ſeen. My Lord, in this caſe it hath been opened unto you what Tranſactions Mr. *Love* had with *Scotland*, and you have been pleaſed to obſerve it was a tender Point, that Mr. *Love* did enter Diſcourſe with the *Scotch* Nation, Mr. *Love* was very much troubled at it, and he may ſee juſt Cauſe to be troubled at it. And will you give me leave, there hath been Blood and Treaſure ſpent, as was told you by Mr. Sollicitor. I am afraid I might too juſtly ſay by that Gentleman, and thoſe he did ſeduce, that they have been too much the Cauſe of this Blood, even that Gentleman that ſtands at the Bar, that ſhould be a Man of Peace, and not of Blood: My Lord, I may juſtly ſay, That that Gentleman hath been too much the Cauſe of theſe late Engagements between theſe two Nations, and making himſelf a Party: And it is a ſad Thing when Parties appear againſt a State. My Lord, I am too much afraid, whatever God pleaſes to work upon him, that it ſhould touch his Conſcience that he ſhould be inſtrumental in ſuch a Work. But I verily believe, had there not been Actings from hence, there had not been ſo much Forwardneſs in the King's Party to the *Scots*. My Lord, I will mind that Gentleman of what is ſaid of the Fifth of *November*; I am ſorry for it, that it ſhould be ſaid of our Miniſters, *whoſe Faith is Faction, whoſe Religion is Rebellion:* It is ſaid ſo of the *Romiſh* Miniſters, I hope it will not be ſaid ſo of the *Engliſh*, That their Faith is Faction; and that they pray for Strife, and faſt for Strife. My Lord, for theſe Men, *Drake* and *Titus*, they are gone, as I ſaid; and they did confeſs themſelves ſo much guilty, as that they have fled for it: and Mr. *Love* doth know (I am ſorry to ſee him in that Geſture) that he was converſant with them all, and doth know (I believe) that we can prove it; and when he hears the Men named, he will ſay ſo too. Truly, my Lord, I have nothing to ſay againſt the Perſon of the Man, but againſt his Vices and Faults; and nothing to his Function, and nothing to thoſe whom he pretends ſo boldly to repreſent, that is, the Presbyterian Party. We do all know there are many honeſt, precious, and godly Men, that have received no Diſcountenance from the State; nor this Gentleman, that ſhould give him any Countenance or Encouragement to oppoſe the State. But it is ſomewhat a bold Thing, for a particular Man to be the Head of a Party; and they to engage as repreſenting a conſiderable Party, to engage to ſend Commiſſioners to agree upon Inſtructions: This is very bold. But, my Lord, God be thanked, many of thoſe that were ſeduced at firſt were wiſe, and did come in before the laſt; and did not ſtrut it out, my Lord, with States and Juſtice, as that Man hath done before now, and at preſent, even out-facing Juſtice, and boldly, I ſay, wiping his Lips: He hath done no Offence. My Lord, they were ſo bold with *Scotland*, that there was a known Agent there maintained and kept between *Scotland* and them: And I will tell him the Gentleman's Name; his Name was Mr. *Sterks*. And, my Lord, when he went away, the Act requiring thoſe of the *Scotiſh* Nation to be gone, that Gentleman did ſupply him with Money himſelf, and others gave him eight or ten Pounds in his Purſe, to carry him away. My Lord, I believe he knows this: And I am ſorry that that Gentleman, that hath gone along with us in much of this War, that he ſhould at laſt ſo much betray his own Diſcretion, as rather to truſt a reconciled Enemy, than to be true to his own Friends. I ſay, he truſts a reconciled Enemy, and a weak Enemy; and that he will think, and will know, that they might betray him; as juſtly may be done, when Men ſo caſt themſelves upon the Party of the King, and Queen, and *Piercy*, and *Jermin*. It is no great Policy nor Diſcretion to have ſo many of Counſel: They ſay three keeps Counſel; but this Gentleman hath now twenty, thirty, forty, in *Scotland*, *France*, and *Holland*, and Agitations between them, and frequent Intercourſes. My Lord, I ſhall now call the Witneſſes out to you, which, when Mr. *Love* doth ſee, himſelf will ſay are honeſt Men, and to be believed.

Mr. *Love*. My Lord, I beſeech you let me ſpeak a Word.

Attorn. Gen. My Lord, he hath heard his Charge in particular; and thoſe Things which, if he be ingenuous to himſelf and his own Conſcience, he cannot but know we ſhall prove them: And before we prove them, I deſire to hear whether, or no, he will confeſs them.

Mr. *Love*. I hope this Court will not hearken to the Inſinuations of Inſtruments of State, who are well rewarded for their eager Proſecution of Men in ſuch a Condition as I am in: It is an eaſy matter, through Flouriſhes of Law, and Strains of Wit, to ſtir up the Minds of my Judges againſt me.

Ld Preſident. You have heard the Matter opened to you; which you cannot in any chriſtian or godly Conſcience or Underſtanding but acknowledge, that ſuch Secrets as theſe you were privy to, and came to your hand: You cannot, before God and Man, do better than to confeſs theſe which you know,

know, by the urging of them upon you, are come to our knowledge.

Mr. *Love.* Will you give me leave to expreſs my ſelf as to theſe Things which I am now charged with? I do declare and proteſt, in the Preſence of God and this great Aſſembly, that I never wrote any Letter, either to the King of *Scots*, or to the Queen his Mother, or to the Church or State of *Scotland* in the general, or to any particular Perſon of the *Scotiſh* Nation, ſince the Wars began between *England* and *Scotland*, to this day. I do declare alſo, in the Preſence of the ſame God, I never received any Letters, written to me, either from the King of *Scotland*, or Queen his Mother, or from the Church or State of *Scotland* in general, or from any particular Perſon of the *Scotiſh* Nation, ſince the Wars began between the two Nations to this day. I declare and proteſt likewiſe, in the Preſence of the ſame God, I never collected, or gave, or lent one Penny of Money either to ſend into *Scotland*, or into any foreign Part, to the King, or Queen his Mother, or to the Church or State of *Scotland* in general, or to any particular Perſon of the *Scotiſh* Nation, ſince the Wars began to this very day. And as to theſe Particulars, I have ſaid it often, I am as innocent and as harmleſs as the leaſt Child: And if you will take the aggravating of theſe Circumſtances againſt me, and will proceed upon Aggravations of the Crimes againſt me, I hope God will help me with more Peace of Conſcience to undergo the Cenſure, than you ſhall have to inflict it. And as for that Gentleman, that made that great Relation to you of the Treaty of *Jerſey*; for my part, I am as great a Stranger to all thoſe Tranſactions as any here: I never ſaw the Face of *Titus*; nor did I ever ſend to him, or receive any thing from him.

Attorn. Gen. My Lord, we ſhall call the Witneſſes.

[Captain *Potter* is called into the Court.]

Mr. *Love.* I except and proteſt againſt this Witneſs; for he hath been already examined in private, and hath made his Confeſſion there; and that is equivalent to a Conviction: And I hope the Court, in Juſtice, will not admit of this Man for a Witneſs.

Ld Preſident. You ſhall have Juſtice as well as ever any Jeſuit had.

Attorn. Gen. You ſee now what Mr. *Love* drives at, and you will find his Jeſuitical Evaſions. And, my Lord, let him be asked, whether ever this Man was before this Court, or any Committee of this Court; and I think in Juſtice you ought to examine Witneſſes before-hand. But it is clear and evident that this Man hath been a Party with him. I do humbly conceive it is ſo clear and evident, that rather I ſhould except againſt the Witneſs, as an incompetent Witneſs, than Mr. *Love*, becauſe he hath been a Party with him: But I deſire he may be a competent Witneſs, and one in whom there is more Ingenuity than there is in Mr. *Love*.

Mr. *Love.* Sir, before he ſwears, I beſeech you ask him this Queſtion, Whether he hath not been threatened with Death, if he would not witneſs againſt me?

Ld Preſident. You cannot over-rule us with your Beſeechings and Beſeechings; it will not do it: Your Over-importunity ſhall not prevail with us.

Mr. *Love.* Let God prevail with you: Though he may be *Legalis Teſtis* before Conviction, yet he cannot be ſo after Conviction.

The Clerk. *The Evidence you ſhall give, between the Keepers of the Liberties of* England *and the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God.*

[He is ſworn.]

Ld Preſident. Now look upon the God of Truth and ſpeak the Truth.

Capt. *Potter.* I ſhall ſpeak the Truth.

Attorn. Gen. That Gentleman was pleaſed to truſt others, as I ſaid, even reconciled Enemies, and fell from his Friends. I do grant that this Gentleman hath confeſſed: And if every honeſt Man confeſs his Fault, that is no Offence; for an honeſt Man queſtioned for a Fact, to confeſs the Truth thereof: I have not heard that that is no good Law. And I do ſay, that before ever this Man came to be examined, we did know it all; and perchance from thoſe that this Gentleman thought fitter to truſt than us. But we did ſo know it before, that every Circumſtance was opened by us; and we did convince this Gentleman and others, tho not Mr. *Love*. But Mr. *Love* ſaith he muſt not accuſe himſelf, he muſt not anſwer; but this Gentleman did more ingenuouſly. I do affirm that he was queſtioned to every Particular, before he anſwered: And we do know that the State hath long Hands and Ears. Now, my Lord, if you pleaſe, ask Mr. *Potter* what he knows of this Buſineſs, of ſending to and receiving from *Scotland*.

Ld Preſident. You are upon your Oath, and in the Preſence of God, than whom there is no higher upon the Earth, that is in the Seat of Juſtice, and without relation (as Mr. *Love* ſaith) to the Parties: Therefore tell the Truth of your Knowledge in the Tranſaction of this treacherous Treaſon, that hath been now above two Years in the Paſſages, between the Presbyterian Party.

Attorn. Gen. No, my Lord, we will not own that upon them: There are ſome that do ſtile themſelves ſo, the Presbyterian Party, that are conſcientious Perſons, and pious and godly Men; and I ſhould do them wrong, ſhould I lay it upon them: But that which I do, is againſt thoſe that do undertake to ſtile themſelves the Heads of them.

Ld Preſident. Begin then with that which concerns Mr. *Drake's* Agency.

Capt. *Potter.* I have taken an Oath to ſpeak the whole Truth in this Buſineſs; but that is the Truth I know. I deſire I may not be preſs'd to Things that I have only heard.

Attorn. Gen. You muſt, and from whom you heard them.

Capt. *Potter.* I was examined ſeveral times, and had a wide Latitude there; and then I was to ſpeak to every Truth as I thought and heard: But now I have taken an Oath to ſpeak the Truth between the State and this Gentleman. And I beſeech you that I may be held cloſe to thoſe Things, and I will give you the fulleſt and faireſt Account I can. What I ſaid before, was in order to the Diſcovery of the Thing, much of which I had by hear-ſay from others; and in that I may miſtake in Perſons, Places, and Times. What I have done my ſelf, and what I know this Gentleman hath done, that may be put to me fully.

Mr. *Love.* The Witneſs muſt ſo ſpeak, *That we have ſeen and heard, that do we teſtify.*

Attorn. Gen. Your Doctrine will not paſs here.

Mr. *Love.*

Mr. *Love.* It is Scripture, Sir; and it behoves me to ſpeak, for I am upon my Life.

Attorn. Gen. Mr. *Potter*, ſpeak what you know, and from whom; and I deſire there may be no Gloſſes put there by thoſe who, I am ſure, cannot do it. I ask you firſt of the Proceedings, and ſending to *Scotland*, and back again to *England*; and what you know of it, and from whom.

Capt. *Potter.* My Lord, the Committee that examined me knows I was not privy to the firſt Tranſaction: I did ſay indeed ſomething of it by hear-ſay; and I did likewiſe ſay that Mr. *Drake* told it me. But I may err in that Particular; poſſibly Mr. *Drake* did not tell me ſo; for, as I apprehend, I ſaid I did think it did put a Neceſſity upon the King to agree with the *Scots*; and then having ſeen ſome Papers, and conferred with that Relation others have made, I collected the Truth of them, as far as I did know. But now I am upon my Oath; let me therefore come to the Matter: I ſpake then many Things as I heard, which I cannot affirm upon my Oath.

Ld Preſident. We muſt judge of what you have heard.

Capt. *Potter.* My Lord, I cannot be certain of that.

Attorn. Gen. That is receded from. But what do you know of *Maſon*'s coming over here?

Capt. *Potter.* I know nothing of *Maſon*: I ſaw him but once; and at that Time there paſt nothing between us of publick Concernment, as I remember.

Attorn. Gen. What was the Anſwer that was returned to that which *Maſon* did bring?

Capt. *Potter.* That I can ſpeak nothing to of my own Knowledge: I heard he was come hither; and was here to ſee the Tempers of Men, and to ſee how Things were like to go.

Attorn. Gen. My Lord, ask him from whom he came.

Capt. *Potter.* It was ſaid he came from my Lord *Piercy*. But theſe Things are ſo remote from me, that I can ſay nothing to them of my own Knowledge.

Attorn. Gen. My Lord, let him ſpeak what he knows about reconciling the Presbyterian Parties.

Capt. *Potter.* I think others can ſpeak more cloſe to that; I can ſay nothing but by hear-ſay: I heard that *Maſon* did endeavour here to find how the Affections of the People ſtood; and whether there was a Neceſſity that the King ſhould comply with the *Scots*, or with the Cavaliering Party; and that he found a Neceſſity of complying with the *Scots*.

Ld Preſident. What Aſſiſtance ſhould he have from hence?

Capt. *Potter.* I know no more of *Maſon* than this.

Attorn. Gen. My Lord, ask him if there were not ſome Letters returned by *Maſon*, in anſwer to what he brought.

Capt. *Potter.* Not that I know of.

Ld Preſident. Did you hear of it?

Capt. *Potter.* I think I did hear of it: But I cannot tell by whom; I think by *William Drake*.

Attorn. Gen. My Lord, ask him whether he knows of any Petition ſent to the King of *Scots*.

Capt. *Potter.* I do not know of any; but have heard ſo.

Ld Preſident. By whom did you hear ſo?

Capt. *Potter.* By *William Drake*.

Ld Preſident. Who did *Drake* ſay did carry the Petition?

Capt. *Potter.* I cannot tell.

Attorn. Gen. Do you know of any Anſwer returned from *Piercy* and *Jermin*?

Capt. *Potter.* I know nothing at all of theſe Things.

Ld Preſident. Were not you invited to the Meeting?

Capt. *Potter.* Yes, I was.

Attorn. Gen. What did he tell you?

Capt. *Potter.* Nothing at all: We had nothing but common Diſcourſe there.

Attorn. Gen. Who was there?

Capt. *Potter.* There was *William Drake*, Major *Alford*; and I think *Maſon* and *Titus* were there.

Ld Preſident. Do you remember any more?

Capt. *Potter.* I do not remember; nor can I certainly ſay they were there.

Ld Preſident. Were not you preſs'd or moved to go to *Jerſey*?

Capt. *Potter.* Not that I know of.

Ld Preſident. Did not *Titus* offer to go?

Capt. *Potter.* I cannot well tell: But at that Time, or ſome other, he either was ſpoken to to go, or offered to go.

Ld Preſident. How long ago?

Capt. *Potter.* My Lord, I cannot ſpeak this of my own Knowledge; but I have heard ſay, I think, a Month after the Time.

Ld Preſident. Had he any Money to bear his Charges?

Capt. *Potter.* I know of none.

Attorn. Gen. Well, what Meetings afterwards was there in Mr. *Love*'s Study?

Capt. *Potter.* I have been at Mr. *Love*'s ſeveral times.

Attorn. Gen. My Lord, ask him whether he was not preſent in Mr. *Love*'s Study, when a Letter was there read from *Titus*; and who was preſent there; and what were the Debates upon it; and what was the Contents of the Letter; and whether it was not for ſome to come to *Calais* to him.

Capt. *Potter.* The Letter I well remember: I cannot ſay it was in Mr. *Love*'s Study; nor can I ſay it was in his Houſe: I do not know Mr. *Love* was preſent. The Letter, I have ſeen it, or heard of it: It did deſire ſome to come to *Calais* about the Treaty: And I remember well that Major *Alford* told me he did go to him.

Ld Preſident. What was the Contents of the Letter?

Capt. *Potter.* I cannot well remember that I have ſeen it: But I have either ſeen it or heard of it; I cannot tell which.

Ld Preſident. You muſt be true to the State, and ſpeak the Truth.

Capt. *Potter.* My Lord, I would be true to the State, and to the Gentleman at the Bar too. And, my Lord, I can ſay no more to it: I either ſaw it, or heard of it; I cannot tell which. I am upon my Oath, my Lord: The Letter did deſire ſome body to come to *Calais* to him.

Attorn. Gen. Was not this Meeting in Mr. *Love*'s Study?

Capt. *Potter.* I cannot ſay it was in his Houſe: I rather think it was not.

Ld Preſident. Was he preſent?

Capt. *Potter.* I cannot ſay he was preſent; I think he was not preſent: I think Mr. *Alford* was ſent to the Tavern.

[The Papers of Captain *Potter*'s Examinations were here produced by the Attorney-General, and by the Clerk read to him.]

Attorn.

Attorn. Gen. My Lord, these were his Examinations.

Capt. *Potter.* I intreat this may be remember'd, (which I premised at first) I had a Latitude then, that I have not now: I am now upon my Oath, and desire to be true to my own Conscience, and to the State, and to this Gentleman. I have made (it is true) such a Confession as this is; and I believe the greatest part of it to be true, according to the Latitude I spake it in: But now I am upon my Oath, and now I am to speak knowingly. The Substance of the Thing is true; I believe that he was sent, and sent upon such Things: So much I do verily believe to be true, upon my Oath; but of the Places I cannot speak.

Attorn. Gen. Alford did go to *Calais*, and return: And how many Days was it between his going and returning? And where did he give an Account of what he did receive from *Titus* at *Calais*?

Capt. *Potter.* It is a hard Matter for me to speak to the Time: I think about a Week. And for the Relation he made when he came back, as I take it, I met him at the *King's-Head* in *Walbrook* upon his Landing; whether he made the Relation to me there, or afterwards at Mr. *Love's*; whether I heard of the Meeting, or whether I was at the Meeting, I cannot say. I am sure he himself made me the Relation; but whether there, or any other where, I cannot make out.

Attorn. Gen. Upon your Oath, did not Major *Alford* make return of the Answer in Master *Love's* Study?

Capt. *Potter.* I cannot say it; but I think it was there.

Attorn. Gen. Was Master *Love* present?

Capt. *Potter.* I think he was present; and I think it was in his House: I am sure Major *Alford* made me a particular Relation between him and I.

Attorn. Gen. Was *Sterks*, the *Scotch* Agent, there, or no?

Capt. *Potter.* I cannot say he was.

Ld President. Was it read in Master *Love's* Study?

Capt. *Potter.* I cannot say I was there.

[His Examination was again read to him.]

Attorn. Gen. What was the Substance of the King's Letter?

Capt. *Potter.* It is so much out of my Memory, that I scarce remember there was a Letter; it is so much out of my Mind.

[More of his Examination was read to him.]

Ld President. What do you remember of this now? Is this true?

Capt. *Potter.* I remember I have heard as much; and I believe it is true.

Ld President. Have you not heard the Letter read?

Capt. *Potter.* I do not know there was a Letter sent; nor do I know there was a Letter read. I desire to speak the Truth: I had a Latitude then, that I have not now; I had then such an Information shewed me, and I spake to it so far as I thought it was true. These Papers you shew me, as my Examination, were not of my framing.

The Clerk. Look upon them: Is not this your Hand?

Capt. *Potter.* I know it is my Hand.

Attorn. Gen. My Lord, I did go to the *Tower* to him, and was with him, and did examine him. My Lord, here be those that will prove it, that himself did confess, and said it was true: And he took time himself to inform himself, and had (as he said) other Mens Examinations and Informations by; and he did add and amend, and gave it under his Hand. This is the Truth, after several Examinations. And he had Papers by him, and did correct them himself, and brought them under his own Hand, written by himself, these very Things. And, my Lord, ask him whether he did not write these Things first with his own Hand, and bring them to the Committee of Examinations.

Ld President. Whether did you not bring in your own Examinations, and what you could inform, written by your own Hand?

Capt. *Potter.* My Lord, that is my Hand; and what is there I must own as mine. But I hope you will let me distinguish between what I delivered then as I heard it and thought, and what I deliver positively. I do say it is true now, as I have heard.

Ld President. Why did you not say of Hear-say then, as well as now?

Attorn. Gen. Upon the Oath you have taken, whether do you not know this of your own Knowledge?

Capt. *Potter.* Upon the Oath I have taken (and I desire to speak it in God's Presence) I do not remember that I saw the Letter from the King, or heard the Letter read, or the Copy; nor can I say *Alford* told me so much, though I think he did, yet I do not know he did.

Mr. *Love.* I desire you would take notice whether this be fair, that Mr. Attorney should help the Witness, by putting things into his Mouth?

Attorn. Gen. My Lord, I can help the Witness by asking him Questions.

Capt. *Potter.* My Lord, no Man shall so far tamper with me, as to make me say an Untruth.

Attorn. Gen. My Lord, pray ask him whether he did not write these Papers, most of them, with his own Hand.

Capt. *Potter.* True; but to open to the Committee the ground of this Business: But I did not expect to swear to every one of these Particulars.

Attorn. Gen. My Lord, ask him whether after this Return was made there was not a Meeting, and Instructions made about the Commission to be sent to *Breda*.

Capt. *Potter.* My Lord, to that, I have heard so much; but I cannot speak it positively. I saw no Commission, nor Instructions: I heard there was both. I do not know by whom I have heard it; I think by *William Drake*.

Ld President. Were you not at Mr. *Love's* House when they were drawn up, and Mr. *Love* corrected them?

Capt. *Potter.* I never saw the Instructions.

Mr. *Love.* Nor I neither.

Ld President. Did you not hear so?

Capt. *Potter.* I did.

Ld President. To whom to be directed?

Capt. *Potter.* To Captain *Titus*.

Ld President. And to who else?

Capt. *Potter.* The Commissions and Instructions were to be directed to my Lord *Willoughby* of *Parham*, Colonel *Graves*, Major-General *Massey*, Captain *Titus*, and Alderman *Bunce*.

Attorn. Gen. My Lord, ask him whether he hath not heard Mr. *Love* tell him so.

Capt. *Potter.* Never in my Life.

Ld President. Were you not then present at his House?

Capt. *Potter.* I know not that I was; nor can I remember.

[His

[His Examination was again read.]

Attorn. Gen. Whether were you not at Mr. *Love*'s Houſe? And was there not a Letter agreed upon to *Maſſey*, and *Bailey*, and *Titus*?

Capt. *Potter.* I have been ſeveral times at Mr. *Love*'s Houſe.

Ld Preſident. Whether were you not at Mr. *Love*'s Houſe with theſe Correſpondents?

Capt. *Potter.* I have been ſeveral times at his Houſe with them; and I have been oftner there upon other Occaſions.

Ld Preſident. Name them.

Capt. *Potter.* I mean with Mr. *Love*, and Mr. *Jackſon*, and Mr. *Robinſon*, and Major *Alford*, and Mr. *Drake*, and Mr. *Gibbons*.

Ld Preſident. What was then agreed upon about Letters when you were at Mr. *Love*'s Houſe?

Capt. *Potter.* I have a very bad Memory, I cannot ſpeak to Time, and Places, and Perſons; ſuch Letters I have heard of were written, I profeſs I can ſpeak no more knowingly. I never had a hand in any one Letter, but ſuch Letters I have heard of.

Ld Preſident. Upon what account did you meet at Mr. *Love*'s Houſe?

Capt. *Potter.* I met there ſometimes upon a friendly Account, ſometimes upon a chriſtian Account, and ſometimes to hear News, and ſometimes to tell News.

Ld Preſident. Where did you meet with theſe Perſons, *William Drake*, and theſe ſo often mentioned?

Capt. *Potter.* My Lord, there was a Correſpondency in point of News.

Ld Preſident. Between whom?

Capt. *Potter.* Between Captain *Titus* there, and *William Drake* here; and he would tell us many times News there.

Ld Preſident. Do you know *Titus* was imployed as an Agent hence?

Capt. *Potter.* I think he was.

Ld Preſident. Had he Money collected?

Capt. *Potter.* I do not know of one Penny I lent him, and I never contributed to him.

Attorn. Gen. My Lord, ask him, whether himſelf did not, upon an Occaſion, contribute ten Pounds, and bring it into Mr. *Love*'s Parlour?

Capt. *Potter.* I confeſs that.

Attorn. Gen. For a Table-book that was written in Sack, do you know of any ſuch thing?

Capt. *Potter.* I do, my Lord; I went to *William Drake* in his Retirement, and he was writing out of his Papers ſome Letters in a Table-book, which he told me was in Sack, as I take it.

Ld Preſident. Why did he write them in Sack?

Capt. *Potter.* I take it, becauſe it ſhould not be diſcovered.

Ld Preſident. Do you not know to whom the Letters written in Sack were ſent?

Capt. *Potter.* I know not; but he told me to *Bailey* and *Titus*.

Ld Preſident. Where was *Bailey* and *Titus* then?

Capt. *Potter.* I know not where *Titus* was, but I think *Bailey* was in *Scotland*.

Ld Preſident. After *Drake* was gone, where were your Meetings uſually?

Capt. *Potter.* Many times at Mr. *Love*'s Houſe.

Ld Preſident. When you did meet there, what did you meet upon? Was it not to receive Meſſages from *Titus*, and *Maſſey*, and *Bunce*, and *Baily*, and to return Anſwers?

Capt. *Potter.* We had ſometimes Letters read there, but from whom they came, or to whom, I believe few can tell, I cannot tell; ſomething of News we have heard, of Affairs; that was the Occaſion of my coming ſometimes.

Attorn. Gen. Did Mr. *Love* never tell you the Occaſions of thoſe Meetings, and preſs you to lend Money to furniſh *Maſſey* and *Titus*?

Capt. *Potter.* I can ſay nothing to that.

Attorn. Gen. What ſay you to the private Faſts?

Capt. *Potter.* There were private Faſts.

Attorn. Gen. What! for a Bleſſing upon the Treaty at *Breda*?

Capt. *Potter.* There were Faſts kept, but I never underſtood they were for any other end, but for the Sins of, and Judgments upon the Nations; and for the moſt part there have been hundreds of Men and Women there.

Attorn. Gen. Did Mr. *Love* often officiate there?

Capt. *Potter.* He hath preached and prayed.

Ld Preſident. Did any pray for a Bleſſing upon the Treaty?

Capt. *Potter.* I cannot ſay ſo.

Attorn. Gen. What ſay you to thoſe Letters that came hither after the Fight at *Dunbar*?

Capt. *Potter.* My Lord, after the Fight at *Dunbar* there came Letters from *Bailey*, and *Titus*, and *Maſſey*.

Ld Preſident. And where were theſe publiſhed?

Capt. *Potter.* My Lord, I can ſay no more; I have heard of theſe Letters too.

Ld Preſident. Were not you preſent at Mr. *Love*'s Houſe when they were read, or made known there?

Capt. *Potter.* Poſſibly I was; I cannot ſay I heard the Letters read there, I did hear Letters by a private Hand occaſionally afterwards.

Attorn. Gen. By the Oath you have taken, were you not preſent at Mr. *Love*'s Houſe, when thoſe aforeſaid Letters from *Titus*, and *Bailey*, and *Maſſey*, were publiſhed and read?

Capt. *Potter.* My Lord, I cannot ſay I was there, and I dare not ſay I was not; it is a Year ago: I believe I was there ſeveral times when ſeveral Letters were read, and it may be when thoſe were read.

Ld Preſident. Whether was there not five Pounds given to a Meſſenger that brought them?

Capt. *Potter.* I have heard there was, but I do not know it.

Ld Preſident. Did you contribute any thing towards it?

Capt. *Potter.* I think I did contribute ten Shillings.

Ld Preſident. Who contributed beſides your ſelf?

Capt. *Potter.* I know not.

Attorn. Gen. Was there not at Mr. *Love*'s a Promiſe of Arms or Letters?

Capt. *Potter.* My Lord, I cannot ſay ſo.

Attorn. Gen. What can you ſay?

Capt. *Potter.* I have heard there was.

Attorn. Gen. By whom have you heard it?

Capt. *Potter.* I cannot ſay by whom, or who told me ſo, either Mr. *Alford*, or *Adams*, or *Fay*, or ſome of thoſe Men that uſed to meet there; for it was common, when I was not there, for ſome or other to meet with me.

Attorn. Gen. Did Mr. *Love* contribute to the Meſſenger?

Capt *Potter.* I cannot ſay he did.

Attorn. Gen. My Lord, I do not ask him one Queſtion, but what himſelf hath confeſs'd.

Capt. *Potter.* I do remember ſuch Letters I have heard did come, but never ſaw thoſe Letters; I do likewiſe

likewise remember I heard there were five Pounds gathered for the Messenger, and I do believe I contributed ten Shillings towards it.

Attorn. Gen. Who else gave beside your self, and who received it?

Capt. *Potter.* I profess I know not.

Attorn. Gen. Whether was there not a Declaration to the Church of *Scotland* then published?

Capt. *Potter.* The Declaration, I know nothing of it, you remembred me of it at the Committee, when I was first examined, but I knew nothing of it.

Attorn. Gen. My Lord, ask him whether the State and Church did not write for Arms and Ammunition at that time after the Fight.

Capt. *Potter.* My Lord, I have heard so much, but cannot speak positively or particularly to it; I have heard of such Letters, but cannot tell by whom; I saw them not.

Attorn. Gen. To whom were they directed?

Capt. *Potter.* I never heard who wrote them, nor to whom they were directed.

Attorn. Gen. Was there not one Letter with *L.* upon it?

Capt. *Potter.* My Lord, about the Letter *L.* I did receive those Letters my self, there was an *L.* written upon them: My Lord, these Letters came from *Bamfield* out of *Scotland.* There was in these Letters a large Narrative of the Affairs of *Scotland,* from *Dunbar*-Fight to the time of the Date of them, which I think was about *Christmas*: This is a thing I know better than (I am afraid I give offence by saying, I think, and I heard, and that I cannot speak positively; but of this I can speak positively.) *Bamfield* gave an Account therein of a Narrative of two Sheets of Paper, and I and another or two opened them; and I carried these Letters to Mr. *Love*'s; there was one or two more with me, Mr. *Jaquel,* and I think Mr. *Drake,* I cannot well tell. There was a Narrative of the *Scots* Affairs, and a Letter from nameless Persons, which we suppose to be from Mr. *Bailey,* and from my Lords of *Argyle,* and *Lowdon,* and *Lothian,* and others, whose Names I do not remember. These Letters wrote for ten thousand Pounds for buying of Arms, and hiring of Shipping. These Letters we disliked, and we dissented from them, and agreed to give a negative Answer; but we thought fit, for our own Safety, to raise some Money for the Messenger and *Bamfield,* to which I contributed ten Pounds. I carried all these Letters to Mr. *Love*'s; one or two were opened, I think we opened them; the Narrative and my Lord of *Argyle*'s Letter I opened, before I understood what they were.

Attorn. Gen. Why did you carry them to Mr. *Love*'s?

Capt. *Potter.* There was a great deal of News in them: there was a Letter *L.* and I did in my Examination say, I conceived it was to Mr. *Love*; but now upon my Oath, I do not remember very well, and I do not think it was to Mr. *Love.* I do confess I carried these Letters to Mr. *Love*'s, I and Mr. *Jaquel*; these Letters were opened, but whether Mr. *Love* opened them, or I, or the other, I cannot tell.

Attorn. Gen. With whom did you leave them?

Capt. *Potter.* I brought them away all of them.

Attorn. Gen. Were they not read?

Capt. *Potter.* They were all read.

Attorn. Gen. He confesseth further, he paid ten Pounds: To whom were the Letters directed?

Capt. *Potter.* The Letters had no Direction at all upon them, I believe.

Attorn. Gen. My Lord, ask him, whether there was not a Sum of four or five hundred Pounds agreed to be raised.

Capt. *Potter.* The Advice that was given to that, was, That we should do nothing in it, and we did nothing in it more than I tell you; I carried those Letters to them, and had Discourse of them, and resolved to do nothing in them.

Attorn. Gen. Why did you carry them to Mr. *Love*'s?

Capt. *Potter.* I went for Advice, what I should do with them.

Attorn. Gen. My Lord, pray ask him concerning the four or five hundred Pounds, and for what; and whether this Discourse was at Mr. *Love*'s House. Whether there was not a Proposition for raising four or five hundred Pounds, and for whom this was to be raised, and where to be raised, and by what Means.

Capt. *Potter.* I heard there was, I do not know the Place where; to this I contributed ten Pounds, I brought it one Evening to Mr. *Love*'s House, and there I left it.

Attorn. Gen. Where was this Money agreed to be raised?

Capt. *Potter.* I cannot speak to that.

Attorn. Gen. Who took the Subscriptions?

Capt. *Potter.* I cannot speak to that neither.

Attorn. Gen. Did Mr. *Love* contribute?

Capt. *Potter.* I cannot say he did.

Attorn. Gen. Was it in his House?

Capt. *Potter.* I do not know that I subscribed at all, I do not think there were any Subscriptions; I am sure I never subscribed my Name.

Attorn. Gen. When you came into Mr. *Love*'s Parlour, and left the ten Pounds, did you not give him a twitch by the Hand?

Capt. *Potter.* I cannot say so. [His Examination was again read.]

Ld President. Is this true?

Capt. *Potter.* The Substance of it is true.

Ld President. Of your own knowledge?

Capt. *Potter.* Of my own knowledge that I left so much Money.

[The Clerk reads more of his Examination.]

Capt. *Potter.* This is a Section I never worded, or phrased my self; I have heard as much as this comes to, but cannot speak it knowingly.

Attorn. Gen. Did you not write this your self?

Capt. *Potter.* I believe not, I cannot positively say that Mr. *Love* either drew up the Letter, or received the Letter.

Attorn. Gen. You say he received the Letter from your own Hands.

Capt. *Potter.* But not the Letter from *Titus* and *Bailey.*

Attorn. Gen. Do you know of a way of Correspondency laid at *Kendal,* or no?

Capt. *Potter.* I heard there was such a Correspondency.

Attorn. Gen. By whom?

Capt. *Potter.* I cannot say by whom.

Attorn. Gen. Do you know that *Groves* was e to look for Letters there?

Capt. *Potter.* Yes. long

Ld President. Did Mr. *Love* know of it. sure I

Capt. *Potter.* I cannot say he did. and *Wil-*

Attorn. Gen. What had *Groves* for *liams*; and I ing? was one Mr.

Capt. *Potter.* Ten Pounds.

Attorn. Gen. From whom here or not?

Capt. *Potter.* I paid it.

Attorn. Gen. Did you receive any of it again?

Capt. *Potter.* I did receive ſome of it, I received two 10 *s.* by ſeveral Perſons.

Attorn. Gen. From whom?

Capt. *Potter.* From *Gibbons*, and *Alford*, and *Far.*

Attorn. Gen. Not from Mr. *Love?*

Cap. *Potter.* I do not know I ever had a Farthing from him in my Life.

Attorn. Gen. My Lord, ask him whether there were not Letters returned to *Bamfield* again, and by whom?

Capt. *Potter.* My Lord, I did receive a Letter that I ſuppoſe was to *Bamfield.*

Ld Preſident. From whom did you receive it?

Capt. *Potter.* It was left in my Shop.

Ld Preſident. By whom?

Capt. *Potter.* I cannot ſay by whom.

Ld Preſident. Whom do you conceive it came from?

Capt. *Potter.* I think from Mr. *Love* or Dr. *Drake.*

Attorn. Gen. Do you conceive ſo? My Lord, ask him whether Mr. *Love* or Dr. *Drake* was not appointed to draw the Letter.

Capt. *Potter.* When we were together, there was a negative Anſwer reſolved upon; and this Anſwer, to the beſt of my Remembrance, was agreed to be drawn up by Mr. *Love* and Dr. *Drake*: but I received this Letter.

Attorn. Gen. And who received the thirty Pounds?

Capt. *Potter.* I cannot tell.

Attorn. Gen. But you ſent the Letter?

Capt. *Potter.* I did.

Attorn. Gen. Ask him whether he did not ſend for Mr. *Love*, and what Diſcourſe paſs'd between them, ſince he was in Priſon.

Capt. *Potter.* I did ſend for Mr. *Love*, and he did come to me; and I deſired his Counſel, as a Miniſter, and I told him upon what ſcore I was queſtioned; then I was queſtioned upon Mr. *Cook* only, and he gave me Encouragement only as a Friend and Miniſter of the Goſpel ought to do.

Attorn. Gen. What was that?

Capt. *Potter.* He wiſh'd me to make a chriſtian Uſe of my Afflictions, and gave me ſome other Inſtructions; we had an Hour's Diſcourſe, and it was all to this purpoſe: He wiſh'd me to make a chriſtian Uſe of my Reſtraint, and to labour to get chriſtian Wiſdom and Fortitude.

Ld Preſident. What did he ſay more to you?

Capt. *Potter.* My Lord, no more paſs'd between us; and I gave him an Account of what Queſtions I was examined upon in *Cook*'s Buſineſs.

Ld Preſident. Did you give him an Account?

Capt. *Potter.* I have ſaid ſo, and he did adviſe me to Prudence, and Fortitude and Courage.

Attorn. Gen. Did he never adviſe you to be courageous, and that unleſs you diſcover one another, you were ſafe enough?

Capt. *Potter.* My Lord, my Keeper was with me,

Diſcourſe.

be ſilent?

did tell me

e, that told

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thin

Ld.

nothing, and

your Me

nd them?

Capt. P

Ld Preſide

did you meet

and he told

from *Titus*, and

to return Anſwers

Mr. *Love* ſpake

Capt. *Potter.* W

Capt. *Potter.* I did prevail with my Keeper to go with me to Dinner, and to take a Glaſs of Wine, and then I provided for Mr. *Love*'s coming to me.

Attorn. Gen. What hath Mrs. *Love* ſaid unto you?

Capt. *Potter.* I ſaw her ever and anon.

Attorn. Gen. What hath ſhe ſaid to you?

Capt. *Potter.* She hath wiſh'd me, with Tears, to have a care of her Husband, and not to diſcover any thing; I think ſhe hath.

Attorn. Gen. Did not Mr. *Love* ſay then, That he had been at a Faſt, where you were remembred?

Capt. *Potter.* He did ſo.

Attorn. Gen. My Lord, I confeſs I was with this Man in the Tower, as I am bound to do by my Place, to examine him; he had made his Examination before I came thither, and I brought it with me. My Lord, I did ask him Queſtions, he did anſwer me upon knowledge; he did confeſs the Truth, but told them, Mr. Attorney-General was pleaſed to help him to Particulars, and bring them to his Remembrance.

Capt. *Potter*, I profeſs, if it had been to ſave my Life, I could not affirm them; but you putting me in mind of it, I did know of it.

Attorn. Gen. At the Committee of Examinations, then he had more Particulars told him, and he did confeſs he did know them all; and he may give you an Account, whether he did not give an Account under his own hand? My Lord, I am not abuſed, but the Council of State, and the Parliament are abuſed; and if this Man ſhould do this Wrong to Mr. *Love*, and inform the Court and Council, and the Man be brought upon his Life, becauſe he hath affirmed it; and that ſeveral times before ſeveral Committees; this Man muſt not ſcape unpuniſhed, if for no other Fault but this, to accuſe a Man before Authority, and when he comes to his Oath, to deny every word of it. Captain *Fiſher* will witneſs, that he did bring all under his own hand, and upon my Credit, he did ſpeak as fully as we did open, and much more fully: and I anſwered upon hear-ſay, How do you know it? And he ſaid, He did know it, he did remember it, and he did put it down poſitively; and that when Mr. *Drake* went away, all the Meetings were at Mr. *Love*'s Houſe, and Mr. *Love* did ſtill declare the Occaſion of the Meetings, and the Letters were opened by him, and the Diſcourſe upon them; and every word he ſaid upon his own knowledge.

Capt. *Potter.* I do confeſs again, that before Captain *Fiſher* and Mr. Attorney did prompt me——

Attorn. Gen. Prompt you, Sir!

Capt. *Potter.* Before he did remember me of them, I had forgot them, as if I had never heard them; but it is one thing to remember a thing as I have heard, and as I conceive to be true, and another thing to ſwear to it poſitively: and the Paper allowed me this Latitude; ſome of it I have heard, the reſt I believe, and ſome I know; and upon this account I believe it is all true.

Attorn. Gen. My Lord, 'tis poſſible I might wiſh him to expreſs what he did know himſelf, and what he did know by relation of others, and ſo did ſet it down, and he did it fully and clearly; and after all this, brought it in again written with his own Hand, to the Council of State. My Lord, if you pleaſe, Captain *Fiſher* may go for the Original under his own Hands.

Clerk. The Original cannot be found.

Mr. *Love.* Here is nothing at all that concerns me about the buſineſs of *Titus* in *Jerſey*, and about the Letter from *Titus*, and the Copy of the Letter from

from the King: he tells you he doth not know it was in my Houſe; he tells you it was but a Copy, not the Original.

Captain *Potter* withdraws.

[Major *Alford* called into the Court, and takes his Oath.]

Attorn. Gen. My Lord, let him declare what he knows, either by himſelf, or others, and of his Imployment at *Calais*: make the whole Narrative as much as you can remember.

Major *Alford.* My Lord, I was one Morning wiſh'd to go with *William Drake* to the Swan at *Dowgate*, hearing there was a Gentleman lately come from the Prince, where I ſhould hear all the News from beyond the Seas: when I came there, it was one Captain *Titus*, one whom I had never ſeen before; and he gave a Relation of the good Diſpoſition of the Prince, and how inclinable he was to take the Covenant, and to caſt off the Cavaliering Party, and thoſe about him, if there were an Opportunity to make it known, that there was a conſiderable Party in *England* that would ſtick cloſe to the Ends of the Covenant. Upon that, Sir, my ſelf, and ſome others that were there, did think we were bound in Duty, and in relation to the Covenant, to preſs the Ends of the Covenant, for the Prince to take it, and to proſecute the Ends of it. And for that Captain *Titus* ſaid, If we would appoint another Meeting, he would draw up ſomething by way of Atteſtation or Petition to the Prince for that purpoſe. My Lord, we did meet at the *Bear* in *Breadſtreet*, and there he did draw forth ſomething that he had framed to that purpoſe, and he read it; and afterwards (not at that time) it was agreed upon to be ſent over to the Prince. The Subſtance of it was to preſs the Prince to apply himſelf to take the Covenant, and to proſecute the Ends of it, and to caſt off all his Cavaliering Party about him, which had brought ſo much Miſchief to his Father, and would do the like to him. This Captain *Titus* drew up, and this I believe was ſent over, for *Titus* undertook to ſend it over. I did ask how the Prince ſhould be made to believe, that this coming from an inconſiderable Party, as we were, ſhould come under the notion of the Preſbyterian Party of *England*, for it went under that notion? He ſaid, he ſhould undertake that by the means of my Lord *Pierty*. And the Petition that was agreed upon, he did ſend over, I believe; for I did not carry it to the Poſt-houſe, but he did undertake to do it. Afterwards he went over himſelf, and when he was over, he had Information that there was notice of his being here, and of the Buſineſs he was upon; and therefore he writ over to *William Drake* (as Mr. *Drake* told me) that he did deſire ſome of us that knew of the Buſineſs, ſhould be ſent over to him, to receive that Account from him which he had in the Buſineſs. So Mr. *Drake* did perſuade me to go over to *Calais*; and having ſome Buſineſs of my own, I did go over to *Calais*. I went from my Houſe on the Friday Night, and I was back again on the Tueſday following; and he did give me an Account of that Tranſaction: The Subſtance of it was this: It was about his own Troubles he had undergone there by the Cavaliering Party, in managing that Buſineſs. He had likewiſe been impriſoned, and they told him, They would try him as a Spy; and that they urged hard againſt him, and that he was in that Condition till my Lord *Liberton*, the *Scotch* Commiſſioner, came over; and by his means he had Acceſs to, and Favour with the Prince: And that was the Subſtance of all. He ſaid the King was averſe to the Covenant, not of himſelf, but by reaſon of thoſe Counſels that were about him. And this was the Subſtance of that Account he gave me of his Tranſaction there at *Jerſey*, in reference to the Buſineſs he went upon: And this he gave me in Writing, which I brought over to deliver to Mr. *Drake*, for it was directed to him, which I did deliver. Afterwards Maſter *Drake* carried them to Maſter *Love*'s Houſe, where they were read. And that is all as to that Buſineſs.

Then afterwards there was a Commiſſion, they called it a *Commiſſion*, it was agreed upon among us, to be ſent over to my Lord *Willoughby* of *Parham* and *Maſſey*, and I think *Graves* and *Titus*, that they ſhould agitate and act for us at *Breda*, and to adviſe with the *Scotch* Commiſſioners that were there, in behalf of the Presbyterian Party here in *England*; and that is all in relation to that. Afterward Mr. *Drake* read to me the Copy of a Letter in Characters, which he had written himſelf in his own Back-ſhop, which he told me ſhould be ſent to the Queen, which was to perſuade her to perſuade the King, as he came that way, to cloſe with the *Scots*; for that was the likelieſt way to make good his own Intereſt: but that was at Mr. *Drake*'s Houſe only between him and I. Afterwards Mr. *Drake* told me, he had diſburſed Money about receiving of Letters, and receiving of News, and did wiſh me that I would let him have ten Pounds, and ſaid he would ſpeak to ſome others of his Acquaintance to do the like; and if he could get up a conſiderable Sum, I ſhould have part back again; for he ſaid the Charge was too great for him to undertake; and I do think he had ten Pounds of me for that. After *Dunbar*-Fight, there was I and ſome others at Mr. *Love*'s, in his great lower Room, where was a Letter read, that was ſaid to be from Major-General *Maſſey*, that gave an Account of the Buſineſs of *Dunbar*; and alſo did write for Arms, I know not how many Thouſands; and to that purpoſe, that they might be provided by the way of *Holland*. But upon that, all that were there did ſay—— I heard no Man ſpeak of providing Arms or any ſuch thing. He writ in his Letter, that for his own Neceſſities, and Captain *Titus* that was there, that a Motion might be made for providing ſome Money to ſend over for their Supply: and it was then ſaid, We were ſo inconſiderable, and ſo few, that the Sum ſpoken of could not be done; and therefore it was moved, that every one ſhould do by himſelf and Friends what he could. This was the Subſtance of that.

Attorn. Gen. I believe, my Lord, he hath dealt ingenuouſly with you. This in the general: I pray you ask him, what he knows concerning any Letters that ſhould have been ſent at the beginning of the Change of this Government, to *Scotland* from any part of *England*?

Major *Alford.* For that I know nothing, but heard Mr. *Drake* ſay, That he had Correſpondency with ſome in *Scotland*; and I have heard him uſe one Mr. *Bailey*'s Name; and he had a Cypher which they writ by.

Attorn. Gen. For the *Swan* at *Dowgate*, he gave relation of that; but who was preſent then?

Major *Alford.* Truly, my Lord, it is ſo long ſince, that I cannot poſitively tell; but I am ſure I can remember there was Mr. *Huntington*, and *William Drake*, and Lieutenant-Colonel *Bains*; and I cannot tell, my Lord, I think there was one Mr. *Hall*.

Attorn. Gen. Was Mr. *Gibbons* there or not?

Major *Alford.* Truly, my Lord, I cannot tell whether he was there at that time or no.

Attorn. Gen. My Lord, he says *Titus* at that time did give relation of the Prince and his Party: Can you remember what that Relation was? And do you know whether this was not afterward communicated, and to whom?

Major *Alford.* I have given you the Substance of it; but for communicating of it, I knew it from none but only from those there.

Attorn. Gen. Titus took time to draw it up?

Major *Alford.* He did so: and at the next Meeting at *Broadstreet*, there were the same Men again: and I think at the same time there was Col. *Barton.*

Attorn. Gen. Was there no mention then, (when it was propounded to you to be a considerable Party) was it not said the Ministers were to be acquainted with it?

Major *Alford.* It was asked *Titus*, how the King should be possessed that this came from the Presbyterian Party in *England*, because it was agreed upon that there should be no Names used to it? He said there needed none, but only the Engagement of the Ministers in it.

Attorn. Gen. What Ministers?

Major *Alford.* Truly he did not speak a word of any Man, that I know of.

Attorn. Gen. Was it not then propounded, that *Titus* should be sent to the *Scotch* King before Commissioners came to him, to have a Correspondency settled between him and some others here?

Major *Alford.* I cannot say at that time, but afterwards. Whether at that time or any other, I cannot tell; but one time *Titus* said, he had learned from my Lord *Piercy*, which had hasten'd him over, that this Business was of that concernment, that they that did undertake it should be there before the *Scotch* Commissioners did come. And thereupon *Titus*, (as *William Drake* told me, for this was not at the Meeting) was persuaded to undertake to go about this Business.

Attorn. Gen. Whether was there not some Directions given for a Letter to be written to the Queen, to prepare the Articles with the *Scots*?

Major *Alford.* I cannot say any thing but what *William Drake* told me privately between him and I, as to that purpose, a Letter to the Queen.

Attorn. Gen. What was that?

Major *Alford.* I did tell your Lordship.

Attorn. Gen. My Lord, ask him whether he was not at Supper with *Titus*.

Major *Alford.* No, my Lord, I was not there when he offered himself to go, as I know of.

Attorn. Gen. What Money had *Titus* to bear his Charges?

Major *Alford.* Thirty Pounds.

Attorn. Gen. From whom?

Major *Alford.* From *William Drake* singly.

Ld President. Did not *Drake* gather it up again?

Major *Alford.* My Lord, I cannot tell; I know nothing of any Man, but what I did myself.

Attorn. Gen. We were now speaking of the Meeting at Mr. *Love*'s House, and of *Titus*'s Letter being read, and he sent. Let him give a particular Relation of that again. I make bold to ask him Questions to help his Memory.

Major *Alford.* The Letter that was read of *Titus*, was not at Mr. *Love*'s House, as I know of, (but Mr. *Drake*, for all things came to him, and we knew nothing but only from him, for the Correspondency was settled between *William Drake* and Captain *Titus*) nor at any publick Meeting that I know of, but what *Drake* told me.

Ld President. But you were at Mr. *Love*'s House, you said but now.

Major *Alford.* I was, but not upon this account, it was after I had been over; for I do not know that ever I was at Mr. *Love*'s House, or ever spake with him till I went over: if I have, I have forgot that ever I spake in my life to Mr. *Love* about it, till after I came from *Calais*; and then I did bring over a Relation, and gave an Account of it concerning *Titus*'s Transactions.

Ld President. That Account you gave at Mr. *Love*'s House?

Major *Alford.* No, my Lord, I gave it to *William Drake*, for it was directed to him; and it was three or four days after that we met at Mr. *Love*'s House, where Mr. *Drake* read the thing.

Ld President. At what time was it?

Major *Alford.* At the time when the *Scotch* King was at *Jersey*.

Attorn. Gen. Whether did you bring from *Titus* a Copy of a Letter from the King?

Major *Alford.* That I forgot; but *Titus* did shew me a Letter, at least-wise he said so, that he had it from the King, that he sent to this Presbyterian Party. And, my Lord, he did copy out the Letter, and the Copy he gave me, which I did bring over.

Ld President. To whom did you deliver it?

Major *Alford.* I delivered it to *William Drake*, I gave it Mr. *Drake* himself, and I think at his own House; I think it was the same, and that it was read at Mr. *Love*'s House. The Substance of it was this, as he told me, That he took in good part the Petition or Application that was made to him; and if ever God did restore him, and that he was in a condition, then he should think of it.

Ld President. What did he speak of a Non-compliance with the present Government, and by whom?

Major *Alford.* I do not remember a word of that.

Attorn. Gen. What said he concerning the *Scots*, and what he would do for the Ministers, if God restored him?

Major *Alford.* I cannot tell any such Passage, nor do I remember the Particulars of it.

Ld President. The Letter was then read, you say?

Major *Alford.* I suppose it was the same that I gave to Mr *Drake*, but I cannot say it was the same, because it was not in my custody.

Attorn. Gen. Did not you propose to send Fifty Pounds to *Titus*?

Major *Alford.* For that, I heard say that there was Fifty Pounds sent to him, but whether it were or no, I know nothing of it, nor did contribute to it, nor knew nothing of it.

Attorn. Gen. Did not you make a Narrative yourself of what you received by word of mouth from *Titus*?

Major *Alford.* It is very like I did speak of it to this purpose I tell you of, I do not know particularly what I said.

Attorn. Gen. Did you not receive an Account from *Titus* of his Transaction at *Jersey*?

Major *Alford.* I did.

Attorn. Gen. Did you not give an Account of that you received from him?

Major *Alford.* He gave it me in writing, and I delivered it to Mr. *Drake*.

Attorn. Gen. But when you met at Mr. *Love*'s House afterwards, did you not make some Narrative of what you received from him by word of mouth?

Major *Alford.* I had it not by word of mouth, but only by the delivery of Papers to me, which he could not bring over with safety.

Ld President. Were those Papers read at that Meeting?

Major *Alford.* I tell you, my Lord, I delivered them to Mr. *Drake*, and *Drake* did read some Papers, and I believe they were the same, but I cannot say they were the same, for they were out of my custody.

Attorn. Gen. Who then were there present?

Major *Alford.* There was Mr. *Love*, Dr. *Drake*, Mr. *Case*, Major *Adams*, Mr. *Gibbons*, and Captain *Far.* Truly I cannot particularly tell.

Attorn. Gen. This was given him at Mr. *Love*'s House, and Mr. *Love* present. My Lord, I pray you ask him whether *Titus*'s Message was not well approved of, and the Letter of Thanks to be returned, and the Hundred Pounds in Money?

Major *Alford.* I do not remember any of these things you speak of now.

Attorn. Gen. What do you remember was said concerning him there?

Major *Alford.* I do not know what was said; I do not know what any Man could say to them which were Papers from him: I do not remember any Particulars, it is so long ago; I believe now it is two years ago.

Attorn. Gen. Do you not remember that this was one Passage in the King's Letter, that the King wish'd them to send Commissioners to *Breda*?

Major *Alford.* I do not remember that.

Attorn. Gen. But was there not a Commission at Mr. *Love*'s House agreed upon to be sent?

Major *Alford.* That there was.

Attorn. Gen. What was to be the Effect of that Commission?

Major *Alford.* It was to advise those Men to join with the *Scotch* Commissioners, to take advice with them, and to accept the Presbyterian Party with the King, in relation to the first Petition that was sent.

Attorn. Gen. Was Master *Love* there?

Major *Alford.* Mr. *Love* was there; but I do not know what Mr. *Love* or any Man did direct in it.

Attorn. Gen. Who did correct those Instructions?

Major *Alford.* I cannot tell.

Attorn. Gen. Who was agreed to prepare the Commission?

Major *Alford.* I do not know, for I believe it was prepared when it came there; I heard that which we call a Commission read there, but who prepared it, or acted in it, I do not know.

Attorn. Gen. Did *Gibbons* bring it?

Major *Alford.* Who brought it, I cannot tell.

Attorn. Gen. Who were the Commissioners?

Major *Alford.* As I remember, my Lord *Willoughby* of *Parham*, and *Massey*, and Alderman *Bunce*; and whether *Titus* and *Graves*, I cannot tell.

Attorn. Gen. Was this in Mr. *Love*'s Study, or in another place?

Major *Alford.* It was in Mr. *Love*'s Study.

Attorn. Gen. Was the rough Draught corrected by any body or no?

Major *Alford.* I cannot tell whether it was or no, nor can I remember any more Particulars of it than what I have given you.

Attorn. Gen. What do you know concerning any Instructions to give power to the Commissioners what to do?

Major *Alford.* At the same time there was agreed upon some Instructions for them to walk by, which was the Substance of the Petition which had been formerly sent; that is, it prest the King to take the Covenant, and to prosecute the Ends of the Covenant.

Attorn. Gen. Who carried the Commission and Instructions?

Major *Alford.* One *Mason.*

Attorn. Gen. Who was that *Mason?*

Major *Alford.* I did not know him, but I have heard say he did belong to my Lord *Piercy.*

Attorn. Gen. Was there not at that time some Letters propounded to be written to the Queen, and *Jermine*, and to what purpose?

Major *Alford.* I cannot tell that any of these things were propounded there, but Mr. *Drake* had told me, and read to me in Characters some that he had writ thither.

Attorn. Gen. And was it sent?

Major *Alford.* I cannot tell, for it was privately between him and I.

Attorn. Gen. When this Commission was thus brought into Mr. *Love*'s Study, was there not a Question propounded, What Warrant have we to send Commissioners, and by what Authority, and what was the Resolution upon it?

Major *Alford.* Well, it may be, but I do not remember it.

Attorn. Gen. Do you remember who went with *Mason*, when he carry'd away this?

Major *Alford.* None went with him but I, and Mr. *Gibbons* did carry the Papers two or three days after that we had from Mr. *Drake*, which was this Commission we speak of, to *Gravesend*, to *Mason*; for he was at *Gravesend* before, and there delivered it to him.

Attorn. Gen. What was the Effect of these Instructions?

Major *Alford.* The Substance of them was, according to the first Commission, to press them to use all their Endeavour to advise, and take Advice with the *Scotch* Commissioners how to press the King to take the Covenant, and to join with the honest Party, the Church-Party in *Scotland*; that was the Substance of it.

Attorn. Gen. Did he not write to you to send Money to the King?

Major *Alford.* I heard Mr. *Drake* once say, there was a Letter from my Lord *Piercy* to that purpose, but Captain *Titus* himself wrote against it.

Attorn. Gen. What Course or Way was propounded to raise Money?

Major *Alford.* I know of nothing propounded that way: it was not agreed for me at that Meeting to go down, but Mr. *Drake* suddenly went down, and Mr. *Drake* alone spake to me.

Attorn. Gen. But he told you it was the first Advice of some others?

Major *Alford.* Truly, I do not remember that he did tell me so: there was a Commission and Instructions read at Mr. *Love*'s, but whether agreed upon there or no, I know not.

Attorn. Gen. What know you since *Dunbar* Fight?

Major *Alford.* For that, we met at Mr. *Love*'s House, in his lower Room, and there was a Letter that was said came from *Massey*, wherein he gave an account of that Business, how many Men were lost; and that he did write for Arms to be sent, and in his Letter did propose a way, as I remember, to be done by the way of *Holland*: I cannot tell the particular number of Arms he writ for, but for Arms: and also did speak something in it concerning his own and *Titus*'s Necessity, they being there Strangers.

Attorn.

Attorn. Gen. There was a Propoſition made, of raiſing ſome Money for Supply of their Neceſſities?

Major *Alford.* It was not to purchaſe Money, or Arms, for any ſuch thing, but only a Propoſition made for ſupplying thoſe Gentlemens perſonal Neceſſities.

Attorn. Gen. And how was that to be done?

Major *Alford.* It was to be done among ourſelves, to raiſe ſome Money; there was Five Hundred Pounds ſpoken of, but it was impoſſible for us to do that, for us that were inconſiderable Men, being Men of mean Eſtates and Fortunes, and ſo it was brought down to a leſs Sum.

Attorn. Gen. What was that Sum?

Major *Alford.* Either Two or Three Hundred Pounds, I cannot tell which.

Attorn. Gen. How was that to be raiſed?

Major *Alford.* It was to be raiſed among ourſelves.

Attorn. Gen. And did you ſubſcribe then preſently?

Major *Alford.* No, I did not.

Attorn. Gen. Who did?

Major *Alford.* I cannot tell that any did; for I then ſaid, that I did not know that either myſelf, or any there, was engaged by Promiſe to do any thing for any, only for Captain *Titus*; for he alone was there upon our Intereſt, and therefore I ſaid, for that I would contribute Ten Pounds.

Attorn. Gen. How much did Mr. *Love* contribute?

Major *Alford.* I do not know of any particular Sum.

Attorn. Gen. Did Mr. *Love* preſs you to contribute, or move any to do it?

Major *Alford.* Truly Mr. *Love* did move to Contribution of Money, for the Purpoſe we ſpeak of, for the Supply of *Titus*.

Attorn. Gen. When was *Titus* there?

Major *Alford.* I cannot tell.

Ld Preſident. Did Mr. *Love* move it?

Major *Alford.* Yes, my Lord.

Mr. *Love.* Was I the firſt that did move it?

Major *Alford.* Truly I cannot tell that.

Attorn. Gen. Was it at that time that the Letters were read?

Major *Alford.* It was at that time.

Ld Preſident. And was Mr. *Love* there then?

Major *Alford.* Yes, it was at that time.

Attorn. Gen. Do you remember of any Declaration of the Kirk and State read at that time?

Major *Alford.* No indeed, I do not.

Ld Preſident. You did ſay, that the Letter did mention for Arms?

Major *Alford.* But we did all, every one of us, diſavow that, but only the Supply of their particular Occaſions.

Attorn. Gen. Was there no Motion then made for a Letter to be written to the Church of *Scotland*, to preſs them to Union and Moderation?

Major *Alford.* Not that I know of.

Attorn. Gen. Was there not a Motion of ſending Fifty Pounds to Colonel *Graves*? And what ſucceeded upon it?

Major *Alford.* I do not know of any Particular, but only of the Sum to be raiſed in reſpect of *Titus*.

Attorn. Gen. How ſhould your Three Hundred Pounds be diſpoſed of?

Major *Alford.* That I cannot tell.

Attorn. Gen. For whom was it to be raiſed?

Major *Alford.* I told the Court that it was propoſed for *Maſſey*, and for *Titus*.

Attorn. Gen. Did you pay your Money?

Major *Alford.* No, I did not pay it, for I went out of Town preſently: I did promiſe Ten Pounds, and Ten Pounds I paid, but I cannot tell to whom I paid it, I believe it was paid by my Man.

Attorn. Gen. Did he bring it to you upon account as paid?

Major *Alford.* I believe he did.

Attorn. Gen. What do you know more?

Major *Alford.* Truly, nothing more.

Attorn. Gen. What do you know of any Correſpondency ſettled at *Kendal*?

Major *Alford.* Nothing at all.

Attorn. Gen. This was ſince *Dunbar* Fight. Do you know of any Letters that came from the Kirk, or *Lowdon*, or *Argyle*, or any of thoſe?

Major *Alford.* No, I know nothing of that.

Mr. *Love.* You confeſs you went to *Calais*, and brought the Copy of a Letter from *Titus*: Did I ſend you to *Titus*?

Major *Alford.* No, I do not ſay you did.

Mr. *Love.* It is alledged by this Gentleman, that it was ſent out of my Houſe: Did I write any Letter by you when you went into *Holland*? And upon your coming home, you ſay the Copy of a Letter was read at my Houſe: Will you ſwear I was in the Room at the time when the Letter was read? I was in my Houſe, but did not I go often out and in? Sir, I do ſpeak this, becauſe ſome at the Committee ſaid I went in and out often: Do you ſwear that I heard the Letter read in my Houſe?

Major *Alford.* Mr. *Love*, it was read in your Study; but that you were there when the Letter was read, I cannot tell.

Mr. *Love.* He ſays, he cannot tell that I heard the Letter read.

Major *Alford.* I cannot tell whether you might go out.

Mr. *Love.* How long ago was this Letter?

Major *Alford.* I think it was at that time the King was at *Jerſey*, I cannot remember the Month, I think about two Years ago.

Mr. *Love.* Was the Letter ſent to me, or was it received by me?

Major *Alford.* I did not ſay it was, I gave the Paper I brought over from *Titus* to *William Drake*; and ſome two or three days after, when we did meet at your Houſe, Mr. *Drake* read thoſe Papers, for he told me they were the ſame, but I cannot tell they were the ſame.

Mr. *Love.* I deſire he may be asked, whether I did give my Conſent to the ſending the pretended Commiſſion he ſpeaks of?

Major *Alford.* Truly, there was not any Man's particular Aſſent asked, that I know of.

Ld Preſident. Was it not agreed in the general, that it ſhould be ſent over?

Mr. *Love.* I pray ask him this Queſtion, did not I diſſent from ſending the Commiſſion?

Major *Alford.* I do not remember it.

Mr. *Love.* For the Buſineſs of Money, he ſaith there was Two or Three Hundred Pounds raiſed: Do you affirm I raiſed a Penny?

Major *Alford.* I did not ſay it was raiſed, but I ſay it was there propounded to be raiſed.

Ld Preſident. This he did ſay, there was a Propoſal for the doing of it, and you did perſuade the doing of it; and he left Ten Pounds with his Man afterwards.

Mr. *Love.* Ask him whether there was not a Letter at that time read, that *Maſſey* was withdrawn at that time in diſcontent from the Court?

Major *Alford.* I do not remember that Particular.

Mr.

Mr. *Love*. Ask him whether the Money was ſent to buy Arms, or raiſe Forces, or only to ſupply his Wants, he not having a Livelihood.

Major *Alford*. It was not for Arms, but it was for *Maſſey* and *Titus*, to ſupply their Neceſſities.

Mr. *Love*. But he proves not that I lent any.

Major *Alford*. I do not ſay you did.

Attorn. Gen. Obſerve Sir, there was a Letter for Arms at Mr. *Love*'s Houſe, read there, and Mr. *Love* did propound Three Hundred Pounds to be raiſed, and preſs'd the doing of it accordingly. Major *Alford* did likewiſe lend Ten Pounds; you may believe there hath been tampering with this Witneſs too. My Lord, ask Major *Alford* whether there was not a Letter brought to him by his Siſter.

Major *Alford*. My Lord, after I had liberty for my Wife to come to me, ſhe did give me a Paper, which I knew was my Siſter's Hand; if I ſaw the thing, I could tell, but it did miſcarry.

Capt. *Fiſher*. My Lord, the Meſſenger is here in the Court that did take the Letter, of which this is the true Copy word for word.

[Major *Alford* withdraws, and Major *Huntington* is called into the Court, and is ſworn.]

Ld Preſident. What do you know about Mr. *Love*'s Houſe, about the Commiſſion, and Captain *Titus*?

Major *Huntington*. My Lord, I can ſay, that about *March* 1648, I met with Major *Alford*, and he told me that *Titus* was in Town, and asked me if I knew him, and I told him, Ay; and asked him where he was. He ſaid he was newly come from beyond Sea, from the Fry, there being Alderman *Bunce*. I asked him where he was, he ſaid little to me; but he ſaid he was to meet him the next day at the *Swan* at *Dowgate*; that there was to be ſome Citizens in order to thoſe Gentlemen beyond the Seas, to ſpeak with him there. I did meet, and the Citizens there, were Col. *Barton*, Col. *Vaughan*, Captain *Maſſey*, Lieut. Col. *Bains*, and I think *Hollis* his Man, I am not certain of it; but Captain *Far* was there. The Buſineſs at that time, was only Commendations from their Friends there; and to tell them that he was commended to their Acquaintance. And afterwards, he grew into very high Praiſes of the Prince, and that he had the knowledge of it from a *Scotch* Lord, I know not his Name. After this, he told them the Prince was running very unhandſome Courſes, and they had very great hopes that his own Inclinations did not lead him to it, but it was the Malignant Party about him, that had a prevalency over him there, as over his Father here; but he did rather incline to join with the *Iriſh* Rebels, and did believe he would incline that way, unleſs he could get ſomething from hence, to divert him from it: whereupon he did hope they would all ſet themſelves that way, and that he would get Letters from Perſons of Honour (whom I know not) that ſhould perſuade him into a good Belief of the *Scots*, and to take the Covenant. After this, there was a Meeting again, I think fourteen days after, at the *White-Hart* in *Breadſteeet*, and there I met too. In the time that I was there, I did underſtand there had been a Meeting or two before, in order to the Buſineſs; and Captain *Titus* did declare, he had now again Letters from Perſons of Honour, to ſend to my Lord *Piercy*, and did hope they would ſet ſomething a-foot amongſt themſelves of the like conſequence: for *Maſſey*, *Bunce*, and *Graves* could ſee no way under the heavens but for the King to take the Covenant, and join with the *Scots*, and to engage the Covenanting Party here. And to that purpoſe, he draws forth a Paper that did purport that they were bound in Honour, and Juſtice, and Conſcience, and I think Loyalty, to maintain him in his juſt Rights, if he would go and join with the Covenanting Party in *Scotland*; and that he had no other way under God but that: which if he did, they took themſelves bound in Conſcience to help him to his juſt Rights. Upon this, Lieut. Col. *Bains* makes objection to it, and ſaid, it was a Malignant Buſineſs, and did fear there was no good Deſign in the thing; and thereupon they did break up. I cannot tell whether it was ſent or no, for they were afraid he would betray the Buſineſs.

After that, I was told by Major *Alford*, that *Bains* told them he was very ſorry he ſhould meddle in that Buſineſs, and that they would never proſper that had any thing to do with him, for that the Sins of him and his Father were ſo great: whereupon they were very wary, and afraid he would diſcover the Buſineſs. And he, I think, knew no further. After this, I did underſtand this Letter was ſent to the Prince, and I was told ſo by Major *Alford*, that it was ſent in the name of the ſecluded Members, and Miniſters, and Citizens, and Soldiery, and Noblemen; I remember it fetch'd a great compaſs. Whereupon when the Prince ſaw this Letter, and had it from my Lord *Piercy*, he ſtormed at it, and ſaid, Who are theſe Noblemen, and the reſt? What can they do for me? Can they raiſe me Ten Thouſand Men? Whereupon there was nothing done, but *Titus* retired himſelf to his Mother's Houſe, and there lived about three quarters of a year, and came to Town after, and did ſollicit his own Buſineſs. A little after this, I heard (upon the Buſineſs of the *Scots*) that there was another Letter ſent, that did begin the thing again, and now the Prince had conſidered of the thing, and ſent over the Letter, and I heard, that it was to the Miniſters of *London*. I did not ſee the Letter, but *Alford* and *Drake* told me it was ſo. After this, *Titus* was ſent away, and that with a Sum of Money, as I heard; who lent the Money, I cannot tell, and what Sum I know not: but preſently after this, I coming to Town out of the Weſt in *March* 1649, in the beginning of *March*, the day of my coming to *London*, after I had been here one or two days at moſt, I met with *Hollis*'s Man in *Fleetſtreet*, I do not know his Name; he met me, and I asked him, what News? He told me, he wonder'd that I was a Stranger, and asked him what News: Saith he, If you come to Mr. *Love*'s Houſe, you ſhall hear News. What is your Buſineſs there, ſaid I? He ſaid, it was to pray together, and to hear the News. I went about Nine of the clock, and Prayer was over, and the News a great part was over: but after I did come there, that I did hear was this; *William Drake* pulled a Paper out of his pocket, that I underſtood he had put into his pocket, or withdrawn, becauſe of a Stranger, and afterwards he took it out again. The Subſtance of the Paper was to this purpoſe, as I remember, it was in Characters, and pulled out of his pocket, and by him read:

'In the name of the Commiſſioners commiſſiona-
'ting the Lord *Willoughby* of *Parham*, Major-Ge-
'neral *Maſſey*, Colonel *Graves*, Captain *Titus*, and
'Alderman *Bunce*, in order to the Treaty, in the
'behalf of the well-affected Party in *England*; and
'theſe to join with the *Scotch* Commiſſioners, ac-
'cording to ſuch Inſtructions that ſhould be there-
'with

'with incloſed.' And ſomebody asked him, What power have we to give ſuch a Commiſſion? It was anſwered again by *William Drake*, That we have the King's Command for it, and we have likewiſe the Authority of ſome prudent Parliament-Man, whom we look upon (ſaith he) beyond the power of them that now ſit. Whereupon Mr. *Love* replies, Come, come, let it go: And after that, I knew nothing.

Attorn. Gen. Repeat that again.

Huntington. When the Queſtion was asked, What power have we to ſend or give Commiſſion? ſaith *Drake*, We have the Command of the King to do it; beſides, we have the Authority of ſecluded Members. Whereupon Mr. *Love* replied, Come, come, let it go.

Mr. *Love.* Pray ask him this one Queſtion, Were there no Speeches between *William Drake*'s Words, and thoſe Words he pretends were mine?

Huntington. I remember none.

[*Huntington* withdraws. Lieut. Col. *Bains* is call'd into the Court, and is ſworn.]

Ld Preſident. Speak what you know of this Buſineſs.

Bains. My Lord, concerning any thing that came from *Scotland*, I never knew any thing, nor did I ever hear any thing. For *Dowgate*, I was at two Meetings at *Dowgate*: At the firſt Meeting there was a Perſon that I did not know, which at the ſecond Meeting I was told was Captain *Titus*; and he at that Meeting (where there was nine, or ten, or more, or thereabouts) he did propoſe ſomething to be done, in order to the reſtoring or preſerving the Presbyterian Intereſt, by way of Application to the King, as he called him, and did adviſe it to be by way of Petition, and that he conceived to be the only way to preſerve the Presbyterian Intereſt in *England*; and that way would be the way to aſſure him, he had a conſiderable Party in *England*. And he did uſe many Arguments, as a Duty lying upon us by our Covenant, to apply ourſelves to him, and he offered to draw up a Draught of a Petition againſt the next Meeting to that purpoſe: And he ſaid, it was neceſſary ſomething ſhould be done by ſome Parliament-Men, and ſome Miniſters, and ſome Citizens, that were leading Men, Men that thereby he might be aſſured that he had a Party, and that conſiderable. At the next Meeting, which was ſuddenly after, he did produce a Paper, which, as I remember, was in Short-hand; a Petition, which was to the purpoſe I have hinted. There were ſeveral Debates, whether it ſhould be ſigned or not ſigned, and myſelf and two more before diſliked it; and before he read the Paper, he began to commend the Good-nature of the King, what good Affections he had; and likewiſe did ſay, there was a neceſſity ſomething ſhould be done to the Queen, and *Jermin*, and *Pierey*; who, he ſaid, were our Friends, that they ſhould ſtir him up to comply with the *Scotch* Commiſſioners. And upon this, there was myſelf, and two more there preſent, (I hope it ſat upon them as upon myſelf) diſliked the Buſineſs; and from that time, for my own part, I never heard any thing. The Heads of the Petition I cannot ſuddenly remember. This Paper carries the Sum and Subſtance of the Buſineſs.

[The Clerk ſhews him a Paper, which he had formerly given in.]

Bains. This Paper, if it be not interlined ſince, it was of my own dictating, and writ with my own Hand. [He looks upon the Paper.] I ſee no alteration made at all.

Ld Preſident. And this you deliver upon Oath?

Bains. Yes, upon my Oath, to the beſt of my remembrance. And as to the Priſoner, I can ſay nothing.

[*Bains* withdraws. Major *Adams* is called into the Court, and ſworn.]

Ld Preſident. Declare your Knowledge in this Buſineſs.

Adams. Touching Alderman *Bunce* and *Maſon*, I know ſomething by relation touching the Correſpondency with them.

Ld Preſident. Tell the manner of it.

Adams. I conceive it was carried on by Mr. *Drake*, that is now abſent; and in *Scotland*, by one *Bailey*.

Attorn. Gen. What do you know of *Maſon*, and of Letters ſent by him?

Adams. Maſon I do know, and I do know he did receive Letters.

Ld Preſident. From whom?

Adams. He ſaid, from my Lord *Piercy*.

Attorn. Gen. To whom were thoſe Letters communicated here?

Adams. They were communicated to Mr. *Drake*, and by Mr. *Drake* to myſelf, and Mr. *Alford*, and Capt. *Potter*, and Capt. *Far*.

Attorn. Gen. Was Mr. *Love* privy to it?

Adams. I cannot ſay that, my Lord.

Attorn. Gen. Were there not Letters ſent to *Scotland* to them, and back again hither, about ſending moderate Propoſitions to the King?

Adams. There was ſuch Letters.

Ld Preſident. Who writ them?

Adams. That I cannot tell.

Ld Preſident. Had Mr. *Love* a hand in them?

Adams. I cannot ſay he had: I cannot prove a Negative, I cannot ſay he had not.

Attorn. Gen. What know you of the Petition ſent to the King?

Adams. I know nothing of it, only I was told of it.

Ld Preſident. Who told you of it?

Adams. I cannot, my Lord, fix it upon any particular Man, but I believe I was told of it by *Alford*, or *Far*, or *Bains*: for I was not there at that time.

Ld Preſident. What do you know about the Meeting at the *Swan* at *Dowgate*?

Adams. My Lord, I was not there.

Attorn. Gen. Then, my Lord, he may tell you what he doth know?

Adams. My Lord, upon our meeting in ſome place or other, I cannot tell where, I cannot tell the time, nor the place, but either at the *Swan* in *Fiſh-ſtreet*, or at the *Swan* at *Dowgate*, or in *Cateaten-ſtreet*: in one of theſe three places, I cannot punctually remember.

Attorn. Gen. Who was at that Meeting?

Adams. Mr. *William Drake*, Captain *Titus*, Major *Alford*, Captain *Far*, Captain *Potter*, and myſelf; and I do not know how many more, or whether any more or no.

Ld Preſident. What paſs'd there?

Adams. It was there agreed, that Captain *Titus* ſhould go over to *Jerſey*.

Attorn. Gen. What was he employ'd about?

Adams. The End of his going was to endeavour to work an Agreement between the King and *Scots*, according to the Covenant; that was the

End

End that was propounded. And in order to his going, we did agree to furniſh him with Money for the preſent, and made ſome kind of Promiſe to maintain him while he was out.

Attorn. Gen. What Money was he furniſhed with?

Adams. I canot be punctual in that, but about a Hundred Pounds.

Attorn. Gen. Who ſhould pay it?

Adams. I paid Twenty Pounds of it, but I cannot tell who paid the reſt.

Attorn. Gen. To whom did you pay it?

Adams. To Mr. *Drake.*

Attorn. Gen. My Lord, ask him whether when this was ſent to *Jerſey*, was there not a Return made?

Ld Preſident. Well, go on: There was your Twenty Pounds gone?

Adams. This is the Subſtance of what I can ſay of his going.

Attorn. Gen. Was this Twenty Pounds that you laid out of your own, or did you collect it of ſome of the reſt, or did you gather any of it again?

Adams. I cannot ſay that I did.

Ld Preſident. Did you not?

Adams. My Lord, I tell you the truth, I do not know whether I did or no; for I remember, it was determined that we ſhould gather it at that Meeting.

Attorn. Gen. Did not Mr. *Love* know of the Collection?

Adams. I cannot ſay he did; it may be he might, but I dare not ſay upon my Oath, that he knew of it.

Attorn. Gen. Ask him what Return *Titus* made, what Anſwer, and what Account he gave.

Adams. Major *Alford* went to *Calais* to meet *Titus*, and *Titus* did ſend word that the Council of State heard of his being there, and thereupon deſired that ſomebody might be ſent over to him; for he had ſomething to communicate, which he could not well do by writing, and thereupon Mr. *Alford* was ſent.

Attorn. Gen. My Lord, ask him where the Letter was read.

Adams. The Letter that *Titus* ſent, was read by Mr. *William Drake.*

Attorn. Gen. Where?

Adams. At his Houſe, as I think, for I cannot certainly remember; I did not ſay upon my Examination, that it was read any where.

Attorn. Gen. Whether were not you moved to go?

Adams. There was ſome Motion to that end, I think in Mr. *Love*'s Chamber.

Ld Preſident. Who moved it, and where?

Adams. Who moved it, I cannot tell; it was moved, I think, in Mr. *Love*'s Chamber.

Attorn. Gen. Was Mr. *Love* there?

Adams. He was there.

Attorn. Gen. Did Mr. *Love* move it?

Adams. I cannot ſay he did.

Ld Preſident. He will not ſay it.

Adams. I cannot ſay it, upon my Oath.

Attorn. Gen. My Lord, ſo much he ſaith, That it was moved in Mr. *Love*'s Chamber: then he may give you an Account of Mr. *Alford*'s Return, and where the Account was given.

Adams. The Return of Mr. *Alford*'s Account was given at Mr. *Love*'s Houſe.

Ld Preſident. What was it?

Adams. The Return he made in general was by a Narrative, and a Copy of a Letter from the King: there was with the Narrative that which was ſaid to be the Copy of a Letter from the King.

Ld Preſident. What was the Subſtance of that Letter?

Adams. The Contents of the Letter, as I remember, was, Firſt, he expreſs'd a great deal of Affection to the Miniſtry of *England* in general, and promiſed great Favour when he was in a condition to do it, and deſired them to continue ſtedfaſt in the way they were in.

Attorn. Gen. Was this Letter publiſhed at Mr. *Love*'s Study?

Adams. It was read.

Ld Preſident. Was Mr. *Love* there?

Adams. Truly, to be poſitive that Mr. *Love* was there, I dare not ſay; but Mr. *Love* was there at that Meeting, either at the beginning or ending; but whether the Letter was read at Mr. *Love*'s Houſe, I dare not ſwear. The Narrative from *Titus* was a very long one, and very well drawn, I cannot give an account of it now: the whole of it was after this manner; To give an account to us of all the Tranſactions that had happened ſince his going out of *England*, he did give an account of his Uſage by the Cavalier Party, that was againſt the King's Agreement with the *Scots*, becauſe there was ſome did incline to his Agreement with them, and there was another Party was much againſt it; and he gave a very large account of that. After that, he went on deſcribing his Diſpoſition and Condition.

Attorn. Gen. This was the Subſtance of the reſt. Was there not ſome Propoſitions for giving of Thanks to *Titus*, for his ſo well managing his Affairs there?

Adams. There was a Motion made by ſomebody.

Ld Preſident. Who made the Motion?

Adams. I cannot tell.

Attorn. Gen. Was not a Hundred Pounds more to be ſent agreed upon there?

Adams. I think ſo.

Attorn. Gen. There was more Money contributed: Who agreed to lend any?

Adams. Sir, to that Queſtion, I cannot ſay who propounded it; but that there was Money ſent.

Ld Preſident. Who contributed?

Adams. I did my ſhare.

Ld Preſident. How much was that?

Adams. As I remmeber, Ten Pounds.

Attorn. Gen. To whom did you pay it, and where did you pay it?

[Then they ſhew'd him his Examination.]

Ld Preſident. Come, look upon it, and be well adviſed.

[*Adams* looks upon his Examination.]

Adams. I paid it to Mr. *Drake*, at his Father's Shop in *Cheapſide.*

Attorn. Gen. Next about the Commiſſion and Inſtructions to be ſent, what do you know of that? When this Letter was read from the King, and publiſhed in Mr. *Love*'s Study, whether was there not a Commiſſion agreed upon, to give Inſtructions to treat with the King at *Breda?*

Adams. There was a Motion made at Mr. *Love*'s Houſe, that there ſhould be a Commiſſion and Inſtructions drawn and ſent. The Motion was made at Mr. *Love*'s Houſe; they were there ſpoken of.

Ld Preſident. By whom? Who did the Dialogue run between? Did Mr. *Love* do it?

Adams. Truly, for my part, I did not then take ſuch ſpecial Notice, that I dare at this time upon my Oath deliver any thing poſitively againſt any particular Man; but generally all ſpake ſomething, as I remember.

Attorn. Gen. Was there any Debate to mend the Inſtructions?

Adams. Truly, Sir, not as I remember.

Attorn. Gen. Did not Mr. *Gibbons* bring the rough Draught of the Commiſſion?

Adams. Truly, I think he did; as I remember he did. I have ſpoken of the Commiſſion and Inſtructions that were debated then and there; and that many of theſe Perſons, here mentioned, were there: But that ſome of them mentioned might not be there then, is very likely.

Attorn. Gen. Was Mr. *Love* there?

Adams. That he was there ſome part of this time, I am very confident.

Ld Preſident. Was it in his Study?

Adams. It was.

Attorn. Gen. Was there a Commiſſion agreed upon to be ſent?

Adams. For the Word *Agreed*, I cannot tell what to ſay to it: *Agreed* holds forth as if a Vote paſſed.

Ld Preſident. Was there not a general Conſent?

Adams. Being upon my Oath, I deſire to be cautious; for I muſt be tender in ſpeaking the Truth in this Caſe; and I do not know what to make of the Word *Agreed*.

Ld Preſident. Was it approved of?

Adams. To my Underſtanding the Thing was thus: That at ſuch Meetings as theſe we were not abſolutely formal, as if we had been eſtabliſhed by a Court of Juſtice to act thus; and that there ſhould be Prefaces, and ſuch Things, or ſuch Methods obſerved, as that any Man undertook to make a Preface either at the Beginning or Concluſion; but it was ſpoken to by many Perſons, and by every Perſon ſpoken to: And in this Senſe it was agreed.

Attorn. Gen. Were there not Inſtructions agreed upon; and all this in Mr. *Love*'s Study?

Adams. It was ſo.

Ld Preſident. Were they not read there?

Adams. I think they were.

Ld Preſident. Who read them?

Adams. I cannot tell who read them; but they were read: And I think Mr. *Drake* read them.

Attorn. Gen. What was the Contents of the Commiſſion?

Adams. The Contents or the Subſtance of the Commiſſion was to this effect: [This he reads out o his Examination.]

'We, the Presbyterians of *England*, do authorize 'you the Lord *Willoughby* of *Parham*, *Edward Maſſey*, '*Richard Graves*, *Sylas Titus*, and *James Bunce*, to 'aſſiſt our Brethren the *Scotch* Commiſſioners in 'their Treaty with the King, according to the In'ſtructions annexed.'

I dare not ſwear it in theſe Words; but to this purpoſe it was. The Subſtance of the Inſtructions were to uſe all the Arguments they could, to move the King to give the *Scotch* Satisfaction, and to take the Covenant: Such Arguments were mentioned as the then Condition of Affairs beſt afforded, particularly how Things ſtood in *England* at that time; which did all of them cry out for an Agreement, and gave them full Power as to all Things; and what ſhould be concluded by them, ſhould be confirmed by theſe here. But I cannot ſay ſo; but what Words were, were to this purpoſe, ſaving this Concluſion, That what was concluded ſhould be confirmed here: I do not remember that.

Attorn. Gen. Was there not ſome Debate by what Warrant they ſhould act in this Commiſſion and Inſtructions?

Adams. There were ſome ſuch Words at the Meeting.

Ld Preſident. What did Mr. *Love* ſay?

Adams. I cannot remember what Mr. *Love* did ſay; or whether he ſaid any thing, or nothing at that time: But that there were ſuch Words ſaid, I have ſaid; but by whom, I cannot fix it upon any particular Perſon.

Attorn. Gen. Was it not debated by what Warrant they ſhould derive Power to themſelves to ſend this Commiſſion?

Adams. There was ſuch Language; but by whom I cannot ſay; I think by *William Drake*. It was becauſe the King had writ this Letter, wherein he deſired there ſhould be ſuch Inſtructions. There was ſomething ſpoken of the ſecluded Members; but by whom, I do not know. There was a Propoſition, whether the Authority ſhould be taken from the ſecluded Members, or from ſome other.

Attorn. Gen. Did not Mr. *Love* then ſay, Come, let it go on?

Adams. I dare not ſay ſo.

Attorn. Gen. Was it not propounded at the Meeting to write to the Queen, and to *Jermin* and *Piercy*, for them to mediate with the King to agree with the *Scots*?

[*Adams*'s Examination was here again read.]

Adams. My Lord, ſo much of this as I think to be true, I ſhall own.

Attorn. Gen. Was not a Letter writ from *Piercy*, that a conſiderable Sum of Money was fit to be ſent to the King? And what Anſwer was given? Was it not to be done till the King and the *Scots* ſhould agree, and then to raiſe the Money?

Adams. That there was ſuch a Letter writ, I muſt needs acknowledge.

Attorn. Gen. Where was it read? At Mr. *Love*'s Houſe?

Adams. No certainly: I only ſaw it in *Maſon*'s own Hands; and I remember he ſhewed it me.

Attorn. Gen. Next, ask him whether there was not a Letter written about *Auguſt* laſt to ſome here, that *Maſſey* had Back-Friends in *Scotland*, complaining he could not be promoted there.

Adams. I did underſtand there was ſuch a Letter; but by what way, I do not know.

Attorn. Gen. Was not the Letter communicated at Mr. *Love*'s Houſe? And were not you preſent when this Letter was read at Mr. *Love*'s Houſe, wherein *Maſſey* complained he had Back-Friends in *Scotland*?

Adams. No certainly: That Letter was not, to my remembrance, read there. I heard of ſuch a Letter, but ſaw it not.

Attorn. Gen. My Lord, ask him whether he was not appointed to draw up ſome Letters.

Adams. There were ſome I ſhould have had a hand in drawing.

Attorn. Gen. Who were appointed with you?

Adams. As I remember, Captain *Potter*, Captain *Maſſey*, and Mr. *Gibbons*.

Attorn. Gen. But was there no Meeting upon it? Was Mr. *Love* named?

Adams. Mr. *Love* was not named.

Attorn. Gen. Was there not one *Sterks*, a *Scotch* Agent here, that kept Intelligence from *Scotland*?

Adams. I know there was ſuch a one, we took to be an Agent here.

Ld Preſident. Did he meet at your Meetings?

Adams. Yes, he did meet ſometimes.

Attorn. Gen. Was he at Mr. *Love*'s Houſe at any time?

Adams. That he was.

Attorn. Gen. When the Act came forth for baniſhing the *Scots*, was there not a Collection for his Charges? And were not you at Mr. *Love*'s Houſe when it was agreed to?

Adams. I was not.

Attorn. Gen. Did you contribute Money?

Adams. I did contribute ten or twelve Shillings; I cannot tell which.

Attorn. Gen. What Diſcourſe upon *Dunbar*-Fight was there from this Perſon that is already ſpoken of?

Adams. This is the Thing: If you pleaſe to help my Memory; for there are ſo many Particulars in this Correſpondency, that I cannot tell whereabouts it is I am to ſpeak to; I am very uncertain whereabouts it is I am to ſpeak to.

Ld Preſident. Speak the Certainty as it was in your Breaſt.

Adams. My Lord, if it be doubtful to me, how can I be certain, and charge it upon my Memory?

Ld Preſident. Speak the Truth.

Adams. I will ſpeak the Truth.

Ld Preſident. Do ſo then.

[Here again *Adams* looks upon his Examination.]

Adams. There is ſome of it I did ſet down, that I dare not own upon my Oath: I then did deliver it ſo, when I ſet it down.

Attorn. Gen. Did Mr. *Love* know that this *Scotchman* was the *Scotch* Agent? Did you not take notice that Mr. *Love* took notice of him?

Adams. I do think he did; as far as I underſtand, he did.

Attorn. Gen. Did not Mr. *Love* generally tell you the Cauſe of the Meetings?

Adams. No, Sir.

Attorn. Gen. Did you not hear Mr. *Love* ſay that this *Sterks* was the *Scotch* Agent?

Adams. I never heard Mr. *Love* ſay ſo; but I knew this, that by our uſual Meetings Mr. *Love* did underſtand him, as I did, to be the *Scotch* Agent.

Attorn. Gen. How often did you meet at Mr. *Love*'s Houſe?

Adams. I cannot tell: It may be ſeven, or eight, or ten Times: An uncertain Time.

Attorn. Gen. He was at Mr. *Love*'s Study?

Adams. Whether ſo many Times, I know not.

Attorn. Gen. My Lord, ask him whether it was not at Mr. *Love*'s Study, when Money was propounded to be raiſed for *Maſſey* and *Titus*.

Ld Preſident. Was that in Mr. *Love*'s Study?

Adams. I cannot tell whether it was in his Study, or in the Lower Room: I am apt to believe it was in the Lower Room.

Attorn. Gen. Was Mr. *Love* there?

Adams. Certainly he was there.

Ld Preſident. What was the Contents of the Letter?

Adams. The Contents of the Letter I cannot remember.

Attorn. Gen. Whether did it not declare the Poverty of his Condition? And was it not after *Dunbar*-Fight?

Adams. Yes, it was.

Attorn. Gen. Was this Letter from *Maſſey* read at Maſter *Love*'s Houſe? Was this for Money?

Adams. It was.

Ld Preſident. Was it agreed for Money to be raiſed?

Adams. If you take the Word *Agreed* as I formerly propounded, it was ſo.

Attorn. Gen. How was the Money to be raiſed, and in what manner?

Adams. It was by thoſe that were privy to the Contribution.

Attorn. Gen. Was not Mr. *Love* there? And did not he write down the Sums that were to be contributed?

Adams. This I muſt needs ſay, That Maſter *Love* had Papers in his Hand, and he did write ſomething; but I did not ſee what he did write: And every Man did write that was there.

Attorn. Gen. Did not you conceive ſo, That Maſter *Love* ſummed up every Man's Sum? Did he put the Letter of their Names before them, when he writ the Sums?

Adams. I cannot ſay that.

Attorn. Gen. Was not there a Letter penned by Maſter *Love* and Doctor *Drake*?

Adams. To that Queſtion, I muſt ſay there was a Letter; but I cannot deliver it upon my Oath that it was penn'd by Maſter *Love* or Doctor *Drake*: But it was taken to be ſo; and I thought it was ſo.

Attorn. Gen. To whom was that Letter directed?

Adams. I cannot tell to whom.

Attorn. Gen. To whom was it declared to be directed? To whom was it declared to be written?

Adams. To the General Aſſembly and Kirk of *Scotland*.

Ld Preſident. Was this at Mr. *Love*'s Houſe too?

Adams. It was ſo.

Attorn. Gen. Was Mr. *Love* preſent, and did approve of it?

Adams. Mr. *Love* was preſent at ſome time of this Meeting. The Reaſon why I thought it to be of Maſter *Love*'s or Doctor *Drake*'s drawing, was nothing but merely the Language of it, it being in order to promote the Ends of the Covenant; and all the whole Language was couched to that purpoſe; and taking notice of the want of Reſpect to *Maſſey* and the *Engliſh*, and of their being beaten.

Attorn. Gen. My Lord, this is very high: For he tells you this Letter was approved of, and directed to be ſent; and this was after *Dunbar*-Fight, after we were engaged in Blood.

[Here *Adams* read out of his Examination, as followeth:]

Adams. There was alſo a large Letter, in the nature of a Declaration, penn'd by Maſter *Love* and Dr. *Drake*, and approved of by moſt of the Presbyterian Party, Miniſters, and others, and directed to the General Aſſembly and Kirk of *Scotland*, ſubſcribed by none: Which contained the Subſtance of what was declared by *Titus* and *Maſſey*; but durſt not promiſe any great Sums of Money till they appeared more conſiderable, and grew nearer Action. The Buſineſs required higher Spirits than was for the preſent; and the Buſineſs required a conſiderable Sum: But to leave no Means unattempted when the Buſineſs was feazible. [So far he reads.]

Attorn. Gen. Major *Adams* is now upon his Oath to tell you.

Adams. My Lord, as well as I remember, it did put forth much after this ſort: But I cannot ſwear it in theſe Words; but that is the Subſtance of it.

Attorn. Gen. Was not this agreed and declared at Mr. *Love*'s Houſe, that ſuch a Letter ſhould be writ-

ten to the Honourable Committee, and to the Kirk?

Adams. I anſwer that, after the ſame manner as all other Things are agreed at ſuch Meetings as this is: But I have no ground, and do not know why I ſhould ſay Maſter *Love* and Doctor *Drake* penn'd it.

Attorn. Gen. Ask him for the Subſtance of the Letter; whether it were not as he hath told you; and whether he did not ſay they could not promiſe a conſiderable Sum of Money.

Adams. Certainly, either in that Letter, or ſome other, there was ſome ſuch Expreſſions.

Ld Preſident. Well, it was about that Time, and in that Letter, or in ſome other Letter, and at Mr. *Love*'s Houſe.

Attorn. Gen. My Lord, ask him if there was not an Agent come from *Scotland*, and a way laid at *Kendall* for a Correſpondency between theſe Gentlemen here and ſome of *Scotland*; and whether one *Groves* was not ſent thither.

Adams. That was ſomething obſcure: That there was ſuch a Thing, I do verily believe, becauſe it went amongſt us for a Truth; but how to make it out for a Truth, upon my Oath I cannot tell.

Ld Preſident. Did Mr. *Love* know of it?

Adams. I do not know.

Attorn. Gen. Ask him what he knows concerning Colonel *Bamfield*'s Man coming hither.

Adams. Concerning that, I know nothing: But I confeſs I had ſome *Item* that at that time there was ſomething found. And this is all I can ſay to that; I cannot gueſs the Time.

Attorn. Gen. Was it after the Fight at *Dunbar?*

Adams. Yes, that it was.

Attorn. Gen. Were the Meetings at Mr. *Love*'s Houſe?

Adams. I cannot ſay all: But all that I know of were.

Attorn. Gen. Ask whether upon the large Letter *Maſſey* did not write that Things were well ſettled in *Scotland.*

Adams. Many of theſe Things were underſtood ſo, and taken for granted amongſt us; but I can ſay no otherwiſe: I thought it to be ſo; but I know not.

Attorn. Gen. Were you not preſent, or at Mr. *Love*'s Houſe, when theſe Letters were read, that they were in a hopeful Condition?

Adams. I cannot ſay ſo.

Ld Preſident. What can you ſay?

Adams. As before, That it went for a Truth amongſt us: And that is as much as I can ſay to it.

Attorn. Gen. Was there not a large Letter inviting your Friends to Union?

Adams. I underſtand the other Letter to be this you propound to me now.

Attorn. Gen. Now we ſpeak of a Letter from Alderman *Bunce*, and others.

Adams. I cannot ſpeak particularly to that; for I did not ſee them; but they were told me by one or other of thoſe that were of the Correſpondency: And this all I can ſay.

Ld Preſident. What is the Truth? Do you conceive it is ſo?

Attorn. Gen. My Lord, we ſhall not trouble him with that. My Lord, ask him one Queſtion more: What did Mr. *Love* tell you, that if the Presbyterians got the upper hand again?

Adams. Thoſe words, I think, did but amount to this, That if the Presbyterians were in Arms again, by the Bleſſing of God, the Cavaliering Party might be prevented from getting the day.

Ld Preſident. Who do you mean by the Correſpondents?

Adams. By Correſpondents I mean *Alford, Potter, Far,* &c.

Ld Preſident. Was not Mr. *Love* one of them?

Adams. I took him to be ſo, my Lord.

Mr. *Love.* My Lord, I pray ask him, whether any of theſe pretended or ſuppoſed Letters were ever received by me, any one of them, or that I writ one of them, or mended one of them.

Adams. I cannot ſay that ever I ſaw him do any ſuch Thing; nor did I ever ſee him write any.

Ld Preſident. But you ſaw the Letters there?

Adams. That I have ſaid.

Mr. *Love.* Ask him whether I gave my Conſent to the ſending away of this he calls a Commiſſion and Inſtructions, about the Time of the Treaty at *Breda.*

Adams. No, I will not ſwear that; and upon my Oath I cannot.

Ld Preſident. Will you not? I will preſs you to nothing. You ſaid even now, you did not know he did ſend them away; but you did ſay he was privy to them, and to the Debates of them. Did he declare any Diſſent?

Adams. I cannot ſay that.

Mr. *Love.* Will you ask him this Queſtion? Whether he read the Letters that he pretends were ſent into *England* or *Scotland*, or whether he heard them read?

Ld Preſident. That he ſwears.

Adams. I did not ſwear that theſe were the Contents of them exactly: I was there when theſe Letters were read.

Mr. *Love.* He only heard them read.

Ld Preſident. If there were half a ſcore that had Correſpondency, and received Letters, and come together, and one of the moſt confiding Men read them; will any Man ſay that he will not believe theſe were right read? Such a Hear-ſay as this, is ſuch a Hear-ſay as you may take notice of.

Mr. *Love.* But let him prove how it was a Correſpondency on my part.

Adams. I did not ſay that Mr. *Love* was one of the Correſpondents; I deny that I ſaid ſo: I ſaid I conceived him to be ſo; but that is not that he was ſo.

Ld Preſident. They did debate together, and met together, and received Inſtructions; and therefore he may very aptly conceive he was a Correſpondent.

Mr. *Love.* Doth he ſwear that I aſſented?

Adams. I did not ſwear ſo.

Mr. *Love.* He ſaith Money was ſent to *Titus*; pray ask him whether by Agents I employed.

Adams. I cannot ſay ſo.

Mr. *Love.* Here is no Proof at all that ever I received Letter, or writ or ſent any Letter. Pray ask him if I knew before they came to my Houſe, that they would bring ſuch Letters with them. Do you ſwear that I was preſent in the Room at the time that the Letters after the Defeat at *Dunbar* were ſent, wherein there was, as you ſay, a Promiſe of Aſſiſtance?

Adams. You were there ſome part of the while.

Mr. *Love.* Ask him whether he was not threaten'd with Death in caſe he would not, and promiſed Favour in caſe he would, bring in Evidence againſt me.

Adams. I cannot ſay I was threaten'd with Death to that end.

Mr. *Love.*

Mr. *Love.* I ſhall bring a Witneſs that ſhall prove from his own Mouth, that he hath confeſs'd, If he did not bring in Evidence againſt me, he ſhould be hanged.

Adams. It is true: *Percival* did come to me, and I did ſay to him, That upon Examination, I did ſay, if I were not ingenuous, I was threaten'd to be hanged.

Attorn. Gen. When a Man is a Traytor, and doth confeſs, he deſerves Mercy.

Mr. *Love.* Ask him whether he hath not received Money to give in this Information againſt me.

Adams. I have not.

Mr. *Love.* Did not ſome Meſſenger come to you, ſome Months ago, from ſome Members of the Council of State, and told you you were poor, and ſhould be ruined if you did not confeſs it? He had three Meſſengers ſent unto him from the Council of State, or ſome of them, that told him, If he would not confeſs, he ſhould be ruined.

Attorn. Gen. Did you receive Money, or were there Promiſes made to you, to teſtify againſt Mr. *Love?*

Adams. Upon my Oath I did not.

Mr. *Love.* Hath he never come to Mr. *Scot*'s Chamber? Did he not come a Month before I was committed, being brought there by Major *Cobbet?* And whether he hath not received Money from Major *Cobbet?* I deſire that Major *Cobbet* may be called upon his Oath, to know whether he hath not given him Money to bring in Information againſt me: For he hath taken notice of all Faſts, and of all Things done, and hath brought all to Mr. *Scot.* I know, by Information, that this *Adams* is a hired Witneſs. Sir, this Man is a *Tobiah* and a *Sanballat:* Some Men have hired this Man againſt me. I deſire Major *Cobbet* may be called.

Ld Preſident. He did, and might do it: But did he it to teſtify againſt Mr. *Love?* I hope a State, that watches the Nation, may watch for the Safety of a Nation.

[Mr. *Cobbet*, a Major of the Army, is called into the Court, and is ſworn.]

Mr. *Love.* Pray ask him whether he hath not at any time, within this three Months, given any Money to Major *Adams*, to acquaint Mr. *Scot*, or the Council of State, with this Deſign, as 'tis called.

Major *Cobbet.* My Lord, I muſt and do deny that which this Gentleman doth aver: And truly I wonder at his Boldneſs, in the Preſence of this Honourable Court. I do know Major *Adams*, and have known him a long while; and commiſerating him, as being a Priſoner, I lent him ten Pounds; but for no conſideration that he ſhould betray Mr. *Love*, or any Man. I paid the Money to his Wife.

Mr. *Love.* He paid it, he ſaith; how then did he lend it? And he paid it to his Wife: That was to cover the Bribery. But did not you diſcover to this Man, if he would reveal it to Mr. *Scot*, what Recompence he ſhould have of him? Did not you, walking in the Fields with him, deſire him to reveal what he knew; and promiſed him if he did, he ſhould be a Man preferred?

Major *Cobbet.* I have been acquainted with Major *Adams* this four or five Years, and met with him in the behalf of the Presbyters, underſtanding there was ſomething was driven on dangerous to the Commonwealth; and I thought I was bound in Duty to requite them, if it were poſſible, for their Pains of Diſcovery. And I laboured with him that he would deal ſo honeſtly with himſelf and the Commonwealth, as to let the Commonwealth know what he did know of this Deſign. Accordingly he gave me ſome notice; and I ſaid to him, Major *Adams*, if I find you ingenuous, if there be any thing that I can do for you, I ſhall be ready to ſerve you by Night and by Day.

Mr. *Love.* It appears then that the ten Pounds was not lent to Major *Adams*, but was paid him for his Diſcovery: So that 'tis clear he is a hired Witneſs. And have you not brought him to Mr. *Scot*'s Chamber with Promiſes of Preferment?

[No Anſwer to that Queſtion.]

[The Lieutenant of the *Tower* is commanded to withdraw his Priſoner; and the Court adjourns till to-morrow.]

The ſecond Day's Proceedings, July *the* 21*ſt*, 1651.

THE Court being ſat, Colonel *Weſt*, Lieutenant of the *Tower*, was commanded to bring forth his Priſoner; and Mr. *Love* was brought to the Bar.

Maſter *Jaquel* was called into the Court, and the Clerk tendered him his Oath; and Mr. *Jaquel* ſpake to the Court to this purpoſe:

That there were many Oaths abroad, and he could not tell what to ſay to them; and he deſired to be excuſed. The Lord Preſident told him that he could not be excuſed. Mr. *Jaquel* ſaid he was a Priſoner, accuſed of the ſame Offences that Mr. *Love* was accuſed of; and that he conceived he was not a competent Witneſs againſt him. The Court again preſs'd him to take his Oath. Mr. *Jaquel* ſaid that he durſt not in Conſcience ſwear againſt Mr. *Love*; and therefore deſired it might not be preſs'd upon him. The Court ſtill perſiſted in it, that he muſt take his Oath, and witneſs what he knew. He anſwered, he would ſpeak the Truth of what he knew, as well as if he was under an Oath. The Court told him that that could not be; for if he did not ſwear, what he ſhould ſay could not be received as any thing in matter of Evidence. Mr. *Jaquel* ſtill perſiſted in his Refuſal. When the Court ſaw he could not be otherwiſe prevailed with, they fined him five hundred Pounds for refuſing to ſwear. And Mr. *Jaquel*, after he was withdrawn out of the Court, was called in again, and preſs'd to take his Oath; and was told that the Court had fined him five hundred Pounds for refuſing to ſwear; and again asked him whether he would ſwear. Mr. *Jaquel* then, when the Oath was read to him, did not ſwear in that manner as the other Witneſſes did, but only put his Hand to his Buttons. And when Mr. *Love* asked him whether he was under an Oath, he anſwered that he was as good as under an Oath. But the Court not being ſatisfied with that Anſwer, preſs'd him further; and then he did ſay he was ſworn, and was under Oath.

Ld Preſident. Declare now what you know of this Buſineſs.

Mr. *Jaquel.* My Lord, for the Paper I was examined about, as for knowing *Titus*, I never ſaw him in my Life, but one quarter of an Hour in a private Houſe, and I knew nothing of his Buſineſs any where. For the other, *Alford* coming over with Letters, I was at Mr. *Love*'s Houſe, and when I was there, there were ſeveral Men there.

Attorn.

Attorn. Gen. In what part of Mr. *Love*'s Houſe?

Jaquel. I conceive in his Chamber; for I went up to ſeveral that were there, whoſe Names I can poſitively ſay, for two or three of them, though I cannot remember the other abſolutely, though I conceive moſt I have named in my Examination were there; Capt. *Potter* was there, and Doctor *Drake* and Major *Alford*, and Mr. *Love* was there ſometimes, though divers times he went out, ſome coming to ſpeak with him.

Attorn. Gen. Was there not a Copy of a Letter, ſaid to be ſent from the King, read there?

Jaquel. I remember no ſuch thing.

Attorn. Gen. Was there not a Narrative?

Jaquel. Yes, from *Titus*, wherein he declared the King's Inclinations to make peace with the *Scots*, but that his wicked Counſel about him did hinder it.

Attorn. Gen. Was not this of what *Titus* had related from *Jerſey*, the Narrative of what had paſs'd between him and the King there?

Jaquel. I think it was.

Attorn. Gen. Was not Major *Alford* ſent to receive an Account from him to *Calais*?

Jaquel. *William Drake* did tell me ſo afterwards.

Attorn. Gen. Did Major *Alford* deliver no Account there?

Jaquel. I think it was Major *Alford* read the Narrative.

Attorn. Gen. Did he make no relation by word of Mouth?

Jaquel. Truly I cannot remember.

Attorn. Gen. You cannot remember it was read?

Jaquel. Yes, I am ſure it was read, and at Mr. *Love*'s Houſe.

Attorn. Gen. And he was preſent ſometimes?

Jaquel. Yes, ſometimes.

Attorn. Gen. What Money was there agreed upon to be provided for *Titus*?

Jaquel. I know of none: it was moved by Captain *Potter*, that there might be forty Pounds, but I know of none, nor was it agreed by Mr. *Love*, Mr. *Drake*, or my ſelf, that we ſhould lay down any at all.

Attorn. Gen. Did you not meet with *William Drake*, and deſire to go along with him to ſee *Titus*?

Jaquel. I did ſo, but I think *Drake* deſired it: I met him in *Newgate-Market*, and, ſaith he, I am going to ſee *Titus*, go along with me. I ſaid I never ſaw him, nor did I know him: Says he, You ſhall not ſtay at all. Whereupon he went and found him in a Cheeſemonger's Houſe in *Newgate-Market*.

Attorn. Gen. What Diſcourſe had you?

Jaquel. He ſaid he was newly come out of *Holland*, and he had been with the King, and he was a Man of excellent Parts for his Years; and that he was inclinable to what was good, but that he had ſuch deſperate evil Counſel about him; and that he did much pity him, and that his Clergy eſpecially was wicked: and he propounded nothing to us, nor did I ever ſee his Face afterwards; and this is about two Years and a half ago. And for any other Meetings at the *Swan-Tavern*, or for any Agents, I never met him, or ſaw him.

Attorn. Gen. Do you not remember at any Meeting, that there was Money propounded for Captain *Titus*, or for *Alford*'s being ſent over to *Calais*? Speak what you know of that, and by whom it was told you.

Jaquel. Major *Alford* himſelf told me he was to meet his Son, and he went over upon that ſcore; but after he was gone, *William Drake* told me he was gone to ſee or meet Captain *Titus*, I am not certain of the Words: and when he did come again, which was the next time I heard of him, then *William Drake* comes to me, and deſired me to go along with him, for I think he went up and down to every Man.

Attorn. Gen. You think then that *William Drake* was the prime Man.

Jaquel. Yes, he was the Actor and Agent that moved all.

Attorn. Gen. When *Alford* returned, he deſired you to go with him?

Jaquel. To Mr. *Love*'s Houſe.

Attorn. Gen. What was done at Mr. *Love*'s Houſe?

Jaquel. There were ſome Papers read, which *Alford*, as I take it, read, or *William Drake*, I am not certain which; but read it was, of a relation, that *Titus* came out of *Jerſey*, and had ſeen the King there, and the *Scots* Commiſſioners; and that the King had a great Inclination to agree with the *Scots* Commiſſioners, and that he was a Man of excellent Inclinations and Parts, and had a great Deſire to agree; but his Counſel, and wicked Crew about him would not let him: and he ſaid, as I remember, That the King was a kind of a Priſoner with them there, and ſaid, his Counſel did hinder him, or elſe, if he were from them, he would agree with the *Scots* Commiſſioners.

Attorn. Gen. You ſay this Paper was read, this Narrative was read in Mr. *Love*'s Houſe; was not Mr. *Love* preſent?

Jaquel. I am not able to ſay he was: when I came in, I remember he was not in the Room, and he was there two or three times while I was there, but he was ſeveral times called out.

Attorn. Gen. Do not you know there was an Agreement of a Letter written back to *Titus*?

Jaquel. I can remember no ſuch thing, but I think *William Drake* told me ſo, as I remember, but that was two Years ago, I do verily believe by what I conceived, was of his writing.

Ld Preſident. I could wiſh that Mens Conſciences could not be ſcrupled to believe ſo much of a Miniſter, more than of a Magiſtrate; I hold it pernicious Doctrine for any Man to think he is bound more to obey the Miniſter than the Magiſtrate: I ask you then before the Magiſtrate here, who was preſent at that Meeting?

Jaquel. *William Drake*, I am ſure, and Major *Alford* was there, and Captain *Potter*, and ſeveral others, as I remember, Maſter *Jenkins*.

Attorn. Gen. This was in Mr. *Love*'s Houſe, was it not in his Study?

Jaquel. I cannot tell that, I ſay as I conceive, that Maſter *Jenkins* and Maſter *Caſe* were there, but poſitively I cannot ſay it; and Mr. *Jackſon* and Mr. *Nalton*, I think.

Attorn. Gen. What ſay you of Mr. *Watſon*?

Jaquel. I think he was there.

Attorn. Gen. What ſay you of Mr. *Herring*?

Jaquel. I think he was.

Attorn. Gen. What ſay you of Mr. *Cauton*?

Jaquel. In truth I cannot tell.

Attorn. Gen. What ſay you of Mr. *Robinſon*?

Jaquel. I think he was.

Attorn. Gen. What ſay you of Mr. *Drake*?

Jaquel. Yes.

Attorn. Gen. Was Colonel *Vaughan* there?

Jaquel. Yes, I conceive he was there.

Attorn. Gen. Was Mr. *Jackſon* there?

Jaquel. Yes.

Attorn. Gen. Were Captain *Far* and Captain *Potter* there?

Jaquel. I believe ſo.

Attorn. Gen. Was Mr. *Gibbons* there?

Jaquel. I cannot tell.

Attorn. Gen. What ſay you of Mr. *Sterks?*

Jaquel. No, Sir, I do not know it.

Attorn. Gen. Did you not know him to be the *Scotch* Agent? Was he not taken among you to be an Agent from *Scotland?*

Jaquel. Yes, he was a *Scotchman.*

Attorn. Gen. And for Contribution of Money, what Money did you pay, and to whom?

Jaquel. Two five Pounds to Mr. *Drake.*

Attorn. Gen. For what Uſe?

Jaquel. For charitable Uſes.

Attorn. Gen. Then he asked it of you ſo, or for that purpoſe; but afterwards, what did you learn it was employed about?

Jaquel. Sir, he did not tell me how he did employ this Money; but afterwards I heard him ſay, that he had ſent *Titus* Money.

Attorn. Gen. What did you contribute to *Sterks*'s going into *Scotland?*

Jaquel. Ten Shillings.

Attorn. Gen. And who elſe did contribute, that was there? And how much was the Sum that was collected?

Jaquel. I cannot tell.

Attorn. Gen. How much do you gueſs, or have heard?

Jaquel. Four or five Pounds, I think.

Attorn. Gen. Ask him, who gave the *Scotchmen* Money?

Jaquel. Truly, I did give ſeveral *Scotchmen* Money, both to poor Miniſters, and others that were baniſhed by the Act, becauſe I knew they were very poor, and knew not how to get away; and I did it out of Charity towards them.

Ld Preſident. Becauſe the State had an ill Opinion of them, therefore you had a good Opinion of them.

Jaquel. There was one Miniſter that had twelve Children, that was baniſhed.

Attorn. Gen. Were you at any Meetings at Mr. *Love*'s after *Dunbar*-Fight?

Jaquel. No not I.

Attorn. Gen. At what Faſt were you at? And who officiated at thoſe Faſts?

Jaquel. I was at Major *Adams*'s and Colonel *Barton's*.

Attorn. Gen. Who did exerciſe at thoſe Faſts? Was Mr. *Love*, Mr. *Jenkins*, Mr. *Caſe*, any of them?

Jaquel. I believe they were, I conceive ſo, I profeſs I cannot remember; I believe Mr. *Jenkins* was there.

Attorn. Gen. Was not Mr. *Love* one of them?

Jaquel. Yes, he was.

Attorn. Gen. What was the Occaſion of thoſe Faſts?

Jaquel. I know no particular Occaſion, but for the Good of the two Nations.

Attorn. Gen. How do you know they were for the Good of the two Nations? Was it not for an Agreement between the King and the *Scots?*

Jaquel. I confeſs it was for the Good of both Nations, as both Nations are the Church of God, and do both profeſs themſelves Proteſtants, and of one Religion; and I conceived it was my Duty to pray for the Good of them both.

Attorn. Gen. But was there not ſome Expreſſions for a Bleſſing upon the Treaty at *Breda?*

Jaquel. I cannot remember ſuch Expreſſions; for in ſuch Duties I deſire to have my Heart lifted up unto God: And, my Lord, it is a great while ago.

Ld Preſident. Will you ſay your Heart is lifted up unto God, when your Underſtanding is in your Heels?

Jaquel. My Lord, I do not remember one Paſſage in Prayer a Week after.

Attorn. Gen. That is in ordinary Meetings, but this is for both Nations: but by what did you know that this was for the Good of both Nations, and why was it pretended to be for the Good of both? And, my Lord, why they ſhould not meet before, but juſt at that time, and at a private Faſt?

Jaquel. I think, that ſince the Nations of *England* and *Scotland* were at odds, I have been at twenty Faſts.

Attorn. Gen. My Lord, ask him, Whether he were not late with *Potter*, and did not meet with him about Letters from *Bamfield*, and whither they went to read them?

Jaquel. This was about *February* or *March* laſt, he told me he received Letters, and deſired me to go along with him to Mr. *Love*'s, and after Doctor *Drake* came in, and then theſe Letters were read; and I profeſs I know not from whence they came, nor the Man; and ſo did Mr. *Love* declare, That he never ſaw, nor knew, nor heard of *Bamfield* before.

Attorn. Gen. Did he not make mention of Parties in *Scotland*, That one Party was for the King, and another for the King and Kirk, and a third neither for King nor Kirk?

Jaquel. Yes.

Attorn. Gen. But who were thoſe he named, that were Men for the King?

Jaquel. I think, *Hamilton* and his Party.

Attorn. Gen. And who for the King and Kirk?

Jaquel. Argyle and *Leſley.*

Attorn. Gen. And who neither for King nor Kirk?

Jaquel. Straughan and *Car.*

Attorn. Gen. What did he tell you of the young King's eſcaping?

Jaquel. Something there was in that, but he was fetch'd back again.

Attorn. Gen. What ſaid he of *Argyle?*

Jaquel. Nothing at all, as I remember.

Attorn. Gen. Was there not an Expreſſion, That they were now agreed to receive in the whole Nation, unleſs it were thoſe that were notoriouſly ſcandalous and excommunicated?

Jaquel. I believe there was.

Attorn. Gen. Did it not mention five thouſand Pounds for providing of Shipping?

Jaquel. Yes, in the Narrative or Letter, whether there related at that time, I know not.

Attorn. Gen. And what mention was there made, who were fit to command in *England*, if that Party ſhould come from thence into *England?*

Jaquel. I conceive there were three Noblemen.

Attorn. Gen. Name them.

Jaquel. My Lord of *Suffolk*, my Lord of *Warwick*, and my Lord of *Manchester*, or either of them.

Attorn. Gen. That was propounded by *Bamfield*, but I hope thoſe Lords were more noble than to do any ſuch thing. Was there not another Letter that came with that of *Bamfield*'s, ſent by my Lord *Argyle*, and it was only, That there ſhould be an Approbation of him? And was this Letter likewiſe read at the ſame time, and at the ſame Place?

Jaquel. Yes, my Lord.

Attorn.

Attorn. Gen. What was then propounded for Money to be raiſed for *Bamfield?*

Jaquel. Truly, Captain *Potter* did make mention for forty Pounds to be raiſed, ten Pounds for Colonel *Bamfield*'s Man, and thirty Pounds for *Bamfield* himſelf: but that Buſineſs at the reading was wholly declined, and abſolutely refuſed by all, to act any thing in that relation in which it was ſent over. Whereupon Captain *Potter* did move, That if nothing were done in that, whether it were not convenient to ſend the Meſſenger ſomething to bear his Charges: ſays he, If you will pay the Meſſenger ten Pounds, and ſend *Bamfield* thirty Pounds, I will give the Meſſenger the ten Pounds. But there was no Agreement, nor Concluſion I know of, no Bill of Exchange was ſent, but Captain *Potter* ſaid he would lay down ten Pounds.

Attorn. Gen. But no body ſpake againſt Captain *Potter*'s laying down of ten Pounds; and it was propounded to you to lend ten Pounds, and you ſaid, you would conſider of it: But did *Potter* lend it?

Jaquel. I cannot tell that, my Lord, he ſaid he would do it.

Attorn. Gen. My Lord, let now Maſter *Jaquel* tell you what was the Cauſe why they did refuſe to do any thing in the Letter about five thouſand Pounds; what was the Cauſe upon the Debate between you at Mr. *Love*'s Houſe, why you did refuſe to do any thing about the five thouſand Pounds?

Jaquel. The Debate was ſoon over, for we abſolutely refuſed it, we would not meddle in it, not liking the buſineſs; it was a Trouble, I am confident, to them that heard it read.

Attorn. Gen. You do not remember that ever any body did acquaint the Magiſtrate with the Deſign in working from *Scotland?*

Jaquel. No, not I.

Attorn. Gen. Did not ſome ſay, that *Bamfield* was a Malignant?

Jaquel. I cannot tell, but I never heard of him before.

Attorn. Gen. Were you not told he was a Cavalier, and of the King's ſide, and that that was the true Reaſon why they would not truſt him?

Jaquel. I do not remember any ſuch thing.

Attorn. Gen. Did Mr. *Love* agree for ten Pounds for *Bamfield*'s Man, and thirty Pounds for *Bamfield?*

Jaquel. No, I cannot ſay ſo.

Attorn. Gen. Did not Major *Alford* tell you, upon his Return from *Calais*, That he was ſent thither to take an account from thence?

Jaquel. He did not, but *William Drake* did tell me that he was gone to *Calais* to ſpeak with Captain *Titus*.

Attorn. Gen. And to take an account of the Tranſaction of *Jerſey*.

Jaquel. Truly, Sir, I cannot ſay that; but *William Drake* told me he was gone thither to ſpeak with *Titus*: and this is above two Years ago that *William Drake* told me ſo.

Attorn. Gen. To what end?

Jaquel. To tell and hear News.

Attorn. Gen. What did he do more?

Jaquel. I profeſs in the Preſence of God, I cannot tell, Sir, I beſeech you; for in the Paper, I told you before, there were ſome Circumſtances, and ſomething that I cannot ſay; but it was to this purpoſe, To ſpeak with *Titus*, to hear the News from *Jerſey*; but I cannot ſay certainly that Word.

Attorn. Gen. We do not preſs you to the Word, but to the Effect of it: My Lord, I think Mr. *Jaquel* hath given an account already, that this Relation was at Mr. *Love*'s Houſe. Mr. *Jaquel*, let me bring one thing to your Remembrance, if it be true: At your Meeting at Mr. *Love*'s Houſe upon this buſineſs of *Bamfield*'s Narrative, you ſay, thirty Pounds was moved to be ſent to *Bamfield*, and ten Pounds to his Man.

Jaquel. Yes, by Captain *Potter*.

Attorn. Gen. And when it was then ſaid, it was thought fit by Mr. *Love*, Mr. *Drake*, and Captain *Potter*, that it ſhould be ſo done; whether did you not all agree it ſhould be ſo done?

Jaquel. No, there was no Agreement, but it was thought convenient, or to that purpoſe.

Attorn. Gen. It was thought convenient by all the Company preſent?

Jaquel. Truly, Sir, there was not much regard taken in that buſineſs, nor was there much done; for we did not ſtay long, but there were ſuch Words.

Attorn. Gen. But by all preſent?

Jaquel. Yes, there were ſuch Words.

Attorn. Gen. Whether were not ſome Friends at Dinner at *Dowgate*, and was not *Maſon* there?

Jaquel. My Lord, there was a Gentleman there, I cannot ſay who he was, nor did I ſee him before or ſince.

Attorn. Gen. Who did they tell you he was? Did they not tell you *Maſon?*

Jaquel. I profeſs I cannot remember that, nor can I tell, but I conceive it was ſo.

Attorn. Gen. In your Examination you ſay it was *Maſon*.

Jaquel. I ſaid, I conceived ſo.

Attorn. Gen. Why did you believe ſo?

Jaquel. I cannot tell, but as I remember, *William Drake* told me ſo.

Attorn. Gen. Whether when *Bamfield*'s Letter came, and the Letters from my Lord of *Argyle*, *Lowdon*, and others came, was there not a Letter from *Bailey?*

Jaquel. I do not remember, my Lord.

Attorn. Gen. Nor from the General Aſſembly?

Jaquel. I do not remember any ſuch thing.

Attorn. Gen. Bethink your ſelf, you are upon your Oath, whether he that brought the Letters from *Bamfield*, did not bring Letters from *Bailey*, and from the General Aſſembly?

Jaquel. I cannot remember there was any ſuch thing ſpoken of there.

Attorn. Gen. Was there no Expreſſion of Letters of Thanks for the good Affection of the Presbyterian Party here, and Encouragement to perſevere?

Jaquel. I do not remember any ſuch thing.

Attorn. Gen. Were there no Promiſes, that when they by their Endeavours ſhould get a free Parliament in *England*, that they would re-imburſe all that was laid out?

Jaquel. I do remember no ſuch thing.

Mr. *Love.* I would ask him ſome Queſtions; and the firſt is, Whether he hath ſpoken this as a mere Relation, or whether he owns all this he hath ſpoken, as under an Oath?

Attorn. Gen. We are paſt that, my Lord, he did ſay, he was under an Oath.

Mr. *Love.* If he ſay ſo, I am concluded.

[Mr. *Jaquel* made no Anſwer to this.]

Ld Preſident. You have asked two Queſtions in a few Words: For the firſt, Whether he ſpake it under an Oath? You know that time was ſpent to declare it before he began: if you ask of his own knowledge, you miſtook it; for he ſaith ſomething

 he

he hath by Relation, and ſome that he knows. This he hath taken notice of, what ſhould we further examine over the ſame thing; for he ſaith ſome of his own Knowledge, ſome by Relation from particular Parties, and ſome from Parties he calls not now to mind: and it was declared by the Court, that he was a Witneſs, and the Court accepted him.

Mr. *Love.* I deſire your Lordſhip to ask him this Queſtion, Whether the ſuppoſed Narrative that he ſpeaks of, that *Alford* ſaid he brought over, and read at my Houſe, was read at my Houſe; or only by *Alford*, and ſo brought over as News?

Jaquel. In truth, my Lord, I cannot tell that.

Mr. *Love.* He ſpeaks of *Sterks* a *Scotchman*; I deſire your Lordſhip to know whether he knows, or can affirm by the Oath you ſay he hath taken, that he was a *Scotch* Agent. [No Anſwer to that Queſtion.]

Mr. *Love.* Sir, ask him this Queſtion; he mentions a Faſt at Major *Adams*'s, or Col. *Barton*'s, and that for the Good of both Nations, becauſe he thought they were the Church of God; whether there was any Intimation in that Meeting, that it was under this Notion, for the Good of both Nations; whether that Meeting was for the *Scotch* Nation to invade the *Engliſh* Nation? [No Anſwer to that Queſtion.]

Mr. *Love.* He ſaid (if I have taken him rightly, and if not, I deſire your Notaries to inform me better) that Mr. *Love* did not agree to ſuch a Sum as Forty Pounds, and afterwards he ſaid, that all there ſaid it was convenient. Now I would ask how theſe two can agree together?

Ld Preſident. You are right; for the thing of Agreement he diſclaimed totally.

Mr. *Love.* Then I did not agree to it.

Ld Preſident. No, nor any elſe.

Mr. *Love.* But afterwards he ſays, that they did conceive it was convenient; now I pray ask him, how he knew that I thought it was convenient?

Jaquel. I cannot ſay any thing that Mr. *Love* did ſay it was convenient; but it was not diſſented from, nor ſpoken againſt by any, as I remember.

[Mr. *Jaquel* withdraws. Col. *Barton* is called into the Court, and is ſworn.]

Attorn. Gen. My Lord, let Colonel *Barton* tell you what he knows of the Meeting at the *Swan* at *Dowgate*.

Col. *Barton.* My Lord, I was there a little while after the Death of the late King. I was going into *Cannon-ſtreet*, and met with *William Drake*; he deſired me to go with him to the *Swan* at *Dowgate*. I told him I had a little Buſineſs in *Cannon-ſtreet*, and I would be there by and by. I ſtaid about half an hour about my Buſineſs, and went then to the *Swan* at *Dowgate*, and there was, to my beſt remembrance (for poſitively I cannot ſay) *William Drake*, and one a Stranger, Major *Huntington*, and Lieut. Col. *Bains*, and there was one Capt. *Titus*, as was ſaid, and Major *Alford*, and I do not remember who elſe were there. My Lord, at that time truly I was under a Defect in my Hearing, and ſince that I have loſt an Ear, through a huge Heat, and Cold taken. But, my Lord, I not coming but to the middle of the Diſcourſe they had, and not perfectly hearing, could not well judge of their Diſcourſe: But afterwards I ask'd *William Drake*, what the Intent of the Meeting was? He told me, that their Intentions were to make ſome Addreſſes or Applications (ſome ſuch word it was) unto the Prince, to take him off from his malignant or evil Counſel about him, and to put him upon ſuch as would be honeſter and better Counſellors. And this is the Subſtance of what I then underſtood from *William Drake*. My Lord, I think two or three days afterwards, I know not which, there was a Meeting again at the *White-Hart* in *Baſing-lane*-end at the corner of *Bread-ſtreet*. There were, I think, moſt of them that I have named at the firſt Meeting: I am ſure *William Drake* was there, and Captain *Titus*, and Lieut. Col. *Bains*, and Major *Huntington*, I cannot tell whether Mr. *Alford* was there or no, but theſe I am ſure were there. I did not come to the beginning of that Meeting neither, the Paper had been read before I came in, to my beſt remembrance: but I asked *William Drake* what was the meaning of that Meeting? He told me, it was to the ſame effect that they ſpake of before; and they had Thoughts to ſend ſomebody over to the Prince, to perſuade him from that Condition. A while after I met with Lieut. Col. *Bains*, and truly I did ask him more fully of the Circumſtances of that Meeting: he told me ſomething, that they intended to make uſe of my Lord *Piercy* and *Jermin*, and thoſe about the Prince, which he diſliked. Truly, my Lord, it troubled me extremely, to think that they ſhould make uſe of ſuch ill Inſtruments to perſuade the King, and I ſaid, I thought it was not well. And the next time I ſaid to *William Drake*, you have not done well, for it is not a Chriſtian Way we take, to make uſe of ſuch Men as theſe to perſuade with the King; for do you think that my Lord *Piercy* and *Jermin*, and thoſe Men, will ever perſuade the King to leave themſelves, and their own Counſels? So he put me off, and from that time he was a little more ſhy of me. Afterwards he did ſecretly and cunningly get from me Ten Pounds, and came under a pretence to ſupply a Friend in neceſſity; and I ſaid to him, you have Money of your own. Says he, I have not ſo much as I muſt needs ſupply him with; and he could not do it of himſelf, for fear it ſhould be miſs'd. My Lord, I asked him what Friend it was. Nay, ſaith he, you cannot know that, and you cannot have it till he is in a condition. To tell you truly, he had been a good Cuſtomer to me, both for himſelf and Friends, and I was loth to deny him it, ſuppoſing I ſhould have it again. I afterwards did not, to my knowledge, meddle or make at any Meeting; I was never at any of thoſe Meetings after the Buſineſs at *Baſing-lane*, becauſe I diſliked them; but afterwards I did ſuppoſe that this Ten Pounds was for Captain *Titus*, for I did put it to him, and ſaid, I am afraid you did furniſh *Titus* with that Ten Pounds. What then, ſaid he? Then I ſhall require it again of you. So he put me off, and run out of the Land. My Lord, for any other Meetings, Tranſactions, or Knowledge of any other thing from the time of the Meeting in *Baſing-lane*, I know none. For the Priſoner at the Bar, truly I do not remember, and I am confident I was never at his Houſe in my life, nor changed one word with him.

Attorn. Gen. Did you meet with *Titus* in *Fleet-ſtreet*?

Barton. I did, my Lord, and I asked him whether the King that was dead, (for I knew he was much about the King, becauſe I had heard it;) and I asked him, I ſay, whether the King was a Man of thoſe Parts he was reported to be, *Titus* told me, not only of his Parts, but Virtues. Truly I ſuſpected then, that *Titus* was not the Man he ſeem'd

to be, and I feared he was a Cavalier in his heart; and truly that did occaſion me, with the diſlike of others, to leave their Company.

Attorn. Gen. There were ſometimes private Faſts at your Houſe; what was the Occaſion of them, and who ſpoke to you for them?

Barton. My Lord, I do not remember the Party that ſpake to me, I am not certain whether it were Maſter *Vickars*, but cannot poſitively ſay it, or whether it were by Sir *Matthew Brand*, or by whom they deſired to meet; they met in a Room at my Houſe, to humble themſelves before the Lord: and I cannot ſay any thing of the Faſt, becauſe I had Cuſtomers, and I did think I was bound to ſerve my Calling; and I was not there above half an hour, and it was up and down, off and on, there were divers Miniſters, who did exerciſe at that time.

Attorn. Gen. Who did exerciſe at that time?

Barton. I was not there much of the time, but I think Mr. *Jenkins*, and to my beſt remembrance Mr. *Love* was there; there was Mr. *Tate* the Parliament-Men, to my beſt remembrance: I think Mr. *Jaquel* was there, and there was Sir *Matthew Brand*.

Attorn. Gen. What other Miniſters were there?

Barton. I think Mr. *Caſe*, and to my beſt remembrance Mr. *Robinſon*; but I am not certain.

Attorn. Gen. What was the Occaſion of your Faſts, and at your Houſe?

Barton. I knew no Occaſion, becauſe I was not there; but have heard, a Servant of my Houſe, who was there, give this Relation. Mr. *Jenkins* began in this manner; *O Lord, thou knoweſt we are not meet to put up Complaints againſt any, but to humble ourſelves before thee, and to pray that the Sins of the Land may be pardoned.* But I do not remember there was any word, but for the pardoning the Sins of the Nation.

Attorn. Gen. Was there no Sins named in particular?

Barton. My Lord, I do not remember.

Attorn. Gen. My Lord, ask him whether any body hath been with him, to call for any Money for any Parties beyond Sea; for *Maſſey*, or any others.

Barton. I ſhall give you a true Narrative of that. I underſtood, my Lord, that after the Priſoners that were taken at *Dunbar* were come down the River, there were divers Citizens, both Men and Women, that came to ſee them, and made a relation of their Miſery to be ſuch, as I have not heard; and there was one among the reſt, that ſaid there was a piece of Meat reached down among the Priſoners, and two or three catching at it, it fell down among the Dung, and they took it up, and eat it. There were divers did move for a Contribution to them, and it was a pretty while before I did contribute any thing: there was Captain *Far* with me, and deſired me to give him ſome Money, and he did not propoſe the Uſe; but to my beſt remembrance, it was either for charitable Uſes, or for ſome in miſery. Now I was loth to ask him for what charitable Uſe, becauſe I did not deſire to be known to give ſuch a Sum of Money to the *Scotch* Priſoners. I had a little Money which I had devoted to charitable Uſes in my own purpoſe: When the Parliament granted my Petition for reimburſing the Money I lent, I did promiſe Fifty Pounds to charitable Uſes; and this, I confeſs, I did intend for the *Scotch* Priſoners, but was loth to ask him, becauſe I would not be thought charitable to your Enemies; but did it not under that relation.

Attorn. Gen. Mr. *Jaquel*, you know *William Drake* and Mr. *Love* very well, do you not know that Mr. *Drake* and Mr. *Love* were very familiarly acquainted?

Jaquel. I muſt needs ſay, Mr. *Drake* would be acquainted with all the Miniſters in *London*; and I cannot ſay, he was more acquainted with Mr. *Love* than with any other Miniſter.

[Captain *Far* is called into the Court, and is ſworn.]

Attorn. Gen. My Lord, let him acquaint you with what paſſed at the *White-Hart* in *Breadſtreet*.

Capt. *Far.* I deſire the Benefit of my Papers.

Attorn. Gen. At whoſe requeſt did you come to the *White-Hart* in *Breadſtreet*, and when was it?

Far. By *William Drake*.

Attorn. Gen. Was that the firſt time you were acquainted with any thing of this nature, for carrying on and proſecuting of an Order, to the furtherance of an Agreement between the *Scots* and the King? What do you know of that, at what time was the Meeting?

Far. It was about two Years ſince.

Attorn. Gen. What was the Diſcourſe at that Meeting?

Far. It was the drawing up of ſome Heads of a Letter, which might be ſent to *Scotland*.

Attorn. Gen. What was the Effect of it?

Far. It was to this effect, to the beſt of my Memory; for it is ſo long ſince.

[Here Captain *Far* was at a ſtand, whether through Infirmity of Speech (for he ſeemed to be ſlow of Speech) or otherwiſe, I cannot ſay; and he, or the Attorney-General for him, made great uſe of the Papers of his Examination.]

Attorn. Gen. To deſire them, the better to bring them to an Agreement, that there might be moderate Propoſitions.

Far. It was to moderate their Deſires in the Agreement between the King and the *Scots*.

Attorn. Gen. What to do?

Far. That they might abate of their Demands.

Attorn. Gen. Of their former Demands, that they might be the more like to agree; was it not ſo?

Far. Yes, my Lord.

Attorn. Gen. Was it not propounded likewiſe, that ſome ſhould be ſent to the King, to perſuade him to give Satisfaction to the *Scots*?

Far. It was propounded by *Titus*, but not approved of.

Attorn. Gen. But did you not agree to ſend to the *Scots* that you did agree to, and were there not Heads which *Titus*, or *Drake*, did undertake to write, and afterwards were drawn up?

Far. I ſaw no Letters.

Attorn. Gen. But did not *Drake* tell you he had ſent them to Maſter *Bailey* in *Scotland*?

[Captain *Far* being at a ſtand, the Attorney-General asketh him again:]

Attorn. Gen. Did not *William Drake* tell you, a Letter was ſent accordingly into *Scotland*?

Far. Yes, he did tell me he had ſent Letters.

Attorn. Gen. My Lord, let him give your Lordſhip an account before the Treaty at *Jerſey*, where *Drake* met with him, and what he propounded to him, whether to ſend to *Jerſey*, and what Perſons, and upon what Meſſage?

Far.

Far. Mr. *Drake* did ſay, that Captain *Titus* did ſay, It was requiſite for one to be at the Treaty at *Jerſey*; and I had it from *Drake*, that *Titus* did undertake to go himſelf thither.

Attorn. Gen. What was his Employment to be there, and what Money was to be raiſed for him? Did he tell you he wanted Money?

Far. After Mr. *Drake* deſired I would help him to Ten Pounds, and *Titus* was in want of Money to relieve his Neceſſities: and upon this Requeſt I did leave Ten Pounds in Mr. *Drake*'s Warehouſe.

Attorn. Gen. Was *Drake* preſent?

Far. I think he was, I was promiſed it again, but never received it.

Attorn. Gen. My Lord, let him inform, after this Negotiation of *Titus* was ended at *Jerſey*, whether there was not a Letter written by *Titus*, and whether this was not read in the preſence of Mr. *Love*, and ſome others, and whether at Mr. *Love*'s or no?

Ld Preſident. Upon the ending of the Treaty at *Jerſey* and *Breda*, were you not preſent at Mr. *Love*'s Houſe, when it was ſignified from *Titus*, that it was not convenient for him to come into *England*, becauſe he thought he was diſcovered to the Council of State, and deſired ſomebody to be ſent to *Calais*, to take an account there of his Negotiation?

Far. Yes, my Lord, I was there.

Attorn. Gen. Where, at Mr. *Love*'s Houſe?

Far. Yes.

Attorn. Gen. In what part of his Houſe, whether in his Chamber or Study?

Far. In his Study, as I remember.

Attorn. Gen. Was the Letter read there, and who read it?

Far. *William Drake* read it.

Attorn. Gen. What was the Subſtance of the Letter, as you remember?

Far. It was for ſending one over to *Calais*.

Attorn. Gen. Was Mr. *Love* preſent when this Letter was read?

Far. Yes ſure, he was preſent.

Attorn. Gen. Was it agreed that one ſhould be ſent to *Calais*, to take an account of it.

Far. It was deſired, and I was propounded to go.

Attorn. Gen. Who named you to go?

Far. Mr. *Drake*.

Attorn. Gen. What was the occaſion that Major *Alford* did go?

Far. It was his Son's being there, that was gone from him.

Attorn. Gen. But then it was agreed that *Alford* ſhould go? When *Alford* did return from *Calais* again, and there was an Account given of his Employment, where was this Account given? and where were thoſe Papers read, that did give the Account?

Far. It was given at Mr. *Love*'s; but I cannot ſay he was preſent at that, for he was abſent ſometimes; I cannot be poſitive to ſay he was preſent: I do conceive he was preſent, but cannot poſitively ſay it.

Attorn. Gen. What was the Subſtance of the Account given by *Alford* or *Drake*, or who read it?

Far. It was a Narrative that he had been at *Calais*, and what Entertainment he had.

Attorn. Gen. Was there a Copy of a Letter brought thither, written from the King to the Presbyterian Party?

Far. I cannot ſay he brought it.

Attorn. Gen. What was the Subſtance of the Letter?

Far. To ſend Commiſſioners to the Treaty at *Breda*.

Attorn. Gen. What elſe was in the Letter? Did not the King of *Scots* declare in the Letter, that he would give ſatisfaction to the *Scots*, and in order thereunto he deſired Commiſſioners?

Far. It is ſo long ſince, that I cannot remember it.

Attorn. Gen. I ask you, whether it were not to this effect, to declare that he was willing to give ſatisfaction to the *Scots*, and to that end deſired the Presbyterian Party to ſend Commiſſioners to *Breda*?

Mr. *Love.* This is groſs Darkneſs, for you to dictate words to him, and then to ſay, Was it not thus, or to this effect? and ſo to put into the mouths of the Witneſſes what you would have them ſay.

Attorn. Gen. When you go in Darkneſs, it is groſs Treaſon.

Mr. *Love.* Eight Witneſſes have not proved that I either writ Letter, or received Letter, or lent Money.

Attorn. Gen. What was the Effect of the Letter?

Far. It is ſo long ſince, that I cannot ſpeak particularly; but it was to ſend Commiſſioners.

Attorn. Gen. The Copy of the Letter that came from the King by Major *Alford*?

Far. I do not ſay ſo, Sir.

Ld Preſident. Such a Letter as they conceived to be brought from him, as they read.

Attorn. Gen. What was that?

Far. That he had been with *Titus*, and did bring the Narrative from him, or to that effect.

Attorn. Gen. Was it not to be communicated?

Far. Yes, it was ſo.

Ld Preſident. What was the Narrative read from *Titus*? Who were preſent at this Meeting?

Far. There were ſeveral there, but I cannot poſitively remember any.

Attorn. Gen. Was Mr. *Love* there?

Far. I cannot ſay he was.

Ld Preſident. Was Dr. *Drake* there?

Far. I cannot ſay poſitively, that he hath been at any Meetings.

Ld Preſident. When you were at this Meeting, and Major *Alford* returned this at Mr. *Love*'s Houſe, was Dr. *Drake* there?

Far. I cannot ſay it.

Ld Preſident. Was Mr. *Jenkins* there?

Far. I cannot ſay it.

Ld Preſident. How many were there?

Far. About ten or twelve.

Attorn. Gen. Ask him whether this Meeting, when this Letter came from the King, adviſing to ſend Commiſſioners to treat with the King at *Breda*; whether was there not a Commiſſion named, and Perſons named to treat?

Far. *William Drake* read Papers, but it was not agreed upon by the Company, becauſe private Perſons could not give Commiſſions.

Ld Preſident. Was it not debated at that Meeting for a Commiſſion to be ſent accordingly?

Far. *William Drake* read Papers there, that was in the nature of a Commiſſion; but it was not agreed upon by the Company, becauſe private Perſons could not do ſuch a thing.

Ld Preſident. Was it not in order to the Treaty?

Far. It was to adviſe with them about the Treaty.

Attorn. Gen. Was it not read in the preſence of the Company?

Far. The Commiſſions and Inſtructions were read in the preſence of the Company, but they were not agreed upon.

Attorn. Gen. Was it not in the name of the Preſbyterian Party in *England*?

Far. As I do remember, the Commiſſion was in the name of the Presbyterian Party, for I did but only hear it read.

Mr. *Love.* Let him ſpeak *viva voce.*

Far. To the beſt of my remembrance, it was for the Presbyterian Party, but poſitively I cannot ſay ſo: My Lord, 'tis two Years ſince, and as near as I can remember, it was ſo.

Ld Preſident. The Commiſſion, you ſay, was not agreed to, but the Letter and Inſtructions were?

Far. William Drake did undertake to draw them up.

Ld Preſident. Were they drawn up and ſent?

Far. I am not able to ſay they were.

Ld Preſident. Who were to be the Commiſſioners?

Far. My Lord *Willoughby* of *Parham*, Alderman *Bunce*, Major-General *Maſſey*, Colonel *Graves*, Captain *Titus*.

Attorn. Gen. What were they to do?

Far. To adviſe, but not to treat in the behalf of the Presbyterian Party.

Ld Preſident. Not in the behalf of the Presbyterian Party?

Far. No.

Attorn. Gen. Was there not an Agreement of Letters to be ſent to the Queen, and no Propoſals that way?

Far. No, my Lord.

Ld Preſident. What was the Subſtance of that Letter read?

Far. It was, as I remember, to have the Queen perſuade the King to give ſatisfaction to the *Scots* in their juſt Demands.

Attorn. Gen. Was it not moved then to be debated what power they had to ſend a Commiſſion, and by what Authority they ſhould do it, and by whom was it ſpoken?

Far. It was demanded, what Authority had private Men to ſend Commiſſioners?

Attorn. Gen. Did not you go afterwards with ſome over into *Southwark*?

Far. Yes.

Attorn. Gen. Where did you go?

Far. I went with Major *Alford*, and with Alderman *Bunce* his Son, and I went to *Graveſend*.

Attorn. Gen. What other Company was there?

Far. No body elſe, nor had I gone, but at the requeſt of Maſter *Alford*.

Attorn. Gen. Did you know that *Maſon* went?

Far. There was no ſuch Man went along with us.

Attorn. Gen. Did no body tell you that *Maſon* went with the Inſtructions agreed upon?

Far. There was a Gentleman we met with at *Graveſend*, that I conceive to be that *Maſon*.

Attorn. Gen. Did he carry the Inſtructions?

Far. I cannot tell.

Ld Preſident. Did no body tell you ſo?

Far. Not as I remember, I did not ſee any delivered to him.

Ld Preſident. Do you believe he carry'd them, out of theſe Circumſtances you heard?

Far. Yes, I believe he did; I am upon my Oath, and to ſay poſitively, I cannot.

Attorn. Gen. Were there not Letters left at your Houſe, and for whom, and what did you with them?

Far. There was at my Brother's Houſe Letters left, but they were returned.

Attorn. Gen. But for whom were thoſe Letters?

Far. They were directed to *Will. Drake* by *Titus*.

Attorn. Gen. Were you at Colonel *Barton*'s Houſe at the Faſt?

Far. I was.

Attorn. Gen. Who officiated there, was Mr. *Love* one of them?

Far. I cannot ſay poſitively, I believe Mr. *Love* did.

Ld Preſident. Do you believe, Mr. *Love* was one of them?

Far. I conceive he was one of them, and Mr. *Robinſon*.

Attorn. Gen. Did he not pray for a Bleſſing upon the Treaty between the King and the *Scots*?

Far. That was done, but I cannot ſay it was by Mr. *Love*; but theſe words were ſaid there.

Attorn. Gen. Were you at a Meeting at Mr. *Love*'s, after the Fight at *Dunbar*, a remarkable time to this Nation?

Far. I was there, but came in late.

Attorn. Gen. Were you there, when a Letter was read from *Maſſey*?

Far. I did not hear it read.

Ld Preſident. What do you know of it?

Far. There was ſuch a Letter came, to aſſiſt the King with Money and Arms; but it was not agreed upon.

Ld Preſident. Do you ſwear ſuch a Letter came?

Far. I cannot ſwear poſitively.

Ld Preſident. Did the Gentleman tell you ſo?

Far. He did tell me ſo.

Ld Preſident. The Letter did write likewiſe for Arms and Ammunition, did it not?

Far. Yes, and for Money.

Ld Preſident. Did not Mr. *Love* tell you, they could not do it?

Far. I did underſtand it was Mr. *Love*.

Attorn. Gen. Did not Mr. *Love* tell you, they agreed to raiſe a Sum of Money for *Maſſey*, and *Titus*, and *Graves*, or ſome of them?

Far. Yes, he did.

Attorn. Gen. What was the Sum of Money, and for whom was it agreed upon? did Mr. *Love* tell you ſo?

Far. I ſay, Mr. *Love* did tell me it was agreed upon for the ſending of ſome Money, whether 250 or 300 *l.* I cannot ſay poſitively; and it was to relieve *Maſſey* and *Titus* in their Neceſſities.

Attorn. Gen. Did not Mr. *Love* move you to contribute to this? and what did you contribute?

Far. Mr. *Love* asked me, and I did promiſe five Pounds, and brought five Pounds, and laid it down upon his Table.

Attorn. Gen. Who was in the Room then?

Far. There were ſeveral.

Ld Preſident. Do you know none of them?

Attorn. Gen. Mr. *Love* ſaith, he hath neither writ, received, nor ſent; but he doth not ſay, he did not mend Letters.

Far. I brought five Pounds in a Paper, and laid it upon his Table.

Ld Preſident. And was he in the Room?

Far. Yes, my Lord, but I cannot ſay any elſe was.

Attorn. Gen. I could tell you who there were more; Mr. *Caſe* was there too: My Lord, ask him if it were not agreed between them, that it ſhould be ſo brought.

Far. As I did underſtand, it was ſo; it was ſo for my particular, but I cannot ſay it of others.

Attorn. Gen. Did not Mr. *Love* ſpeak to you to that purpoſe, to bring it in that way?

Far. I cannot ſay he bid me lay it down.

Ld Preſident. What was the Manner of Mr. *Love*'s requiring of you, or notifying of it to you, and the Manner of your Purſuit of that?

[Here

[Here Captain *Far* was at a ſtand, and made no Anſwer.]

Attorn. Gen. I will make it very ſhort: Whether this were not done that there might be no Diſcovery of it?

Far. It was done to that effect, that there ſhould be no Diſcovery of it: I did it under that Notion.

Ld Preſident. And do you not think Mr. *Love* conceived it under that Notion?

Far. I cannot ſay he did.

Attorn. Gen. Were you not ſpoken to by Captain *Maſſey*, to ſpeak to Colonel *Barton* to lend Money?

Far. I did ſpeak to him.

Ld Preſident. What was that?

Far. Ten Pounds, as I conceived; for I receiv'd it from him in a Paper.

Attorn. Gen. To whom did you deliver it?

Far. To Captain *Maſſey*, *Maſſey*'s Brother, my Lord.

Ld Preſident. You received it from Colonel *Barton*. Captain *Maſſey* bid you ſpeak to Colonel *Barton* for a Sum of Money; and he gave it to you; and you gave it to Captain *Maſſey*.

Attorn. Gen. Was the Money, as you conceived, returned to *Maſſey* and *Titus*?

Far. I cannot ſay it was.

Ld Preſident. Do you believe it was deſired to be raiſed to that purpoſe? And do you think it was done according to that purpoſe?

Far. I do not know.

Attorn. Gen. Whether do you conceive that this Money, you thus brought to Captain *Maſſey*, was not for *Maſſey* and *Titus*?

Far. I do conceive it was.

Attorn. Gen. And was not Mr. *Love* commonly at your Meetings? And whether, after *Drake* went away, the Meetings were not at his Houſe?

Far. I met with Mr. *Love* often at his own Houſe.

Attorn. Gen. This Money was taken up under the Notion of a charitable Uſe?

Far. I do conceive it was given them under that Notion.

Mr. *Love.* Sir, he gave you a large Account of the Negotiation with *Titus*; pray ask him if I were privy to it.

Far. I cannot ſay ſo.

Ld Preſident. Do you believe it?

Mr. *Love.* You ſay the Copy of the King's Letter, (you ſuppoſe) that was brought over by *Alford*, was read at my Houſe; whether did I hear the Letter read in my Houſe?

Far. I cannot ſay you did.

Ld Preſident. Was not Mr. *Love*, when the Letter was communicated, ſometimes in the Room, going and coming?

Far. I cannot ſay when it was read; but I ſay he was there during ſome part of the Communication; but I cannot ſay he was there at the reading of the Letter.

Attorn. Gen. Theſe are good Queſtions, my Lord.

Mr. *Love.* The Court will judge of that.

Ld. Preſident. But do you not conceive that he underſtood the Contents of it?

Far. I do conceive ſo.

Mr. *Love.* But he doth not ſay it was ſo. He ſaid there was a Narrative read from *Titus*, I deſire your Lordſhip to ask him whether I was preſent whilſt the Narrative was read, yea or no.

Far. I cannot ſay any thing to that; I cannot ſwear he was there.

Mr. *Love.* Ask him whether I did not go often out of the Room.

Far. I did obſerve, that when Mr. *Love* hath been there, he hath been often called away, and hath been abſent; and therefore I cannot ſay ſuch a thing was done when Mr. *Love* was there.

Attorn. Gen. He hath before proved it upon Oath, that he was there ſometimes.

Mr. *Love.* But look before, and he ſaid he could not ſay I was preſent when it was read.

Attorn. Gen. This Narrative, whether was it a Copy written by *Alford*, as News brought over, or the Copy written by *Titus* himſelf?

Far. *Alford* ſaid it was a Narrative from *Titus*.

Mr. *Love.* Pray ask him whether I did ſend *Alford* over, yea, or no; or agreed to the ſending of him over.

Far. I think he did not; but he was ſent by *William Drake*.

Mr. *Love.* My Lord, whether was he not privy to it? He told you *Titus*'s Letter was writ before *Alford* went.

Far. But it was not agreed upon.

Attorn. Gen. *Titus*'s Letter, that he writ, that ſome might come to him, to receive an Account of him, was read at Maſter *Love*'s Houſe.

Mr. *Love.* I move this Queſtion, becauſe *Alford*, who was the Man ſent, confeſſed that *William Drake* ſent him. He pretended there was a Commiſſion read in my Houſe; I deſire to know when, or at what Time; whether before the 29th of *March*, 1650?

Far. I am not able to ſpeak to the Time; it is about two Years ſince, or ſomething under.

Mr. *Love.* I deſire, Sir, to ask him this Queſtion, Whether the rude Draught, written by *William Drake*, or the original Copy, was ſent away?

Far. There was only a rude Draught that *Drake* read; and then afterwards *Drake* was to draw it up.

Mr. *Love.* Ask him whether I gave my Conſent to the ſending away of this Commiſſion.

Far. I cannot ſay Mr. *Love* was there when it was ſent away.

Attorn. Gen. Did Mr. *Love* make any Proteſtation againſt it?

Far. It was agreed by all that the Commiſſion could not be ſent.

Mr. *Love.* Ask him whether I did not declare in the Company, when there was ſuch Speech of commiſſionating, that it was an high Act of Preſumption for private Perſons to commiſſionate any, and a notorious Falſhood to ſay it was an Act of the Presbyterians; and whether did not I declare my ſelf againſt ſending the Commiſſion.

Far. I did ſay it was agreed upon by all, that we could not ſend the Commiſſion.

Mr. *Love.* I can prove, if I may have the Witneſſes indemnified, that I declared againſt any Commiſſion.

Ld Preſident. Mr. *Love* hath declared then he knew of the Commiſſion.

Mr. *Love.* I acknowledge the diſavowing of any Commiſſion; I gave my Reaſons for it.

Attorn. Gen. My Lord, I hope you will remember what the Priſoner ſays.

Mr. *Love.* I do not own any thing about concurring with any Commiſſion, but only diſavowing of it. After *Dunbar*-Fight, he ſaith, he came late; and he cannot tell whether the Letter was read at my Houſe, only he ſays, I told him ſo: And whether was that the Letter, or a Copy of it?

Far. I cannot ſay that.

Mr. *Love.* The moſt that I have done, is but to receive

receive News; and I hope I ſhall not die for that. Was this Letter of *Maſſey* written to me?

Far. I have ſaid already I cannot ſay ſo.

Mr. *Love.* I would be glad to be freed in Court.

Ld Preſident. You are a very free Man indeed.

Mr. *Love.* He ſpeaks of a Sum of two hundred and fifty Pounds, or three hundred Pounds, ſent to *Maſſey* and *Titus*; pray ask him whether I did agree that it ſhould be ſent.

Ld Preſident. Did he diſagree?

Far. I ſaid it was agreed to; but by whom, I cannot ſay.

Attorn. Gen. Did Mr. *Love* at that time diſagree?

Far. I cannot ſay he did.

Mr. *Love.* Did I move Captain *Far*, or ſay, Captain *Far*, will you contribute five Pounds to *Maſſey* or *Titus*, or any Money?

Far. You asked me the Queſtion, what I would do.

Mr. *Love.* But for *Maſſey* and *Titus*?

Far. I did conceive it was for *Maſſey* and *Titus*.

Mr. *Love.* He ſays he laid it in my Houſe; and he ſo far juſtifies me, that he cannot ſay I received it; and God is my Witneſs, I never did ſee it in my Life. If another Man agrees to receive Money in my Houſe, I hope the Court will not judge me for it.

Ld Preſident. It is an eaſy Matter for you to take it, and convert it to another Uſe.

Far. I do conceive that Captain *Maſſey* had the Money.

Mr. *Love.* Now you clear me: Another Man brings the Money, and I do not order him to bring it; and another receives it, and not I.

[Captain *Far* withdraws.]

Attorn. Gen. Now, my Lord, we ſhall conclude in a very ſhort Word, with a Miniſter to a Miniſter.

[Maſter *Jackſon* the Miniſter is called into the Court.]

Mr. *Jackſon.* Sir, I dare not ſwear.

Ld Preſident. Dare you teſtify the Truth when God calls you to it? For God will appear in no other Viſion than in the Power of Magiſtracy.

Mr. *Jackſon.* I dare not ſpeak againſt this Man's Life.

Ld Preſident. Dare you ſpeak the Truth before a Magiſtrate?

Mr. *Jackſon.* That that I ſay, is this; That I look upon this Man as a Man very precious in God's ſight; and, my Lord, I fear I ſhould have an Hell in my Conſcience unto my Dying-day, if I ſhould ſpeak any thing that ſhould be circumſtantially prejudicial to his Life: And in regard of theſe Terrors of the Lord upon me, I dare not ſpeak.

Attorn. Gen. I think all the Jeſuits in all the Colleges have not more deſperate Evaſions or Shifts from the Purpoſe than theſe Men have. My Lord, you now ſee what a deſperate Combination here is, that Men being before Authority, and in the Face of Magiſtracy, in ſuch a Court as this is, ſo eminent in the Preſence of it, and ſo authorized as this is; that Men ſhould dare to dally as they do; and that Miniſters ſhould ſay they dare not ſpeak the Truth: not when Treaſon is hatched and contrived, they dare not ſpeak the Truth; that this Man ſhould be more precious, though a Traytor, than the Commonwealth, which ſhould be preſerved. I hope we ſhall root theſe Opinions out, or ſome of the Parties that hold them; that I will ſay.

Ld Preſident. Maſter *Jackſon*, you are one of the Parties in theſe Meetings, you have been at their Meetings; and we require nothing of you but to ſpeak the Truth. St. *Auſtin* will tell you, That to conceal a Truth, or tell a Lye, you had better let the World fall about your Ears. You are required nothing but to ſpeak the Truth; and will you ſay this Truth will be a Torment to your Soul? Are you a Profeſſor of Jeſus Chriſt, a Miniſter of God? The great Errand you are ſent hither about, is to ſpeak the Truth from him. Therefore lay your Hand upon your Heart, and do as becomes you as a Chriſtian, and as a rational Man, and as one that will tell Truth; for by the Truth the World ſtands. We are all no better than ſavage Men, if we have not Judgment to tell Truth one to another.

Attorn. Gen. My Lord, ſuppoſe Mr. *Love* ſhould kill one of theſe Men (that do hear the Debate) in the Preſence of Mr. *Jackſon*, and he ſhould be called to give Evidence, and refuſe it; he may take away any Man's Life. Perſonal Reſpects ſhould be ſet aſide when we come to Judgment. You ſee, my Lord, the Perſon of this Man, how it is preferred by this Man. That which is the Truth, you are required to ſpeak, and nothing elſe.

Ld Preſident. Have you any Oath or Promiſe among your Combiners to be ſecret in this Buſineſs?

Mr. *Jackſon.* Never in my Life, my Lord.

Ld Preſident. Will you take your Oath?

Mr. *Jackſon.* I dare not, my Lord.

Ld Preſident. What is your Reaſon?

Mr. *Jackſon.* I have told you, my Lord, and I will tell you it again, I am a Man of a troubled Spirit; and I dare not do any thing that ſhould cauſe a Hell in my Conſcience to my Dying-day.

Ld Preſident. Do you look to die?

Mr. *Jackſon.* Yes, my Lord.

Ld Preſident. And do you expect to live again?

Mr. *Jackſon.* I truſt in Jeſus Chriſt I ſhall live again.

Attorn. Gen. My Lord, I deſire your Clerk may be commanded to give him his Oath, and he required to take it.

[The Clerk tenders him the Oath.]

Ld Preſident. Will you take this Oath, or not?

Mr. *Jackſon.* No, my Lord.

Ld Preſident. Then I think you are Men that were ſpoken of before, Jeſuits and Prieſts: They ſay you are none; but you are their Brethren.

Attorn. Gen. My Lord, theſe go beyond Jeſuits: The Jeſuits will ſwear with a Reſervation, and theſe will not ſwear at all. This Man muſt be proceeded accordingly with; for if this be allowed, I conceive there will be no Juſtice in *England*. And in reſpect of the Quality of his Perſon, Function, and Gravity, by ſo much is it a more pernicious Example, and it aggravates the Thing every way.

Ld Preſident. Let it be known here, that it may be diſperſed abroad; and I think there are ſome of moſt Counties of *England*. And this Air is gone forth; this very Plot is ſecretly ſpread with ſome chief Miniſters throughout all *England*.

Attorn. Gen. This Right they have done to many of them, that I believe it will make a more ſevere Inquiſition into theſe Perſons, than otherwiſe there would be: It is not Blood that is look'd after, but Confeſſion and Contrition. I am glad that thoſe that are not Clergy-Men do come in, and the Clergy will not confeſs at all.

[The

[The Court conſults a while.]

Ld Preſident. Maſter *Jackſon*, for your refuſing to ſwear, the Court fineth you five hundred Pounds, and Impriſonment during the Pleaſure of the Court.

[The Keeper of the *Fleet* is called upon, and commanded to take him in Cuſtody.]

Mr. *Love.* My Lord, I have ſome Motions humbly to make to this Court. The firſt is to intreat your Lordſhip, and the reſt of the Members of this Court, that if I have let fall any Expreſſions thro Inconſiderateneſs, or for want of Skill in the Law, that have been an Offence either to your Lordſhip, or to any, I beſeech you, if I have ſpoken any derogating Expreſſions, or made any unſeaſonable Motions, that you would impute it to my Ignorance.

Ld Preſident. None of them ſhall hurt you.

Mr. *Love.* Then I intreat this Favour, That I may have Counſel aſſigned me, and Sollicitors here in Court, and in my Chamber at the *Tower*, and a Copy of my Charge, and convenient Time, as the nature of the Buſineſs requires, my Charge being long, and I have not read a Word of it, nor the Depoſitions; that I may have, I ſay, Counſel aſſigned me, and convenient Time to bring in my Anſwer. And I am confident, thro the good Hand of God upon me, I ſhall clear my ſelf of all the Treaſons charged upon me, and of all their Aggravations, through Strains of Wit and Quillets of Law by Inſtruments of State: I am confident I ſhall clear my Innocency, that I ſhall not ſtand a Traytor before you.

Ld Preſident. They being Inſtruments of State, are Inſtruments of God, appointed by the State. For your Time, you have all this Afternoon. Are you not ready?

Mr. *Love.* I was yeſterday nine Hours lock'd up in that cloſe Room and in this Place; and I could not read one Word laſt Night, not out of Trouble of Mind, but through Wearineſs, being kept ſo many Hours in the Court.

Attorn. Gen. My Lord, he hath had a Fortnight's Notice of his Tryal to prepare for it. My Lord, we have been two Days; and by the Courſe of Proceedings, if the Gentleman had had his Tryal by a Jury, both muſt have been diſpatched in one Day. We are appointed to go on to hear his Defence now, or elſe on Monday.

Mr. *Love.* I deſire a convenient Time to bring in my Witneſſes, to make it appear how the Witneſſes againſt me contradict themſelves. I have not yet read the Depoſitions of one Man, and I cannot read the Depoſitions by Monday; and to-morrow is a Day that ſome Time of it ſhould be ſpent in other Imployments.

Ld Preſident. To do Juſtice, you muſt run out of the Church; and though you were at your Prayers, you muſt forſake Praying and Sabbaths to do Juſtice. Sir, this is of a higher nature than all your Preaching and Praying.

[The Court conſults a while together.]

Ld Preſident. The Court all agree to give you till Wedneſday Eight a-clock in the Morning.

Mr. *Love.* I deſire that I may have Counſel here, and in my Chamber.

Ld Preſident. You have ſhewed nothing theſe two Days that raiſes any Doubt in Matter of Law.

Mr. *Love.* There are ſome Things in my Charge that I doubt this Court cannot take Cognizance of; ſomething in thoſe Acts, and ſomething in reſpect of the Time. It is Matter of Law, whether the Act ſpeak of ſending or receiving Letters or Meſſages. And here are eight Witneſſes come in, and never a Man proves that I received Letter, or ſent Letter, or lent any Money. And this I conceive is Matter of Law, whether the Acts reach being preſent only where other Men lay down Money.

Ld Preſident. You have had Counſel.

Mr. *Love.* My Lord, I have had none.

Attorn. Gen. For Counſel, you are to ſend him none, my Lord: He hath his Liberty; he hath Recourſe for all the People in *England* to come to him.

Mr. *Love.* Counſel have refuſed to come to me; I have their Letters about me.

[Here he reads the Letters of ſome Counſellors, which they ſent to him to the Tower, declaring they could not come to him, unleſs they were aſſigned by the Court.]

Attorn. Gen. All that we can ſay to you, is, that Counſel may come to you, if they will.

[Maſter *Love* is commanded away; and the Court adjourns till Wedneſday.]

The third Day's Proceedings, July *the* 25*th*, 1651.

THE Court is ſet; and Mr. *Love* is commanded to the Bar.

Attorn. Gen. Mr. *Love*, this is the Day the Court hath given you (according to your Deſire) to make your Defence; and they are ready to hear it.

Ld Preſident. And I hope thoſe Directions that have been given, have been obſerved, that any Perſons of what Quality ſoever, either Lawyers or others, that came to you, have had in a fair way Acceſs unto you; and that you have been debarred nothing that the Court gave Order for. If there have been any Impediments, we will do our beſt to have them taken away.

Attorn. Gen. My Lord, I have nothing more at preſent againſt him: You have heard that whereof he ſtands accuſed, and the Evidence produced to prove it. And, my Lord, I hope they be ſufficient to convince the Gentleman that there is Proof againſt him for theſe Facts and treaſonable Deſigns, whereof he ſtands accuſed. This Day is appointed for his Defence, if he thinks fit to make it. But if God hath otherwiſe wrought upon his Heart, and that he himſelf is convinced that the Charge againſt him is proved to be true; to me it will be the beſt way of his Preſervation. But what way ſoever he thinks fit to take, I ſhall be ready to go along with him in it: And ſo, my Lord, I expect what he ſhall ſay.

Mr. *Love.* My Lord, I ſhall not trouble your Lordſhip, and the Court, to bring in at preſent any Witneſſes to teſtify any thing that might invalidate that Teſtimony that ſome have brought in againſt me; I love not to protract Time: But I ſhould betray my own Innocency, ſhould I by my Silence lie under all that Charge and Obloquy which is caſt upon me. And therefore I deem it my Duty, wherein I can, and as far as I am able, to expreſs my ſelf before your Lordſhip and the Court.

Court. And therefore I humbly crave leave of your Lordſhip, and this Court, that I may make my Defence for my Life before you.

Although I am denied Counſel to plead for me in this Court, which is ſo juſt and neceſſary a Means for the Preſervation of my Life, yet my Comfort is that of the *Pſalmiſt*, *My Defence is of God, which ſaveth the Upright in Heart, and pleadeth the Cauſe of his Servant againſt him that puffeth at him.*

My Lord, you have granted me that Favour which the *Romans* did to *Paul*, that he might anſwer for himſelf, concerning the Crimes laid againſt him.

In making my Defence, I ſhall humbly crave leave to proceed in this Method: To ſpeak ſomething, Firſt, concerning the Charge: Secondly, concerning the Witneſſes, and their Teſtimony: Thirdly, ſomething concerning my ſelf: And then, Laſtly, ſome Things humbly to propoſe to your Lordſhip and the Court concerning my Charge. Mr. Attorney-General hath exhibited a Charge againſt me, conſiſting of two Parts; of High Treaſon, and of other High Crimes and Offences. As touching the firſt, comparing the Acts which the State hath made with the Actions which my ſelf have done, I know not any perſonal Act of mine (proved againſt me) that renders me guilty, as to Treaſon, by any publick Act of your Lordſhips. And therefore I pleaded the general Iſſue, Not guilty, as to that.

As to the ſecond, my Counſel having a general Licence to come to me, and ſince having been with me, they have acquainted me that Preſence with, or Silence at what my Accuſers have done, this renders me culpable by your Acts; and therefore, as to that, I ſhall humbly commit my ſelf to your Juſtice and Mercy.

Concerning, Sir, the Charge laid againſt me, I can ſafely and truly ſay I am charged with many Things which I ought not, being pretended to be done before the Act was publiſhed which conſtitutes this Court. I am charged likewiſe therein with many Things that I knew not, and with other Things that I did not; and therefore dare not in Conſcience lie under the Obloquy of the whole Charge. I do therefore in general declare and proteſt againſt what is mentioned in the Charge, touching the raiſing of Inſurrections, Seditions, and Rebellions. I may ſay in that regard as *Jeremy* did, I deſire not that woful Day, God he knows.

To the other Particulars, to wit, the Confederation with *Jermin*, *Piercy*, and others, in foreign Parts, to raiſe Forces, I anſwer, I diſlike the very Mention of their Names, or any Concurrence with them in any Practice of ſuch a nature, who are Perſons whoſe Principles are ſo contrarient to Religion and Liberty.

As touching the other Particulars, to wit, a Correſpondence with the Son of the late King, the Queen, *Jermin*, and *Piercy*, and others mentioned in the Charge; I do declare before you, That I never received Letter from, nor ſent Letter to any of them; nor had I any Correſpondence with them.

There are other Things in the Charge, to which all the Depoſitions of the Witneſſes do not in the leaſt come up: And ſhould I by my Silence render my ſelf obnoxious to the whole, you might judge me to be guilty of that which indeed I am not guilty of.

I obſerve in reading the Charge, that there are many Things in it which the Witneſſes do not in the leaſt ſpeak unto: For, firſt, none of them ſwear that ever I writ Letter to the King, or to the Queen his Mother, or to *Jermin*, *Piercy*, or any other Perſon named in the Charge, or to any Perſon of the *Scotiſh* Nation, ſince the Troubles began.

Again, none of the Witneſſes ſwear that ever I either deſired, or perſuaded, or directed any Perſon to write any Letter to any Perſons whoſe Names are mentioned in the Charge, or to any Perſon in or of the *Scotiſh* Nation: Nor do any of them ſwear that ever any Letter was written in my Houſe; but that only Letters ſuppoſed to be come from or ſent to the *Scots* were read there; which I do not deny. Again, none of them ſwear that ever I did ſo much as read a Letter in my Houſe, or other where, that was pretended to come from the *Scots*, or pretended to be ſent into *Scotland*. Further, none ſwear that ever I gave my expreſs and particular Aſſent to the ſending away of any Letter. And none ſwear that ever I collected one Penny of Money either for the King or the *Scots*, or any Perſon in *Scotland*. That which is affirmed by one Teſtimony, to wit, by *Alford*, that I moved for Money, I ſhall anſwer when I come to it. Again, none of the Witneſſes prove that ever I invited any Perſon, or foreign Forces, to invade the Nations of *England* and *Ireland*; which yet is laid expreſly to my charge in the Charge read againſt me. None likewiſe prove that ever I plotted, contrived, or endeavoured to raiſe Forces, Tumults, or Inſurrections within this Nation againſt the preſent Government. None ſwear that I was a Correſpondent. Indeed, *Adams* in his Teſtimony had theſe Words, (which both the Notary and my ſelf took) That he took me to be a Correſpondent. But when I had your Lordſhip's and the Court's Leave to put this Queſtion to him, Whether upon Oath he would affirm I was one? his Anſwer was, That he could not poſitively ſay I was ſo; but he ſaid, He did conceive I was a Correſpondent; but did not ſay I was ſo. So that, Sir, as to theſe Particulars, there are none of the eight Witneſſes (neither the ſeven that have been ſworn, nor yet Maſter *Jaquel*, whom I do not take to be under an Oath) that do charge any of theſe Particulars upon me.

I have a Word alſo to ſpeak concerning the Witneſſes, who are my Accuſers; and I might ſay there is an Incompetency in them, as to their Number. There are many Particulars ſworn againſt me, to which but one Witneſs hath ſworn to one Fact; and this I ſhall humbly offer to your Lordſhip's and the Court's Conſideration. I might alledge alſo an Incompetency as to their Quality: They are not only Perſons accuſed of Treaſon, and ſo are not to be believed, but they have made an open Confeſſion of that which is Treaſon by your Act, and ſo are not *legales Teſtes*. They have done that by an open Confeſſion, which, as I am informed, is equivalent to a Conviction: They have confeſs'd ſending of Letters, receiving of Letters, and lending of Money; but they have proved none of theſe Things againſt me. Now they having both given it under their Hands, and alſo publickly declared that they have done theſe Things, I cannot judge them competent Witneſſes againſt me: But this I muſt leave to the Court's Conſideration.

Sir, concerning the Incompetency of their Number, to that wherein two Witneſſes do concur, I am concluded; and wherein they have teſtified any Thing true, I would not deny it for all the World; and wherein they agree in their Teſtimony in a Truth, therein I will be candid, and ingenuous to acknowledge it.

My

My Lord, tho the Charge be long, and my Time but ſhort, and the Depoſitions many Sheets of Paper, (and truly I could hardly read them over till late laſt night) yet through the good Hand of God upon me, I ſhall labour to make as plain and clear a Defence as God ſhall enable me.

Sir, in reading over the Charge, I obſerve, that thoſe things which ſeem moſt criminal againſt me, are ſworn to but by ſingle Teſtimony; and I will mention, with your Lordſhip's leave, a few Particulars.

Firſt, Touching the Letters ſaid to be from *Titus*, the Effect of it being, as was ſaid, to deſire ſome to come over to *Calais*, that he might give them information touching Affairs at *Jerſey*; none but *Far* ſwears that this Letter was read in my Houſe. The other Witneſſes, ſome ſay, it was read in one place, and ſome in another: *Alford*, I remember, he ſays he heard it from *William Drake*; and *Adams* ſays, it was read in *William Drake*'s Houſe: but none but *Far* ſwears, it was read in my Houſe. There is likewiſe none but *Far* ſwears, that Major *Alford* was deſired in my Houſe to go to *Calais* to *Titus*; neither *Jaquel*, nor *Potter*, nor *Alford*, nor *Adams*, nor any of the reſt lay this to my charge: it is only *Far* that lays this to my charge, and he doth it moſt untruly, which I will make out unto you by an undeniable Demonſtration.

He ſays, that at a Meeting at my Houſe the Company did deſire Major *Alford* to go to *Calais*. Now if your Lordſhip obſerves *Alford*'s Teſtimony, he tells you upon Oath, that he was never in my Houſe till after he came from *Calais*, nor ever ſpake with me in my life till after he came from *Calais*, therefore could not be deſired in my Houſe to go to *Calais*. So that, Sir, I will not lay it upon the Badneſs of *Far*'s Conſcience, but upon the Badneſs of his Memory. I do not think he is ſuch an Atheiſt, to ſwear falſly deliberately; but being ask'd ſo many Queſtions as he was, for he was ask'd fourſcore and eighteen Queſtions by Mr. Attorney, and ſome of the Court, he might eaſily ſay he knew not what.

And I ſaw the Man was confounded, and it was hinted to him what to ſay, by the help of the Papers, and Examinations taken from him in private, and ſhewed to him in publick: ſo that, Sir, I ſaw the Man under a Temptation. I was loth to mention this then, tho I knew his Teſtimony herein to be falſe, becauſe I would not anticipate my laſt Anſwer.

A third Particular charged upon me by one Witneſs only, is a Copy of a Letter (not the Original, none ſwears that) that *Alford* received from *Titus*; and he told him, it was a Copy of a Letter from the King. Now *Far* he ſwears that the Subſtance of the Letter was to deſire Commiſſioners to be ſent over to *Breda*, at the Treaty there: now *Alford*, who pretended to receive this Letter from *Titus*, being ask'd the Queſtion, he ſwears that there was no ſuch thing in the Letter, that he knew of. Now truly, if any did know the Contents of that Copy of a Letter, it muſt be *Alford*, who brought it over: I beſeech your Lordſhip therefore to conſider it, and tho the Charge againſt me be very high, and my Condition very low, and the Oppoſition againſt me very great; yet I hope I am in the hands of merciful and juſt Men, and that wherein you ſee but ſingle Teſtimonies, that therein you would be very tender in proceeding to a Sentence againſt me upon thoſe Teſtimonies.

Again, in the next place, I obſerve a ſingle Teſtimony only in another Buſineſs, and that is Major *Alford*. None but he, of all the Witneſſes, did ſwear that it was agreed upon among us, that is, at my Houſe, That a Commiſſion and Inſtructions ſhould be ſent over to the Lord *Willoughby* of *Parham*, *Maſſey*, *Titus*, and Alderman *Bunce*; none, I ſay, but *Alford* ſwore this. *Adams* indeed ſwore, that there was a Motion that this ſhould be; and *Huntington* ſwore this, that Mr. *Love* ſhould ſay, Come, come, let it go; (to which I ſhall anſwer, when I come to it.) But *Far* ſaid expreſly, three times in Court, being upon Oath alſo, That all the Company were againſt ſending away the Commiſſion. And *Alford* he only ſwears, That the Commiſſion was agreed upon.

I hope your Lordſhip and the Court will judge which of theſe to believe; and for *Alford*'s affirming that it was agreed upon among us, I am ſure, if he had any Conſcience, he could not ſay that I agreed to it. I will not deny (now Witneſſes have proved it) but that I was preſent. But I did expreſs myſelf againſt the Commiſſion and Inſtructions, as being an Act of high Preſumption, for private Perſons to ſend Commiſſions and Inſtructions; and as being an Act of notorious Falſhood, that it ſhould run in the name of the Presbyterian Party, when none did know any thing of it, that I know of, but only thoſe that were then in the Room. And I beſeech your Lordſhip and the Court to conſider, that this is not only a ſingle Teſtimony, but that it is ſaid to be done in the Year 1649. a great while ago, my Lord. And ſo the Buſineſs of *Titus*, if it had been true, was done ſome time before that: ſo that, Sir, it being done before the Act of the 26th of *March* 1650, which conſtitutes this Court, herein I hope it will not be deemed criminal, if I had agreed to and approved of the Commiſſion, which I never did. Another Particular, to which I obſerve there is but a ſingle Teſtimony, which is *Alford* alſo; he ſwore, that at a Meeting at my Houſe, I moved for Contribution of Money to *Titus*; none ſwore this, but only he. *Adams* ſwore, I took Pen and Ink in my Hand, but he knows not what I writ. Others ſwore, That I was ſometimes preſent at the Meeting; but none but *Alford* ſwore, that I moved at a Meeting for Contribution of Money. Now, Sir, as to that it is but a ſingle Teſtimony; and if it were true, I do not deem it comes under the Act, becauſe the Act (of which I was ignorant till the day I heard it here in Court) of the 2d of *Auguſt* 1650. that Act doth adjudge this to be Treaſon, to wit, *The ſending, or cauſing to be ſent, Money, Horſes, or Arms, into* Scotland. Now, Sir, if it had been true, which this Witneſs depoſeth, That I at a Meeting did move for Money, yet he proves not againſt me, that ever I received or ſent away a Penny; and if I had moved it, that had neither been a ſending away of Money into *Scotland*, nor a cauſing of Money to be ſent away: and ſo brings me not, as to Treaſon, under your Act.

Another thing, unto which only a particular Witneſs ſwore, to wit, *Far*, is, That I moved him particularly to contribute Money. He chargeth not this at a Meeting, as *Alford* doth; for he ſays, he came in late, but ſaith that it was a perſonal Motion to him alone: And he doth not ſay, that I moved him for Money for *Maſſey* and *Titus*, but that I only asked him this Queſtion, *Captain* Far, *what will you do?* And if your Lordſhip conſider it, and that your Notaries have taken right, you ſhall find that to be his Anſwer, which I ſhall anſwer when I come to it. And thereupon he confeſſes,

feſſes, he brought five Pounds to my Houſe, but he doth not tell you that I received it; and God is my witneſs, I never ſaw it, nor received it, nor did I give any directions about it. But as *Far* was going out of the Court, he named Captain *Maſſey*, the Perſon which he thought received the Money; for which he was rebuked by ſome that were by him, that ſo the greater Odium might lie upon me: as if becauſe the Money being brought to my Houſe, I muſt needs therefore receive it. His Name, as I am informed, that rebuked him for declaring who received it, is Captain *Biſhop*: ſo that they would inſinuate into your Breaſts, who are my Judges, (who I hope will be conſcientious) That it was I that received the Money, when the Witneſs meant honeſtly, that another received it. But if I had received it, or moved for it, yet he is but a ſingle Teſtimony to that Particular. Again, in reading the Depoſitions, I take notice that there is only a ſingle Teſtimony to thoſe words; (upon the reading, reading I cannot ſay, for I never read it; upon the hearing ſome Papers read, ſuppoſed to be a Commiſſion) that *Huntington* ſwore, that I ſhould ſay, *Come, come, let it go.* Thoſe were his words; but the other who were there preſent, two or three of them being ask'd, whether they heard me ſpeak ſuch words, they all of them denied that they heard any ſuch words. Now truly this *Huntington* is a Man whoſe Face I never ſaw before that day, nor ſince, till I ſaw him here in Court: and if I had known that a Buſineſs of any dangerous nature had been come to my Houſe, which I did not, (for I knew no more of it, than any here preſent, before *Drake* took the Papers out of his Pocket, which *Huntington* confeſſes were written in Characters, and read by *Drake*) I ſhould have been accounted a very indiſcreet Man, to ſpeak any ſuch words in the preſence of a Man whoſe Face I never ſaw before. And for thoſe words that I ſhould ſay, *Come, come, let it go*; I hope your Lordſhip and the Court will be ſatisfied, that I never ſpake any ſuch words, as to the Commiſſion and Inſtructions; for then I ſhould have contradicted my ſelf in one Breath: for at the ſame time I had ſpoke againſt it.

Again, I obſerve in the Depoſitions, none but *Adams* affirms that there was a Letter, *which*, ſays he, *was declared to be directed to the General Aſſembly of* Scotland. He doth not ſwear it was directed to the General Aſſembly, but that it was declared to be ſo, and ſo ſwears by Hear-ſay. None but he, I ſay, affirms upon Oath, That at my Houſe there was a Letter read, which was declared to be directed to the General Aſſembly. And he ſays further, He thought this Letter was penn'd by Maſter *Love* or Dr. *Drake*: But I beſeech your Lordſhip and the Court to conſider by what reaſon he did conceive this; and I hope your Lordſhip will diſtinguiſh between a poſitive Aſſertion, and a conjectural Suppoſition. For being ask'd, why he conceived ſo? I *conceive ſo*, ſays he, *becauſe of the Language of it*: as if he that never ſaw any Letter of mine, to know that poor and low Stile I write in, ſhould conceive that either I, or that other Gentleman named, ſhould pen that Letter, merely becauſe of the Language of it, it being, (he ſaid) in order to promote the Ends of the Covenant. I hope the Court will judge of the Inſufficiency of this Evidence; and were it never ſo clear, yet as to that Particular, it is but one Teſtimony.

Again, none but *Adams* ſware concerning a large Letter, that, for my part, I never knew of, till the day he affirmed it here in Court. A large Letter, he ſays, in the nature of a Declaration, penn'd, as he thought, by Maſter *Love* or Dr. *Drake*, wherein it ſhould be ſaid, That they could not ſend Money till the *Scots* did appear more conſiderable, and grew nearer to Action: Yet he confeſſes he had no ground to ſay Maſter *Love* penn'd it. And indeed, he had not. But, Sir, as for this Letter, though I durſt not for a World deny any thing which I know to be true; yet God is my Record, to my knowledge, I never ſo much as heard any mention of it. And as for theſe words he ſpeaks of to be in the Letter, I know nothing at all of them; nor did I ever hear them, as I know of, till I heard him affirm them here in Court.

But if it had been ſo, yet he is but a ſingle Teſtimony, and I beſeech your Lordſhip to conſider, that he ſays it was to this effect, or this was the Subſtance of it: Now I hope ſo many grave Judges and Lawyers that ſit upon my Life, and ſo many conſcientious Men, will be tender of a Man's Blood, when a Man ſhall come in with Evidence, and ſhall ſhew neither my Hand, nor the Letter, nor the Original, neither Copy, nor Tranſcript, nor any thing but the vain Rovings of a Man's Memory in things ſpoken or done ſo long ago; and that a Man ſhall come in againſt a Man's Life, and ſhall only ſay, that this was the Sum or Subſtance of it, or it was to this effect. And I being a Divine, I ſhall not ſpeak as to Matter of Law, that this is inſufficient Teſtimony, but as a Scholar, and one that ſtudies the Scriptures, I ſhall obſerve one memorable Inſtance that pleads my Juſtification in this Particular, and they are the words of Chriſt; Chriſt ſaid, *Deſtroy ye this Temple, and in three Days I will raiſe it up*, John 2. 19. Now the Scripture in *Mark* ſays, *There aroſe certain, and bare falſe witneſs againſt Chriſt, ſaying, We heard him ſay, I will deſtroy this Temple*, &c. *Mark* 24. 57, 58.

I beſeech your Lordſhip to conſider, that in this Teſtimony of the falſe Witneſſes againſt Chriſt, there is only the Variation of a Word, and the Addition of a Letter; there is the Addition of a Letter *I*, and the Alteration of the word *ye* for *will*, (there's all) for Chriſt did not ſay I will deſtroy, but, *deſtroy ye*; and yet the Scripture takes notice of it, that this Addition of a Letter, and Alteration of a Word, brought his Accuſers under a falſe Teſtimony, though they ſpake according to their Intention; for they did verily believe he ſpake of the Temple: for they ſaid, Forty Years was it in building. So that I beſeech you be tender in Matters of Blood. I know you who are skilful in the Law do know, that the Proof of Treaſon muſt be as clear as the Sun, *Probationes oportent eſſe luce clariores*. Now when a Man ſhall come againſt a Man's Life, and cannot ſhew any Letter that ever he wrote, or that ever he did receive, but ſhall only ſwear it was to this effect, or to this purpoſe, or I believe this was the Subſtance of it; I hope you are ſo wiſe and conſcientious, that you will paſs no Judgment upon this conjectural Evidence.

Another Particular, to which only one Witneſs teſtifies, and that is *Adams*; he ſwears that I ſhould ſay, That if the Presbyterians were in Arms, by the Bleſſing of God, Malignants might be prevented from getting the day. Truly, I do not know what Crime is in theſe words, but as they may be wreſted. But, Sir, I do remember that this *Adams* hath often come to my Houſe; he ſaid ſeven or eight times, he might have ſaid ſeven and twenty times; for he hath come ſometimes once or twice a Week to my Houſe, to tempt me (as I now perceive)

ceive) and hath offered me Money; and would ask me whether I knew any thing for a publick Uſe that might require Money? And though I never ſuſpected him, yet ſo free am I from maintaining Correſpondency, or from having Intelligence, or contributing of Money to maintain a War, that I never received one Penny of him in my Life, though I have been moved to it by him: But I remember, of late eſpecially, about a quarter of a Year before I was in Priſon, he would come once or twice a Week to my Houſe, and he pretended that he was wrought upon by me, and that I had turned him from his malignant Principles; for he was very violent for *Hamilton*'s Invaſion of *England*, which I was, and to this day am againſt; and I did labour to poſſeſs him what a miſchievous Deſign that was: and ſo he pretended to be turned to my Principles, and upon this got ſome room in my Affections. But theſe words were not above a fortnight before I was committed to Priſon: and I remember the Occaſion of them was this; I was bewailing the great Alienation and Difference that there was between the Presbyterian and Independent Party (though I do not love Names of Diſtinction) and indeed thus I ſaid, That if the godly Party, that were now diſunited and disjoined, both of the Diſſenting and Presbyterian Way, were in Arms, there were no Hopes that ever the Malignants ſhould get the Day. And God is my Record, I ſpake nothing to him but to this purpoſe. And thus, through the good Hand of God upon me, I have ſpoken to what I obſerve in reading the Depoſitions, wherein I find but ſingle Teſtimonies againſt me.

I ſhall now crave leave (which is the main of my Work) to run over the Depoſitions as briefly as I can; for I ſhall not trouble you with large Speeches: but being the Depoſitions were large, and the Witneſſes many, your Lordſhip and the Court (I hope) will bear with me with the more Patience, if I ſpeak more largely in it. It is my Duty to ſpeak for my ſelf, and 'tis for my Life.

The firſt Witneſs that appeared in Court againſt me, was *Henry Potter*. As to his Teſtimony, there are many Particulars which he was ask'd about me, to which he ſpake but conjecturally; *as he thought*, and *as he believed*, and *as he conceived*. And when Papers by Mr. Attorney-General of his Examination were tendred to him, he anſwered, That *then he had a Latitude to ſpeak more than he durſt affirm upon Oath*. And upon this I ſhall humbly crave leave that I may make this Motion to you, That you would not, in paſſing Judgment upon me, hearken to any private Examinations, which are extrajudicial, to be brought in Court againſt me; for moſt of the Witneſſes had their private Examinations ſhewed them in Court, and were read to them, and they did not ſpeak in their Relations of what they knew, but what they conceived; and when they could not tell what to ſay, then their Examinations were produced to direct them: and I hope your Lordſhip and the Court will take notice of this. And herein I cannot but acknowledge the Juſtice of this Court in this Particular, That you would not receive private Examinations till they came face to face, that I might anſwer to the Crimes laid againſt me.

But as to his Teſtimony, I ſhall not run over things that touch me not, I muſt not flatter my ſelf to paſs over things that concern me: For I know it will be look'd upon with more prying Eyes than mine are. There are only two things in his Teſtimony that concerns me: He ſpeaks not of any Meetings at my Houſe that he knows of; he ſpeaks not of any Money that ever I lent him or gave him though there was a narrow and exact Examination of him in thoſe Particulars. But two things concern me in his Depoſition; the one is, That he received a Letter with a great *L.* upon it, from one Colonel *Bamfield*, which was a Narrative of the Affairs of *Scotland*; which Letter, with two more incloſed, from my Lord of *Argyle*, *Lowdon* and *Lothian*, he ſaid, he brought them to Mr. *Love*'s: and herein I might take notice, that he forgot himſelf a little, for he might have ſaid, that he brought them firſt to Mr. *Jaquel*'s; for *Jaquel* did affirm in Court, that *Potter* brought the Letters to him, and ſpake to him to come to me. The Subſtance of the Letters from the Earl of *Argyle* and the reſt, he ſays, were to move for ten thouſand Pounds; and (as I remember) *Jaquel* ſays, for five thouſand Pounds: But *Potter* himſelf acquits me in this matter; for he doth not ſwear the Letter was to me, nor could he ſwear it juſtly; nay, he ſwears he did not think it was to me. And as for this *Bamfield*, he is a Man whoſe Face I never ſaw to this day: and he ſwears, (and indeed he had been injurious if he had not told you thus) that when he came into Mr. *Love*'s Houſe, he ſaid, *Mr.* Love, *I have News to ſhew you.* And unleſs things be aggravated againſt me, by the Inſinuations of Men, and by rigid Inferences and Collections, this will be the worſt charged upon me, That there were ſeveral Meetings at my Houſe, and ſeveral Letters read there, which I do not deny. But, Sir, he confeſſes, that he ſaid, [*Mr.* Love, *I have News to ſhew you*;] and that he opened ſome of the Letters, and that ſome were not opened when he brought them: But neither he nor *Jaquel* ſwears, that I opened them; and he tells you, That he carried away the Letters with him. And he ſwears further, That both my ſelf, and all that were there preſent, did manifeſt an utter Diſlike and Deteſtation of thoſe Letters. But herein I know what will be laid to my Charge; it will be ſaid, Why did not Mr. *Love* reveal them? Truly, to this I do ingenuouſly ſay, That I did conceive by reading of the Act that conſtitutes this Court, That thoſe only were bound to reveal, that did receive them; and not that I was bound to reveal that which another Man received. But herein I am better informed by my Counſel, and they tell me, That Preſence with, or Silence at what others do, makes it a criminal Fact in me, if the Matter of the Letter be criminal and treaſonable by your Acts; and therefore in this, that I did not diſcover them, I ſhall humbly beg your Favour.

This Paſſage of C. Potter's [Mr. *Love*, I have News to ſhew you] *was through ſome Miſtake left out of his Depoſitions.*

The next thing in *Potter*'s Teſtimony that toucheth me, is, he ſwears that he heard of a Propoſition for raiſing of 400 *l.* for *Titus* and *Maſſey*; but he varies from the others: *Alford* ſaid, 2 or 300 *l.* and *Far* ſaid, 250 or 300 *l.* and *Potter* ſaith, 400 *l.* But he ſaith he was not preſent when the Propoſition was made, and therefore he cannot ſpeak as to that. But yet ſaith he, *I brought ten Pounds to Mr.* Love's *Houſe, and there left it*; (five or ſix Perſons more being in the Room.) Mr. Attorney-General was pleaſed to ask him, Whether he did not give me a twitch by the Hand or Cloke when he brought it? *Potter*, I remember, denies that he did ſo; and I do not remember that ever he did it, nor do I remember that ever he laid a Penny of Money down in my Houſe: And I tell it you in the Preſence of God, I never ſaw it, nor received it to this very day. But, Sir, if he had given me a twitch,

which is intended as an Aggravation againſt me, I hope a Judicatory will not proceed upon ſo ſilent a thing as that is: Though *Solomon* ſays, *There is a Teaching with the Fingers*, Prov. 6. 13. yet that is ſo ſilent a thing, that a Court of Judicatory cannot take notice of it, unleſs it be manifeſt and apparent by ſome Act. And therefore ſeeing he doth not affirm that I ſaw the Money laid down, or that I received the Money, or directed or ordered him to come to my Houſe with any Money, I hope you will not lay that to my Charge. And thus I have done as to that Particular.

There is only one thing more in order to the Letters he was examined about. He was ask'd what Anſwer was returned to thoſe Letters that he received from *Bamfield*, and the Earl of *Argyle* and the reſt, that he ſhewed Mr. *Love*? To that he gave this Account, That a Letter was left at his Shop, which he thought, he ſaid, came from Mr. *Love* or Doctor *Drake*. Now, Sir, for my part, I declare in the Preſence of God, That I never in all my Life, either wrote or ſent, or left a Letter at his Shop: And although I am not to plead another Man's Cauſe, yet I believe that godly Miniſter he mentions, will clear himſelf alſo; but I muſt only ſpeak to my own Defence. For my part, I never in my Life ſent a Letter to his Shop, written to thoſe Perſons: and he only ſwears, That he thought the Letter left in his Shop came from me or Doctor *Drake*: But how could he know from whom it came, or what was the Matter of it? And if it had come from either of us, which he did not affirm, yet he doth not ſay he opened the Letter, and ſo could not tell the Contents of it, that it was an Anſwer to the ſuppoſed Letters he ſhewed me. I have only one thing to obſerve in his whole Teſtimony, and that is, That he confeſſes, until he had a ſight of other Mens Examinations in private, to wit, of *Alford*'s and *Adams*'s, the things did not come to his Remembrance, or Words to that effect he hath in his Depoſitions; and that there were ſome things to which he could not ſpeak exactly, till he firſt ſaw ſome Informations; and that Mr. Attorney-General did ſhew him ſome Informations, and that did bring things to his Remembrance; and that before Capt. *Fiſher* and Mr. Attorney did prompt him, and remember him, he had forgot. So that, Sir, I beſeech you conſider, whether this be a clear and good Teſtimony in Law, That when a Man hath forgot a thing done ſo long ago, he ſhall through the Examinations of others have his Memory rubb'd up, and then ſhall come here in a publick Court to teſtify this againſt a Man's Life.

The next Witneſs is Major *Alford*, he gives you a large Relation about ſending *Titus* to *Jerſey*, and of 100 *l.* given him for his Journey, and of Letters to the Queen, and *Jermin* and *Piercy*. My Lord, I am as ignorant of all theſe things as the Child unborn, and did never know that *Titus* was gone or ſent to *Jerſey*, by any Perſon, till a long time after I heard he was there, and till I heard of his Name in the *Diurnals*, that he was an Agent for ſome Preſbyterians; till then, God is my Record, I knew nothing of that: and I need not ſpeak to this, but becauſe this was part of my Charge, and brought into the Court, many may imagine, as if I were guilty upon the whole matter. But that which concerns me, is this; he affirms that the Commiſſion and Inſtructions were agreed upon at my Houſe, to ſend to ſome Perſons; to wit, my Lord *Willoughby* of *Parham*, *Maſſey*, *Titus*, and Alderman *Bunce*, to treat at *Breda*; and this to be in the behalf of the Presbyterian Party.

Now, Sir, I ſhall humbly crave leave to offer, wherein this Teſtimony is not only diſagreeing with the Teſtimony of others of the Witneſſes, but even to his own Teſtimony alſo. For here he ſays, it was agreed upon at Maſter *Love*'s Houſe; and in three Leaves after, he ſays, it is true, there was a Commiſſion and Inſtructions read at Mr. *Love*'s Houſe; but whether they were agreed upon there or no, ſaith he, I know not. I do not ſay he hath a bad Conſcience, but ſure I am, he hath a bad Memory. He diſagrees with the Witneſſes alſo; for *Far* did expreſly affirm upon Oath, That all the Company was againſt ſending them away; and therefore for *Alford* to ſay it was agreed upon among us, in that I am ſure he doth not ſpeak truly. Another thing which *Alford* lays to my Charge, is about a Letter, which after *Dunbar*-Fight ſhould come from *Maſſey*, wherein he ſhould write for Money, and for Arms, by the way of *Holland*; and he ſwears this Letter was read in my Houſe, and ſays, That upon the reading of it, I did move for the Contribution of Money to be raiſed for the Supply of *Titus*. Now before I anſwer to that, though I am not in a Condition to retort, yet I ſhall humbly crave leave, without offence to Mr. Attorney-General, to intreat the Court to take notice of this one thing: Maſter Attorney-General, when the Witneſs had ſpake theſe Words, did pray your Lordſhip and the Court to obſerve, that *Maſſey* wrote for Arms, and Mr. *Love* moved for Money; as if he would inſinuate to the Court, That he writing for Arms, and I moving for Money, that my moving for Money was to buy Arms. Now *Alford* upon Oath did declare, That every Man there was againſt Arms, and he only ſaid, That the Motion for Money, was to ſupply the perſonal Neceſſities of *Maſſey* and *Titus*, who were in want. So that I intreat you to conſider it, that that Inſinuation of Mr. Attorney-General might not be aggravated againſt me, and that a bad Inference might not be drawn from it; as if he writing for Arms, and I moving for Money, that that Money ſhould be to buy Arms; which is contrary to Major *Alford*'s Oath. Again, another Inſinuation of Mr. Attorney-General is this; He prayed your Lordſhip and the Court to conſider, That I moved for 300 *l.* now this is contrary to *Alford*'s Oath; for *Alford* hath theſe words, *Mr.* Love *did move for the Contribution of Money, but there was no Sum ſpoken of.* Now when he ſhall affirm that there was only a Motion for Money, but no Sum ſpoken of, ſhall this be laid to my Charge, as if I moved for 300 *l.*? Therefore I intreat you, that thoſe Inſinuations and Aggravations of Mr. Attorney-General may not be laid upon me; and that ye would take no notice of any private Examinations, nor yet of any Aggravations of thoſe who are Inſtruments of State, but upon the plain Depoſition of the Witneſſes, and according to their Teſtimony and your Conſciences I muſt ſtand or fall. *Alford* ſaid further, That after he came from *Titus*, he gave an Account of a Narrative, and of a Copy of a Letter from the King of *Scots*: what he might bring, I know not; and if he did, I never deſired him, either to go to *Calais*, or to come to my Houſe: For I never ſpake with him, as I remember, till after he came from *Calais*; nor till the time, he ſays, the Letter and Narrative was read in my Houſe. Now, Sir, he only ſays it was a Copy of a Letter (not the Original) *That* Titus (ſaith he) *did ſhew me a Copy of a Letter, at leaſtwiſe, which he ſaid was from the King to the Presbyterian Party.* So that this which is the Foundation of the reſt of the Teſtimony, is only this, That the Copy of the Letter was read

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at my Houſe, and that it was a Copy of the King's Letter. This he affirms only upon Hear-ſay; for he ſays, *Titus* told him ſo: But who can ſwear, either that *Titus* had the original Letter, or that this was a true Copy? Nay, might it not be a fictitious thing, either of *Titus* or of this Man, as may well be ſuſpected? So that they that receive Letters, if that be Treaſon, and thoſe that write Letters, and ſend Money, if they be Traytors; yet they have proved none of theſe againſt me, and yet I only am arraigned, and they in hope of Favour.

Again, I deſire the Court to take notice, though Captain *Far* ſays there was this Clauſe in the Copy of the Letter from the King, *to ſend Commiſſioners to* Breda; (and yet he overthrew his Oath afterwards; for he ſays, It is ſo long ago, that I cannot remember it: but I ſhall ſpeak to that when I come to it) yet *Alford*, that brought this Letter, affirms, That he did not know it was to deſire Commiſſioners to be ſent; and if it had been ſo, I ſhould never have done it, and never did it. At that time I was in my Study, I do not deny it; but when *Drake* read the Commiſſion, I did declare my Diſlike of it, and Deteſtation againſt it; and ſo did (as *Far* affirmed) either moſt or all the Company: And if any ſuch thing were ſent, God is my Record, I did neither know of the writing of it, (other than in Characters) nor of the contriving of it, nor yet of the ſending it away, till I heard *Alford* confeſs in the Court, that he carried this Commiſſion to *Graveſend* to one *Maſon*, a Man whoſe Name I never heard of before I was in Trouble. And if I had written and conſented to it, yet it was in the Year 1649. as Major *Huntington* ſwore, and therefore was before the time that your Act could take hold of me, if I had concurred to it, which I never did. Again, he inſiſteth upon it, That I moved for a Contribution. Now herein I beſeech your Lordſhip, that I may offer theſe two things.

Firſt, This is but the ſingle Teſtimony of one Man, and by the Law of God, and of the Land, a Man muſt not die, but under the Teſtimony of Two or Three Witneſſes: in the Old Teſtament, *Deut.* 9. and 15. *One Witneſs ſhall not riſe up againſt a Man for any Iniquity, or for any Sin in any Sin that he ſinneth. At the Mouth of Two Witneſſes, or at the Mouth of Three Witneſſes, ſhall the matter be eſtabliſhed.* And leſt this might be thought to be a Judicial Law pertaining only to the Jewiſh State, it is therefore quoted four times in the New Teſtament; by Chriſt, in *Matth.* 18. by *Paul*, in 2 *Cor.* 13. and in two other places, as noting it to be a Law of Moral Equity, That no Man's Life ſhould be taken away, but by expreſs and clear Teſtimony of Two ſufficient Witneſſes. Now in this that may ſeem moſt to pinch upon me, that I ſhould move for Money, there is but one Witneſs; and it is, as I am informed, contrary to the Laws of the Land, and the Statute of the 1ſt of *Edward* the Sixth, which provideth, That no Man ſhall be indicted, arraigned, and convicted for Treaſon, but by two lawful and ſufficient Witneſſes: and therefore I beſeech your Lordſhip and the Court, that you would be tender in thoſe things, wherein you find but one Witneſs ſpeaking.

The other thing that I ſhall ſay to this Point, about moving for Money, is, That I humbly conceive the Act doth forbid relieving Perſons in Arms; but now no Perſon can be relieved by a bare Motion: it is not the Motion, but the having the Money moved for, before the Perſon in Arms can be ſaid to be relieved; and if it were true, yet it is not proved, That thoſe Perſons were then in Arms. The other Act of the ſecond of *Auguſt*, I conceive, gives me relief, if I had moved for Money; for it judges thoſe only to be guilty of Treaſon, that ſhall either ſend, or cauſe to be ſent, Money, Horſe, Arms and Ammunition into *Scotland*. Now, Sir, if I had in a Meeting moved for Money, yet he tells you not for how much I moved for; for ought he knows it might be but for Six-pence, for he cannot ſwear to it: and I hope, when the Sum is not ſpoken of, you will be very tender. Yet this comes not under your Act, either to be a ſending of Money into *Scotland*, or a cauſing of it to be ſent, which is not in the leaſt faſtned upon me. When I ask'd him (though he ſwore I moved for Money) whether I contributed any Money my ſelf? to that he anſwered, He could not ſay I did, nor could any of the eight Witneſſes that came againſt me. And thus I have done as to his Teſtimony.

The third Witneſs is Major *Huntington*; and he affirms, That in the Year 1649. one ask'd him to go to my Houſe, and told him there were ſome there at Prayer, and that he might there hear ſome News; and that he ſpake upon hear-ſay: But then he ſpake upon Oath, *And when I came there, Prayer was done.* Now for a Man to be ſo poſitive in the firſt Entrance of his Teſtimony, as to ſay Prayer was done, when he could not know that there was any Prayer there at all; (for when he came, it ſeems there was no Prayer; and how then could he know there was any Prayer there at that time?) this at the very firſt Entrance of his Evidence, I ſuppoſe might be a juſt Ground to ſuſpect his whole Teſtimony. But as for the Man, I knew him not, I never ſaw him, as I ſaid, before that time, nor ſince, till I ſaw him here in Court. This Man affirms, That *William Drake* read in Characters, that which he called a Commiſſion, and ſaid, That he had a Command from the King to ſend this Commiſſion away; which, God is my Record, I never heard, nor ever knew of it: and *Alford* that brought over the Letter, in which *Far* ſwore thoſe words were, he himſelf denies it. But that which concerns me in *Huntington*'s Teſtimony, is this, he affirms, That when the Commiſſion was read by *Drake*, I ſhould ſay, *Come, come, let it go.* Now, Sir, I ask'd him this Queſtion, Let it go, what doth that refer to? Says *Huntington*, let the Papers go. Now truly I am not ſo bad a Grammarian as to ſpeak of Papers, *let it go*, and not to ſay, *let them go.* And if I had ſpoke of Papers, as he ſays I did, I muſt either be guilty of Non-ſenſe, or elſe he of Falſhood; I believe he of both. But as for thoſe words, *Come, come, let it go*; he doth not affirm that I ſaid, Come, let it go away, but let it go; and that may be a word of diſlike: And if I did ſay ſo, yet it was not of the Commiſſion, God is my Record; for he came not till Nine of the clock at Night, as himſelf ſays: and before he came, I had declared my ſelf againſt ſending away the Commiſſion and Inſtructions, as being an Act of too high a nature for private Men, and of notorious Falſhood, to ſay it was in the Name of the Presbyterian Party, when it was not. And the other Men that were here in Court upon Oath, and that were then preſent, as *Adams* and *Alford*, did confeſs upon Examination, That they heard no ſuch words from me.

The next Teſtimony is Maſter *Adams*; and he relates a Story of a Correſpondency between *William Drake* and one *Maſon*; and being ask'd, Was Maſter *Love* privy to this Correſpondency? he did ſo far clear me, that he could not ſay it, nor was I privy to it. Being ask'd again, Was Maſter *Love* privy to theſe Lettors of ſending moderate Propoſitions

ſitions to the King? That he likewiſe clears me in, he cannot ſay it: And I can ſay, that I am ſo far from Moderation in their Senſe, that Moderation in their Senſe I deem downright Malignity; which I was, and ſtill am utterly againſt. He was asked likewiſe, Did Maſter *Love* know of collecting a hundred Pounds for *Titus*? To that he anſwered, That he durſt not upon Oath ſay that Mr. *Love* was privy to this Collection; and he doth not ſay, that it was agreed in my Houſe to ſend away the Commiſſion, but ſays, it was moved in my Houſe: for he ſays, *I cannot ſay it was agreed upon, for there was no Vote paſs'd.* Theſe were his Words; and he contradicts *Alford* and *Far* in three Places of his Teſtimony. He overthrows *Alford's* Depoſition. He affirms that the Copy of the Letter from the King was to ſhew what great Affection he bare to the Miniſtry of *England*; and promiſed great Favour when he was in a Condition to do it; and deſired them to ſtand ſtedfaſt in the Way they were in. And he ſaith he dare not ſwear that this Letter was read in my Houſe; but he thinks it was. Now, as to this Letter likewiſe, I deſire the ſame Favour from you, that when the Letter doth not appear, neither the Original, nor the individual Copy, that you would be tender of paſſing any Judgment upon me upon the vain Rovings of a Man's Memory; and of a Man's Memory too, that is engaged to proſecute my Life to ſave his own, as moſt of the Witneſſes are that came in againſt me are. He ſaith there was a Motion made in my Houſe, that a Commiſſion and Inſtructions ſhould be drawn up, to ſend to my Lord *Willoughby* of *Parham*, and the reſt in *Holland*; but he ſays, *But by whom I cannot ſay:* and ſays he, *There was no Debate, as I remember, to mend the Inſtructions*; though the Attorney-General did lay it upon me, as if I had corrected and amended them, when I did neither read them, no, nor ſo much as touch them in my Life. The Subſtance of the Commiſſion, he tells you, was to authorize the Lord *Willoughby* of *Parham*, *Maſſey*, *Graves*, and others, to aſſiſt their Brethren of the *Scotiſh* Nation in their Treaty. Now to this there is a manifeſt Contradiction in another Man's Teſtimony: For Captain *Far* ſwears that the Commiſſion he ſpeaks of was not to treat, but only, as private Perſons, to adviſe that the King might agree with the *Scots* upon the Intereſt of Religion, and the Terms of the Covenant; that he might not be drawn away by the high-flown Cavaliers and Malignants. So that *Far* overthrows this Teſtimony of *Adams*. *Adams* ſays it was to treat; and *Far* ſays it was not to treat, but to adviſe. But be it the one, or be it the other, I deteſt both; I had no hand in, and gave no Aſſent unto it, but manifeſted my Diſſent to the whole. He being likewiſe asked (for I am ſtill upon *Adams's* Teſtimony) whether at a Meeting it was not propounded at my Houſe to write to the Queen, and to *Jermin* and *Piercy*, to mediate with the King to agree with the *Scots*: To this he anſwered, No. And truly he might very well anſwer ſo; for I am ſure I did never in all my Life hear of a Motion ſo much as of a Letter to be writ to any of theſe three Perſons, to the Queen, *Piercy*, or *Jermin*; and ſhould have loathed and abhorred the very Thought of it; and ſhould think that Cauſe the worſe, wherein theſe Perſons were engaged. Being asked whether there was not a Letter from *Piercy*, that writ for Money to be ſent to the King; and whether the Anſwer given was, That they ſhould ſtay till the King and *Scots* were agreed, and then to ſend Money; *Adams* in this did me this Right: He confeſſed he ſaw ſuch a Letter writ; but (ſays he) *I only ſaw it in the Hands of one* Maſon: a Man who, for my part, I never knew or heard of till I was in Trouble. And being asked whether this Letter from *Piercy* was read in Maſter *Love's* Houſe, he ſaid, *Certainly no.* Being again asked whether about *Auguſt* there was not a Letter written from *Maſſey*, wherein he ſaid he had Back-friends in *Scotland*, and complained that he was not promoted there; and whether that Letter was communicated at Mr. *Love's* Houſe: In this alſo he did me right; for he anſwered, *No certainly, that Letter was not, to the beſt of my Remembrance, read there: I heard of ſuch a Letter, but ſaw it not.* Then being asked whether one *Sterks* was not a *Scotch* Agent; and whether he did not uſe to come to my Houſe? To which he gives this Anſwer, *We took him to be a* Scotch *Agent, and he met ſometimes at Maſter* Love's *Houſe.* Now, Sir, as to that, he ſuppoſeth that he was an Agent, but doth not ſwear that he was ſo, much leſs that I knew him to be ſo. Nay, I can ſwear, upon the beſt Information I have had both from his own Mouth, and the Mouths of others, that he was no Agent; for he lived in *England* fourteen Years, and had not been in *Scotland* in fourteen Years.

And I heard himſelf ſay ſo when he went away upon the Act: And I asked him, Are you imployed by the Church or State of *Scotland*? And he told me, No, he was not. It is in your Breaſts whether you will believe me, or no. And likewiſe Mr. *Blare*, when he was here in *London*, did affirm to me that he was a poor honeſt Man; and that he was no way imployed as an Inſtrument of State. I know nothing of the Man's Agency: Be he Agent, or not, I never ſent Letter or Meſſage by him, nor received any from him, in all my Life. But I ſee it is laid heavy upon me in my Charge, that I contributed Money to him; but no Man in his Depoſitions did prove that I ever gave him a Penny. *Adams* being asked whether Maſter *Love* did not write down the Sums of Money that was to be contributed to *Maſſey*; in this he doth me right alſo, for he ſaith, *Maſter* Love *had a Paper in his Hand, but I did not ſee what he wrote:* and therefore to that I need not anſwer. Being further ask'd, Did not Maſter *Love* put the firſt Letter of their Names before the Sums which others wrote; he anſwered, He could not ſay ſo. Being ask'd further, Was there not a Letter penn'd by Maſter *Love* and Doctor *Drake*? this Anſwer he gives, *There was a Letter, but* (ſays he) *I cannot deliver it upon my Oath that it was penned by them; but I thought it was ſo.* He could not tell to whom this Letter was directed, but ſaid, *It was declared to be directed to the General Aſſembly of* Scotland. Now, as I obſerved in the Beginning, this is only the ſingle Teſtimony of one Man. And, indeed, it was the firſt Queſtion (as I remember) that was asked me, that was of moment, when I was examined by the Committee, whether I did not pen this Letter. I did declare to them, in the Preſence of God, *That I neither penn'd that, nor any other, to any Perſon of the* Scotiſh *Nation ſince the Wars began:* And this I declare, in the Preſence of the ſame God, ſtill to be a Truth. Being ask'd further, Was Maſter *Love* preſent at ſome time of this Meeting? he anſwer'd I was: And the Reaſon why he thought that we might pen it, was becauſe of the Language of it. Mr. Attorney-General upon this (I remember) uſes this Expreſſion, *My Lord, this is very high; after we were ingaged in Blood, that a Letter ſhould be ſent.* But to this I ſay, there is only a ſingle Teſtimony that ſuch a Letter was writ; and whether it was ſent or no, he doth not prove: nor doth he

prove

prove that I writ it: And I declare to you that I never writ it. As touching this Letter, which Mr. Attorney-General is pleaſed to inſiſt upon ſo much, *Adams* being asked whether it was agreed upon that this Letter ſhould be ſent, he gave this Anſwer, *It was after the ſame manner that other Things were agreed upon; but there was no Vote paſs'd:* And therefore he cannot prove my particular and expreſs Aſſent to the ſending of the Letter, or any other Letter whatſoever. And here to take off the Jealouſy of a Coreſpondency, which in the cloſe, thro the Grace of God, I ſhall clear to you; but to take it off now a little, before I come to it: If there had been a Correſpondency maintained, would it have been imaginable that from the time of the Fight at *Dunbar*, which I think is ten Months ſince, to this time, that there ſhould be no Letter that any Man can ſay, nor that I did certainly know of, that either was written, or conveyed, or debated upon to be written, from that time to this very day, to any of the *Scotiſh* Nation? And yet all this tends to aggravate Matters againſt me, and all the Burden is laid upon my weak Shoulders. Other Men that have heavy Loads have laid them upon my Back, to lighten them from off themſelves. Touching this Letter, he ſaith, *This was the Subſtance of it, or it was to this effect, or purpoſe.* And again, I inſiſt upon it to beſeech your Lordſhip and the Court, to take heed what you do. It concerns you more than me: It concerns my Life only; but it concerns your Honours, and Lives, and Souls, and all, that upon an uncertain Evidence you do not ſpill a Man's Blood. The Man never read the Letter, only he heard it read; and then he brings into that and other Letters, *This is the Sum of it, or it was to this effect.* And though this Man hath done me Injury in ſome Particulars, yet in others he hath done me Right: For being asked, Did Maſter *Love* write Letters, or receive any, or mend thoſe Inſtructions? he only ſwears he ſaw the Letters; but cannot ſay I did read them. Being asked whether I did give my Conſent to the ſending away of that Letter after *Dunbar*-Fight, which is ſo much inſiſted upon, and ſo greatly aggravated, he did thus far right me; he ſaid, *I will not ſwear he did give his Conſent.* Being asked whether I was a Correſpondent, he ſaid he took me to be a Correſpondent: And upon theſe Words I had leave to ask him this Queſtion, Whether he knew I was a Correſpondent? To this he ſaid, That Letters were heard by me; but, ſaid he, *I cannot ſwear that he was a Correſpondent: I did conceive Maſter* Love *to be a Correſpondent; but I did not ſay ſo: And I dare not ſwear that he was a Correſpondent.* So that herein likewiſe there is nothing but his humbly Conceivings, and his Suppoſitions; according to which I hope you will not paſs any Cenſure upon me. And thus I have done with *Adams*'s Teſtimony.

The fifth Teſtimony is that of *Jaquel*, which I do here again in Court except againſt as no legal Witneſs; for he did declare he could not in Conſcience take an Oath againſt me. He did well nigh half an Hour declare he could not ſwear, but that he would make a Narrative or Relation of what was true. I did entreat your Lordſhips leave to put it to him whether he was under an Oath, or no; and he ſaid twice, at leaſt, *I am as good as under an Oath.* If any Perſon, good or bad, come under an Oath, I muſt ſtand or fall by his Teſtimony; and, according to God's Ordinance, an Oath is to decide all Controverſies: But the Man declared he was not under an Oath, and went out of the Court, and was fined five hundred Pound: And when afterwards he was called into the Court again, he did only put his Hand upon his Buttons on his Breaſt. So that this was not any taking of an Oath; but fearing his Fine, he did it, though with much ſeeming Regret of Conſcience; and I am informed this Day that he denies that he was under an Oath. And if ſo, then I have nothing to ſay to his Teſtimony; and ſo ſhall not ſpeak to it, but only as to a bare Relation and naked Information. There is nothing that doth concern me in his Teſtimony, but only a Concurrence with *Potter*. *Potter* and he coming to my Houſe with ſome Letters, (as he ſaith) one from *Bamfield*, another from *Argyle*, *Lowdon*, and *Lothian*, and *Belcarras*, and another from one Maſter *Bailey*, if I remember right. Now, Sir, as to theſe Letters, I do not deny but that they brought them to my Houſe; nay, I do acknowledge thoſe two Men did bring thoſe Letters to my Houſe, at leaſtwiſe which they ſaid were ſuch: But whether they were the Originals or Copies, I know not; for I never read nor kept the Letters, but they carried away the Letters with them. And Captain *Potter* ſaid, *Maſter* Love, *I have News to ſhew you*; at that very time when Mr. *Jaquel* and he came to ſhew them at my Houſe. This Witneſs, I cannot call him ſo, but this Informer ſaith, that being asked what was done upon the hearing of thoſe Letters, he ſaid *Potter* read the Letters; but that there was no Agreement upon it, but an utter Diſlike in all that heard them about the Contents of them. And he hath theſe Words further, *It was*, ſays he, *a Trouble, I am confident, to them that heard and read the Matter of thoſe Letters.* But being asked, Did Maſter *Love* agree to the giving of forty Pound to *Bamfield* and his Man? To that Queſtion he anſwers thus: He ſaid there was no Agreement; but it was thought convenient by all. Upon this I craved leave of your Lordſhip to ask him this Queſtion, How he knew my Thoughts, that I thought it convenient? To which he gave this Anſwer; *I cannot ſay any thing, that Maſter* Love *did ſay it was convenient.* So that therein, though he might preſume upon a Man's Thoughts to know them, yet he muſt only judge my Thoughts by my Words, as the Tongue and Heart agrees; for he is not a God: But he doth not ſay that I ſaid it was convenient. Nor did either of them prove that ever I gave a Penny either to *Bamfield* or his Man.

The laſt Witneſs that came in againſt me, is Captain *Far*. And, indeed, I do not know what to make of his Teſtimony: I will not call it a Prompting, that will be thought too bad a Word; but certainly it was ſuch a Teſtimony that I never heard produced in any Court in my Life: For Maſter Attorney-General, and ſome others here, did ask him ninety eight Queſtions. So that the Man ſpake nothing deliberately, but ſpake by reading out of his private Examinations, which is extrajudicial to be brought in Court, where the Witneſſes are to ſpeak *viva voce*. There was, I ſay, ſo many Queſtions (beſides thoſe I had leave to ask him) propounded to him, during the Time he was upon his Oath. And the Man was of a dull Spirit, and ſlow of Speech; and I did perceive him to be ſo poſſeſs'd with Fear, that he knew not what he ſaid: For he hath manifeſt Contradictions in his Teſtimony, which I believe all the Court will ſee, and therein concur with me, when they come to hear them. The firſt Word I heard him ſay in Court was this, To deſire the Benefit of his Papers. It ſeems he did ſuſpect the Badneſs of his Memory, that he muſt have his Papers to help him, (and

Papers

Papers written by another) before he would be depoſed in Court againſt me for my Life.

Being asked whether upon the ending of the Treaty of *Jerſey* there was not a Letter came from *Titus*, to deſire ſomebody to come to *Calais*; and whether that Letter was read at any Houſe; and whether at my Houſe *Alford* was deſired to go; he affirms he was, (which none elſe did) and which is a moſt notorious Falſhood. I have no Rancour in my Heart againſt him; the Lord knows I have prayed for all thoſe that perſecute me; and my Heart cleaves to them in Love and Pity. I do not tax the Badneſs of his Conſcience, I think he dares not be ſo vile; but I do tax his Memory in Things done ſo long ago. And afterwards he ſays he could not remember ought, (tho he did pretend to remember) becauſe they were done ſo long ago; yet before he did affirm them. Now to demonſtrate this, that he ſays in this Clauſe, to be falſe, that *Alford* was deſired in my Houſe to go, *Alford* himſelf ſays he was never at my Houſe till he came from *Calais*, which is certainly true: And therefore *Alford* could not at my Houſe be deſired to go to *Calais*. When there was an Account given of *Alford*'s Return from *Calais*, then I know he was there, though I never ſpake with him before that time, as I remember; nor was he ever within my Doors till after his Return. But ſays *Far*, *I cannot ſay Maſter* Love *was preſent while* Alford's *Return was there read; for ſometimes he was abſent.*

Then further, being asked what was the Subſtance of that Copy of the Letter from the King that *Alford* brought from *Titus*, he anſwered, That the Sum of it was this, that the King of *Scots* did declare he would give Satisfaction to the *Scots*; and in order thereunto, he deſired Commiſſioners to be ſent over to *Breda*. Theſe are the Words of his Teſtimony. Now, Sir, this is but the ſingle Teſtimony of one Man; and it is contrary to the Teſtimony of that very Man that brought over this Letter: And if any Man knew the Subſtance of the Copy of the Letter pretended to be from the King, it muſt be *Alford*, that brought it over: Certainly none could know it better than he. And therefore for this Man to be ſo ſtrangely beſides himſelf, and to forget himſelf ſo, as to ſay this is the Sum of the Letter, when he that brought it ſaith the contrary, and did not know that this was the Sum of it, this may ſeem ſtrange; and I hope you will judge of the Weakneſs of this Teſtimony. Being asked whether he did not conceive this to be the Copy of the King's Letter, he did me right in that; for he ſaid he could not tell whether it was the Copy, but that *Alford* told him he brought over a Copy of the King's Letter. And Mr. Attorney-General was pleaſed to aggravate this of Captain *Far* againſt me: Says he, The King ſent over for Commiſſioners to treat; and accordingly at Mr. *Love*'s Houſe it was agreed upon that Commiſſioners ſhould be ſent, and there were Perſons named. To this I ſay, That, God is my Record, I never in all my Life heard (as I remember) of any Letter from the King to that end, that Commiſſioners ſhould be ſent over. And *Far* doth me right herein; for in anſwer to that Queſtion, Was your Commiſſioners agreed upon? he three times anſwers negatively. I do not perceive that he remembers himſelf ſo well in all his Teſtimony, as in that Particular. Being asked whether the Commiſſion was agreed upon, he ſaid it was not agreed upon by the Company. And herein he did me more right than any Man; for he gave my Reaſon, For (ſays he) *the Reaſon given was, Becauſe private Perſons could not give a Commiſſion.* And though he hath done me more wrong than any Man, yet herein he hath done me more right than any Man. Being further asked, Was it not debated to ſend a Commiſſion over? *Drake*, he ſaid, *read a Paper in the nature of a Commiſſion; but it was not agreed upon by the Company, becauſe private Perſons could do no ſuch thing.* And a third time he ſays, *The Commiſſion and Inſtructions were read in a Company at Mr.* Love's *Houſe*; (that he affirms, and that I do not deny) *but not agreed upon.* And further he ſaid, He did conceive, to the beſt of his Remembrance, it was in the Name of the Presbyterian Party of *England*: *But* (ſays he) *I cannot poſitively ſay it was ſo; for I did but only hear it read.* Then your Lordſhip asked him this Queſtion, Did you ſay that the Commiſſion was not agreed upon, but that the Inſtructions were? To this Captain *Far* ſaid, That *William Drake* undertook to draw up the Commiſſion and Inſtructions; but yet, ſays he, *I cannot ſay that they were either drawn up, or ſent.* Again, he ſays further, (and herein he doth me more right than *Adams* or *Alford* doth) *Adams*, he ſays it was not agreed upon; yet he ſaith thus, There was a Commiſſion read for to treat; and ſo ſays *Alford*: But this Man ſays directly, That this ſuppoſed a Commiſſion was not to treat in the behalf of the Preſbyterian Party. And it had been a Folly for private Men to aſſume ſuch a vain Title to themſelves. So that he ſays directly, upon your Lordſhip's Queſtion to him, that it was not to treat, but to adviſe the *Scotch* Commiſſioners, and the Miniſters eſpecially, to agree with the King upon the Intereſt of Religion, and Terms of the Covenant. But being asked, Was it not in the behalf of the Presbyterian Party? he anſwered, No. Being further asked, Was there not an Agreement at Mr. *Love*'s Houſe for a Letter to be ſent to the Queen? Herein alſo this Man doth me right; he ſaid, No, my Lord. And yet he contradicts himſelf likewiſe; for being asked in the next Queſtion what was the Subſtance of that Letter to the Queen, he anſwered, The Subſtance of the Letter to the Queen was, that ſhe ſhould perſuade the King to give Satisfaction to the *Scots* in their juſt Demands. Now, either he muſt hear of this Letter ſomewhere elſe, or elſe frame a Fiction to himſelf, that this was the Matter of the Letter, when there was no ſuch Letter *in rerum natura*. The next Thing he charges me with, is, That I ſhould ſay it was agreed that Money ſhould be raiſed for *Maſſey* and *Titus*; and he names the Sum, he thinks 250, or 300 *l.* and that I thereupon ſhould particularly move him with this Queſtion, *Captain* Far, *what will you do?* Now I beſeech your Lordſhip and the Court to conſider that he doth not ſwear that I ſaid *we were agreed*, but *it was agreed*; and that might be the Act of other Men, and not mine. And in another place he ſaid *they agreed*; but he doth not ſay that I ſaid *we agreed*, to include my ſelf: But to that, That I ſhould move him, and ſay, *Captain* Far, *what will you do?* Truly this is but a general Queſtion. And he himſelf did me thus far right: When I had leave from the Court to propound this Queſtion to him, *Captain* Far, *did I move you, or ſay to you, What Money will you give for* Maſſey *or* Titus? he anſwered, He did conceive it was for that Uſe. So that he proves not againſt me, that I moved for Money for *Maſſey* or *Titus*; but only that I ſhould ſay, *Captain* Far, *what will you do?* And if you obſerve the Words of the Teſtimony, they are theſe exactly. He tells you that he brought five Pounds; for there is all that ever I

am

am charged with. I am not charged with lending a Penny; but only that fifteen Pounds was brought to my Houſe; ten Pounds by *Potter*, and five Pounds by this Man. And he affirms that he left this five Pounds at my Houſe. And herein I perceive a Contradiction in the Man; and therefore it is hard to determine when he ſpeaks true, or when he ſpeaks falſe. Theſe are his very Words; *Mr.* Love (ſays he) *ask'd me what I would do; and I did lay down five Pounds upon Mr.* Love's *Table, when ſeveral Perſons were in the Room.* And being asked, Did Mr. *Love* receive this Money? he ſaid he could not tell; but was loth to tell who he thought received it. But in his laſt Word, ſave one, that he ſpake in Court, (which made much for my Advantage) he ſaid he thought I did not receive it; and God is my Record, I did not: But he ſaid another Man did, and named Captain *Maſſey*. But the Contradiction I obſerve is this: He tells you he laid down five Pounds, when ſeveral Perſons were in the Room; and in the next Queſtion but one being asked, Was Mr. *Love* in the Room? *Yes, my Lord*, ſays he; *but I cannot ſay any body elſe was there.* So that therein the Man evidently contradicts himſelf. And it appears he was under a very great Fear, and even confounded by the many Queſtions propounded to him. I asked him further, *Did I bid you lay it down?* Says he, *I cannot ſay that you bid me lay down the Money.* Being asked, Was this way of laying down of Money to prevent Diſcovery? he ſaid he did it under that Notion. But being asked by me, *Did I bid you lay it down under that Notion?* he anſwered, He would not ſay I did. So that I neither directly nor indirectly did bid him bring Money to my Houſe, or lay it down when it was brought there: But other Perſons were in the Room; and he conceives what Perſon took it away. Therefore I beſeech you make a candid and fair Interpretation of what I have ſaid or done.

Being asked about the Copy of the King's Letter, that *Alford* ſays he brought over from *Titus*, whether I was in the Room whilſt it was read, he ſaid, *I cannot ſay that he was there when it was read; but he was there during ſome part of the Communication.* But ſays he, *I cannot ſay he was there at the reading of the Letter; nor can I ſay he was preſent whilſt the Narrative was read.* He obſerved I was often called away, and was abſent; and ſays he, *I cannot ſay there was any ſuch thing done by Mr.* Love. And I asked him this Queſtion, *Did I ſend, or agree to ſend Major* Alford *to* Calais? He anſwers, He thinks I did not. And herein he falſifieth his former Teſtimony; for he ſaid Major *Alford* was deſired in my Houſe to go to *Calais*; and yet *Alford* ſwore he never was in my Houſe till after he came from thence. But herein he doth me right too, (though with Contradiction to himſelf:) He ſaid it was agreed at my Houſe that *Alford* ſhould go; and yet now he ſays he thinks I did not agree to the ſending of *Alford*.

Being asked further, whether I did give Conſent to the ſending away the Commiſſion, he anſwered, *I cannot ſay Mr.* Love *was there when it was ſent away.* And truly I may ſay, who brought it away, or who drew it up, and what was done in it, I cannot tell. There might be a thouſand Treaſons in it, for ought I know; for I did neither own the reading of it, nor the ſending of it, but did utterly proteſt againſt both. Being again asked whether I agreed to the ſending of it away, he anſwered, *It was agreed upon by all, that we could not ſend the Commiſſion away.* When I asked him, *Did I ſay to you, Captain* Far, *Will you contribute five Pounds for* Maſſey *and* Titus? he gave this Anſwer, (ſays he) *You asked me what I would do; ſo that I conceived it was for* Maſſey *and* Titus. And he affirms he laid this five Pounds down in my Houſe; but did not ſay that I received it. And in the Preſence of God I ſpeak it, I never ſaw it, nor received it in all my Life.

And thus with much Acknowledgement, and bleſſing God, and thanking your Lordſhip and the Court, you have given me leave to take a brief Survey through the Depoſitions of the Witneſſes, tho they have been very large, and the Charge againſt me very high.

Now having ſpoken to the Depoſitions, (before I ſhall crave leave to ſpeak ſomething concerning my ſelf, and make humble Propoſals to this Court) I ſhall add but one Word, and it is this: I was loth, before I ſaw Witneſſes Face to Face, to confeſs any thing; I deem'd it againſt Nature for any to confeſs againſt himſelf, unleſs he could be ſure his Confeſſion ſhould not prejudice him. And I might have been guilty of my own Blood, if I had confeſſed; for then, did the Matter confeſs'd amount to Treaſon by your Law, my Life would be at your Mercy, and you might hang me upon mine own Confeſſion. And upon that ground I went reſolv'd to the Committee; and thro the Grace of God I reſolved not there to confeſs a Word nor Tittle, till I heard what Proof was brought in againſt me. And now I do ingenuouſly acknowledge that there were ſeveral Meetings at my Houſe; that theſe Perſons met there; and that this Commiſſion was read there, but I did utterly diſlike it, and diſſent from it. And that I was preſent at the reading of Letters, either at the beginning, or end, or ſome part of them, I do acknowledge: And this I ſay, that I was ignorant of the Danger that now I ſee I am in. The Act of the 2d of *Auguſt*, 1650. doth make it Treaſon to hold any Correſpondency, or to ſend Letters, tho but in a way of Commerce, into *Scotland*, let the Matter of them be what it will be. Now herein my Counſel acquaints me with my Danger, That I being ſometimes preſent when Letters were read in my Houſe, am guilty of a Concealment; and as to that, I do humbly lay my ſelf at your Feet and Mercy. But as to Treaſon, I do not know any perſonal Act of mine proved againſt me, that brings me under any Act of yours. And thus having briefly ſpoken concerning the Charge in general, and concerning my Accuſers, and having briefly ſurveyed their Teſtimony, I ſhall humbly crave leave to ſpeak ſomething concerning my ſelf, and I ſhall be very brief in it.

Concerning my ſelf, it is needful I ſhould ſpeak a Word: I would not ſtand under Miſrepreſentations, to ſeem to be what I am not. I am preſented unto ſome as if I were a Malignant, an Apoſtate from my firſt Principles, a Mover of Sedition, and what not, but what I am? Wherefore I am conſtrained to ſpeak a Word in my own Vindication, and I ſhall make the Apoſtle's Apology, *I am become a Fool in glorying; but ye have compelled me.* I count it never lawful for a Man's own Mouth to praiſe him, till another Man's Mouth accuſes him; and then he may without Vanity be his own Vindicator. What I ſhall ſay of my ſelf, the Lord knows it is not voluntarily, out of an affected Oſtentation, but by Compulſion, for a neceſſary and clear Manifeſtation of my Principles and Practices, now ſuſpected. As touching Malignity, I hate both Name and Thing: And, as Cardinal *Farneſus* ſaid of himſelf profanely, That if he knew any Part of him infected with *Lutheraniſm*, he would

cut it off, and caſt it into the Fire; that I can ſay truly, That if I knew any Part of me infected with Malignity, I would cut it off with the Pruning-hook of Mortification, and by an ingenuous Retraction before you all this Day. God is my Witneſs, I never drove a Malignant Deſign, I never carried on a Malignant Intereſt: I deteſt both. I ſtill retain my old Covenanting Principles, from which, through the Grace of God, I will never depart for any Terror or Perſuaſion whatſoever. When I look upon all the Vows, and Covenants, and Declarations, and Proteſtations of both Houſes of Parliament, I do find a Suitableneſs between my Judgment and them, and am not conſcious to my ſelf of any thing that I have done in oppoſition or contradiction thereunto: And therefore I may ſay as *Jeremy* did, when he was accuſed, in the like Caſe, of making Defection to a contrary Party, Jer. 37. 13, 14. Irijah *ſaid to* Jeremiah, *Thou falleſt away to the* Chaldeans. *Then ſaid* Jeremiah, *It is falſe, I fall not away to the* Chaldeans. So, if it be charged upon me that I am fallen from my firſt Principles, or that I am fallen to Malignity, I ſay to any that ſhall ſo accuſe me, it is falſe, I fall not away to Malignity; I do retain as great a Keenneſs, and ſhall whilſt I live, and as ſtrong an Oppoſition againſt a Malignant Intereſt, whether in *Scotland*, or in *England*, or in any part of the World, againſt the Nation where I live, and have to this day, as ever I did in former Times. I am no Incendiary or evil Inſtrument, to divide the Nations one from another: God knows the Grief of my Heart hath been for the Diviſions, and the Deſire of my Soul hath been for the Union of both the Nations. And if I had as many Lives as I have Hairs on my Head, or as much Blood in my Veins as there is Water in the Sea, I could count it all well ſpent to quench the Burning that our Sins have kindled between the two Nations. I have all along engaged my Eſtate and Life in the Parliament's Quarrel againſt the Forces raiſed by the King: My appearing in their Cauſe was not from any Aim at Profit, but out of a Perſuaſion of Conſcience and Senſe of Duty. I may ſpeak it as *Paul* doth it of himſelf, *I was in Labours more than they all.* I ſpeak it without Vanity; I was, according to my obſcure Station and mean Condition, in doing and giving in the Parliament's Quarrel, more than many. Many gave out of their Abundance; but I out of my Want: And as Chriſt ſpake to the Widow who gave two Mites, That *ſhe gave more than they all; for ſhe gave all that ſhe had, even all her Living*: So did I; though I gave my Mite, yet I gave my All. And I did not only deem it my Duty to preach for the Lawfulneſs of a Defenſive War, but (unleſs my Books and wearing Apparel) I contributed all that I had in the World: And that was no ſmall Sum, conſidering the Meanneſs of my Condition. And I have at this day a great Sum due to me from the State, which is ſtill kept from me, and now my Life endeavoured to be taken from me. And yet for all this, I repent not of what I have done; tho I could from my Soul wiſh that the Ends of that juſt War had been better accompliſhed: Then ſhould we have been happy, and united among our ſelves, and honoured among the Nations round about us. I am ſo far (I ſay) from repenting of what I have done, both by doing, and contributing, and ſuffering in the Parliament's Quarrel, that were it to do again upon the ſame unqueſtionable Authority, for the ſame declared Ends, and againſt the ſame Malignant Perſons, I ſhould manifeſt as much Readineſs of Mind to engage according to my Meaſure, as ever I did.

And thus I have declared my ſelf touching my Principles in theſe Particulars: I ſhall now crave leave to expreſs my ſelf a little touching my Sufferings; and then to make but a few humble Propoſals, and ſo caſt my Life into God's Hands and yours. Touching my Sufferings, I may ſay that my whole Life hath been a Time of Affliction, either of Body or Mind: God ſees my Heart to be a tough and knotty Piece, that it needs ſo many Blows to break it. I may ſay with the *Pſalmiſt*, *I have been afflicted from my Youth up*, and from my Youth up I have met with Oppoſition: From the Prelates, being perſecuted by them merely for Conſcience ſake. It is near twenty Years ſince I was cited to the Biſhops Courts: I have been often troubled for hearing of Sermons, and diſcharging other Exerciſes of Religion, which were an Offence in thoſe Days. When I was a Scholar in *Oxon*, and Maſter of Arts, (I do not ſpeak it out of vain Oſtentation, but merely to repreſent unto you, that what I was I am, and what I am I was) I was the firſt Scholar I know of, or ever heard of in *Oxon*, who did publickly refuſe in the Congregation-Houſe to ſubſcribe unto thoſe Impoſitions or Canons impoſed by the Archbiſhop, touching the Prelates and Common-Prayer; and for which, though they would not deny me my Degree, yet I was expelled the Congregation-Houſe, never to ſit as a Member among them. When I came firſt to *London*, which is about twelve Years ſince, I was oppoſed by the Biſhop of *London*; and though I was called as a Lecturer to *Ann Alderſgate*, yet it was near three Years before I could faſten upon any Lecture. After this, about the Year 1640, or 1641, I was impriſoned in *Newcaſtle*, merely for expreſſing my ſelf againſt the Errors of the Service-Book, and was removed from Priſon there, by a *Habeas Corpus*, to this Place; and in this Court of *King's-Bench* I was acquitted. After this, about the beginning of the Wars between the late King and the Parliament, I was the firſt Miniſter that I know of in *England*, who was accuſed for preaching of Treaſon and Rebellion, merely for maintaining in a Sermon, in *Kent*, at *Tenderden*, the Lawfulneſs of a defenſive War, at the firſt Breaking-out and Irruption of our Troubles; but was then publickly acquitted in a Court there, and recovered Coſts and Damages of my Accuſer. After this I had a little Breathing-Time, whilſt the two Houſes of Parliament were in Power; only I was once complained againſt by the King's Commiſſioners at *Uxbridge*, for preaching a Sermon there. I did not know that I ſhould preach there till the Pſalm was ſung; and did only preach a Sermon which I had preached the Day before at *Windſor*-Caſtle. I was, I ſay, complained of by the King's Commiſſioners to the Houſe, for that Sermon; but within three Weeks I was acquitted and diſcharged by Order of the Houſe of Commons. That Sermon is much ſpoken of, becauſe it is ſo little ſeen, it is ſo obſcure a Piece; and many imagine as if the Keenneſs of my Affection was blunted from what it was in that Sermon. But I declare unto you, that I come up to this day to every Tittle of that Sermon. I hear it is lately printed; and if it be printed according to the firſt Copy, I will own every Line of it, as that to which my Heart and Judgment concurs to this very day. After all this, ſince the late Change of Government, I have been three times in Trouble: I was once committed to Cuſtody by, and twice cited before the Committee of Plunder'd Miniſters;

but there was no ſufficient Proof againſt me, and ſo I was diſcharged.

But now laſt of all, this great and laſt Tryal and Trouble is come upon me. I have been kept ſeveral Weeks in cloſe Priſon, and now I am arraigned for my Life; herein is my great Comfort, even that which was the Apoſtle's, 2 *Cor.* 1. 10. *God that hath delivered me, he doth deliver me, in whom I truſt that he will yet deliver me:* And that that ſhall be made good to me, *Job* 5. 19. *He ſhall deliver thee in ſix Troubles, yea in ſeven there ſhall no Evil touch thee.* As *Cato*, he was accuſed thirty two times by the unkind State whom he faithfully ſerved, and yet after thirty two times Accuſation, his Innocency and Uprightneſs brought him off. Why ſhould not I be confident in my God, who have had a Life-time of Experience of his Care and Love towards me? It is not the Danger of my Life troubles me; I am a ſickly Man, and I know a Diſeaſe will e'er long kill me, whatever you do with me: but this grieves me more, That I ſhould ſuffer from their hands, for whom I have done and ſuffered ſo much in my obſcure Station, and according to my weak meaſure. Had it been an Enemy had dealt thus by me, and made ſuch an eager Proſecution of me, and ſuch high Aggravations of that which in the Simplicity of my Heart I have done, it had not been ſo much; and as I told the Committee when I was examined by them, (who charged me with Jeſuiſm and Non-Ingenuity, becauſe I would not confeſs againſt myſelf and others) that tho I honoured them as private Gentlemen, and ſhould acquaint them with what myſelf had done, when it ſhould not be a Snare to me; but when they ſhall apprehend me by a Warrant for Treaſon, and examine me in order to a Tryal for my Life, in no Judicature in the world will I confeſs a word, till I firſt hear what will come in againſt me. Now, as I told them then, I never wrote Letter, nor received Letter, nor ſent or lent Money to any Perſon of the *Scotiſh* Nation. Now that I ſhould meet with this hard meaſure, to have the moſt rigid and ſevere Interpretation put upon all my Actions, to be look'd upon with ſo jealous (I might ſay with a worſer) Eye, that have in my meaſure ventured my All in the ſame Quarrel that you were engaged in, and lifted up my hands in the ſame Covenant, that have took ſweet Counſel together, and walk'd in Fellowſhip one with another: that from theſe I ſhould have ſuch hard meaſure, this, this troubles me greatly. Had I been ſo dealt withal at the Juncto at *Oxon*, I ſhould not have been ſo troubled at it; but to be dealt ſo with at *Weſtminſter*, this is that at which I ſtand amazed: yet bleſſed be God, I am not afraid; my Conſcience doth not tell me of any perſonal Act of mine proved againſt me, that brings me under any of your Laws as to Treaſon.

And thus having expreſs'd myſelf, concerning my Charge, and the Witneſſes, and myſelf; I ſhall now in the cloſe of all ſay, (whatever tortured Collections or Inferences are drawn from my Practices, and however Lawyers may aggravate thoſe things that in part have been proved againſt me) yet I do declare in the preſence of God, that whatever I have done, in the Simplicity and Integrity of my Heart I have done it; and did deem it to be conſonant and agreeable both to my Conſcience, and to the Proteſtations and Covenant I have taken; and I have done nothing out of Animoſity, or from a Spirit of Revenge. And thus I have done concerning myſelf.

I have only a few humble Propoſals to make to your Lordſhip and the Court, and then I ſhall leave all to God's determination and yours. To you that are my Judges, I humbly crave this of you, and I do it upon your Lordſhips words the firſt day of my appearance here. When you were pleaſed to deny me Counſel, you ſaid you would be Counſel for me; and I beſeech you be ſo, for you are Judges both of Matter of Law and Matter of Fact. I may make uſe of that Paſſage, *Prov.* 31. 8. *Solomon* ſays there, *That Rulers muſt open their mouths for the Dumb, in the Cauſe of all ſuch as are appointed for Deſtruction.* Truly, my Lord, I am as a dumb Man before you; dumb in Matters of Law, I cannot plead one word for myſelf: I beſeech you be as *Solomon*'s Rulers were, and open your mouths for him that is appointed to deſtruction; you who are my Judges, be my Advocates, my Life lies in your hands. And then I beſeech you let me make this humble Motion to you, That you would not count any thing that I have done to be out of Animoſity or Stoutneſs of Spirit: Truly, nothing but Conſcience could carry me through all my Sufferings; I could not leave ſuch dear Relations that God hath given me, and ſuch a loving People, and comfortable Livelihood, as any Miniſter hath within the Walls of *London*: nothing but Conviction of Conſcience can carry me another way; and till Conſcience be fully ſatisfied, I cannot ſtir one ſtep.

The next thing I beg, is, to beſeech your Lordſhip and the Court to put a candid and fair Interpretation upon all that I have done, or that by Witneſs you have heard; that it was no Malignant Deſign, tho I do not own the Management of any Deſign: I never writ Letter, nor ſent Letter to any of the *Scotiſh* Nation; yet thus far I own the thing, that it was agreeable to my Judgment and Conſcience. For I thought the Intereſt of God and Religion, and the Good of the Nation, would be more advanced if the King went into *Scotland* upon Covenant-Terms, than if he ſhould fall into the hands of the *Iriſh* Rebels, or offer this Nation to the *Turk* or *Spaniard*, or any other to come in and make a Prey of it. I did judge it would be a Foundation laid of great Troubles and Blood, if he were not received by that Nation. And tho I did not, and do not in the leaſt own either the Commiſſion or Inſtructions, or the Way of Management of that Buſineſs; yet I confeſs the Agreement between the King and *Scots* I deſired, and deemed it my Duty upon this ground, one Clauſe of the Covenant being, to ſeek the Union and Good of both Nations; and thoſe who endeavour the contrary, are declared by the Covenant to be Incendiaries, Malignants, and evil Inſtruments, who not only divide the Kingdoms one from another, but divide the King from his People. Now they declaring him to be their King, according to my apprehenſion I thought it agreeable to my Covenant, to pray and deſire, as a private Man, and no more, for an Agreement between the King and them, upon thoſe Terms conſiſtent with the Safety of Religion, and the Terms of the Covenant.

And thus I have opened my Heart to you: The favourable Interpretation I humbly beg of you, is this; That things might not be taken in the worſt ſenſe: *Non eſt reus, niſi Mens ſit rea*; he is not guilty, unleſs the Mind be guilty: I heard your Lordſhip ſay ſo at *Guild-Hall*, as I remember.

The Lord knows, in the Uprightneſs of my Heart I have done what I have done. It is a Maxim in the Law, (I have read it in Divinity-

Books) *Ampliandi ſunt Favores, & in Pœnis benignior Interpretatio facienda*: Favours are to be amplified and enlarged by Magiſtrates; but in Puniſhments, the moſt benign and favourable Interpretations muſt be made. Now of my Actions the harſheſt Interpretations are made: I have a Charge laid againſt me, which I deem (and as my Counſel tells me) to be rather a Flouriſh in Law, than Reality of Matter.

I ſtood amazed when I heard the Charge againſt me, I thought it had rather been againſt ſome other Man than againſt me. As if I ſhould ſend to the Queen, *Piercy*, and *Jermin!* herein I did rather venture my Life upon a Tryal, than to lie under all that Obloquy which that Charge did lay upon me. Therefore I again beſeech you, put a fair and candid Interpretation upon what is proved againſt me.

I remember a Phraſe, *Summum Jus eſt ſumma Injuria*; To be over-juſt, is to be injurious. *Be not over-righteous*, may refer to Courts of Judicatory. Herein I acknowledge, that my not revealing what my Accuſers have done, this layeth me under the Fault of a Concealment, for which I lay myſelf at your feet.

The next humble Requeſt I have to make, is this, To intreat your Lordſhip and the Court, that you would not hearken to any politick Suggeſtions that may be laid before you: I know under what diſadvantage I lie, that am the firſt Miniſter in *England* try'd for Treaſon, in a buſineſs of this nature, and what a prejudice this is to me, to make an example upon.

The firſt Suggeſtion that I humbly intreat you would not hearken to, is, That it will not be for the Honour and Intereſt of the State, if I be not condemned. Truly, it is for the Honour of the State for you to do Juſtice: if you have found, that I ever writ Letter, or ſent or received Letter, or lent Money; if in theſe regards you have found me within your Acts, ſpare me not: but if I have been only preſent at the reading of Letters, and have been ſilent at what others have done; therein I lay myſelf at your mercy, to ſhew me favour. It was a Suggeſtion to *Pilate*, *If thou ſpareſt that Man, thou art no Friend to* Cæſar; and ſo if you do not condemn me, you are no Friends to thoſe who commiſſionate you: but be Friends to yourſelves and Families, and take heed that you bring not guiltleſs Blood upon you.

And here (and ſo I ſhall have done) in the Cloſe of all, I do acknowledge, that in many Particulars, as touching not revealing (I ſay not as to perſonal Actings, nor do any prove it againſt me) I do fall within your Acts, as to the Cenſure of a Concealment; and herein I humbly beg your Mercy. And however I may be judged to be a Man of a turbulent and unquiet Spirit, yet thoſe that know me in my Relations, will not ſay ſo of me; and my People, over whom God hath called me (I think) will ſay, I am a Man who deſireth to live quietly in the Land. But however my Spirit and Principles are queſtioned, yet I reſolve by the Grace of God to lead for the future a quiet and peaceable Life, in all Godlineſs and Honeſty.

I have but one word more to cloſe all I have to ſay for myſelf, (for I have made no Plea in Law; in thoſe matters I am as a dumb Man, and cannot open my mouth) and 'tis this: The Charge and Depoſitions lie before you, and I will but lay this before you alſo, That if ſo be my Fact ſhould deſerve Death, which I believe it doth not, and I hope you cannot find me under your own Acts as to Treaſon; yet if you do cenſure me rather upon a political Intereſt, than from the Merit of the Fact, the Scripture accounts not that Juſtice, but Murder. *Jehu* put to death *Ahab*'s Sons, and that by the Command of God; but he did it upon a political Intereſt, to eſtabliſh himſelf in his new-gotten Government: and when God reckons for this, he ſays, *I will avenge the Blood of* Jezreel *upon the Houſe of* Jehu. To do any thing upon a political Intereſt, tho the Fact may deſerve Death, the Scripture counts this Murder, not Juſtice.

And I beſeech you, let me ſuggeſt one thing to you, tho I am *a Worm, and no Man*, and deſerve not to be regarded amongſt the Children of Men; yet what I have done and ſuffered, let it be a little thought on by you: And let me urge that of *Abiathar* the Prieſt, he did an Act that was not juſtifiable, and ſaith *Solomon*, *Thou art worthy of Death; but I will not at this time put thee to death, becauſe thou bareſt the Ark of the Lord God before* David *my Father, and becauſe thou haſt been afflicted in all wherein my Father was afflicted.* I leave it to your own Conſciences to make Application. Many things elſe might be ſuggeſted againſt me, and all to exaſperate and exulcerate your Minds againſt me, to make you with leſs regret of Conſcience to paſs a doleful Sentence upon me; which I hope you cannot, and for the fear of the Lord you dare not: but if you ſhould, (and ſo I have done) I will ſay to you as *Jeremiah* did to the Rulers of *Iſrael*; *As for me, behold I am in your hands, do with me as ſeemeth good and meet unto you: but know ye for certain, that if ye put me to death, ye ſhall ſurely bring innocent Blood upon yourſelves.* But I will ſay as the Apoſtle did, *I hope better things of you, tho I thus ſpeak.*

And thus I commit myſelf, and my All, unto God, and to your Judgments and Conſciences.

Mr. Attorney-General's preſent Reply to Mr. Love's *Defence.*

Attorn. Gen. MY Lord, you have heard him ſay much, and it had been much better for him if he had ſaid leſs. My Lord, when Men go out of the way of their own Calling, they very often err; and truly I may attribute much of Mr. *Love*'s Confidence to his Ignorance; my Lord, to his Ignorance of the Law: and when Men meddle beyond their own bounds, they do tranſgreſs. Mr. *Love* hath made you a continued Speech; my Lord, I do find the old Proverb commonly true, *In multitude of Words there wanteth not Evil.* And ſhould I ſay nothing againſt Mr. *Love*, my Lord, he hath ſaid enough againſt himſelf, in that that he hath now repeated even to his own Condemnation, in that which he acknowledgeth, my Lord, (I cannot ſay ingenuouſly, tho himſelf hath ſaid ſo) to be rather a Miſpriſion of Treaſon and a Concealment. My Lord, Acts of Concealment are not ſo long continued, they have not ſo long continuance: And, my Lord, you very well know (for the Satisfaction of the Gentleman at preſent, and ſome elſe that hear me) that he that hears a Treaſon, (for I do go now a little in his own way) he that hears a Treaſon, muſt not look back before he go to the Magiſtrate and reveal it, and if he be at the Plough, he muſt leave his Plough; if this Gentleman were in his Pulpit, he muſt leave his preaching: he that knows a Treaſon, muſt go preſently and reveal it; there muſt be no Repetition of Treaſon, my Lord: Mr. *Love*, my Lord, will be miſtaken in that. But truly,

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my Lord, I was very ſorry, conſidering the Condition Mr. *Love* now ſtands in, to hear thoſe Expreſſions from him that he hath made to you in relation to the paſt and preſent Authority: my Lord, I am not willing to repeat them, Mr. *Love* muſt hear of it another time. Truly, My Lord, here is little of Ingenuity (all Men will believe) in this Gentleman, that hath now laid it for a Principle to himſelf, and all that ſhall hear him (and I think it not to be ſo chriſtian, ſo ingenuous) not to confeſs any thing any time; but that is Ingenuity, that what is proved, that he will confeſs; and that is a high piece of Ingenuity, that thoſe things that are proved, he will ingenuouſly acknowledge: I, my Lord, I do not take that to be Ingenuity neither in my Law, nor I believe in his Divinity will it be. My Lord, there hath been a great deal of Care and Pains taken by Mr. *Love* to take in pieces the Evidence; I ſhall not undertake now to join them together, but in convenient time I ſhall, I doubt not, for the Satisfaction of the Court and their Judgments, who I muſt ſay, have been threatned by the Gentleman; and, my Lord, I hope for the Conviction of himſelf. My Lord, he knows there are ſhrewd pieces againſt him that he hath acknowledged; but he would take them off one by one, but when they are put together, they will not be ſingle Evidence, nor ſingle Teſtimony, nor ſingle Facts, but a continued Reiteration and Repetition of Treaſon, a continued and Series of Time. My Lord, you are pleaſed to obſerve, that he himſelf doth appear from 1648 to 1651. ſo that in 1648, 1649, 1650, and 1651. in all theſe Years, my Lord, there hath been this conſtant Repetition and tranſacting of Treaſon.

My Lord, I learn from him, and 'tis very true—— It is not good dallying with holy Things, nor is it with States and Commonwealths, it is very bad dallying with them; thoſe that flutter there, will burn their Wings at laſt: and it is not Quirks of Wit, nor Strains of Senſe or Non-ſenſe, will, my Lord, clear theſe things; it will not do it, my Lord. My Lord, he hath deſired you will not hearken to private Examinations; my Lord, I have ſaid ſo too, and there hath more been offered to you; but that which hath been publick, and *viva voce*, all have been ſo. But ſurely, my Lord, I could wiſh this Gentleman, and all others of his Profeſſion, would meddle in their own Sphere, and not to walk out of that, to come and teach Courts what they ſhould do, to teach the Magiſtrate what is his Duty. My Lord, I do hardly think it belongs to them ever in the Pulpit to do thoſe things: but to tell us we muſt not examine before-hand, and ask Queſtions in private; my Lord, we cannot then be prepared for Felons and Treaſons. And, my Lord, I ſay this Confidence is much from his Ignorance; for theſe things are very familiar, and muſt be continued to be done: ſo that theſe things are not well broached by him, and I do think he will ſay at laſt, he underſtands not himſelf; and thoſe, I hope, that hear, my Lord, will ſay, I do not uſe it: For, my Lord, I muſt ſay, it muſt be otherwiſe in all well-governed Commonwealths. My Lord, he hath not denied, but acknowledged Meetings at his Houſe more than once, twice or thrice: and truly, I did expect from this Gentleman that he would not have continued thoſe fearful Imprecations of calling God to witneſs, that he did never write Letter, nor ſend Letter, nor lend Money. I had thought he would not have gone upon theſe Equivocations: Did he never move other Men to write? Did he never move others to lend Money? It is not to ſay, this and this I hav not done; but I had thought he would have cleared himſelf totally of any Guilt that way, either in relation to receiving, or hearing Letters read; or lending or receiving Money, or moving for Money. My Lord, to put it upon a particular Caſe, this will not blind the Eyes of Juſtice, but you will be able to ſee it. He is pleaſed to ſay, my Lord, he will not lay it to the badneſs of the Witneſſes Conſciences, but to the badneſs of their Memories. My Lord, I hope in the Concluſion their Memories will appear to be right, and ſome body's Conſcience elſe to be bad. And, my Lord, for to hear this ſaid by this Gentleman that is a Miniſter of the Goſpel, that it is a Crime for theſe Men to acknowledge their Offences, this is ſtrange: I had thought the firſt Step to Repentance had been Confeſſion; and that it had been no Offence for any Man living that hath committed a Fault, or that thought he had committed a Fault, to acknowledge it. In my Law and Divinity I thought it ſo, and I have not learned otherwiſe; and ſhall this Gentleman take Exceptions, becauſe theſe Gentlemen who have thought they have done amiſs, have acknowledged their Errors, and have craved Mercy? My Lord, I muſt ſay thus, if any deſerve Mercy, it is thoſe that do acknowledge their Offences, and crave Mercy, and are ſorry for them; and not thoſe that are obſtinate, and bid defiance to Juſtice: prove what you can, I will confeſs nothing; that is not ſo conſcientious or chriſtian a Way. And for the Witneſſes, I do wonder that Mr. *Love*, of any Man, ſhould find fault with them; I cannot ſay they have taken ſweet Counſel together, but I ſhrewdly ſuſpect they have taken very bad Counſel together: theſe Gentlemen are of his own Choice, and of his own Companions, and thoſe that were converſant with him; and if you pleaſe to obſerve, at every word, *Will. Drake*; methinks that is a word of Familiarity. But, my Lord, for theſe, they were his Companions, and whether I might ſay more, his Houſhold-Friends or Gueſts, but ſure they were in his Houſe very often, and were private with him, and in his Chamber and Study; and to cover all theſe Actions, and theſe treaſonable Practices, and Letters and Deſigns, here they muſt come to hear News, and this muſt cover it all: They come for nothing but News, and our Contributions muſt be for charitable Uſes; but you muſt not ask why or wherefore we lend Money, but it is for charitable Uſes: neither God nor Man will be blinded in theſe things; and if theſe Fig-leaves be ſewn together, it will neither cover Nakedneſs nor Treaſon. My Lord, Mr. *Love* hath ſaid, (and in that given Judgment againſt himſelf) that either to treat or adviſe with the King of *Scots* in *Scotland*, he deteſts them both. My Lord, if he be guilty of both, then, I hope, he doth deteſt and renounce himſelf, and then I think he hath laid your Judgment ſomewhat, his own having paſt firſt, yours will eaſily follow. My Lord, he confeſſes, That for this Act of the 2d of *Auguſt* 1650, he was ignorant of it, and of the Danger of it. My Lord, he very well knows that Ignorance is no Excuſe; the Act is a publick Act, and hath been long printed, now ten Months ſince, himſelf ſaith: And yet methinks I cannot reconcile that, (that he that goes to make others differ) that he knew not of this Act, and yet *Sterks*, the *Scotch* Agent, was baniſh'd upon this Act, and there was a Contribution for him for his going away: The ſame Act that doth the one, doth the other. My Lord, he hath been pleaſed to cite a Saying of Cardinal *Farneſe*,

neſus, That if he knew any part of him infected with Lutheraniſm, *he would cut it off, and throw it into the Fire:* And ſo can he ſpeak truly of himſelf; he would do, if he knew any thing of Malignancy by himſelf. My Lord, the Queſtion between him and us, is, What is Malignancy? I doubt we differ in that; I doubt his Senſe of Malignancy: I am ſure by ſome words I ſhrewdly gueſs at, that I count that Malignity, and I hope all this Court, and all that hear me count that Malignity, that I doubt his Judgment leads him not to it, ſo I doubt we differ upon that.

My Lord, he hath ſaid, he was never an Incendiary, or evil Inſtrument; I wiſh there were not Cauſe for you to think otherwiſe: but ſurely the Gentleman hath made large Imprecations, and hath ſpoken much for himſelf; but I believe he knows there is ſo much Juſtice here, that he expects not to be believed in what he ſays. If it were enough to accuſe, who ſhould be innocent? And if it were enough to deny, who ſhould be guilty? He doth not expect to be believed for his word *certainly*; for now he knows he ſtands in another Capacity, and as things are alledged and proved on both ſides, ſo he is to be believed, and no otherwiſe. My Lord, he hath been pleaſed to reflect upon my ſelf in many Particulars; yea, and the Court knows in what a Capacity I ſtand here, as a Servant to the State to do my Duty faithfully, and I muſt do it: and yet I muſt ſay, it doth not become me to prompt Witneſſes; that word, my Lord, was not well ſpoken. He is pleaſed to ſay in the Commendation of himſelf, that he hath a Place in *London* where he hath a very good Congregation, and a very good Competency of Maintenance; and I heartily wiſh he had thought ſo really, and had kept himſelf ſingly to that. I do not think he will ſay, that in the Duty of his Place, as a Miniſter of the Word, to preach, to inſtruct, to exhort, rebuke, reprove his People, or any under his Charge, that ever the State did interpoſe or meddle with him, neither the Parliament nor the Commonwealth: Then for God's Love, my Lord, why ſhould this Man interpoſe or meddle with the State? Had you not enough to do in your own Calling? Had you not Charge enough lying upon you, but muſt you be going abroad, and put your Sickle into another Man's Harveſt? I will ſay, the State did never trouble the Gentleman in his Duty; he did go on with as much Peace and Quietneſs as himſelf could deſire, we interrupted not him; let him reflect upon himſelf, and whether others have dealt ſo kindly with him: when had he that Liberty that now he hath had? You may be pleaſed to obſerve, himſelf ſays, twelve Years ago he could not in three Years in *London* get an Admiſſion to be a Lecturer; and when he ſpoke in the Congregation-houſe at *Oxford*, he was expulſed there; he hath had no ſuch meaſure here. Doth Kindneſs provoke him to theſe things? Thoſe that ſin againſt Kindneſs, are the higheſt Tranſgreſſors. What Provocation hath this Gentleman had in his Miniſtry, that he could not follow that, and have let the Parliament and State alone? Doth he not receive Breath here to live, and his Livelihood to ſuſtain himſelf and his Relations? Why ſhould you interpoſe to diſquiet your ſelf and the Commonwealth, when they did not provoke you? And let all judge whether this ſhould not convince you; and let me ſay thus much, That you have dealt fooliſhly, and have gone beyond your Bounds, and have not kept within your Limits in what you have done in theſe things that you have acknowledged.

My Lord, I ſpeak this, that thoſe may hear now that may not hear the other; for that which Mr. *Love* hath ſaid, we muſt have ſome time to recollect, and to ſpeak in the Vindication of the Proceedings of the State againſt this Gentleman, which, though I think it needs not much, in reſpect of the Court that hath heard him ſay ſo much, and confeſs ſo much as he hath done; yet for the Lenity of the State, that hath moved them to take care of their own Preſervation: And I would not do it, but that he hath ſtood upon all Terms of Defiance with Juſtice and Majeſty; and you have heard from a Fellow-Miniſter what he did the laſt day, and the Principles he urgeth this day, which, let me repeat again: there will be no living in Society, if theſe things be let alone. My Lord, it is much inſinuated by him, that his Blood will be upon you and the Court; I would he had thought upon Blood before theſe things had been ſo tranſacted by himſelf: I am afraid (between God and his own Conſcience be it, and thoſe that have had Correſpondency with him) that much of this Blood that hath been ſpilt in *Scotland*, hath been made by their Means: You hear him ſay, That what was deſired by them (and in order to what it was) was, That the King of *Scots* might join with the *Scotiſh* Nation, and not go to *Ireland*, that was his Conſcience. I do not know, his Conſcience led him to meddle with thoſe things, to meddle with State-Affairs. But, my Lord, if it be ſo, and this hath been brought on by them, that one hath encouraged the King to join with the *Scots*, and the other hath encouraged the *Scots* to join with the King, by hopes of Parties here, which he himſelf acknowledgeth now, was undertook in the Name of a Presbyterian Party; though I think, and do believe it, for very many honeſt Presbyterians, that they would ſpit in his Face, if he ſhould ſay it of them: But I ſay theſe doings hath occaſioned the ſhedding of much Blood, and a great deal of Variance between the two Nations, and the Lord knows when it will end. But, my Lord, as he concluded for himſelf, you will be pleaſed, my Lord, to give me leave (though not in that way of Conjuration as he hath done) to ſay for the State, I ſhall not prevent your Judgments; but it is better that one Man, than a State, ſhould periſh. And if this Man be guilty of the Treaſons proved againſt him, I believe himſelf will judge, he had better periſh and ſuffer death, than the State ſhould periſh. All theſe Actings of his have been Underminings of the State clean through, carried on very cloſely and covertly in Diſguiſes, and not diſcovered: but he that dances in a Net, will be catch'd trapping at laſt. My Lord, before you give your Judgment, you will conſider that Juſtice to the Commonwealth——

So, My Lord, I have added what my bad Memory (I hope not bad Conſcience) hath repeated to me, as might give ſome Anſwer to what he hath ſaid: But ſince he hath been pleaſed to take ſuch pains to run through all and every one of the Evidence ſo exactly, and hath had three Days given him for it; my Lord, I ſhall ask but one for my ſelf, and for thoſe that are the Counſel of the Commonwealth. My Lord, this is all I ſhall ſay at preſent to you, and ſhall ſay no more till next Meeting.

[Judge *Keeble*, the Lord Preſident, ſpeaks after the Attorney-General: the very beginning of his Speech was not heard, he beginning very ſoftly.]

Ld Pre-

Ld Preſident. But again in this Point, for the Preſbyterian Government, if it be rectified, doubtleſs it tends to the Peace of this Nation, and all Places, but not with a *Scotch* Limitation, I deny that; nor limited by a *Scotch* Covenant.

The next thing is this; becauſe you often fall upon Diſtinctions of the Law, and that you are ignorant of the Law, the more to blame you that profeſs the Learning of the Law of God; for there is no Law in *England*, but is as really and truly the Law of God as any Scripture-Phraſe that is by conſequence from the very Texts of Scripture: for there are very many Conſequences reaſoned out of the Texts of Scripture; ſo is the Law of *England* the very Conſequence of the very Decalogue it ſelf: and whatſoever is not conſonant to Scripture in the Law of *England*, is not the Law of *England*, the very Books and Learning of the Law: whatſoever is not conſonant to the Law of God in Scripture, or to right Reaſon, which is maintained by Scripture; whatſoever is in *England*, be it Acts of Parliament, Cuſtoms, or any Judicial Acts of the Court, it is not the Law of *England*, but the Error of the Party which did pronounce it; and you or any Man elſe at Bar may ſo plead it. And therefore to profeſs you are knowing in the Laws of God, and yet to be ignorant of the Laws of *England*, when yet the Laws of *England* be ſo purely the Laws of God, as no Law in the World more practical at this day; for you to be ignorant of them, is not to your Commendation, nor to any of your Profeſſion.

Then, Sir, for your going on in theſe ways: The Court with Patience hath heard you, I think, two Hours, or thereabouts, and you have done nothing but anticipated the Court: What! do you think they have not Underſtandings, and Judgments, and Conſciences? They would have done it, they would have examined theſe Witneſſes preciſely, and would have compared them, but you have taken up all this time by way of Anticipation; and in a Rhetoricay Way to do it! let me tell you, that Orators among the Heathens have been the greateſt Incendiaries; and thoſe Orators in Chriſtendom that do not ſet their Judgments upon right ends, they are the moſt unworthy Men in Chriſtendom: for there are no Hereſies, Murders, traitorous or treaſonable Practices and Attemptings, and all the higheſt Wickedneſſes that ever were committed in Chriſtendom whatſoever, or in this Nation in particular, but they have had ſome of that Profeſſion that have called themſelves Miniſters of Jeſus Chriſt, as the Jeſuits of Jeſus, and the Prieſts of thoſe; and all theſe Things and high Actings have ſtill had ſome Tincture of your Coat in them. Therefore it is not your Office can excuſe you; your Office is ſacred, as other Chriſtian Offices are, and you are no more Divines by your Office; but you are to remember, and you muſt know, that Chriſtian Juſtice that you teach in the Pulpit, to act it in the Court, is of a higher nature than Preaching is: And therefore in this, that you ſhould advance your Profeſſion beyond the Judicatories of this Land, know, that Judgment and Juſtice is the higheſt Religion in the World, both in Chriſtendom and out of it. And this, Sir, we would have you know, That Lawyers Doctrine tends to this, and I hope hereafter you will be more obedient, and better vers'd to know theſe Grounds of the Laws of *England*, by which now you are called here. I ſhall ſay no more, but take advice with the Court about you.

[The Court adjourns, and Mr. *Love* is commanded away.]

The Fourth Day's Proceeding, June 27. 1651.

Mr. *Hall*, the firſt Counſel for the Commonwealth.

Mr. *Hall.* MY Lord, the Priſoner at the Bar, Mr. *Love*, ſtands impeach'd before your Lordſhip of High Treaſon, which Impeachment hath been read before your Lordſhip and the Court. My Lord, by that he ſtands charged with High Treaſon, with ſeveral Offences of High Treaſon; That he in the Years 1648, 1649, 1650, and 1651. with *William Drake*, *Henry Jermin*, *Henry Piercy*, *John Gibbons*, *Edward Maſſey*, *Sylas Titus*, and others his Accomplices, did traitorouſly, wickedly and maliciouſly confederate, plot and endeavour to ſtir up a new and bloody War in this Nation, and to ſubvert the Government now eſtabliſhed, without a King and Houſe of Lords.

My Lord, That in the ſame Years, ſince the Death of the late King, he did, with other his Accomplices, endeavour to promote *Charles Stewart* to be King of *England*, contrary to an Act of Parliament before that time made in this Nation.

My Lord, That in the ſame Years he and his Accomplices did traitorouſly and maliciouſly aid and aſſiſt the Nation of *Scotland*, to the end that they might invade this Commonwealth; and hath adhered to the Forces raiſed by the Enemies of this Commonwealth.

My Lord, That in the ſame time, between the Month of *March* and the firſt of *June*, this preſent Month, he hath traitorouſly and maliciouſly held and maintained Correſpondency and Intelligence by Letters, Meſſages, Inſtructions and otherwiſe, with the Enemies of this Commonwealth, and to the Prejudice of this Nation; and in particular with *Charles Stewart* and the late Queen his Mother, and with *Jermin* and *Piercy*, and other Perſons of Counſel abiding with *Charles Stewart*.

My Lord, That he hath likewiſe held Correſpondency and Intelligence with the *Scotiſh* Nation, prejudicial to this Commonwealth, and to the end they might invade and bring a bloody War upon this Nation.

My Lord, Theſe Treaſons and traitorous and wicked Practices of the Priſoner at Bar, were and are to the apparent Hazard of the publick Peace of this Commonwealth, and Free-State, and the Parliament and People of *England*; and in Contempt and Violation of the Laws of the Land, and contrary to ſeveral Acts of Parliament in ſuch Caſes made and provided.

My Lord, There hath been ſeveral Witneſſes and Proofs of theſe particular Charges againſt the Priſoner: And, my Lord, I do conceive that there hath been ſuch Proof made, that in your Lordſhip's Judgment he will appear to be guilty of all theſe particular Actings. But, my Lord, I will not enter upon the Proof, only make a ſummary Relation of the Beginning and Continuance of this Plot and Deſign.

My Lord, this Plot did begin very ſuddenly after it pleaſed God to take away the chief Enemy of this Nation. The King died in *January*, 1648. and this Plot began in *February*, the very next Month following: and in the ſame Month, my Lord, the *Scots* Nation did proclaim *Charles Stewart* King of *Scotland*; and they did not ſtop there, but proclaimed

ed him likewiſe King of *England*; and then, my Lord, this Plot began here. For in the Month of *February*, the next Month after the King died, the Meeting was at the *Swan* at *Dowgate*, where were ſeveral of the Correſpondents at that time; as *Drake*, *Huntington*, *Titus*, and others: and the end of that Meeting was to contrive a Way that they might agree the King and the *Scotiſh* Nation; that was the end of their Meeting at that time.

My Lord, within a few Days after that, they met again, all theſe ſeveral Perſons, at the *White-Hart* in *Breadſtreet*, and to the ſame purpoſe; and at length it was reſolved to make their Addreſſes to the Queen, and to *Piercy* and *Jermin*, (firſt it was the King himſelf) for a Compliance between the King and the *Scots*: Letters were ſent accordingly, and ſeveral Meetings, and ſeveral Returns of Meſſages were had of them. My Lord, at length it was reſolved, That they ſhould ſend Meſſengers to the King at *Jerſey*, and agreed upon one *Titus*; and they raiſed Money and gave it to *Titus* to undertake the Journey. My Lord, *Titus* accordingly went in the Month of *May*, 1649. and returned in *Auguſt* following. After he had done his Negotiation there, he returned to *Calais*: but being afraid this wicked Plot was diſcovered, by reaſon of Letters that were intercepted, he durſt not come into *England*; but ſent Letters to deſire ſome Correſpondents might be ſent to *Calais*. My Lord, all this time I do not find that the Proof diſcovers the Priſoner at the Bar to be any Actor, or preſent at any Meeting hitherto: But when theſe Letters came from *Titus*, then the Letters were brought to Mr. *Love*'s Houſe; which is the firſt time I find him by Proof to be preſent. The Letters were read in his Houſe, and in his Study, as ſome of the Witneſſes ſay that were there preſent; and it was then agreed, my Lord, That *Alford* ſhould go to *Calais* to *Titus*. My Lord, accordingly he went, and there *Titus* did communicate unto him the Affairs that paſs'd at *Jerſey*. Within four or five Days after, *Alford* returns again, and where ſhould the Meeting be but at Mr. *Love*'s Houſe again, where Mr. *Love* and divers of the Accomplices were in his Houſe: a Letter from the King was read, the Diary, the Narrative from *Titus* likewiſe was read there; and there was the Conſultation what ſhould be done, and what further Courſe they ſhould take to join the King and the *Scots* together. My Lord, afterward they did agree that there ſhould be ſome ſent to treat with the King at *Breda*; the Inſtructions were drawn in Mr. *Love*'s Houſe, (I think one Witneſs ſays ſo) and Mr. *Love* preſent; Money was raiſed, and Mr. *Love* himſelf did ſpeak to one of the Witneſſes to raiſe Money, which was *Far*: *Far* accordingly did bring in five Pounds, and laid it down upon Mr. *Love*'s Table, Mr. *Love* being preſent then in the Room.

My Lord, I ſhall not trouble you with the Relation of more Particulars; but, my Lord, I conceive that Mr. *Love* doth upon theſe Proofs ſtand guilty of endeavouring to promote the King to be King of *England*: For, my Lord, what ſhould be the end of uniting the King and the *Scots* together, after that the *Scots* had proclaimed *Charles Stewart* King of *England*, but that they might come in a warlike manner to invade this Nation, and ſet up his Authority as King among us?

My Lord, I conceive (I ſhall ſubmit to your Lordſhip's Judgment) that he is guilty of Intelligence from a profeſs'd Enemy. The Intelligence is, my Lord, That divers Letters were ſent, and theſe Letters were read in his preſence, as himſelf doth confeſs he was at the reading of divers Letters, and did not conſent to them; and thereupon makes it as it were but Miſpriſion of Treaſon. My Lord, I conceive that this is apparently Treaſon: For if Letters were ſent to one Perſon, and did occaſionally come into another Man's hand, and he conceal them, being not ſent to him, there peradventure it is but Miſpriſion of Treaſon. But when there are ſent to theſe particular Perſons Letters from the King and *Scots*, and divers Perſons in Hoſtility againſt the Commonwealth of *England*, and received by the Confederates in Maſter *Love*'s Houſe, and there were read and debated, though they did not agree to ſome Particulars, yet they are Actors: They are—— in the very Intelligence it ſelf; and did likewiſe return ſeveral Letters.

My Lord, this Intelligence was with the *Scotiſh* Nation; which truly, my Lord, I do conceive hardly an *Engliſhman*, that had the Blood of an *Engliſhman* running in his Veins, would join in Confederacy with that Nation, of all the Nations of the World, againſt this Commonwealth; a Nation that hath been known (and I am ſure the Priſoner at the Bar is well read in the Hiſtories and Stories of this Nation) to have been a conſtant Enemy to this Nation in all Ages through the Memory of all Hiſtories; and, my Lord, of late, not three Years ſince, came and invaded this Nation with a puiſſant Army, which it pleaſed God to deliver us from: and this the Priſoner could not be ignorant of, that we had lately a Fight with them at *Dunbar*; that Hoſtility could not be unknown unto the Priſoner at the Bar neither. And yet for all that, to confederate with a Nation that were ſuch conſtant Enemies to us; my Lord, I could not conceive it had been in the Heart of an *Engliſhman*, much leſs in a Miniſter and Preacher of the Goſpel among us.

My Lord, there are ſome particular Charges upon him, more than upon any of the reſt: after *Drake* fled away, being doubtful that his ſecret traitorous Plot would be diſcovered, Mr. *Love* ſupplied his room; all the Meetings, and Confederacies, and Letters, and Agitations in this Buſineſs, were conſtantly at Mr. *Love*'s Houſe, himſelf being preſent. And, my Lord, Money, as I ſaid before, by Mr. *Love* himſelf deſired to be raiſed, for the furthering of this Deſign; and ſeveral Sums of Money were raiſed. I ſhall trouble your Lordſhip with no further Relation, but leave it to the Proof that was made before your Lordſhip and the Court.

Sir *Thomas Witherington*, the ſecond Counſel for the Commonwealth.

Sir *Tho. Witherington*. My Lord, Mr. *Love*'s Defence which he made for himſelf, as he did it for his Life, ſo he took a great deal of pains in it, and was very accurate in the Defence he made, eſpecially in the Witneſſes. My Lord, I ſhall not take upon me (for it is not my Charge at this time) to reply unto the whole Defence that Mr. *Love* made.

My Lord, that I ſhall ſay, ſhall be in two Particulars, for Mr. *Love* divided that which he ſaid into four Parts: the firſt concerning the Charge; the ſecond concerning the Witneſſes and Teſtimony; the third concerning himſelf; and the fourth concerning ſome Propoſals to the Court.

My Lord, I ſhall only meddle with that which is concerning the Witneſſes; and ſecondly, to ſome part of that he ſaid concerning himſelf: I ſhall only reply as to theſe two, and the reſt I ſhall leave

to

to Mr. Attorney-General, that better knows what is for the Advantage of the Commonwealth.

My Lord, I ſhall begin concerning the Witneſſes, to clear them, (for now we are in our Reply for the Commonwealth.) Mr. *Love*, who did profeſs a very great deal of Ignorance in the Laws of the Land, yet he did inſinuate ſomething that implied ſome Knowledge of them, in that, my Lord, he took ſome Exceptions to the Witneſſes. My Lord, I take it, that theſe Exceptions were:

1. That the Witneſſes were not *probi Teſtes & legales*. And,

2. That they were *Partitipes criminis*: And that indeed is included in the other.

My Lord, Firſt, I ſhall ſpeak to this, That the Witneſſes produced againſt him are *legales Teſtes*: They are competent Witneſſes, and ſufficient Witneſſes, without Exception againſt them. I ſhall firſt ſpeak to that they are *Teſtes legales*: For Mr. *Love* did object, That they themſelves confeſſed themſelves to be guilty of the ſame Crimes; and ſo their Confeſſion is upon the Matter a Conviction; and ſo they are convicted of the Crimes in which they are Witneſſes againſt him; and ſo are not competent Witneſſes.

My Lord, I ſhall clear this: Under favour, I take it they are very clear and good Witneſſes, notwithſtanding the Exceptions. And, my Lord, this I take to be a very plain Caſe; the Caſe which is in our Common Law: The Caſe is —— which proves it fully; for if a Man be accuſed of High Treaſon, indicted of High Treaſon, and will confeſs the Indictment, and become an Approver, yet he may be a Witneſs againſt all thoſe Parties guilty of the ſame Treaſons with himſelf; he is *Particeps Criminis* with them, and they with him: And yet this Man thus becoming an Approver, will at Common Law be a Witneſs, and a legal and good Witneſs againſt them.

My Lord, I ſhall a little open that, becauſe it clears the Caſe. My Lord, an Approver can only approve, it is true; that is, when a Man is indicted of High-Treaſon, and other his Accomplices with him, and he upon the Indictment ſays it is true, and then deſires he may have ſomething aſſigned to him, and then he accuſes ſuch and ſuch Perſons of the ſame Crimes: In this Caſe this Man, after he hath confeſs'd the Indictment, and takes his corporal Oath to reveal all Treaſons he knows in the Indictment, (for he can accuſe no further) after this done, he ſhall be a Witneſs; he is a Witneſs againſt thoſe with whom he is *Particeps criminis*: Nay, my Lord, it is of Merit and Juſtice that he ſhall have this Reward, he ſhall be pardoned his Life. Now, that I prove to you, becauſe that ſhews the Reaſon, that even the Man, after Indictment and Confeſſion, yet being an Approver, ſhall be an Accuſer of his Brethren, thoſe that were *Participes criminis* with him, and a good Witneſs. And the Reaſon of that goes to this Caſe in hand: For although theſe Men had a hand in the ſame Plot and Deſign with him, and have confeſſed, and did confeſs it upon Evidence, that they were there preſent, and did many Things, yet I take it they are clear, competent, and good Witneſſes, and that is no Objection againſt them, that they are *Participes criminis*. My Lord, if the Law were otherwiſe, it were impoſſible to prove many Offences; for many Offences cannot be proved, but by ſome Men that had a hand in them. In an ordinary Caſe, an Action of Treſpaſs and falſe Impriſonment, if three Men are guilty of it, it is an uſual Thing in Courts of Juſtice to admit one of them a Witneſs. True, they are not Parties in the Action, and ſo may be Witneſſes: For theſe Things may be ſo ſecretly done otherwiſe, that their Treaſons could never be revealed to recover againſt the Priſoner.

There is a Caſe, I think, in all our Knowledge: It is the Caſe of the Earl of *Caſtlehaven*. He was accuſed of a very grievous Fact: The Witneſſes which came againſt him, were one or two Footmen, that were *Participes criminis* in the very ſame Fact; and theſe Men, by the Opinion of the Judges, were competent Witneſſes. My Lord, he was arraigned, indicted, and convicted, and ſuffered Death: Nay, it is very true, that one of theſe Perſons was afterwards hanged for the ſame Offence. So that I think, under favour, as to that, I take it that they are clear and good Witneſſes, notwithſtanding that Objection.

The next Objection is, That they were not *probi Teſtes*. Truly for that, my Lord, I muſt appeal to your Judgment in it, whether theſe Men be not *probi Teſtes, & honeſtes* too: For in caſe of an Approver, as I mentioned before, that Man that accuſes his Brethren upon the ſame Treaſon, it is ſaid, that of Merit and Juſtice the King ought to grant him his Pardon; for they that diſcover the Traytors againſt the Commonwealth, theſe certainly are *probi Teſtes*, and good Commonwealths-Men. And ſo I take it, that this is no Objection againſt them in that, but as before they were *legales Teſtes*, ſo they are *probi Teſtes*. My Lord, I mention theſe Things, to ſhew that the Witneſſes for the Commonwealth are good and competent in this Caſe.

The next Objection touching theſe Witneſſes, is, That though they be admitted for good Witneſſes, yet there is not to any one Fact two Witneſſes: There is not any one of the moſt criminal Parts of the Charge proved by two Witneſſes. And ſo as before they were incompetent in regard of the Quality and Participancy of their Crimes, ſo now he would make them incompetent for want of Number.

My Lord, I ſhall firſt agree to the Ground of this Objection: For truly, my Lord, I take it, that it is by the common and antient Law of *England*, that in Caſes of Treaſon there muſt be two Witneſſes; and it is by a Law more antient than that, that is, by the Law of God. But, my Lord, it is true, the Law of this Land is explained by ſeveral Statutes, the Statute of the firſt Year of *Edward* the Sixth, and the fifth Year, and the ſecond Year of *Philip* and *Mary*. My Lord, I take it, upon all theſe Statutes; the one Statute ſays, To accuſe another, there muſt be two Witneſſes: I take it, the Accuſer and Witneſs are all one; that is, the ſame that in one Statute is called a Witneſs, in another is called an Accuſer. But there muſt be two: That is the Objection. But then give me leave to conſider this Caſe, and to conſider how thoſe two Witneſſes ſhall be. My Lord, I ſay, under favour, that in a Caſe that conſiſts of a complicated Fact, that is, the Reiteration of many Actions, my Lord, I conceive none of theſe Laws are to be intended, that for every of the particular Facts there ſhould be two Witneſſes: That cannot be the Intention of any of theſe Laws, that in every particular Fact, that is to ſay, whether Mr. *Love* was preſent at the reading of the Letters; if you have one Witneſs to that, another for the writing of them, another to the ſending of them; though theſe three Witneſſes ſpeak to ſeveral Parts of the Buſineſs, yet they are a concurrent Teſtimony, for all agree to the Fact. I well remember, my Lord, a Caſe in the Star-Chamber, againſt *B.* of *Leiceſterſhire*: I think there was an In-

formation againſt him for Bribery, and extorting of Fees. The Matter came in the Concluſion, that one Man proved a Bribe, and another Man proved a Bribe: One proved a Bribe of forty Pounds, and another a Bribe of forty Pounds; but there were ſeveral Witneſſes to ſeveral Bribes. The Queſtion now was, Whether he took Bribes, or no? And theſe tending to the ſame general Charge, it was the Opinion of all the Judges that he did extort and take Bribes. The one Witneſs ſpake to one Bribe, and another to another; and in that Caſe, as two Witneſſes, made good a Charge againſt an Offender: Yet in that Caſe it was taken, that where Witneſſes, though they ſpeak not in every Particular, yet all tending to the ſame general Charge of Bribery, theſe were taken for plural Witneſſes, and that was a good Conviction. That was the Opinion of the Judges then. I mention this Caſe only for an Inſtance to expreſs my ſelf in this: For Mr. *Love* cannot expect, that to every particular Thing laid to his Charge two Witneſſes ſhould be produced. But, my Lord, when one Witneſs proves this Thing he hath done, this Letter hath he written, and another that another Thing he hath done, which all tend to the Treaſon; now theſe are more Witneſſes, and two or three Witneſſes of the ſame Thing, tho not to the ſame individual Thing, it is —— So that upon the Matter they are concurrent Witneſſes in this complicated Fact, though not concurrent in this or that Circumſtance; for that is impoſſible almoſt in any Action to be done.

But then Mr. *Love* did further inlarge this Objection, which was out of a Saying he had, That in caſe of Treaſon, *Probationes oportent eſſe luce clariores*, The Proof muſt be as clear as the Sun. Truly, my Lord, it is very hard that Works of Darkneſs ſhould need ſo much Light for Diſcovery, and that ſo clear a Proof ſhould be neceſſary when the Things are done in Darkneſs and Secrecy. My Lord, I think, under favour, though in this Particular we have our Witneſs, as I take it, to ſpeak very plainly and clearly; for it is their own Faults if they do not, for they were preſent at the Meetings, at the Conſultations and Debates: But yet I do obſerve, that in this Caſe Things were carried on in a very ſecret manner. For I do obſerve, firſt, at theſe Meetings, all of them were done under a Diſguiſe, every Thing acted in this Buſineſs. I obſerve it upon Evidence, firſt, That the very Meetings themſelves, they go under the Title of Prayer and Faſting; for ſo *Huntington* told you, He was ſpoke to go to Prayer at Mr. *Love*'s Houſe. The Contributions made for raiſing of Money, for ſending of Meſſages and Diſpatches, was under the Diſguiſe of Charitable Uſes. So that here was Darkneſs all along. And then for the Letters, there was no Names ſubſcribed to them: All were done without Names, only the Letter *L.* was upon one. And the Place, truly I muſt ſay, that was obſcure too: For what Man would have thought that the Place of Meeting ſhould have been at Mr. *Love*'s Houſe? A Man that hath been ſo much for, and ſhewed ſo great an Affection to the Parliament, as he ſaid himſelf in Subſtance. A Man would ſooner have thought to have found this Treaſon in any Cellar in *London*, than in Mr. *Love*'s Houſe. For the Inſtructions, for the Directions and Diſpatches, ſome were ſent in Table-Books, written in Sack in a Table-Book: But, my Lord, I am afraid, in the Concluſion, the Letters will be written in Blood. But, my Lord, this I do obſerve, that through theſe Difficulties, though we paſt through our Evidence, yet your Lordſhip heard how plain the Proof was in moſt Particulars.

My Lord, I ſhall ſay no more as to theſe Witneſſes, becauſe the other part of anſwering the Witneſſes belongs to the Attorney-General; for Maſter *Love* went over all the particular Witneſſes.

My Lord, I ſhall only ſay one Thing, and that is this, concerning Mr. *Love* himſelf; and it is only concerning this Point. My Lord, Mr. *Love* himſelf did ſay, He would be ingenuous ſo far as he took himſelf to be guilty. But, my Lord, I know your Lordſhip and the Court obſerves that that Ingenuity did follow the Proof that was for the Commonwealth. My Lord, he confeſſes he was preſent at them; he was ſilent after all theſe Meetings and Debates: I mean the Meetings after they began at his own Houſe; for I ſpeak not of them that were at *Dowgate*, for there is no Proof that he was there. My Lord, this he confeſſes; and this he ſays is Miſpriſion of Treaſon. Truly, my Lord, I muſt be bold to differ from him in that Particular: I take it that that he confeſſes is High Treaſon. I ſhall ſpeak a little to Miſpriſion of Treaſon, and ſo conclude.

My Lord, Miſpriſion of Treaſon is when a Man hath notice of a Thing that is Treaſon, and he conceals it. Now, my Lord, under favour, the Concealment muſt not be long; it muſt not ſleep long with him. My Lord, I remember an Axiom an Author hath in our Law, and that is *Bracton*: He hath a Diſcourſe of Miſpriſion of Treaſon; he hath it in *Latin* —— Says he, *He that knows a Treaſon, he muſt not ſtay in one Place a Day and a Night, but he muſt go on; he muſt go toward the Magiſtrate. Nay*, (ſays he) *though he have moſt urgent Buſineſs, yet he muſt ſet it aſide, and go on, and muſt not ſtay in any Place till he hath revealed it. Nay*, (he ſays further) *he ought not to look back till he hath given Information to the Magiſtrate.* The Man that doth not after this manner forthwith reveal it, this only is Miſpriſion of Treaſon. But conſidering this Caſe of Mr. *Love*'s now confeſſing the Fact, he takes it to be Miſpriſion of Treaſon; but I take it to be Treaſon it ſelf. My Lord, I ſhall obſerve what Mr. *Love* did: He was at theſe Meetings; theſe Meetings were continued for divers Days and Months. My Lord, was there any Diſcovery made by Mr. *Love?* Was there any Revelation of his to any Magiſtrate? Did he tell it to any Man? Nay, did he confeſs it upon his Examination, when examined? Nay, did he not deny it when he came to the Bar before your Lordſhip? Can this be ſaid to be Miſpriſion of Treaſon, that a Man ſhould hold ſo long in Treaſon, and not reveal it? My Lord, as every Treaſon includes a Miſpriſion of Treaſon in it; ſo I conclude that Miſpriſion of Treaſon may grow up to Treaſon it ſelf. Now when a Man ſhall ſo long ſleep upon it, and be violent in it, and not reveal it, I take this Miſpriſion of Treaſon grows up into Treaſon it ſelf.

My Lord, I ſhall ſay no more of that, but I ſhall conclude; becauſe the other part lies upon Mr. Attorney-General, who is better able to do it. Only one Thing I ſhall take notice of to your Lordſhip, and I am troubled at it; and that is, That as he ſaith, that he that hath been ſo much for the Parliament, with whom he hath gone along, and took ſweet Counſel together, and hath been active for, and paſſive with, thro all the Paſſages of the late Wars; that he ſhould ſuffer from them, this, he ſays, ſtuck very much upon him. But, my Lord, for him that hath been ſo much for the Parliament,

liament, ſo familiar with their Proceedings, that hath been ſo active for them, and hath ſuffered ſo much for them; my Lord, for him to kick the Heel againſt the Parliament; for him, after all this, now even in the Infancy of this Commonwealth, that this Child ſhould be deſtroyed, and by one with whom we have took ſweet Counſel together: And by one, I may ſay this, that tho he had no hand in making this Commonwealth, yet I dare ſay he had in the Preparations to it; for himſelf all along hath gone with the Parliament: So that, my Lord, I take this to be an Objection againſt him. But, my Lord, I ſhall ſay no more in it, but refer the other part to Mr. Attorney-General.

Mr. Attorney-General, the third Counſel for the Commonwealth.

Attorn. Gen. My Lord, I am ſorry Mr. *Love* hath given the occaſion of this Meeting, and of my ſpeaking at preſent; I could much rather have wiſhed to have been ſilent: But now I am drawn hither, I am forced to it. Mr. *Love*, my Lord, in the Beginning of his Tryal did deſire God ſo to aſſiſt him, that he might go through it with Gravity, Meekneſs, and Wiſdom, as became a Miniſter of the Goſpel. I wiſh that God had heard his Prayers, that he had ſo gone through it. What he hath done, the Court hath obſerved.

My Lord, in that part I have to do, I do heartily deſire I might do it with Faithfulneſs to you, and the Duty of the Place I ought to diſcharge, and to the Court.

My Lord, the Work that this Day lies upon me, is to reply ſomewhat to what was ſaid by Mr. *Love* in his own Defence, and to make a faithful Repetition to the Court, and to do the Witneſſes and the Priſoner right; to repeat that, and that only, that hath been ſaid; and in that, that I may do no wrong to miſlead the Court, and offer nothing to the Prejudice of the Witneſſes, nor to the Priſoner. And truly, my Lord, I ſhall not (in his own Words) have any tortured Collections, nor any Inferences, nor Strains of Wit: He hath ſhewed his Oratory in his Defence; my Lord, I ſhall ſhew the Simplicity of Law in the Reply.

My Lord, the Charge hath been repeated to you; and for that inſiſted upon by Mr. *Love* for the Witneſſes and Teſtimony, you have had Anſwer: I ſhall not trouble you; there hath been Pains taken in it. My Lord, I think all Men were ſatisfied that it was clear enough; yet to make it more clear, Mr. *Love*, my Lord, inſiſted upon one Thing more, and that is upon point of Time, and the point of the Juriſdiction of the Court, which (by your favour) I ſhall firſt begin with.

He ſtands charged, he ſays, for Crimes done in 1648, 1649, 1650, and 1651. And thoſe Crimes, he ſays, were before this Court was, or had a Being; and ſo had not Power to take Cognizance of them.

That, my Lord, I ſhall endeavour to clear to you, and I think in much Clearneſs; clearer than the Light, as he will have his Evidence. He ſtands charged (I ſay) poſitively, my Lord, with no Crime before a Law was emitted, that did give an Inhibition, and was publiſhed and known. He ſtands charged with no Crime before the Law was publiſhed, that did declare what the Crime was, and gave notice to beware.

My Lord, that that was firſt, was the Law that was made the Thirtieth of *January*, 1648, that doth declare, (and upon that Law I ſhall fetch the Foundation and Riſe of this Treaſon) That whoever ſhall proclaim, declare, publiſh, or any way promote *Charles Stuart*, or any other Perſon, to be King or chief Magiſtrate of *England* or *Ireland*, without Conſent in Parliament, ſhall be adjudged a Traytor, and ſhall ſuffer Pains of Death as a Traytor. Here was this Law publiſhed, and notice given what every Man ſhould truſt to, and, I may ſay, my Lord, Obedience expected. Againſt this Law hath Mr. *Love* tranſgreſſed, and, under favour, in a very high meaſure; ſo that, my Lord, I charge him upon this Law, and ſince this Law was made; and to this Law there is no Limitation of Time for Men to be queſtioned for it: And for this Law, it is in expreſs Terms given in Commiſſion to this Court to take Cognizance of it: So that, I think, this is a little clear to him.

My Lord, the next is a Law publiſhed in *July*, 1649, that is entitled, *An Act declaring what Offences ſhall be Treaſon*: That, I think, he is not ignorant of, though he pretended to be ignorant of another. My Lord, that Law likewiſe, though it was before this Court was erected, yet this Court hath, by expreſs Words of the Commiſſion, Power to take Cognizance of it. And this Court, in theſe Things, is not like other Judicatories, that when Offences are committed, the State takes care to appoint Courts and Judges to judge thoſe Offences. Let it be no Offence to Mr. *Love*, if this Court were erected eſpecially to try him. But the Law was not made eſpecially to puniſh him; for the Law was made before, and the Offence committed before: and ſo, I think, in all *England* the Offences are committed before the Judges go their Circuits, and have their Commiſſions.

My Lord, the next is the Law that conſtitutes this Court, and ſays in what Particulars this Court hath Power to take notice of Offences, beſides thoſe mentioned before, and the laſt concerning the *Scots*: That was but lately, which Mr. *Love* ſays he was ignorant of; but he was not ignorant to do ſomewhat againſt it. My Lord, theſe are for the Laws that Mr. *Love* is impeach'd upon.

The next thing that I have to do, is, (and in that I humbly beg your Favour, that as I am now to do Juſtice, if I may ſo ſay, to the Court, and to be faithful to my Truſt and the Duty impoſed upon me) to repeat the Evidence right unto you; and in that, as the Gentleman, the Priſoner at the Bar, hath had that Favour from you to have a Notary by him, to take all that was ſaid of all Parties; ſo, my Lord, by your Favour, we have had ſome here to help our Memories; With whom I have conferred; and by the Help of their Notes and our Memories, my Lord, we think we have faithfully tranſcribed that which was ſaid by the Witneſſes. And, my Lord, I humbly crave Favour, as not now being a private Examination, to be read, but a publick Teſtimony in the Preſence of Mr. *Love* himſelf and the Court: I hope it is not private now, but I may uſe Notes to do him right, and may read thoſe Things that they teſtified upon their Oath here.

In the firſt place, my Lord, I ſhall, according to my beſt Judgment, do him no wrong. For the firſt, I ſhall acknowledge it was but a Hear-ſay; and that from *Drake*, of Letters ſent from *Scotland* to the Presbyterian Party in *England*, to let them know what had been done of proclaiming the King there, and that care ſhould be taken for their Intereſt. This I do acknowledge was but a Hear-ſay; but that which followed not long after that

time, my Lord, was poſitive; and there (my Lord) I ſhall begin the Riſe of this. And thus, as hath been obſerved by my Fellows, that are Counſel here, though there was not acting, nor Preſence, nor knowing, yet (my Lord) under a ſecond, it will appear he was conſenting and approving, and ſo guilty of the firſt Fact. My Lord, There was a Meeting at *Dowgate*: I ſuppoſe you remember it full well; it hath been ſeveral times repeated to you by ſeveral Perſons. And *Titus*, the Party now beyond the Seas, and *Drake*, and other Traytors fled, were prime Sticklers for this, and moved others to come in, and to be there preſent, and hear what was the Deſign. As I did crave your Lordſhip's Favour, ſo I ſhall, that I may not (as he ſays) truſt to a fickle nor roving Memory, that I may be faithful, to read to you that I have taken, and what was ſaid by them. I ſuppoſe Mr. *Love* hath by him one that can controul me, if I do not right.

I begin with this Meeting at *Dowgate*, and continued at the *White-Hart* in *Bread-ſtreet*: *Alford* gave you this Evidence, *That one Morning he was wiſhed by* Drake *to go to the* Swan *at* Dowgate: *When he came there, there was one* Titus *who gave relation of the good Diſpoſition of the Prince, and how inclinable he was to take the Covenant, and to caſt off the Cavaliering Party, and thoſe about him, if there were opportunity found, how to make him know there was a conſiderable Party in* England *that would ſtick cloſe to the Ends of the Covenant; and upon that, we that were there did think we were bound in Duty, in relation to the Covenant, to preſs the Prince to take it, and to proſecute the Ends of it. And for that* Titus *ſaid, if we would appoint another Meeting, he would draw up ſomething in way of Application of the Presbyterian Party to that purpoſe.*

We afterwards met at the Bear *in* Breadſtreet, *and there he drew forth ſomething he had framed to that purpoſe, and read it, and it was agreed to be ſent over to the Prince; the Subſtance of it was to preſs the Prince to apply himſelf to take the Covenant, and to proſecute the Ends of it, and to caſt off all the Cavaliers and that Party about him, which had brought ſo much miſchief to his Father, and would do likewiſe to him: And this (I believe) was ſent over, for* Titus *undertook to ſend it over. We asked him how the Prince could be made to believe that this coming from ſo inconſiderable a Party as we were, ſhould come under the Notion of the Presbyterian Party of* England? *He ſaid he would undertake it by means of my Lord* Piercy. And, my Lord, I think you do remember there was one *Maſon*, Servant of *Piercy*, that was ſent over hither, ſo teſtified by ſome, to reconcile the Royal and Presbyterian Party. This *Maſon*, my Lord, was *Piercy's* Servant, ſo teſtified here by divers. My Lord, here is now the Foundation: *Drake* is he that moves *Alford*; and *Titus* I may ſuppoſe the Mover of *Drake*; and both of them fled as Traytors.

My Lord, if they were Traytors, and this is Treaſon; then whoever had a hand in carrying on this Deſign, himſelf is a Traytor, and his Action is Treaſon. My Lord, this is the Teſtimony of *Alford*.

My Lord, there is another Witneſs, and that is Lieut. Col. *Bains*, who I think was preſent only at this Meeting, and had enough of it, and did leave it; and yet was preſent at this, and gave in Evidence of what was there propoſed. I think he was preſent at no other Meeting, he was ſatisfied this was too much; his Teſtimony, as I take it, was this, for I ſhall read it, that I may do no wrong to no Party: *Bains* ſaid, *It was alſo propoſed by* Titus, *that ſomething ſhould be done, in order to reſtoring the Presbyterian Intereſt, by Application to the Prince, and to aſſure him that he had a conſiderable Party in* England, *which look'd upon it as a Duty, and lying upon all of them by the Covenant. And that it was neceſſary ſomewhat ſhould be done by ſome Parliament-Men, Miniſters and Citizens, that were leading active Men, that he might have an Aſſurance that ſomewhat would be done for him; and ſomewhat to the Queen,* Jermin, *and* Piercy, *whom he ſaid were their Friends.* This, my Lord, was that which *Titus* ſaid at this Meeting; and teſtified by *Bains*.

My Lord, there is another, Colonel *Barton*, who was produced as an Evidence. My Lord, I think that he ſpoke not much more than to this, and gave off here. My Lord, his Teſtimony was this; for I do conceive, under favour, we have taken the very preciſe Words ſpoken by them: and, my Lord, ſo as ſpoken and taken, ſo written, and ſo, my Lord, read to you. *Barton*, my Lord, ſaid, That *Drake* would have him to be a Meſſenger; and to that purpoſe there were ſeveral Meetings at the *Swan* and *White-Hart*. This was what *Barton* teſtified.

My Lord, then there was Major *Huntington*, which was at this Meeting, and one more at Mr. *Love*'s Houſe, which he full well remembers. My Lord, *Huntington* ſays this, That about *March* 1648, (in *January* was the Law publiſhed) *Alford* told him that *Titus* was in Town, and that he was newly come from beyond the Seas from their Friends, *Maſſey*, *Bunce*, *Graves*, and others; and that *Titus* was to meet the next day at *Dowgate*, where he fell into high Praiſes of the Prince, and told them that tho he was taking unhandſome Courſes, yet they had great hopes his Inclinations were otherwiſe. *Titus* ſaid further, he feared his inclining to the *Iriſh*, unleſs ſomething ſhould be gotten from his Friends here to divert him; that you remember was Mr. *Love*'s Charity too, as you will hear anon. *Titus* purpoſed to get Letters from Perſons of Honour, to perſuade him to a good Opinion of the *Scots*, to take the Covenant, and to join with them.

Afterward they met at the *White-Hart* in *Bread-ſtreet*, where *Titus* declared that he ſhould gain theſe Letters, and hoped to ſet ſomething a-foot to the ſame effect; and there ſaid, they were confident they could ſee no way under Heaven for him elſe, but by taking the Covenant, and engaging the *Scots* againſt *England*: to which purpoſe he drew forth a Paper, purporting that they were bound in Honeſty, Conſcience, and Loyalty, to maintain and help him to his juſt Rights, if he would go along and join with the Covenanting Party in *England* and *Scotland*.

My Lord, this is that now that hath paſt in proof by Evidence concerning this firſt Meeting at the *Swan* at *Dowgate*, which I do humbly conceive was the Riſe and Foundation of what follows afterward. And this, my Lord, if true, I ſuppoſe no Man will ſay, but that was Treaſon that was tranſacted there. I do not ſay, my Lord, that Mr. *Love* was preſent at it, nor as yet, can I ſay, knowing of it; but what follows after, my Lord, will bring him in danger.

My Lord, here, you have heard, was this Meeting, and what was propounded to be done here, and how active *Titus* was, and that he was to go (you have heard by the Teſtimony) to *Piercy*; and it is not doubted by any but he did go thither; it

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is not doubted by any but he was ſent, and did go thither. To that purpoſe I ſhall now read you two Witneſſes more, which I have cauſed to be tranſcribed too, in the words as ſpoken by them, as I do conceive, that is, *Adams* and *Far*: That there was Money agreed upon, to ſend *Titus* to *Piercy*; that there was Money collected, and that they themſelves did contribute. *Adams* he expreſſeth it thus: *That upon a Meeting, the Place and Time I remember not, where I think were preſent* Drake, Titus, Alford, *and myſelf, and I cannot tell how many more; it was agreed that* Titus *ſhould go to* Piercy: *the End of his going was to promote an Agreement between the King and the* Scots, *according to the Covenant*; (and, my Lord, you ſhall hear in due time what that Covenant is, that Mr. *Love* hath ſaid in his late Defence.) *In order to his going, we did agree to furniſh him with Money for the preſent, and made ſome kind of Promiſe to keep him while he was out: about an hundred Pounds was furniſh'd; for my part, I paid twenty Pounds of it.* This is *Adams*.

The next is *Far*. He ſays, *He did underſtand by* Drake, *that* Titus, *who was here requeſted as one to be preſent at the Treaty at* Jerſey, *which* Titus *did undertake to go thither*: he undertook to go himſelf. *That after he was gone*, Drake *deſired* Far *to let him have Ten Pounds, ſaying*, Titus *was in want, and upon this I lent him Ten Pounds: the Letter was read at Mr.* Love's *Houſe when he came from* Calais. So, my Lord, here is now under favour his Proof before you of this Meeting at *Dougate*, at the *Swan* there, finiſh'd in *Breadſtreet*, carried over unto *Jerſey*, *Titus* the Meſſenger furniſh'd with Money by a Party from hence in this Errand, as we told you. My Lord, all this while I do not hear of Mr. *Love*; if he were, my Lord, he was like the Mole under ground; but however, my Lord, Mr. *Love* hath carried himſelf (as ſome have ſaid) like a Rat among Joint-Stools, a Man can ſee him, but cannot hit him. But, my Lord, I doubt he will appear to be too buſy in what follows, and that he had a hand in it at firſt.

My Lord, the next to go on with is this, in time; That when *Titus* finiſh'd his Work at *Jerſey*, he was then to give an account to his Maſters that employed him, and upon his Return he was to do it faithfully, as he thought. But being informed, that the State had vigilant Eyes, and they diſcovered him what he had been doing there, and he having notice from ſome of his ſtedfaſt Friends here of it, he thought it was not ſafe for him to come in perſon, ſo that his guilty Conſcience kept him off. But then he did deſire that he might give an account by the hand of ſome others, by their Memories; and for that purpoſe wrote a Letter, to whom I cannot tell, I think to *Drake*: the Letter was written, and under favour, my Lord, this Letter from *Titus* was read in Mr. *Love's* Houſe, to have one ſent to him; and there it was propounded for ſome to be ſent, *Adams* was propounded, for him to go; *Far* propounded for him to go: but not them, but *Alford* was agreed to go, and did accept of it; but not that he was there, my Lord. My Lord, for this I ſhall crave the ſame Favour from you, to read *Adams* and *Far*, as to that Particular. This is Major *Adams*; *It was moved in Mr.* Love's *Houſe, Mr.* Love *being there preſent, that I ſhould go to* Calais *to meet* Titus; *but* Alford *going thither, did at his Return give an account of the State of things at Mr.* Love's *Houſe.* My Lord, that I read him for, is for that part, that it was moved in Mr. *Love's* Chamber, Mr. *Love* being then preſent: *That I ſhould go to* Calais *to meet* Titus; it was moved that *Adams* ſhould go: my Lord, this I read to ſhow Mr. *Love* was privy to this before the Meſſenger was ſent. My Lord, the next is Captain *Ralph Far*: *I was in Mr.* Love's *Houſe in his Study, wherein* (in Mr. *Love's* Study) *a Letter was read from* Titus, *deſiring one might be ſent to him to* Calais; *and thereupon it was moved that I ſhould go, but afterwards it was agreed that* Alford *ſhould go, who went accordingly.* That is now as to that particular, that before any Man was ſent unto *Calais*, it was made known in Mr. *Love's* Houſe, and ſome propounded for to go, and at laſt another did go; this, my Lord, I offer to you, as that which will not be controverted by Mr. *Love*, for I have read you two Witneſſes to it. The next, my Lord, is, in which (I think) we do not differ; but that when *Alford* had been at *Calais*, and had taken the account that *Titus* gave him, the Copy of the Letter which he ſaid was from the King to the Preſbyterian Party here, the Narrative of all the Tranſactions and Proceedings to *Jerſey*: that upon his Return, I think we do not differ, nor is it denied; I am ſure Mr. *Love* acknowledged it in his laſt Defence, becauſe proved by four, therefore confeſſed, my Lord, that this Narrative, the Copy of this Letter was read in his Houſe; and for that I have the Teſtimony of *Adams*, *Alford*, *Jaquel*, and *Far*; which, if it be your Pleaſure, I ſhall humbly read unto you.

The firſt is Major *John Alford*; *Having received at* Calais *a Narrative in writing of* Titus's *Tranſactions in* Jerſey, *I brought the ſame to* Drake, *to whom it was directed.* Now it appears to whom the Direction was. *And he brought it to Mr.* Love's *Houſe, where it was read; afterwards there was a Commiſſion ſo called.* But, my Lord, if you pleaſe, that is for this in the firſt place, That this Narrative brought from *Titus* by *Alford*, was read at Mr. *Love's* Houſe.

The next is *Adams*; *But* Alford *going to* Calais, *did at his Return give an Account of the State of things at Mr.* Love's *Houſe, which Account was the Narrative from* Titus, *and the Copy of the Letter ſaid to be the King's Letter: The Contents whereof I remember was as followeth, The King expreſſed a great deal of Affection to the Miniſtry in general in* England, *and promiſed them great Favours when he was in a condition, and deſired them to continue ſtedfaſt in the way they were in; which Letter was read and publiſh'd in Mr.* Love's *Study, and Mr.* Love *was there ſome times of the reading. At the ſame time a Motion was made, of giving thanks to* Titus *for his well managing Affairs there, and at the ſame time the Commiſſion and Inſtructions were.* So that here is another Teſtimony, that this was done at Mr. *Love's* Houſe; the Narrative, ſays this Gentleman, and the Copy of the King's Letter.

My Lord, the next I ſhall read unto you, is Mr. *John Jaquel*: *After* Alford's *coming home, I was at Mr.* Love's *Houſe, where was* Potter, Drake, *and* Alford; *and Mr.* Love *was there ſome times, though divers times ſomebody came to ſpeak with him, and called him, and he went to ſpeak with them. A Narrative from* Titus *was there read by* Alford *or* Drake, *wherein was declared the King's Inclination to make peace with the* Scots, *but his wicked Council hindred him. I think it was a Narrative of what had paſs'd between the King and* Titus *at* Jerſey. This is that that *Jaquel* ſays.

The next, my Lord, is *Far*. *Alford* being returned, he gave an Account of his Imployment at Mr. *Love's* Houſe; a Copy of a Letter was there read, from the King to the Presbyterian Party in *England*; the Subſtance was to ſend Commiſſioners to the Treaty at *Breda*. The Narrative brought from

Titus,

Titus, was communicated at Mr. *Love*'s Houſe, where were preſent ten or twelve Perſons. So, my Lord, you have heard theſe four Witneſſes, what they have ſaid concerning this: Now you ſhall give me leave to make Application of this to the former, I ſhall crave your favour to go thorough this: There follows more at Mr. *Love*'s Houſe, this is not ended yet. My Lord, after this, there was ſomewhat propounded to be done upon this Narrative and a Letter from the King; ſomewhat was propounded at this Meeting: My Lord, then there was (as I know the Court remembers) Speech of a Commiſſion that was ſomewhat controverted. There was Speech of a Commiſſion, and a Commiſſion read; Mr. *Love* ingenuouſly acknowledgeth, and it was proved, and he declared his diſſenting from it, and that he was againſt it, becauſe as private Perſons they had no Power to do any ſuch thing. But, my Lord, that there was a Commiſſion read there, brought by *Drake*, (I do not ſay that this proves that Mr. *Love* corrected it;) that there were Inſtructions and Letters read for to be ſent over, I think, is not denied: But, my Lord, for that, if you pleaſe, I ſhall read you the Witneſs. The firſt is *Alford*: *Afterwards there was a Commiſſion, ſo called, agreed among us, ſent over to the Lord* Willoughby *of* Parham, Maſſey, Graves *and* Titus, *at* Breda, *to adviſe with the* Scots *Commiſſioners there, in behalf of the Presbyterian Party in* England. *This Commiſſion was read in Mr.* Love's *Study, and at the ſame time Inſtructions for the Commiſſioners to walk by, were agreed on to be ſent; which Commiſſion and Inſtructions were the Subſtance of the Petition formerly ſent, to preſs the King to take the Covenant, and to proſecute the Ends of it.* This Petition was (I conceive) what was formerly agreed upon at *Dowgate*; which Commiſſion and Inſtructions one *Maſon*, the Lord *Piercy*'s Man, carried over. This is *Alford*'s Teſtimony as to this. And being ask'd by Mr. *Love*, *Did not I diſſent from ſending the Commiſſion and Inſtructions?* he ſays this, *It was agreed in the general, that the Commiſſion and Inſtructions ſhould be ſent, Mr.* Love *being then preſent.* All preſent are Principals, my Lord.

My Lord, in the next place is Major *Huntington*'s Teſtimony; and the firſt is this, That *at Mr.* Love's *Houſe in the beginning of* March, 1649. *I found* Drake *and others, and there was read a Paper in the nature of a Commiſſion, commiſſionating my Lord* Willoughby *of* Parham, Graves, Titus, Maſſey *and* Bunce, *to treat in the behalf of the well-affected Party of* England, *and to join with the* Scots *Commiſſioners, according to ſuch Inſtructions as ſhould be therein incloſed. And this Queſtion being ask'd, What Power have we to give or ſend ſuch a Commiſſion?* Drake *anſwered, We have the King's Command for it, and the Authority of ſome ſecluded Parliament-Men; for I look upon them beyond the Power that is now ſitting. Whereupon Mr.* Love *replied, Come, come, let it go.* You have heard *Huntington*'s Teſtimony, and Mr. *Love*'s Paraphraſe upon thoſe words.

The next is *Adams*: *At the ſame time a Commiſſion and Inſtructions were ſpoken of at Mr.* Love's *Houſe to be drawn up and ſent: As I remember Mr.* Gibbons *brought the rough Draught. I am very confident that Maſter* Love *was there ſome part of this time, and it was in his Study where this was generally conſented unto. The Inſtructions were there agreed alſo, and read by* Drake, *as I remember.* Sterks, *the* Scotiſh *Agent, met with us ſometimes at Maſter* Love's *Houſe.* This is what was teſtified by *Adams*. There is another to this, and that is Captain *Far*. William Drake *read there a Paper, of the nature of a Commiſſion, which was not agreed to by the Company, becauſe private Perſons had no Authority to give Commiſſion. The Commiſſion was in the Name of the Presbyterian Party. A Letter and Inſtructions was then agreed upon; the Commiſſioners were to be the Lord* Willoughby *of* Parham, Bunce, Maſſey *and* Titus, *who were to move in the behalf of the Presbyterians. Papers then were read, to have been ſent to the Queen, to perſuade the King to give Satisfaction to the* Scots: *but they were not aſſented to.*

My Lord, I have done with this that concerns this Meeting; and now I ſhall apply that which I intended, and ſpoke of before. The Deſign you heard, that, my Lord, was at the *Swan* at *Dowgate*, was treaſonable enough in conſcience, high enough; a Party employed to agitate! And though we do not find Mr. *Love* to have been knowing or privy to it at firſt, yet, my Lord, if there be a Treaſon hatch'd and deſign'd, a Party ſent in it, and any ſubſequent Act of any other Party that ſhall come into this, and approve of it, and join in it in what way ſoever, this Man, my Lord, is guilty of the firſt Tranſaction of Treaſon. So that though Maſter *Love* did ſo walk under ground, that we cannot bring him in to be knowing at firſt, yet I bring him approving at laſt: And, my Lord, tho here be his firſt appearing, it is enough and too timely. And, my Lord, *Titus* departing, and an Account given of all, and for ought appears, not to be proved by me, nor by any for the Commonwealth, whether Maſter *Love* did approve or not, or how far he went in it. But he was preſent, and at the Debates and Diſcourſings about it, and Actings in it. My Lord, this is far from Miſpriſion of Treaſon; for Miſpriſion of Treaſon is a bare ſilent Act that carries nothing of Diſcourſe nor Debate with it; it is a ſimple Act of Omiſſion. But when Treaſons are hatch'd, and are deſign'd, and others ſhall come and treat, and debate, and diſcourſe upon carrying them on; my Lord, by the ſubſequent Act he hath approved of all that paſs'd before, and made himſelf Party to it. Here is an Account given by *Titus* of what had paſs'd there; this is brought into Maſter *Love*'s Houſe, there are Debates concerning a Commiſſion; whether they took the King for the Authority, or the King wrote of it, it doth not much move me. A Copy of a Letter from the King was read there, let them take it among themſelves as they pleaſe. Here was a Commiſſion debated, and Maſter *Love* acknowledgeth he debated againſt it. My Lord, under favour, if he had declared an utter Diſlike, and (as he himſelf ſays) a Deteſtation and Abomination againſt it; but he goes on, though not in that Particular, yet in another, and he is guilty of all. In Treaſon there are no Acceſſaries, all preſent are Principals.

The Crime of Treaſon is beyond the crying Blood of Murder; one is but private, the other is publick: ſo as, my Lord, though Mr. *Love* acknowledgeth, that he ſo far owned the Narrative from *Titus*, and the Proceedings there, the reading of it, but did diſſent from the Commiſſion, and did ſpeak againſt it, and at preſent I ſhall take it ſo too; yet for the Inſtructions ſent, and for the Commiſſion named, you have had four Witneſſes named to you. My Lord, Diſſent will not ſerve his turn, and yet to that there is not a Pretence of a Diſſent from the Inſtructions, and what was ſent, and that is a Conſent and Concurrence, and that is an Approbation of all precedent Actions, and makes himſelf a Party in it, and that is by one Witneſs: And, my Lord, you have heard by Maſter Serjeant *Witheringon*,

therington, that to every Circumſtance there needs not two Witneſſes, but to the Deſign there muſt be two: And *Adams* himſelf ſays, it was propounded to have given *Titus* Money, as you ſhall hear by and by; and *Fur* tells you, That there was going on ſo far in it, that a Paper was read for Letters to be ſent to the Queen, to move her to perſuade the King, but that was not aſſented to; but it was moved among them.

My Lord, the next thing I ſhall take, as near as I can, was when this was done, and this Tranſaction paſs'd over, and the Inſtructions ſent, that were agreed upon for Commiſſioners at *Breda*, then begins the Troubles in *Ireland*. You have heard of a Paper-book ſent, written in Sack, and returned a Year after; that comes next. There was ſent over from Col. *Bamfield* (Mr. *Love* ſays he knew not the Face of the Man) but he lik'd his Imployment it ſeems, that would be privy to ſuch Proceedings from a Man he knew not. There came a Servant over, I take it from *Bamfield*, and that was about *Chriſtmas* laſt, that is the time expreſs'd after *Dunbar*-Fight. My Lord, this was brought, the Letter was delivered to *Potter*, and their Superſcription was ſingly with the Letter *L.* which I may ſay, may be better applied to Maſter *Love*, than to any other, all Circumſtances conſidered; yet I ſhall not conclude from it, but though he ſays he had no Letters directed to him, I ſhall ſay as truly, that they were directed to him, as much as to any Man elſe, and a little more; for Maſter *Love* was very unfortunate that theſe Letters ſhould be brought to him, read in his Houſe, the Tranſactions there, and Mr. *Love* to have no hand in it, this is hardly to be believed.

My Lord, in the next place are theſe Letters that came from *Bamfield*; if it pleaſe you, for that I ſhall read *Potter*. *I received Letters out of* Scotland *from* Bamfield, *with the Letter* L. *upon it, wherein was a large Narrative of the Affairs of* Scotland, *from* Dunbar-*Fight, to the time of the Date of them, which* (*I think*) *was about* Chriſtmas. *I carried thoſe Letters to Maſter* Love's, *where was one or two more with us,* Jaquel, *and, I think, Dr.* Drake; *we three, I am ſure of it. There were Letters from a nameleſs Perſon, whom we ſuppoſed to be Maſter* Bailey; *and a Letter from my Lords of* Argyle, Lothian *and* Lowdon. *Theſe Letters wrote for ten thouſand Pounds for buying of Arms, and hiring of Shipping; and for five thouſand Men to be landed in* England. *Theſe Letters were diſlik'd and diſſented from; and it was agreed to give a negative Anſwer: And we thought fit* (*for our own Safety*) *to raiſe ſome Money for the Meſſenger and* Bamfield: *The Sum agreed on was forty Pounds, to which I contributed ten Pounds. I carried the Letter to Mr.* Love's *to take Advice upon it. Mr.* Love, *and I, and* Jaquel, *read thoſe Letters that were opened, and thoſe that were not opened we did open and read, and diſcourſe on them; and upon Advice reſolved to do nothing in it:* Neither did they reveal it. And then being demanded, Whether at Mr. *Love*'s Houſe there was not a Diſcourſe for raiſing 4 or 500 *l.*? he anſwered, *There was.* Being demanded, Whether Letters were not returned to *Bamfield*, with the Money ſent him? He anſwered, *A Letter was left at my Shop, and I apprehended it came from Maſter* Love, *or Mr.* Drake. And *Jaquel* being demanded, Whether Mr. *Love* and Mr. *Drake* were not appointed to draw up the Letter? He anſwered, *Yes, they were.* And that is *Potter*'s Teſtimony.

The next mention is, That *Jaquel* was preſent there, he is ſure of it, Maſter *Love* himſelf and *Jaquel*. This is *Jaquel*'s Teſtimony: *At a Meeting at Mr.* Love's *Houſe, Maſter* Love *being preſent, it was thought fit that forty Pounds ſhould be raiſed for* Bamfield. *A Letter was read from* Bamfield *at Maſter* Love's *Houſe, Mr.* Love *being preſent: Mr.* Love *declared, he never ſaw, or knew* Bamfield. *The Letter was for five thouſand Pounds to hire Shipping. And another Letter from my Lords of* Argyle, Lothian *and others, at the ſame Time and Place were read, to induce the Confederates to give Credit to* Bamfield. Potter *moved, that ten Pounds might be given to the Meſſenger that brought the Letter, and thirty Pounds to* Bamfield; *which was conſidered of, and nothing ſaid againſt it: There was no Agreement, but it was thought convenient by all then preſent.* Upon this, Mr. *Love* ask'd Mr. *Jaquel* a Queſtion, and he ſaid, *I cannot ſay that Mr.* Love *ſaid, it was convenient; but it was not diſſented from, or ſpoken againſt by any.*

My Lord, I ſuppoſe this is a faithful Relation of what the Witneſſes ſaid. My Lord, you have heard of this, and the time when it was, that *Bamfield*'s Servant was ſent, and Letters brought from *Scotland*, giving an Account of Proceedings there: Letters from *Argyle, Lothian, Lowdon* and *Belcarris*, to give Credit to what *Bamfield* ſhould relate: Money provided, though not the Sum, nor the Means thoſe Letters did hint to them; perchance their Purſes could not reach that; but ſo far as they could go, they would: they would reward him that brought it, and him that ſent it; and thereupon 40 *l.* was provided, ten Pounds for the Meſſenger, and thirty Pounds for *Bamfield*. In this Repetition I think I have not wronged Mr. *Love*.

The next is the Letter that came from *Maſſey* and *Titus*, who were then in *Scotland*; and in what Condition, I think every Man knows, in what Condition they are there: though by the way I ſhould be ſorry to repeat that which Mr. *Love* did ſay the firſt Day, That it did not appear to him, that the *Scots* were in Arms againſt the Parliament of *England*, but in Arms for their own Preſervation; and therefore did deſire Counſel. Here was one of his Reaſons why he deſired Counſel to be informed, to adviſe him whether they were in Arms for their own Preſervation, or in Oppoſition to the Parliament of *England*. This was that Mr. *Love* was pleaſed to ſay the firſt Day. My Lord, this of *Maſſey* and *Titus* gives them an Account likewiſe of the Affairs in *Scotland* after *Dunbar*-Fight too. If you pleaſe, my Lord, I will read you three Witneſſes to that, and that neither doth Mr. *Love* deny, but that theſe Letters were read at his Houſe.

This is Major *John Alford*'s. *After* Dunbar-*Fight we met at Mr.* Love's *Houſe in his lower Room, where a Letter from* Maſſey *was read, which gave an Account of the Fight there; wherein he alſo wrote for Arms, mentioning his own and* Titus's *Neceſſities. Thereupon a Propoſition was made for raiſing of Monies for the ſupplying of their Neceſſities; and five hundred Pounds being propounded, it was brought down to two or three hundred Pounds to be raiſed among our ſelves. Mr.* Love *did then move for Contribution-Money to that purpoſe; and I thereupon promiſed ten Pounds, which my Man paid.* This, my Lord, is the Teſtimony which *Alford* gives, as to this concerning *Maſſey*.

The next is *Adams*. *When the Money was propounded to be raiſed for* Maſſey *and* Titus, *certainly Mr.* Love *was then preſent;* [and this after the Fight at *Dunbar*] *and the Money was agreed to be raiſed by thoſe that were privy to the Correſpondency. Mr.* Love *had then a Paper in his Hand, and did write ſomething, I ſaw not what he did write; and ſo every Man that was*

there did write what he would lend; I conceive Mr. Love *ſummed up every Man's Sum.* Maſſey's *Letter was for Arms, and the Money propounded was for* Titus *and* Maſſey; *for* Titus, *becauſe he was ſent by us; and Mr.* Love *was there.* This, my Lord, is *Adams*'s Teſtimony; and though he did not know what Mr. *Love* writ, yet he knew what Mr. *Love* moved.

My Lord, here is another, and that is Captain *Far*, which I ſhall make bold to read to the Court likewiſe, concerning the ſame Action. *After* Dunbar-*Fight I came ſomewhat late to a Meeting at Mr.* Love's *Houſe, where Mr.* Love *told me a Letter was come from* Maſſey, *to aſſiſt the King with Money and Arms; but it was not agreed that any Money or Arms could be ſent. And I underſtood from Mr.* Love, *they could not do it. Mr.* Love *then likewiſe told me, they agreed to raiſe a Sum of Money for* Titus, Maſſey *and* Graves, *and to be ſent to relieve them in their Neceſſity: which Sum, whether it was* 250 l. *or* 300 l. *I cannot poſitively ſay; but Mr.* Love *moved me to contribute. I told him I would give him five Pounds, which I brought wrap'd up in a Paper, and laid it down on Mr.* Love's *Table, Mr.* Love *and ſeveral others being in the Room; it was ſo done, that there might be no Diſcovery.* And Mr. *Love* asking him ſome Queſtions upon this, Whether it was done ſo by Mr. *Love*, or no? he did not know that; but it was done ſo by himſelf, that there might be no Diſcovery. My Lord, Mr. *Love* did not diſagree: *Far* being croſs-examined by Mr. *Love*, did not ſay, that Mr. *Love* did diſagree to the ſending the Money to *Maſſey* and *Titus*. So I have done with that Particular likewiſe, the receiving Letters from *Maſſey*, and of the Account from *Scotland*, and the Fight there.

That which *Adams* ſaith, Mr. *Love* having replied unto it, concerning a Letter writ to the General Aſſembly and Kirk of *Scotland*; and in that, my Lord, he is pretty poſitive. *Adams*'s Teſtimony is; *There was a Letter written to the General Aſſembly and Kirk of* Scotland, *at Mr.* Love's *Houſe, Mr.* Love *was ſometimes preſent at this Meeting: which Letter was taken to be penn'd by Mr.* Love *and Mr.* Drake; *and I thought it to be ſo, becauſe of the Language of it: and that after* Drake *eſcaped, all the Meetings I know of, were at his Houſe*; [and ſo, my Lord, ſay ſome others.] Being examined, he ſays, *I ſaw Letters which were read in Mr.* Love's *Houſe, Mr.* Love *was preſent and privy to the debating of them, and did not declare any Diſſent.*

My Lord, I have now done with theſe Particulars; you have ſeen Mr. *Love* at the End, though you found him not at the Beginning: it is not good to come at the ending of the Quarrel. But, my Lord, under favour, by the Laws and Rules of Juſtice, if any ill thing be contrived and plotted, and afterwards any other Perſon ſhall come into the Contrivance of it, and carry it on; my Lord, I think I ſhall not need to ſay much in it, but he is culpable and guilty of the whole, from the firſt to the laſt. And that Mr. *Love* ſhould be but a mere Spectator, a mere concealed Perſon, it is very hard to be believed by any that are rational Men: for after that once *Titus* had done his Errand at *Jerſey*, and gives his Account here, my Lord, That his Tranſactions, and the ſubſequent Imployment, all that we know of, are all tranſacted, and carried on in Mr. *Love*'s Houſe, in Mr. *Love*'s Study, in Mr. *Love*'s Preſence: It was not one or two, or three times, which had been enough, and very well had it been for Mr. *Love*, if he had done as *Baines* did, or as *Barton* did; they, when they heard (though they were too much for them, my Lord, to conceal, as they have done, yet did confeſs it when required) they left off when they heard of it, they would go no further in it, they knew the Danger of it. Mr. *Love*, my Lord, as you will hear anon, by what himſelf hath propoſed, what Judgment and Conſcience led him to carry on this; it was a Conſcience of his own covenanting Intereſt and Principles for the *Scots* and Religion, that led him on to carry on this Deſign.

My Lord, I have done with this, that is, the Evidence againſt him; for Application to it, you have heard the ſeveral Laws read before the Charge opened: that Man is guilty of High Treaſon, and is a Traytor by the Laws of the Land now, that doth any way promote, declare, or publiſh *Charles Stuart* to be King of *England*. My Lord, you have heard the Evidence, what *Titus* hath plotted, what *Drake* hath carried on, what Mr. *Love* hath approved of, and how far he hath conſented and joined in the Deſign. My Lord, I ſhall ſay it again, if *Titus* and *Drake* be Traytors, as their own guilty Conſciences have made themſelves judge themſelves ſo: he that flies, confeſſeth the Fact; my Lord, they are fled. My Lord, if they be Traytors, Mr. *Love* muſt be the ſame with them; for Mr. *Love* was carrying on, and hath agreed, and concurred, and approved of carrying on the Deſign that *Titus* and *Drake* have acted: Conſenters and Agents are to have the ſame Puniſhments; in Treaſon there are no Acceſſaries. My Lord, the next Point is this; the next Act is that of the 17th of *January*, 1649. Having given you the Evidence, you will give me leave now ſhortly to repeat the Law. The firſt is, for promoting *Charles Stuart*, &c. That if any Perſon ſhall maliciouſly and adviſedly plot, contrive and endeavour to ſtir up, or raiſe Forces againſt this preſent Parliament, and for the Subverſion of the ſame, and ſhall declare it by any open Deed, *&c.*

My Lord, Mr. *Love* is pleaſed to expreſs himſelf, That none can accuſe him, nor none have ſworn againſt him, that he hath raiſed any Seditions, any Inſurrection, any Rebellions; my Lord, I cannot ſay it fully, whether he be guilty of that, or no: but this I will ſay (the Judgment I ſhall leave to the Court upon the Evidence heard) if Mr. *Love* be guilty of any thing moving or tending towards the raiſing of Forces, Seditions or Rebellions; though the thing be not done, yet, my Lord, it is Treaſon; thoſe Practices, thoſe Purpoſes are Treaſon by the Law, though they never come to Act. We ſhall not look, I hope, to ſee a Rebellion raiſed before we ſhall ſay it is Treaſon, and endeavour againſt it; but for that, how far he is guilty upon the Evidence of being inſtrumental of the War in *Scotland*, and to have endeavoured to have a Party got in *England*, my Lord, I ſhall leave it to your Judgment, upon the Evidence you have heard.

My Lord, there is likewiſe another in the ſame Law: If any Perſon procure, invite, agree, aid or aſſiſt any Foreigner or Stranger to invade *England* or *Ireland*, or adhere to any Forces raiſed by the Enemies of the Parliament, or Commonwealth, or Keepers of the Liberties of *England*; this is High Treaſon. For this you have heard the Evidence what Mr. *Love* hath done towards this; ſtill upon the ſame foot of Account it is Treaſon, though but propoſed and intended, though not acted. Then there is another Clauſe upon the Law that Mr. *Love* hath inſiſted upon, of conſtituting this Court. But for thoſe former I have ſaid, and you ſhall give me leave to repeat it again, That theſe Laws offended againſt, though in time before this

this Court was conſtituted, yet this Court hath, in expreſs Words, Commiſſion and Authority given them by the Parliament, to take cognizance of all Facts and Offences done after that Law, though done before your Commiſſion; and that, my Lord, is not to be doubted, to be a very good and legal Authority. And yet for this the Law that conſtitutes this Court, of the 26th of *March*, 1650. That no Perſon after the 29th of *March* 1650, ſhall give or hold any Intelligence by Letters, Meſſages, or otherwiſe, with *Charles Stuart*, *James Stuart*, or the late Queen their Mother, or the Council abiding with any of them, prejudicial to the Commonwealth; or with any that ſhall be in Arms againſt the Parliament of *England*, or ſhall bring or ſend into *England*, *Ireland*, or any Dominions of this Commonwealth, Letters, Meſſages or Inſtructions, tending to raiſe Inſurrections, or a new War within this Nation, and ſhall not forthwith reveal the ſame to the Speaker of the Parliament, or to the Council of State, or two Members thereof, or to two Juſtices of Peace, ſhall be guilty of, *&c.* That is a Clauſe in the Law that conſtitutes this Court. And no Perſon ſhall voluntarily relieve any Perſon in Arms, or that ſhall be in Arms againſt the Parliament, with any Money, Victuals or Ammunition, on pain of Death, or other corporal Puniſhment. And whoſoever ſhall voluntarily take up Arms againſt the Parliament, and ſhall encourage others to do ſo, ſhall die without Mercy.

Theſe, my Lord, are Clauſes contained in the Act that conſtitutes this Court; and I read the Law before the Charge: and now, my Lord, I have repeated the Evidence faithfully, now let it be conſidered how far the Evidence goes with them. There are three Acts of Parliament, I ſuppoſe Mr. *Love* knew not of the next; for he ſays, he knew not of that of the 2d of *Auguſt*; but it was publiſhed ſolemnly at the *Exchange*, and at *Weſtminſter-Hall*: but Ignorance cannot excuſe him, that no Man will pretend. This, my Lord, is in relation to *Scotland*; it was made in *Auguſt*. The Battel at *Dunbar*, I cannot well tell whether it was in *September* or *October*; in *September* this Correſpondency from *Bamfield*, *Argyle*, *Lowdon* and *Lothian*, *Belcarris*, *Maſſey* and the reſt, were all ſince *Dunbar*-Fight; that is clear, they were ſince that time: The Words of the Law are theſe; 'Whoever, after 'the 5th of *Auguſt*, ſhall uſe, hold or maintain any 'Correſpondency or Intelligence with any of the 'Scots Nation reſiding in *Scotland*, without Licence 'from the Parliament, or with any other Perſon 'or Perſons of the *Scotiſh* or any other Nation, whom 'they know to adhere to the *Scotiſh* Nation a'gainſt the Parliament; or ſhall abet, aſſiſt, coun'tenance or incourage the *Scotiſh* Nation, or any 'other Perſon adhering to them in their War a'gainſt the Parliament and Commonwealth of *Eng*'land, or ſhall ſend, or cauſe to be ſent and con'veyed any Money, Horſe, Arms, Ammunition, 'or any other Furniture of Plate, Goods, Mer'chandize, or any Supply whatſoever, to the *Scots*, 'or to any Port or Place thereof, or in their Power, 'or in Confederacy againſt this Nation, theſe Facts 'are High Treaſon by this Law.' And the High Court of Juſtice is to take cognizance of the Contents by expreſs Proviſion of that Law.

My Lord, I ſhall not need to repeat the Evidence again; but upon theſe, my Lord, I muſt leave him to your Juſtice and Judgment to do what in your Conſciences you think is juſt upon theſe Laws, and what Mr. *Love* hath done in Tranſgreſſion againſt them.

My Lord, Mr. *Love* was pleaſed, at the Beginning of his Tryal, to make ſome deep Proteſtations; I think he did move all honeſt Men that heard him: and truly I did think, and did hope that they were not made with any relation to Equivocation, or mental Reſervation, but to a poſitive Denial of any Facts of Treaſon, or looking that way; that it had been made in that Senſe, that he had been clearly not guilty of any thing. But, my Lord, having looked upon them, and cauſed them to be tranſcribed to me; I do find that they are ſomewhat cautious, and perchance they may be true, my Lord, in the Senſe ſpoken by Mr. *Love*; but whether true in the Senſe they ſhould have been ſpoken by a Chriſtian in a publick Aſſembly, that I ſhall not judge. His firſt Proteſtation was, in the preſence of God and this Aſſembly, 'That I never wrote 'any Letter to the King, or to the Church, nor to 'the Queen, or Church and State of *Scotland* in ge'neral, or to any particular Perſon of the *Scotch* 'Nation, ſince the War began to this very 'day.'

My Lord, this may be true, but whether any Letter hath been ſent from the King, or from the *Scotiſh* Nation, or others, or by *Maſſey*, or the reſt, that ſhall be believed as the Evidence is.

Mr. *Love*. It is in my ſecond Proteſtation.

Attorn. Gen. 'Again (ſaith he) I do likewiſe de'clare in the preſence of the ſame God, I never re'ceived Letter written to me from the King, or 'from the Queen his Mother, or from the Church 'or State of *Scotland* in general, or any particular 'Perſon of the *Scotiſh* Nation ſince the War began. 'I proteſt and declare likewiſe in the preſence of 'the ſame God, I never collected, gave or lent Pen'ny of Money either to ſend into *Scotland*, or any 'foreign Parts, either to the King of *Scots*, or to 'the Queen his Mother, or to the Church or State 'of *Scotland* in general, or to any particular Per'ſon of the *Scotiſh* Nation, ſince the Wars began.' But that Mr. *Love* did not move others to contribute, we have not a word of that. Truly, I did think it when he ſpoke it: But it ſeems theſe Aſſeverations were ſtudied to evade, and that he would ſpeak true, but not the whole Truth. I have given them but a touch; theſe may be true, my Lord, but, under favour, there is ſomething elſe that is as true, and goes almoſt as near as this.

My Lord, Mr. *Love* the laſt day had your Patience and Juſtice to make a large Defence, and he was very large in it; and though he did beat us down, that are the Counſel for the Publick, that we ſhould not uſe Oratory nor Flouriſhes, nor Querks of Law, nor Niceties, in which I ſhall be guided by him, and ſhall not do it; yet he is pleaſed fully to make uſe of all Inſinuations to the Court to trip up every Witneſs upon Niceties, upon Not-expreſſion, upon Non-ſenſe, and ſuch, my Lord, which I ſhall not follow him in: for I ſhall deal as Truth ought to deal, in pure Nakedneſs and Simplicity, and not to uſe any Oratory, but to ſet the Matter of Fact before you, and leave it unto the Court, who are the Judges between the Commonwealth and himſelf for Life and Death. But, my Lord, you ſhall give me leave to touch upon ſome few things in the late Defence of his; it was divided into four Parts

The firſt, the Charge; the ſecond, the Witneſſes and Teſtimony, both in one. The Witneſſes for the Perſons, the Teſtimony for the Fact. The third, concerning himſelf; the fourth, ſome Propoſals to

the Court; which truly, my Lord, might better have been termed rather Threatnings than Propoſals.

My Lord, for the Charge, you have heard it hath been gone through, and the Evidence concerning it. Concerning the Witneſſes, my Lord, I have read unto you (for I do take it upon my Conſcience) what I knew, and nothing but what was true: I have not varied, that I know of, a Syllable; and I think I ought not to do it; the Duty of my Place requires it not from me.

My Lord, concerning himſelf, he is pleaſed to ſay ſomething, and much of his Merit: But, my Lord, it is a Grief to this Court, to my ſelf, and all that are Well-wiſhers to the Publick, that any Man that hath been a Friend to the Parliament, that hath gone along with them, acted for them, ſuffered for them, done as he hath done, that this Man ſhould be called to publick Juſtice: I hope, my Lord, all that hear me bear witneſs, that I think, my Lord, we are all ſenſible of it.

But, my Lord, look upon who hath been the Cauſe of it; let that be look'd into, and every Man will be ſatisfied in his own Judgment and Conſcience, whether Mr. *Love* were provok'd, or no, or whether he hath not provoked the State to bring him to be thus exemplary in Juſtice. Mr. *Love* ſays, my Lord, (I ſhall deſire to make uſe of the Paper) *I confeſs it is not ſo much the Danger of my Life; I am a ſickly Man, and I know a Diſeaſe will e'er long kill me, whatſoever you do with me: But this grieves me more, That I ſhould ſuffer from your Hands, for whom I have done and ſuffered ſo much in my obſcure Station, and according to my weak Meaſure. Had I been ſo dealt with at* Oxford, *at the* Junto *there! But to be ſo dealt withal in* Weſtminſter-Hall, *this troubles me.* And, my Lord, it doth trouble me to deal ſo with him. My Lord, whether may we or himſelf take up this Complaint? Had the State been thus uſed by a Cavalier, by a profeſs'd open Enemy, it had not been ſo much Trouble to us; you would have come to Juſtice upon a little more Deſire than now: But that Mr. *Love*, a Miniſter, a Miniſter of the Goſpel, a Man that hath preached for us, prayed for us, acted with us, gone along with us; that he ſhould go to undermine us, that he ſhould be joined, or in Confederacy with others to undermine the State, where he did live peaceably and quietly, where none interrupted him: He had a free Liberty, as much as a King in this Commonwealth: Truly, that Mr. *Love* ſhould do this, it is (I think) an Aggravation, and not an Aggravation upon the Court or State, that they ſhould proſecute where a Man is proſecuting them. What he hath done, my Lord, you have heard; what his Offences have been, and who gave the Cauſe: That a Miniſter ſhould do this; one that had a Calling otherwhere, and better to imploy himſelf, than to meddle with States and ſecular Affairs: And theſe Things to be done in Mr. *Love*'s Houſe, and in his Study, where he ſhould have been ſtudying better Things. My Lord, next he ſays, *I could not leave ſuch Relations as I have, nor ſuch a loving People and competent Living, as any Miniſter hath within* London, *only Conſcience carried me another way; and till Conſcience be ſatisfied, I cannot ſtir one jot.* My Lord, this his Conſcience, I do not know what it hath to do in Government, or what Mr. *Love*'s Conſcience had to do in theſe Affairs: He had a Calling of his own to uſe; and ſhould I go out of my Calling, and meddle with other Men, I humbly conceive I were a Buſy-body. Mr. *Love* had a Calling enough for any one Man to imploy himſelf in; and, methinks, when he ſays he had ſuch a relation to a loving People, a Competency of Livelihood, that he ſhould not apply himſelf to return to them, but to wander abroad: And when we once wander, it is hard coming in again, till perchance we are fetch'd in again with the Whip. But, my Lord, Mr. *Love* had other Relations, of Wife and Children, which he might have look'd upon alſo, and taken care of them.

In the laſt place, he is pleaſed to ſay, (and that I believe hath carried on his Deſign) *The Covenant-Intereſt.* You have heard what *Titus* did, what *Drake* did, and what the reſt did; that all this, it was upon the Covenant; and the Covenant is urged, I am ſure, to Things the Parliament hath forbid. Mr. *Love* is pleaſed to declare himſelf ſtill to retain his old Principles, from which (by the Grace of God) he will not be taken off by any Terror. My Lord, you will hear by and by what the Covenant he ſuppoſes leads him to: And, my Lord, I ſhall take it aſunder, and bring it next, if you pleaſe, that is, the Covenant-Intereſt. Says Mr. *Love, Though I own not the way of managing any Papers, I neither writ them, nor ſent them, yet thus far I own the Thing; I confeſs it was agreeable to my Judgment and Conſcience, and I thought the Intereſt of Godlineſs would be more promoted if the King went into* Scotland *upon Covenant-Terms; it would be more for the Good of the Nation.*

Mr. *Love.* No, Sir, thoſe are not my Words: I ſaid, *Than to fall in with the* Iriſh *Rebels, or to offer this Kingdom to the* Spaniard. I thought a greater Foundation of Trouble would be laid, if this Reception were not laid by that Nation. And the Covenant hath a Clauſe in it, That we are to ſeek the Good and Union of both Nations; and they are judged to be Incendiaries and Malignants that not only divide the King from his People, but the Kingdoms one from another.

Now they declaring him to be their King, according to my Apprehenſion, I thought it agreeable to my Covenant to pray and deſire, as a private Man, and no more, that there might be an Agreement upon thoſe Terms, conſiſting with Religion, and the Terms of the Covenant.

Attorn. Gen. But had you gone on as a private Man, Mr. *Love*, we had not ſtir'd you now. My Lord, this is plain of it ſelf, what Intereſt this Covenant-Intereſt is, *Till the King and the People in the two Nations,* &c. Truly, my Lord, Mr. *Love* is pleaſed to expreſs himſelf ſomewhat obliquely againſt the preſent Government: He ſaith, my Lord, *When I look upon all the Vows, Covenants, Declarations, Proteſtations, of both Houſes of Parliament, I find a Suitableneſs between my Judgment and them, and am not conſcious to my ſelf of any thing I have done in Oppoſition or Contradiction thereunto; I repent not of whatſoever I have done; though I could wiſh the Ends of that juſt War had been better accompliſhed: Then ſhould we have been happy, and united among our ſelves, and honoured among the Nations round about us. I am ſo far from repenting of what I have done, both by doing, and contributing, and ſuffering in the Parliament's Quarrel, that were it to be done again upon the ſame unqueſtionable Authority, for the ſame declared Ends, and againſt the ſame malignant Perſons, I ſhould manifeſt as much Readineſs of Mind to engage, according to my meaſure.*

After this, where he had mentioned his Troubles at *Oxford*, when a Scholar there; and at *London*, when he came to a Lecture here; at *Newcaſtle*, when

when he ſpake for the Parliament there; and in *Kent*, when he ſpake againſt the King there; when theſe were over, after this he had a little Breathing, whilſt the two Houſes of Parliament were in power. This Gentleman was troubled in the Time of the King, in the Time of the Biſhops, in the Time of theſe Wars, for being for the Parliament: But I appeal to his own Conſcience and Judgment, whether ever he was troubled or diſturbed by this Parliament, or by this Government of the Commonwealth; whether he had not as free and as full Liberty to preach the Goſpel, to inſtruct others, and to ſave Souls, as his Heart could wiſh; and I deſire to know whether ever the Parliament did interpoſe with him, till he did interpoſe with us. He went out of his Way, my Lord: He was quiet and ſafe, in as much Security as any of us; and, my Lord, even thoſe that were the Watchmen for the Safety of this Commonwealth, did watch and take as much Care even for his Preſervation, as for any one of ours: And thus he hath requited them. My Lord, I will repeat it: I appeal to his own Conſcience, and to any of his Friends here, whether ever, till his Judgment and Conſcience did interpoſe in State-Affairs, to diſpoſe of Kingdoms and Commonwealths, whether ever he were in the leaſt interrupted.

My Lord, he ſays himſelf, when he came to be a Lecturer in *London*, the Biſhop would not admit of him in three Years; yet, my Lord, he is admitted here three Years, and none hath interrupted him. And your ſelf ſay, you have a competent Livelihood, and a People very loving to you; and you might have ſo continued, if you would.

My Lord, his Propoſals to the Court, I do ſay, were hardly fair Propoſals; for they had a little of Threatning in them: *For* (ſays he) *if you cenſure rather upon a political Intereſt, than of the Merit of the Fact, the Scripture counts it not Juſtice, but Murder.* Truly, my Lord, I think Juſtice is a political Intereſt, the Preſervation of the general: But ſurely I do not think the Perſon will come in Judgment before you, but the Merit of his Fact; and as yet I may ſay, I ſuppoſe the Treaſons he hath committed, if thoſe find him guilty, if the Court finds him guilty of thoſe Facts laid to his Charge, and if you are ſatisfied in your Judgments that they are proved, my Lord, it is Juſtice, not Murder; and it is Juſtice that which political Intereſt requires of you, that Juſtice be done upon the Priſoner. And he is pleaſed to ſay in his laſt Defence, That he denied the Commiſſion to be ſent, and entitling the Preſbyterian Party to it: and he hath acknowledged it had been very high Preſumption if they ſhould have done it, and a notorious Falſhood. And in that I join with him; and whether he hath not done ſo, my Lord, that I ſhall leave to you. That the Presbyterian Name was made uſe of, you have had many concurrent Evidences; and Mr. *Love* was preſent when theſe Things were mentioned: And if it be a Fault, which himſelf hath acknowledged, it is Right done to the Presbyterian Party, who, I am ſure, will not own him in it.

My Lord, but a Word more: This laſt Day he was pleaſed to mention his Sermon; which made me a little to enquire after it: It was preached at *Uxbridge*, (my Lord, I had the Honour to be at the Treaty) which hath been ſo much ſpoken of; and truly I wonder this Gentleman did not remember what he ſaid then. If you pleaſe, my Lord, I ſhall put you in mind of ſome Paſſages: I have the Sermon here.

[Mr. Attorney-General reads out of the Book, which he ſaid was Mr. *Love*'s Sermon.]

I have ever thought that too much Mercy towards Malignants hath made more Delinquents than ever Juſtice hath done. Mercy ſhould not weigh down Juſtice; (My Lord, theſe are good Inſtructions.) *In God they are both equal; why ſhould it not be ſo in Man? Pity to the Bad, hath proved Cruelty to the Good: The ſparing of Offenders hath made many worſe; few or none better.* (And, my Lord, we know it.) *To them that have ſhewed no Mercy, let Judgment be ſhewed without Mercy: Much Guilt contracted, much innocent Blood ſpilt; which either muſt be avenged on us, or by us.* My Lord, that is one of his Clauſes; and here is another: 2. *The Lord heals a Land by cutting off thoſe diſtempered Members that indanger the Health of a Land.* (Here is good Doctrine, my Lord.) *It was the Lord troubled* Achan, *and cut him off, becauſe he troubled* Iſrael. *Oh, that in this our State-Phyſicians would reſemble God, to cut off thoſe from the Land who have diſtempered it;* (I ſuppoſe he meant, *or ſhall do.*) That, my Lord, was his Opinion then. *And thoſe who lie under the Guilt of much innocent Blood are not meet Perſons to be at peace with, till all the Guilt of Blood be expiated either by the Sword of the Law, or the Law of the Sword; and a Peace can never be ſafe nor juſt till then.* What Mr. *Love* hath endeavoured ſince, my Lord, I ſhall ſay nothing. And I have but one Word more, and it is this; My Lord, he ſays it is not likely to have a Peace with ſuch Men as theſe, the Malignant Party, while they continue thus. *We can as ſoon make Fire and Water agree, yea, I had almoſt ſaid, Heaven and Hell, as their Spirits and ours; for either they muſt grow better, or we worſe, before we can agree.* My Lord, I think there is little hope of their growing better; and, my Lord, we have not grown worſe.

My Lord, I ſhall trouble you no further: I ſhall uſe nothing of Aggravation; but as Juſtice is blinded, to let the Evidence appear to you in pure Nakedneſs.

My Lord, you have heard the Evidence (as I humbly conceive) in the ſame Language, in the ſame Habit, in the ſame Words, as ſpoken by the Witneſſes: And, my Lord, having heard thoſe, and the Laws, and the Charge againſt him, upon the whole I ſhall humbly leave him to ſtand or fall by your Juſtice and Judgment.

Mr. *Love*. My Lord, I humbly crave leave to ſpeak but one Word: Mr. Attorney-General hath replied to my Defence, as to the Matter of Fact. Concerning his Reply I ſhall not inſiſt upon it; yet I ſhall humbly crave leave to inſiſt upon two Particulars. ——

Attorn. Gen. If I have given any new Evidence, Mr. *Love* ought to be heard: But, my Lord, I have declined it. And for thoſe Paſſages in his Sermon, I do not urge one Word of Evidence againſt him; and for the reſt, they are his own Words, which he hath ſaid the laſt Day: And I have brought nothing new before you. And if the Sermon preached at *Uxbridge* ſhould be an Occaſion, I ſhall caſt it aſide.

Mr. *Love*. I humbly conceive there are new Suggeſtions expreſſed in Court by thoſe worthy Gentlemen, whoſe Names I know not, nor their Employments neither. But as to thoſe I ſhall humbly crave leave in a Word or two; and then, as to the whole Matter of the Depoſitions, I ſhall humbly offer ſome Matter of Law, ariſing upon the whole Matter given in. ——

Attorn. Gen. I ſhall crave leave too, my Lord, and leave it to you: For any Suggeſtions, they are but Suggeſtions, as Mr. *Love* ſays himſelf; and that is nothing for the Evidence. Mr. *Love*, my Lord, had the laſt Day, and I ſhould have this. Had he ſaid he had any thing to ſay, or if he had had any thing more, he might have ſaid it; I did wait if he would have ſaid any thing: But, my Lord, when the whole was clos'd, and no new Evidence. I did not anſwer all the Suggeſtions of Mr. *Love* the laſt Day: His Evidence and Depoſitions will conclude the Court, that it is not Suggeſtions and Inſinuations; the Court are above theſe. When the Evidence is clos'd for the Commonwealth, let it be concluded there: If they offer any new Evidence, Mr. *Love* may have Liberty to anſwer.

Mr. *Love.* Though I dare not tax Mr. Attorney-General for diſcharging his Duty in his Place; yet for the Preſervation of my own Life, I muſt not be wanting to my ſelf, if your Lordſhip and the Court will give leave; and that is humbly to beſeech your Lordſhip to take notice that Mr. Attorney-General, in the Relation of the Matter of Fact in the Depoſitions, is pleaſed to raiſe the Correſpondency (as he is pleaſed to call it) as high as *Jerſey*; and ſo makes me to be *Particeps criminis*, that I ſhould be judged by you upon the whole Matter. Now *Alford* upon Oath did declare, That *Drake* and *Titus* held Correſpondency; and that the Miniſters knew nothing of it.

Attorn. Gen. I do not ſay you did.

Mr. *Love.* Therefore I beſeech you I may not be judged upon that Matter: And then I beſeech your Lordſhip to obſerve that Mr. Attorney-General is pleaſed to ſay he would not inſiſt upon Inferences, nor Strains of Wit; but truly I have diſcerned both.

Ld Preſident. You totally err from the Way you ought to walk in, and take upon you to judge others. The Court will conſider whether he hath offered any thing, or not: We have Notaries, and ſo have you. You ſpent the laſt Day only in making Comments and Collections; yet that you might have ſome Liberty of Diſcourſe, we ſat here patiently two Hours, and did hear that which we ought not, nor you ought to have ſpoken. And now you are entring the ſame way of Inferences and Collections, as though we did not ſit here to take notice of what was done, but we muſt receive the laſt Word from you and your Comment. If you had new Matter the laſt Time, you might have been heard: We expected you would have brought new Witneſſes; but they were in the ſame Crime with your ſelf; and you would rather betray your ſelf than them, and God and the Truth than them. But we will be as careful of any Comments as you your ſelf can be. And I think that we have ſo much Piety and Charity, that we ſit here with as good Affections of Juſtice and Piety, as are in your own Breaſt. This Book was not given as Evidence againſt you; and all that is in your Comments, we ſhall underſtand it.

Mr. *Love.* My Lord, I have only one Motion: I have ſome Matters in Law to offer to your Lordſhip, to conſider by way of Exception to the Charge, and alſo to the Depoſitions of the Witneſſes. I have a Paper that I humbly deſire might be read in Court as Matter in Law, ariſing from the Charge, and from the Depoſitions of the Witneſſes.

Attorn. Gen. Why did you not this before?

Mr. *Love.* I am ignorant of the Cuſtoms of the Court.

Ld Preſident. I believe you have wronged your own Breaſt in many Things you have ſaid; and you have ſaid you have been ignorant in many Things that you have known very well: It is not good to dally. You will be ignorant at one time, and at another time more knowing than others.

Mr. *Love.* I beſeech your Lordſhip, it is a new Suggeſtion of the Attorney-General, That Concealment of Treaſon for a Tract of Time is Treaſon.

Ld Preſident. There is no new Words of Suggeſtion: If Mr. Attorney hath not ſpoken it, nor read it according to the Truth, we will examine it.

Mr. *Love.* He hath done it with diſadvantage to me.

Ld Preſident. If he have, he ſhall not do it with diſadvantage to us; for we will be as indifferent as your own Breaſt: Therefore be not you a Commentator of that. We underſtand ſo well as God enlightens; for whether he hath done it with advantage or diſadvantage, that is our part to conſider.

Mr. *Love.* I deſire to have Counſel upon this Matter of Law ariſing from the Evidence, That Concealment of Treaſon, by your Acts, ſuppoſe it be for Continuance or Tract of Time, yet by the Law it is not Treaſon. And my Counſel informs me, That the Act of the 26th of *March*, that conſtitutes this Court, gave you Power to inquire into Treaſon, but could not take Cognizance of Miſpriſion of Treaſon till there was a ſubſequent Act. Therefore I deſire this Favour, That ſeeing it is ſo much ſuggeſted in Court, and ſeeing the Witneſſes none can prove a perſonal Act of mine, to bring me under your Law, as to Treaſon, I deſire my Counſel to clear this, That Concealment of Treaſon, though for never ſo long a Tract of Time, is not Treaſon by the Law of the Land.

Attorn. Gen. I will out Mr. *Love* of that Scruple: He is not charged for Miſpriſion of Treaſon, tho I could have done it; but that I inſiſt upon, is flat Treaſon. It is true, Sir *Thomas Witherington* was pleaſed to expreſs it in the way of Argument, That Concealment of Treaſon long, comes to be Treaſon; But here are Acts, and I inſiſt upon the Evidence; and the Court will judge, for they have heard the Evidence.

Mr. *Love.* I beſeech your Lordſhip that the Paper might be read, the Exceptions that I have againſt the Indictment, and the Matters of Law ariſing from the Evidence.

Attorn. Gen. My Lord, truly I profeſs, I hope I am not in my Nature cruel, that I ſhould do Injury to Mr. *Love*: But, my Lord, I cannot favour him, to do Injury to the Law of the Nation. My Lord, he hath one by him that hath taken every Word of the Charge.

Mr. *Love.* I did plead upon your Lordſhip's Promiſe that I ſhould have a fair and indifferent Hearing; and if Matter of Law did ariſe from Matter of Fact, which could not, you ſaid, be known till the Witneſſes were depoſed, I had your Lordſhip's Promiſe, and I think the Court's, that I ſhould have Counſel to plead to Matter of Law.

Attorn. Gen. My Lord, I think here is no Legiſlative Power in this Court to change Laws. My Lord, I appeal to all here, whether the Evidence we gave were not cloſed upon Saturday, and all the Depoſitions; whether Mr. *Love* did not take Care and Pains to make his own Defence, as to Matter of Fact, and ſpent ſo many Hours on Wedneſday laſt. My Lord, he had all before that; if he had Matter of Law, it was more proper to move then:

But

But when he hath gone ſo far, and we have cloſed all, do but conſider the Conſequence, that when this is done, and all the Evidences heard, then to come with Matter of Law.

Ld Preſident. Mr. *Love*, that you have ſaid hitherto, is nothing but of the ſame Nature of that you ſaid the laſt Day; and the Court will take it into Conſideration, and judge of it: But if you have any thing in your Paper that is ſo included upon the Evidence; for I tell you the Evidence was ended the laſt Day, and your Reply; and if you had any thing, you ſhould have offered it the laſt Day. Here hath been nothing new offered concerning you, but as it is uſual for the Counſel for the State to ſtate the Matter of Fact to the Court; for they have the laſt Word: But you had fully ended before; and ſhall we go out of the Way for you, more than for a whole Generation which the Law runs unto? I do not know how to do it: You had this Paper in your Pocket; you might have pulled it out; and you have had Time in a nearer degree to it: Yet the Court is willing, if you can out of your Paper, by Adviſe of Counſel, ſhortly read what you read upon for Matter of Law, they will hear it, if ſuch Exceptions as are not of your own, but by the Advice of Counſel.

[Mr. *Love* gives in his Exceptions.]

Exceptions taken by Chriſtopher Love, *Clerk, to the Charge of High Treaſon, and other High Crimes and Offences, exhibited to the High Court of Juſtice againſt him by* Edmond Prideaux *Eſq; Attorney-General for the Commonwealth of* England.

[Theſe Exceptions are not here printed, for that they come in more properly afterward; being again in Subſtance given into the Court, and ſigned by Mr. *Love*'s Counſel, and the Subſtance of them then debated in Court by Mr. *Hale*, a Counſel for Mr. *Love*.]

Attorn. Gen. My Lord, you have now ſome Fruits of the Notary. By the Law of *England*, he that is impeached of High Treaſon, is not to have the Copy of the Indictment: It is ſaid the Court are Judges for the Priſoner, and Counſel for him. To you all Things be ſubſtantially charged. That there is a ſubſtantial Charge, the Evidence makes out. But this Precedent being admitted, and the former of *Lilburne*'s cited, I ſhall have little Encouragement to go on with any Charge of Indictments.

Ld Preſident. Though it be more than the Law permits, yet the Court will take Conſideration of it.

Attorn. Gen. He did read his Papers: I think it is more than ever was heard of in any Court in the World. But to take his Papers in by your Clerk; I hope this is no Replication to the Charge: I hope he anſwers not that way; then we ſhall diſpute that way again. If he gives Papers, I may; and, as Ambaſſadors, treat by Papers.

Ld Preſident. Mr. *Love*, we have gone out of our Way for you: And whatever hath been ſuggeſted by the Counſel this Day is nothing, unleſs they had offered new Matter; and they have offered none; and therefore it is againſt any Law that was ever yet practiſed in *England*. You were concluded before, though haply the neglecting of it might have been a Prejudice to you: Yet you have offered a Paper, which the Court will take as a Paper to conſider of.

[The Court adjourns into the *Painted Chamber*: And upon their Return, the Lord Preſident ſpeaks.]

Ld Preſident. Mr. *Love*, our long Abſence upon this account may ſeem to you and others, that we have had ſomething of great difficulty among us, which we have conſidered of. That which hath been upon your Papers laſt offered, in which you have ſet down the Parts of the Charge, and the Statutes, and your Exceptions; theſe we have conſidered of. But to theſe, though you do affirm it here to us, that it is by Advice of your Counſel, yet it is not under your Counſel's Hand, nor your own, which in order it ſhould be. We have conſidered of them; and our examining of them hath taken up a great deal of this Time we have been abſent. We find that there may haply be ſome Miſtakes in your Notes: Therefore it is reſolved, though there ſeem not much Difficulty to us, yet you ſhall have Counſel, thus doing, That they ſhall ſet it down under their Hands, what Matter of Law they will argue to, and bring it under their Hands upon Tueſday next at Eight a-clock to this Place, or to the *Painted Chamber*.

Mr. *Love*. Shall the Counſel have only bare Liberty, or will the Court aſſign them me?

Ld Preſident. If you deſire it, and name them, they ſhall be aſſigned you.

Mr. *Love*. I deſire Mr. *Maynard*, Mr. *Hale*, Mr. *Waller*, and Mr. *Archer*.

[The Clerk was called upon to read the Order.]

Clerk. 'Friday, the 27th of *June*, 1651. Ordered by the High Court of Juſtice, That if the Priſoner's Counſel ſhall under their Hands aſſign any Matters of Law, fit to be argued and preſented to this Court, on Tueſday next at Eight a-clock in the Morning, this Court will take the ſame into further Conſideration.'

Mr. *Love*. I would know whether they are aſſigned to plead here in Court, or to bring a Paper under their Hands.

Ld Preſident. If they will, under their Hands, ſet down what they will ſtand to for Law, it ſhall be conſidered, and they ſhall plead.

Mr. *Love*. I humbly thank your Lordſhip's Favour, and the Favour of the Court.

[Mr. *Love* is commanded away. The Court adjourns.]

The Fifth Day's Proceedings, July *the* 1*ſt*, 1651.

THESE Exceptions following ſigned by Mr. *Love*'s Counſel, were delivered this Morning by Mr. *Love*'s Sollicitor into the Court, ſitting in the *Painted Chamber*.

Exceptions

Exceptions to the Charge of High Treason, and other High Crimes and Offences, exhibited to the High Court of Justice, by Edmond Prideaux *Esq; Attorney-General for the Commonwealth of* England, *against* Christopher Love *Clerk; and Matter of Law, humbly presented to the said High Court, according to the Direction of an Order hereunto annexed.*

[For this Order, see the foregoing Page.]

First, THE Charge is, 'That *Christopher Love*, 'as a false Traytor and Enemy to the 'Commonwealth of *England*, and out of a traitorous and wicked Design to stir up a new and 'bloody War, and to raise Insurrections, Sedition, and Rebellion within this Nation, in several 'Days and Times, that is to say, in the Years of 'our Lord God 1648, 1649, 1650, 1651, at *London*, and in divers other Places within this Commonwealth of *England*, and elsewhere, together 'with *William Drake*, and divers other Persons, 'did traitorously combine, confederate, and complot together, to stir and raise Forces against 'the present Government of this Nation, since 'the same hath been settled in a Commonwealth 'and Free State, without a King and House of 'Lords, and for the Subversion and Alteration of 'the same.'

The Act of the 17th of *July*, 1649, is, That if any Person shall maliciously or advisedly plot, contrive, or endeavour to raise Forces against the present Government, or for the Subversion or Alteration of the same, and shall declare the same by open Deed, that every such Offence shall be Treason.

Exception 1. The Words *Maliciously* or *Advisedly* are left out of the Charge.

2. That the Words of the Act are omitted, which are, *Plot, Contrive, or Endeavour.*

3. It is not Treason within the Act to plot, contrive, or endeavour to stir up or raise Forces against the present Government, or for the Subversion or Alteration of the same, unless the same be declared by some open Deed. But the Charge is, 'That '*Christopher Love* did combine, confederate, and 'complot, to stir and raise up Forces against the 'present Government, *&c.*' And it is not charg'd that he the said *Christopher Love* did declare the same by any open Deed.

Secondly, Whereas the said *Christopher Love* is by the said Articles charged, 'That for the Subversion and Alteration of the same, and to carry on the said traitorous Design, that he did traitorously and maliciously declare, publish, and promote the eldest Son of the late King to be King of *England*, (meaning this Commonwealth) without the Consent of the People in Parliament first had, and signified by Authority or Ordinance to that purpose.'

The Act of the 30th of *January*, 1648, is, That no Person do presume to proclaim, publish, or any way promote *Charles Stuart*, Son of the late King *Charles*, commonly called the Prince of *Wales*, or any other Person, to be King or Chief Magistrate of *England*, by colour of Inheritance, Succession, Election, or any other Claim whatsoever.

Exception. It is not expresly charged that the same was done after the said Act made; neither doth the Charge pursue the Words or Intent of the Act.

Thirdly, The Charge is, 'That to accomplish 'the said traitorous and wicked Design, the said '*Christopher Love*, on several Days and Times in the 'Years aforesaid, at *London*, *&c.* together with '*William Drake*, and other Persons, did traitorously and maliciously invite, aid, and assist the *Scots*, 'being Strangers, to invade this Commonwealth 'of *England*, and hath adhered to the Forces of 'the Enemies, raised against the Parliament.'

The Act of the 17th of *July*, 1649, is, That if any Person shall procure, invite, aid, or assist any Foreigners or Strangers, to invade *England* or *Ireland*, or shall adhere to any Forces raised by the Enemies of the Parliament or Commonwealth, or Keepers of the Liberties of *England*, every such Offence shall be taken to be Treason.

Exception 1. That it is not alledged in his Charge who in particular were the Strangers that were invited to invade *England*.

2. That it is not alledged that at the Times of the Invitement, Aid, and Assistance, laid in the Charge, the *Scots* were Strangers.

3. That it is not alledged particularly in the Charge, to the Forces of what Enemies, raised against the Parliament, *Christopher Love* did adhere.

4. It chargeth the Prisoner for a treasonable Assistance in some Years that were before the said Act of the 17th of *July*, 1649, was made.

5. To advance the said traitorous and wicked Design, is uncertain to what Design it shall have reference, several Charges of Treason being before expressed,

Fourthly, The Charge is, 'That *Christopher Love*, 'divers Days and Times between the 29th of '*March*, 1650, and the 1st Day of *June*, 1651, at '*London*, *&c.* did traitorously and maliciously give, 'hold, use, and maintain Correspondency and Intelligence by Letters, Messages, Instructions, or 'otherwise, prejudicial to this Commonwealth, 'with *Charles Stuart*, Son of the late King, with 'the late Queen his Mother, and with *Henry Jermin*, *Henry Piercy*, and divers other Persons, being of Counsel, and abiding with *Charles Stuart*.'

By the Act of the 26th *March*, 1650, the Matters charged herein are only prohibited, but are not made Treason.

Exception 1. That this Charge is misaid, being charged to be done traitorously.

2. The Charge is uncertain, being alledged in the Disjunctive (or otherwise) and shews not in what other manner.

Fifthly, The Charge is, 'That *Christopher Love*, 'within the Times and at the Places aforesaid, 'did traitorously and maliciously use, hold and 'maintain Correspondency and Intelligence with 'divers Persons of the *Scotish* Nation; that is to 'say, with the Earl of *Argyle*, and others of the '*Scotish* Nation, and with divers other Persons of 'other Nations, whom *Christopher Love* well knew 'to adhere to the said *Scotish* Nation in the War 'against the Parliament.'

The Act of the 2d of *August* 1650, is, That all and every Person that shall use, hold or maintain any Correspondency or Intelligence with any Person

ſon or Perſons of the *Scotiſh* Nation, reſiding in *Scotland*, without the Licence of the Parliament, the Councill of State, or the Lord General; or with any Perſon or Perſons of the *Scotiſh*, or any other Nation, whom they ſhall know to adhere to the *Scotiſh* Nation in this War againſt the Parliament.

Except. 1. That it is not laid, that the Perſons of the *Scotiſh* Nation mentioned in the Charge were reſiding in *Scotland*, nor expreſly alledged that they did adhere.

2. That it is not aver'd, that ſuch Correſpondency was holden without the Licence of Parliament, Council of State, or the Lord General, nor in what War the Correſpondence or Intelligence was held.

3. It is not laid, with what particular Perſons of any other Nation adhering to the *Scotiſh* Nation, Correſpondency or Inteiligence was holden, nor of what Nations.

4. This Correſpondency and Intelligence is not laid to be after the fifth of *Auguſt* 1650, mentioned in the ſaid Act of the 2d of *Auguſt* 1650, but refers to a time preceding that Act.

Sixthly, The Charge is, 'That *Chriſtopher Love*, 'within the Times and at the Places before-mentioned, did traitorouſly and maliciouſly abet, 'aſſiſt, countenance and encourage both the *Scotiſh* 'Nation, and divers other Perſons adhering to 'them in this War againſt the Parliament. And 'did ſend and convey, or cauſe to be ſent and 'conveyed, Moneys, Arms, Ammunition, and 'other Supplies to *Scotland* and other places, and 'to the ſaid *Titus*, &c. in Confederacy againſt 'this Nation, without Licence of the Parliament 'of *England*, or Council of State, or General of 'the Army.'

The Act of the 2d of *Auguſt* 1650, is, That no Perſon that ſhall abet, aſſiſt, countenance or encourage the *Scotiſh* Nation, or any other Perſon or Perſons adhering to them in their War againſt the Parliament and Commonwealth of *England*; or ſhall go, or ſend, or cauſe to be ſent, *&c.* any Money, Horſe, Arms, Ammunition, or other Supplies into *Scotland*, &c. or to any Perſon under their Power, or in Confederacy with them againſt this Nation, without the Licence of the Parliament of *England*, Council of State appointed by their Authority, and of the Captain-General of the Parliament's Forces as aforeſaid.

Except. 1. That there are no particular Perſons named, who were abetted, aſſiſted, countenanced, or encouraged, neither of the *Scotiſh* Nation, nor of any other Perſons adhering to them.

2. In the Charge, the ſending of Money, *&c.* is laid to be done without the Licence of the Parliament of *England*, or of the Council of State, or General of the Army.

The words of the Act are, 'Without the Li-'cence of the Parliament of *England*, or Council 'of State appointed by their Authority, or of the 'Captain-General of the Parliament's Forces.'

3. The Time to which this refers, is between the 29th of *March* 1650, and the 1ſt of *June* 1651; and ſo it takes in the time between the 29th of *March* 1650, and the 2d of *Auguſt* 1650. which is before the making of the Act.

Seventhly, The Charge is, 'That the ſaid *Chriſ-'topher Love*, at the Times and Places before men-'tioned, did traitorouſly and voluntarily relieve 'the ſaid *Sylas Titus*, and one *Sterks* a *Scotchman*, 'which then were, and yet are, under the power 'of the *Scotiſh* Nation, and in Arms againſt the 'Parliament of *England*, with Moneys, Arms, and 'Ammunition.'

By the Act of the 26th of *March* 1650, the Matters charged herein are only prohibited, but not made Treaſon.

Except. 1. That this Charge is miſlaid, being charged to be done traitorouſly.

2. It is laid to be at the Times before mentioned, whereas there are ſeveral Times before mentioned; ſo as it is uncertain to which of thoſe Times this Charge relates.

3. And of theſe Times, ſundry of them are laid to be in ſeveral Years before the making of the Act upon which this Charge is grounded.

Allegations by Chriſtopher Love, *touching the Matters and Proof upon the Charge.*

THO I do not conceive any ſufficient Proof is made of the Charges againſt me, yet I ſhall be ready to make it appear upon Proof:

That one of the principal Witneſſes hath depoſed againſt me upon Promiſe of Reward, and upon Menace of Puniſhment.

That one hath received extraordinary Rewards for his depoſing.

That divers of the Witneſſes againſt me have been by their own Confeſſion detected of contributing of Supplies and Aſſiſtance, ſending and receiving Letters, contrary to the late Acts.

That no two lawful Witneſſes produced prove any one Treaſonable Fact.

That no Witneſs doth depoſe farther than Concealment, or Miſpriſion of Treaſon at the moſt.

Chriſtopher Love.

AS this Caſe is ſtated, we conceive theſe Queſtions may ariſe:

1. Whether in this Caſe theſe be lawful and ſufficient Witneſſes, as by Law is required?

2. Whether here be two lawful Witneſſes?

3. Whether any Concealment of Treaſon be Treaſon within the late Acts?

We have not ſeen any Authentical Copies of the Charge or Evidence; but upon the Copies we have ſeen, we humbly conceive fit to tender theſe Matters and Exceptions to the Conſideration of this High Court. And we ſhall be ready to ſpeak to them, or any of them, or to any other Matters ariſing upon the Caſe, as we ſhall receive further Directions.

Matthew Hale.
John Archer.
Thomas Waller.

After the Court had received the precedent Exceptions, and were ſat in Weſtminſter-Hall, *Mr.* Love *was commanded to the Bar.*

When Mr. *Love* appeared at the Bar, he deſired the Court that his Counſel might be heard to theſe Exceptions. And when Mr. *Archer* and Mr. *Waller*, who were of his Counſel, appeared in Court, the Court demanded of them, whether they were of Mr. *Love*'s Counſel? they anſwered, they did underſtand they were aſſigned to be of his Counſel by the Court. Then the Attorney-General demanded of them, whether or no they had ſubſcribed the Engagement? they anſwered, they had not done it; and ſpake further to this purpoſe, That they were by the Court aſſigned to

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be of Mr. *Love*'s Counſel, and were ſent for into the Court, and in obedience thereunto they had appeared, and were ready to ſpeak, if they might be heard. It was demanded of them by the Court, whether or no they would ſubſcribe the Engagement? they anſwered, That they deſired time to conſider of it: and ſo withdrew.

After they had withdrawn, Mr. *Love* moved the Court that Mr. *Hale*, another of his Counſel, might be ſent for.

[Upon the coming in of Mr. *Hale*, the Lord Preſident ſaid;]

Ld Preſident. You come as Counſel for Mr. *Love*; the Gentlemen that were here, are brought into an Incapacity of doing him ſervice that way; we ask'd them whether they have engaged: we doubt not you, but tell you the reaſon why we did it.

Mr. *Hale.* My Lord, I have done it.

Ld Preſident. Therefore you are aſſigned.

Mr. *Hale.* I had very late notice of this Buſineſs, it was Saturday Night late before I had notice of it, and the next day was not a day to think of thoſe things. Yeſterday was Monday, and the moſt part of that day I ſpent in looking over thoſe things that had been, I think, preſented to your Lordſhip and the Court; we did not know what Command your Lordſhip would put upon us, whether you would admit us to ſpeak, and to what you would admit us to ſpeak, and when you would admit us to ſpeak. It is impoſſible, (my Lord) I muſt deal plainly, I profeſs it is impoſſible for me, in a Buſineſs of this great conſequence, to undertake to ſpeak any thing for the preſent, till ſuch time as I know your Lordſhip's Directions; and this was that we acquainted this Gentleman with, as ſoon as ever I ſaw him, and the firſt time that ever I ſaw him, which was but this day.

Attorn. Gen. I think that Mr. *Hale* hath put ſomewhat under his Hand.

Mr. *Hale.* We have done ſo.

Attorn. Gen. Nay, you muſt ſtand ſingle, the other two are ſet aſide, it muſt be you only; I ſuppoſe Mr. *Hale* knows what he is to ſpeak to.

Mr. *Hale.* Truly we know what we are to ſpeak to; but to ſpeak upon ſuch a Buſineſs on ſuch a ſudden, when we did not know what Directions the Court would give, that I could not undertake, and I think Mr. Attorney-General will not preſs it upon us, it were a hard caſe if he ſhould.

Attorn. Gen. Mr. *Hale* knows as well as any Man what is to be done in theſe Caſes, none better than himſelf; the Court uſeth not to aſſign Counſel to pick Flaws, but thoſe that are juſt Exceptions: and the Court is doubtful too, how they will allow Counſel to debate them, and ſtand to the Judgment of the Court. I ſuppoſe he comes to ſpeak to that that the Party hath alledged.

Mr. *Hale.* It is true, we do ſo: but Mr. Attorney-General knows likewiſe, that when Matters of Law are aſſigned, that there is ſome reaſonable time, we expect not long, but ſome reaſonable time is aſſigned alſo for the Parties to prepare themſelves; for truly otherwiſe I ſhould not do that Duty I owe to the Court and my Client, if I ſhould ſpeak *ex improviſo*, in ſuch a manner as I have done: for the firſt time I ſaw any thing of it, was on Saturday Night, between Eight and Nine of the clock.

Ld Preſident. Tho that was the firſt ſight of this Paper, as it is now ſet down, it was not the firſt notice you had to be of his Counſel, but himſelf hath declared it here long ago, that the former Paper was by your Advice.

Mr. *Hale.* No, my Lord, if he did ſo, I will plead Not Guilty.

Ld Preſident. I will not ſay your Name, but when he gave us in his Paper, before this, the laſt day, you ſaid it was the Advice of your Counſel.

Mr. *Love.* Not Mr. *Hale.*

Ld Preſident. Then haply we ſhall eaſe you a a great deal: that that is under your Hand, is very ſhort, and we ſhall eaſe you of ſome of that too; and you know that upon all Aſſignments in the Upper Bench and Common Law, when they firſt open it, they ſhow ſome Cauſes upon which they will argue it; and when you have had time already, now ſhew ſomething that may be worthy of it, and we will conſider of it.

Attorn. Gen. Before he ſpeak, my Lord, I deſire that he will give it under his Hand poſitively, not Queries, but poſitive, that this in his Judgment he thinks fit to be Matter of Law, and to be argued.

Mr. *Hale.* My Lord, we think that theſe things are ſuch.

Ld Preſident. Then you muſt upon the firſt ſight open it ſo far, that it may be your Judgment.

Attorn. Gen. But not ſuffer it to be debated unleſs you think it doubtful.

Mr. *Hale.* We are here aſſigned Counſel for him; and if your Lordſhip will pleaſe to give us that time that may be convenient for us to do our Duty for him; if not, we ſhall do but your Lordſhip wrong, and our Client wrong if we ſhould ſpeak.

Ld Preſident. You may have ſome convenient time; but you muſt open it now, that we may judge what time is proportionable; if you will not open it, that this is the Point you will argue upon, we can ſay nothing.

Mr. *Hale.* Then the reading of that which we have exhibited to the Court, will be as much as poſſibly I ſhall be able to do at this time, for we have had no Copy of the Charge.

Ld Preſident. Nor muſt have.

Mr. *Hale.* And we have taken a Copy at random, according as it hath been offered to us by thoſe that have taken Notes, and we have preſented upon thoſe Notes, and we have applied ourſelves to Mr. Attorney for a Copy of the Charge, and he conceived that it was not fit for him to do it without Direction of the Court; but for a Copy of the Charge when Exceptions are taken, it is uſual to have it granted: and for us to ſpeak and ſpend your Lordſhip's time upon Matters that are contained in a Charge, whereof for my own part I never heard, and which is uſual upon Exceptions offered to be granted, it would be very——

Ld Preſident. It is an excellent thing to ſpeak to Men of Underſtanding: Did you ever know an Indictment in this nature, a Copy of it delivered upon the Priſoner's Prayer?

Mr. *Hale.* Yes, I have known it very often.

Ld Preſident. He ſhall, as his Memory ſerves him, ſpeak to the Subſtance; but to have a Copy of the Charge, I take it, you have not known.

Mr. *Hale.* Thus far I have known it, I have been commanded to be of Counſel with Perſons that have been impeached of Treaſon by the Parliament; I know that the Archbiſhop of *Canterbury*, when he was impeached of Treaſon, had a Copy of his Charge, that I know he had: I know this is the uſual Courſe, that if a Perſon takes Exceptions to a Matter contained in an Indictment, tho it is true, he ſhall not have the Copy of the whole Indictment, yet he ſhall have a Copy of ſo much

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whereupon his Exception grows; that hath been done, and will not be denied: but for the other matter, I know that in the Archbiſhop of *Canterbury*'s Caſe there was a Copy of the whole Charge granted, and the like was done in the Caſe of the Lord *Strafford*.

Attorn. Gen. I ſhall give that Anſwer a little more than I did: Parliamentary Proceedings are no Rule for other Courts to walk by; beſides, my Lord, you ſit here upon a known publiſhed Law, and the Offence charged is againſt thoſe Laws. I believe Mr. *Hale* well remembers, that both my Lord of *Strafford*'s Caſe, and the Archbiſhop of *Canterbury*'s Caſe, were both of them for many ſeveral Facts ſeveral times a long time committed; which ſeveral Facts being judged by Parliament, were judged to be Treaſon not againſt any ſettled poſitive Law: And for *Strafford*'s Caſe, you know how the Judgment at laſt was given by Act of Parliament, King, Lords and Commons. And for the Archbiſhop of *Canterbury*'s Caſe, you know what the ſeveral Complaints againſt him were, many of them not Treaſon, but ſo many of them together, that in Parliament they thought fit to judge him guilty of Treaſon; but thoſe Privileges are not to be paralel'd, he knows very well it was not againſt ſuch and ſuch, and ſuch a Law, to make thoſe Offences Treaſon. Having given thus much Favour, I may ſay, to the Priſoner, that he may by Memory exhibit his Exceptions, he hath done it, if you judge that thoſe Exceptions are worth the debating, be worthy of it, you may (as Mr. *Hale* ſaith) give directions for ſo much to be given him, otherwiſe (for my part) I did never give it unto any; but thoſe that have been in my place before, did never give it but by immediate Warrant from the King, or the Parliament now, but for ſo much as the Court thinks fit, for ſo much as concerns the Exceptions.

Sir *Tho. Witherington.* For that that Mr. *Hale* objects to the Indictment, it ſtands with a great deal of Juſtice; for if a Priſoner lays hold of part of an Indictment, and ſay there is a Miſtake in it, there is reaſon it ſhould be ſo, becauſe the Court muſt judge it whether it be ſo or not, therefore there is neceſſity of it that there ſhould be a Copy of ſo much; but I think he never knew that all the Indictment was, but that part, and that is of neceſſity for the Court, that they may ſee whether the Exceptions accord with the Indictment, or no: if there be any Exception to an Indictment, if that Exception remains not as a Doubt or Queſtion, there ſhall be no Copy of ſo much of the Indictment given. If he ſhall raiſe a Doubt that there is any Doubt in Law, or any Queſtion and Variance between the Acts and the Charge, if he ſhall raiſe any ſuch Doubt, then I think according to the old Law he may have that part of the Charge; but we deſire he may raiſe ſome Doubt to the Court.

Mr. *Hale.* My Lord, we have raiſed the Doubts, and we are ready to deliver in thoſe that we conceive to be Exceptions to the Charge; if we be over-ruled in them, we have no more to ſay: but if your Lordſhip, upon the view of theſe things we have offered, think them worthy to be ſpoken to before your Lordſhip, then ſurely that is agreeable with that very Rule which the Council of the State is pleaſed to ſtate; that is, that in caſe we alledge that which the Court ſhall think fit for us to debate before them, that then we may have that whereby it may appear whether we debate upon that which is, or is not.

Attorn. Gen. Mr. *Hale* ſaith he hath given them in, but I have ſeen none of them, my Lord.

Ld Preſident. Whether their Memory be perfect or imperfect, that we ſhall help you withal; and then I will tell you what you were beſt do, for Time goes away: we will, before you take it, take the ſeveral Statutes and the Charge, and your Exceptions, and compare them all together before you, and you ſhall except to every one as you go.

Attorn. Gen. I deſire the Exceptions may ſtand as they are.

Ld Preſident. Ay, but he ſhall ſee whether there be any material Variance between the Notary and the Charge.

Attorn. Gen. That Notary was upon favour too, Mr. *Love* will acknowledge it.

Mr. *Love.* I do with all Thankfulneſs acknowledge it, my Lord.

Attorn. Gen. I deſire it may be no Precedent for After-Times.

The Clerk. If you pleaſe, read your Exceptions.

Mr. *Hale.* My Lord, we begin with the firſt, and theſe are the Exceptions: We take it, that Charge is grounded upon the Act of the 17th of *July* 1649, and we take ſome Exceptions to that firſt part of the Charge; that is, concerning what Offences ſhall be adjudged Treaſon.

Ld Preſident. Read your Exceptions, and then you ſhall hear the Charge.

Mr. *Hale.* Our Exceptions are theſe; firſt, That whereas the Words of the Act are, 'That if any 'Perſon ſhall maliciouſly and adviſedly plot, con-'trive, or endeavour to ſtir up, or raiſe Forces 'againſt the preſent Government, or for the Sub-'verſion or Alteration of it;' that the words *maliciouſly* or *adviſedly* are left out of the Charge, which we conceive are material Words.

Attorn. Gen. Read.

Mr. *Barnard* the Clerk. *That he the ſaid* Chriſtopher Love, *as a falſe Traytor and Enemy to this Commonwealth and Free State of* England, *and out of a traitorous and wicked Deſign to ſtir up a new and bloody War, and to raiſe Inſurrections, Seditions, and Rebellions within this Nation, did ſeveral Days and Times in the ſeveral Years of our Lord* 1648, 1649, 1650, 1651, *at* London, *and in divers other Places within this Commonwealth of* England, *and elſewhere; together with* William Drake *late of* London *Mercer*, Henry Jermin *late of* London *Eſquire*, Henry Piercy *late of* London *Eſquire*, Richard Graves *late of* London *Eſquire*, Edward Maſſey *late of* London *Eſquire*, John Gibbon *late of* London *Gentleman*, &c. *and other their Complices yet unknown, did traitorouſly and maliciouſly combine and confederate themſelves together, and plot, contrive, and endeavour.*

Attorn. Gen. What ſay you, Mr. *Hale?*

Mr. *Hale.* Now we find what the Inconvenience is, of coming to put in our Exceptions, when we have not a clear Copy of the Charge; and that was the cauſe why we did ſubjoin this, that in caſe any Miſtake ariſe by miſtake of the Copies, that we may amend: it is true, we find *maliciouſly* is in.

Attorn. Gen. Traitorouſly will be enough.

Mr. *Hale.* I think not, that is over; for if it be maliciouſly alledged, that is over. Then the next thing we except to, is, *he traitorouſly combined, confederated, and complotted together*: it is true, there is *Plot* in it, but there wants the words *contrive* and *endeavour*, but that is not the principal matter we ſtand upon.

The Clerk. They are in.

Mr. *Hale.* Then that is anſwered too. The next Exception that we take to the Charge, is, That the Act upon which this part of the Charge is grounded, ſays, that he muſt manifeſt it by an Overt-Act, by an open Deed: now we ſay, there is (as we conceive) nothing charged upon him in purſuance of this Act, that is, there is no overt or open Deed laid in the Charge; for the words of the Act are ſo, *That if any Man ſhall maliciouſly plot, contrive, and endeavour to ſtir up, or raiſe Forces againſt the preſent Government, and ſhall declare the ſame by open Deed, that then every ſuch Offence ſhall be Treaſon.*

Attorn. Gen. If Mr. *Hale* hath read the Copy of the Charge as it was taken, I think he finds divers of them in the Charge of open Acts.

Mr. *Hale.* The Buſineſs is not, whether there be open Deeds, but whether they are applied to this Act, or be Subſtantive Charges of themſelves.

Attorn. Gen. I would ask him, whether that open Act muſt be in the Indictment, or in the Evidence?

Mr. *Hale.* In the Indictment: it muſt be expreſly laid in the Indictment, or elſe it is no good Indictment.

Attorn. Gen. But for that, that we may not diſpute upon thoſe things, my Lord, there are the ſeveral Charges againſt the ſeveral Acts; there are ſeveral open Acts that are laid in the Indictment, and (I think) if he look upon it, he will find that they are laid to every one of them, and relate and refer to every one of them.

Sir *Tho. Witherington.* There is writing of Letters, contributing of Money, and receiving of Meſſages.

Mr. *Hale.* That will appear by the ſubſequent parts of the Charge.

Ld Preſident. The ſubſequent parts of the Charge will make that appear, for if he did lend Money, &c. if they be really there, we ſhall hear it by and by.

Mr. *Hale.* I take it, that the Law is very plain, that the Act muſt be mentioned in the Indictment.

Attorn. Gen. But we will not debate that when we are expreſs in the thing, we are not ſo tyed to Form, as to pin them to every word of it.

The Clerk. *And further to carry on and accompliſh the ſaid wicked Practice and Deſign, he the ſaid* Chriſtopher Love, *divers Days and Times between the 29th of* March 1650, *and the 1ſt of* June *in the Year of our Lord* 1651, *at* London *and other Places as aforeſaid, did traitorouſly and maliciouſly give, hold, uſe and maintain Correſpondency and Intelligence by Letters, Meſſages, Inſtructions, and otherwiſe.*

Ld Preſident. Theſe are open Acts.

Mr. *Hale.* Then favour us in this: we take it that between this, and the firſt Charge, there comes a particular Charge, that relates to *Charles Stuart*, that is intervenient between the firſt Charge and this that is now read, or elſe we are miſinformed by the Priſoner; and if there be ſo, then we think our Exceptions will take place.

Sir *Tho. Witherington.* It is all contained in one Indictment, and then that that explains the Overt-Act follows afterwards, as a diſtinct thing in the Indictment; and ſo it was in my Lord *Cobham*'s Caſe in that Indictment, and in my Lord of *Eſſex*'s Caſe.

Ld Preſident. He may make Overtures.

Mr. *Hale.* We confeſs it; but we ſuppoſe it very certain, that both as this Act is penn'd, and as the Act of —— —— is penn'd, which are much at one as to the manner of penning them, there is of neceſſity an Overt-Act to be laid, to make good that general Charge: that, we conceive, will be plain; and that is admitted and agreed by the Lord *Coke* in his Collections of the Pleas of the Crown, *fol.* 12, 13. where he ſaith, 'The Indictment of the 'Earl of *Somerſet*, in the time of *Edward* VI. and 'all other of the like form, were againſt Law:' Becauſe he ſaid, that he did not follow the Words of the Act, and that he did it *per apertum factum*, and ſhews not what that open Deed was; that was not a good Indictment, for the Fact muſt be ſet forth in the Indictment; that muſt be done. Then the queſtion is, whether this be ſo done here or no? We conceive by this Charge it is not ſo done here, upon this ground; we ſay, there follows after this a particular Charge concerning his Promotion of *Charles Stuart*; and then ſubſequent to that, there follows this that the Court hath now read. We ſay, that in this caſe here is not a Charge of an Overt-Act, neither by the one nor by the other; there is not a Charge by the former, becauſe that is a diſtinct Treaſon made diſtinctly treaſonable by another Act: and therefore that which is made a diſtinct Charge of Treaſon by another Act, ſhall not be an Overt-Act within the former; that is one thing we ſay. And another thing we ſay is this, That in this caſe, the ſecond, that is that which the Court hath been pleaſed to direct to be read to us concerning his holding Correſpondence, that ſhall not be an Overt-Act relating to the firſt Charge; for it is an uncertain Relation: for there be two Deſigns mentioned before, the one is a Deſign contained in the firſt Charge, the other a Deſign contained in the ſecond Charge, for the promoting of *Charles Stuart*; and we ſay, the third ſhall not be coupled up to the former, becauſe it is a diſtinct Charge of Treaſon in itſelf, and becauſe it is uncertain to which it relates: for it refers not more to the firſt Charge than to the ſecond concerning the promoting of *Charles Stuart*, that is called the Prince of *Wales*.

Ld Preſident. For this, I take it for the preſent, that the Charge is founded upon four Statutes; if he lay the Offence againſt the firſt, ſecond, third, and fourth, and he ſhall come and conclude it without relation to any Particular of theſe Treaſons, he did thus and thus by Letters and Correſpondencies, that will relate to them every one, tho it come but in the concluſion; and tho the Statutes be various, yet the Indictment is but one, and he may put in this of the Overtures in one place ſufficiently, to be a ſufficient Overture to every one: and therefore tho to one of them there ſhould be no Overture in it at all, but *valet ut valere poteſt*, it will hang upon ſo much, as it will bear an Overt-Act, and then you will not deny but that thoſe Words are Overtures.

Mr. *Hale.* It is true, they are ſo; but yet ſtill we conceive this third, which we call the third Charge, that is concerning holding Correſpondence, the third or fourth, I cannot tell which it is, but it is one of them; we ſay, that that is not an Overt-Act applied to the firſt Charge. When we come to the Subſtance of that Charge as it ſtands by itſelf, then our Exceptions will riſe upon it, as it ſtands ſingly by itſelf; but we conceive that ſhall not be a ſupplemental Charge to make good that firſt Charge, that is concerning endeavouring to ſubvert the State as it ſtands eſtabliſhed, it ſhall not be uſed as an Overt-Act to make good the firſt Charge. When we come to that particular Charge, that is concerning the maintaining of Correſpondence, whether it be a good Subſtantive Charge of itſelf, then we ſhall offer our Exceptions

to

to that; but in the mean while we are but upon Debate of the firſt, whether the firſt containeth ſuch a Charge, as by the Act of the 17th of *July* 1649. is required.

Attorn. Gen. My Lord, we are heard before you concerning it; Mr. *Hale* will find, that after all theſe Laws are repeated, and after all his Offences againſt thoſe Laws are repeated, it is concluded that all are againſt the ſeveral Acts of Parliament in ſuch Caſes made and provided. If Mr. *Hale* will ſingle them, the Impeachment doth not, but relates to all of them; and, I think, that in this way of Impeachment, we are not tied to thoſe very nice and ſtrict formal Rules upon Indictments: but if Subſtance doth appear, it doth appear to you, my Lord, that in Subſtance the Acts are purſued, and that upon the whole Impeachments there are, even this that is required, the Expreſſion of an open Deed, an Overt-Act; thoſe are laid, and it will be acknowledged by Mr. *Hale*, that they are in themſelves ſufficient, being thus expreſs'd and concluded, that thoſe ſeveral Practices and Deſigns, and Treaſons, are againſt the Form of the ſeveral Statutes in that Caſe made and provided, not in relation to the 17th of *July*, nor the 2d of *Auguſt*, but to all of them. And I believe that all of theſe Facts, all of this Treaſon, all of this Deſign, whether with the *Scotch* Nation, or Members of the *Scotch* Nation, or thoſe adhering to the *Scotch* Nation, had all but one Foundation, the Subverſion of this preſent Government, that was the Foundation and Treaſon of the whole, that was it that was intended: for to bring one in, and not to caſt out the other, would have done no good; but upon the whole, that was the Treaſon. And upon all theſe Circumſtances and open Deeds and Deſigns, the Sum, tho it be a Treaſon to hold Correſpondence, though it be a Treaſon to promote *Charles Stuart*, though it be a Treaſon to do other things; yet the Treaſon is in this, the *Scots* Nation to come in with intent to ſubvert the Government, *Charles Stuart* to be made King to ſubvert the Government. So that the grand Work at heart, at root, was the Subverſion of the preſent Government; and as for that, I wiſh heartily, for Mr. *Love*'s ſake, there were not ſo many open Deeds expreſt by him.

Sir *Tho. Witherington.* Mr. *Hale* ſpeaks of the Charge; the words are theſe: *And further, to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love (now this I take to be the Overt-Act) *divers Days and Times between the 29th of* March 1650. *and the 1ſt of* June 1651. *at* London *and divers other Places, as aforeſaid, did traitorouſly and maliciouſly uſe and hold Correſpondence and Intelligence by Letters* (thoſe are open Acts) *Meſſages, Inſtructions, and otherwiſe, to the Prejudice of the Commonwealth:* and theſe are laid within the Time, and not a diſtinct Charge, as Mr. *Hale* would infer; but they do directly ſet forth an Overt-Act done by Mr. *Love*.

Mr. *Hale*. Is it your Lordſhip's Pleaſure I ſhould reply any thing, becauſe I come utterly unprovided for it, I muſt profeſs?

Attorn. Gen. We may give him this, and one or two more.

Ld Preſident. Go on Maſter *Hale*, if you have that that is material for another Reply, do; but take this, Maſter *Hale*, I take it very ſtrong both in Grammar and Logick too, as well as in Law, that when all the whole Charge is radically and fundamentally but one Treaſon, though there be many Branches of it, the Charge hath knit them all together, and made but one Act of ſo many complicated Treaſons as are here; and when he comes to the latter end, if ſome of them were *de facto*, not by an Overt-Deed publiſhed, yet if he come and prove, that it was ſo done by the Proofs, that there was Correſpondence, and theſe things *de facto* done, and that Charge *de facto* done, you cannot break it there, to ſay that this Fact did not reach to all: for if there be any one, it is ſufficient; but here it is to all, even to that one that you ſpeak of.

Attorn. Gen. My Lord, I ſhall read a word to Mr. *Hale*; *All which Treaſons, and traitorous and wicked Practices and Deſigns of him, the ſaid* Chriſtopher Love, *were, and are to the apparent Hazard of the publick Peace of this Commonwealth and Free-State, Parliament and People of* England, [Mr. *Hale* findeth not theſe in any Indictment] *and to the manifeſt Breach, Contempt and Violation of the Laws of this Land, and contrary to the Form of divers Statutes and Acts of Parliament in ſuch caſe made and provided*; in general, my Lord.

Mr. *Hale*. We conceive, under favour, and we think that it cannot be denied, that ſuch a Concluſion will not ſerve the turn.

Attorn. Gen. No, not in an Indictment.

Mr. *Hale*. If there be a ſubſtantial part of the Charge omitted, that ought to be alledged in Fact, it is not the Concluſion, *that contrary to the Form of the Statutes in this Caſe made and provided*, will help it. My Lord, (I come unprovided) the Caſe of my Lord *Dyer*, that known Caſe upon an Indictment for Recuſancy, or for a wilful or knowing harbouring of a Jeſuit or Prieſt: Saith my Lord *Dyer*, *It is not enough to ſay, he did harbour him contrary to the Form of the Statute, but he muſt ſay, he did it knowingly: he muſt alledge and purſue the ſubſtantial words of the Act of Parliament.* And ſo again, an Indictment for abſenting from Church; it is not enough to ſay, He did it *contrary to the Form of the Statute*; but that he did it *obſtinately*. Therefore that general Concluſion, that this was *to the Hazard of the Commonwealth*; (it is true, it is an ill thing for any Man to do ſuch a thing that is to the Hazard of the Commonwealth) but thoſe words ſerve not the Statute neither: and then to ſay at the Concluſion, *contrary to the Form of divers Statutes*, that will not help it, under favour, in caſe of an Indictment. Then Mr. Attorney makes a Difference between the Caſe of an Indictment and this Charge. I conceive that in this Caſe there is no Difference; the Matter is the ſame, the one concerns the Life of a Perſon, and ſo doth the other: the Offence is the ſame; the one is a Charge of High Treaſon, and ſo is the other. It is true, thoſe Formalities that concern the Manner of the Tryal, thoſe (it is true) are laid by, becauſe here is no Jury to come before your Lordſhip; but your Lordſhip tryeth upon the hearing of the Teſtimony, and according to things alledged and proved. But for other Matters that eſpecially are ſubſtantially required by the Act of Parliament, we conceive that thoſe ſhall be ſupplied no more by an Intendment in caſe of a Charge before your Lordſhip, than in caſe of an Indictment for Treaſon. To this I ſhall ſay no more, but leave a word or two to your Lordſhip's Judgment. For the other thing (we are ſtill but upon the firſt Charge, the firſt Article) it hath firſt of all been inſiſted upon, That an Overt-Act is not neceſſary to be alledged, becauſe ſupplied by the Words of the Concluſion, *contrary to the Form of the Statute*. To that I have anſwered, I conceive, it is not, nor can it be ſupplied, becauſe it is a ſubſtantial thing in the very Words and Bowels of the Act, and cannot be ſupplied by a general Concluſion. Then it hath been ſaid by Sir *Thomas Wather-*

Witherington the State's Serjeant, That in this caſe thoſe ſubſequent Matters and Charges ſhall be an Overt-Act within the Statute; that is that which he hath read to you; it is in the fourth Article (as I take it) *That* Chriſtopher Love *divers times between the 29th of* March 1650. *and the 1ſt of* June 1651. *did traitorouſly and maliciouſly hold and uſe Correſpondence and Intelligence by Letters and Meſſages.* But that cannot be; I may ſay it, that is not a ſufficient Manifeſtation of an Overt-Act, becauſe there do precede it theſe particular Charges of Treaſon within particular Acts of Parliament. Why then, if ſo be (to maintain his Deſign, for the carrying on of his Deſign aforeſaid) this ſhould be ſaid to relate to the firſt Deſign, why not to the ſecond Deſign of promoting *Charles Stuart* to be King? And why not to the third Deſign? So that where there are three ſeveral Deſigns before, all made Treaſon by the Acts of Parliament, that cannot be an Overt-Act to make good the firſt part of the Charge, with Submiſſion to your Lordſhip's Judgment. And then another thing we ſay, That this Charge which Sir *Thomas* would carry up to the firſt Charge, and make it as an Inforcing and Overt-Act within the firſt Charge, that cannot be, for this other Reaſon; becauſe it is charged as a traitorous diſtinct Act in him. Now we have this Learning delivered by Sir *Edward Coke* in his Comment upon this, in the 25th Year of *Edward* the Third; that is, where there are ſeveral Acts made Treaſon, the one is an Act for levying of War: Now there the Caſe was Treaſon againſt the Perſon of the King, Queen, Prince, *&c.* that one part ſhall not be an Overt-Act in caſe of an Indictment, ſhall not be conſtrued as an Overt-Act for the making good of another part; becauſe where all are made equally traitorous, and all are charged as equally traitorous, we think, with Submiſſion, thoſe parts ſhall not be made an Overt-Act to another Treaſon. So when here is a Treaſon made by the Act of the 17th of *July*, and another by a ſubſequent Act, that which is charged as a Treaſon in the ſubſequent Act, ſhall not be ſaid to be an Overt-Act for the making good of the former, if the former be not a Treaſon, able to maintain and ſupport it ſelf, this ſubſequent Act ſhall not ſerve as a Bolſter to uphold it, and to ſupply that which is laid as a diſtinct Treaſon of it ſelf. Now theſe are the three things we inſiſt on: Firſt, That an Overt-Act is neceſſary to be laid. Secondly, That it is not ſupplied by the general Concluſion, nor can it be. Next of all, That this Act that is here laid to be done traitorouſly, to hold Correſpondence and Intelligence, it refers no more to the firſt Deſign, than to the ſecond or to the third Deſign, which are charged as three diſtinct Treaſons; and this is charged as a diſtinct and poſitive Treaſon of it ſelf, and therefore ſhall not be carried over as a Supplement to another.

Attorn. Gen. We granting that an Overt-Act is neceſſary to be expreſs'd; grant it ſhould be ſo, but no more but in Evidence; and then granting in the next place, That the general Concluſion will not be ſufficient to maintain it, when it is requiſite an open Deed ſhould be expreſs'd. Then for the third, I cannot be of his Judgment in this way of Impeachments; but as we ſee one Perſon may commit four or five Treaſons, and one Act may be an Offence againſt four or five Acts of Parliament; and this is the Truth: for where the ſeveral Acts are repeated, that (my Lord) are thoſe Laws againſt which this Treaſon, and this treaſonable Practice and Deſign is laid to be; then follows the ſeveral Enumerations of thoſe Practices, Deſigns and open Acts of his, now applied by us: but Mr. *Hale* would take them and apply them to one ſingly. But I obſerve to your Lordſhip, that thoſe open Acts of his, are Offences by an open Act againſt the ſeveral Acts of Parliament; but it ſerves his turn for his Client to apply them ſo: but I hope you will not apply them ſo; but when they come between the Offences, and the Overt-Acts follow it, and the Concluſion upon the whole, that all thoſe traitorous and wicked Practices and Deſigns are againſt the ſeveral Acts of Parliament: And if there be an open Act ſo expreſs'd in the Impeachment, that in Law is an open Act, ſuppoſe it ſhould be required to be expreſs'd, if there be an open Act, then I hope you will be ſatisfied, when it has been well proved, if it be expreſs'd in the Indictment an open Act, that I hope will ſatisfy your Judgments and Conſciences; eſpecially when open Acts ſhall appear to you to be an Offence againſt the Acts of Parliament. I ſhall leave this to your Judgment, and trouble you no further; and you will find in its place whether it be requiſite or not.

Ld Preſident. That that Mr. *Hale* ſaid, if it were a thing of abſolute Neceſſity in an Indictment, then the Concluſion will not help; if the thing were of abſolute Neceſſity there charged, and not charged *contra formam Statuti*, will not do it: but if I underſtand it right, it is fully laid in this Charge, that he did by open and Overt-Acts do the thing; it is laid ſo: the words of open Act are not, but the Value, that is, that he did by Writing, by Words, by Meſſages, by Money; and theſe are really Overt-Acts, though he did not call theſe Overt-Acts; theſe are laid fully in the Charge: and then, if they be laid fully in the Charge, and we ſatisfied in the full Proof of that Charge, that we have heard Overt-Acts to maintain it, then I think this cannot come within any of thoſe Caſes, that when an eſſential thing is left out of an Indictment, there the Concluſion will not help: this I conceive ſo far. Then the next, what Method or Order this can be, by ſetting down the Statutes, and then withal theſe Overt-Acts of Letters, of Meſſages, of Money, will reach to every one of the Qualities, that theſe Treaſons are manifeſted by this Act; but if it were a Treaſon of ſuch a nature, that none of theſe could reach to the Manifeſtation of it, then you ſay well: but when theſe words reach to the Manifeſtation of every Charge laid in the Charge, then it is effectual and real, and the Concluſion is ſufficient.

Attorn. Gen. Before he goes to the next, I ſhall crave your Direction in it; for I profeſs, my Lord, to you, that I, in drawing the Impeachments, take not my ſelf to be ſo ſtrictly tied to the Forms of Indictments in Letters and Syllables; and the Forms I have taken and do take, are thoſe that have paſs'd heretofore, and I follow them; and till I receive your Direction to the contrary, I take not my ſelf bound but to expreſs the Subſtance of that which is laid to his Charge, by which he may know his Offence, and give an Anſwer: But to Forms and Quiddities, and Niceties, I conceive I was not bound to that.

Mr. *Hale.* I preſs not Forms, nor Quiddities, nor Niceties in this Buſineſs. The next is concerning the Charge of promoting the Prince of *Wales*.

Attorn. Gen. No, there is no ſuch thing in it; your Copy is amiſs again; read it.

Mr. *Hale.* Our Exception is this, (we have been but upon the firſt all this while, I take it ſo) the next is, That he did traitorouſly publiſh the Son of the late King of *England*, to be King of *England* (meaning this Commonwealth) without the Conſent of the People in Parliament firſt had or ſignified by Ordinance to that purpoſe. I think we ſhall

not

not trouble your Lordſhip much with that; for if that be as our Copy is, it is true, it is not well laid: but if it be never ſo well laid, I conceive, as I am informed, there is nothing of that endeavoured to be proved.

Att. Gen. That we leave to the Court, Mr. *Hale.*

Mr. *Hale.* Then the next is, That to accompliſh the ſaid traitorous and wicked Deſign, *Chriſtopher Love* did at ſeveral Days in the Years aforeſaid, traitorouſly and wickedly adviſe the *Scots.* Our Exception to that is this: There is a treaſonable Aſſiſtance charged, in ſome of the Years that were before the making of the Act that did prohibit it.

Attorn. Gen. And afterwards too, Mr. *Hale.*

Mr. *Hale.* It lays it in ſome of the Years before the making of the Act, and that is ſufficient to invalidate this Charge.

The Clerk. *And further, to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love *ſeveral Days and Times in the reſpective Years aforeſaid, at* London *and divers other Places within this Commonwealth of* England, *and elſewhere, as aforeſaid, together with the ſaid* William Drake, Henry Jermin, *and other their Complices aforeſaid, did traitorouſly and maliciouſly invite, aid and aſſiſt the* Scots, *being Foreigners and Strangers, to invade this Commonwealth of* England, *and hath adhered to the Forces raiſed by the Enemies of the Parliament and Commonwealth aforeſaid, and Keepers of the Liberties of* England *as aforeſaid.*

At. Gen. You will find this in a Statute before this.

Mr. *Hale.* Not before the 17th of *July* 1649. and then your Charge is repugnant; you charge us for an Offence which is precedent to the Statute.

Attorn. Gen. For that, you go and take them and pick them; but we lay them all together: there were Treaſons he committed in 1648. and that which I pitch upon ſtill is this (that Mr. *Hale* thought was waved) That this Man did not promote the Intereſt of *Charles Stuart* late King, or that he had not endeavoured a Subverſion of this Government; I lay that againſt this Act made in 1648. Then by conſequence to maintain that, he did it to promote his Intereſt, and to ſubvert the Government; and there was a Law in 1648. that did inhibit that: there is a Law inhibits the calling in of Strangers; and it follows by that, that he who calls in Strangers, may promote the Intereſt of *Charles Stuart* too: and that Foundation is to this purpoſe, that he did promote him to have been King of *England*: and you know what he expreſs'd to you, what Tenderneſs of Conſcience he had to take care that he might not go elſewhere.

Mr. *Hale.* If it be ſo, then we muſt deſire that part of the Charge may be read.

Attorn. Gen. I have not charged them, nor until I receive Command, ſhall I vary from what I have received formerly, that I ſhall charge this to be againſt this, and that againſt that; but I have laid down the Acts of Parliament that have made things Treaſon, and the Offences ſeverally, and upon the whole conclude, that theſe are Treaſons againſt ſeveral Acts of Parliament ſeverally; if one or all together ſerve turn, I hold it well enough. If you put me to every one of them particularly, I muſt have more time, and better Clerks to draw the Indictments.

Mr. *Hale.* Still the ſame Objection meeteth (with Submiſſion to the Court and Mr. Attorney, the ſame Objection meets) with them; we ſay then, he will make this a kind of an additional Charge to the firſt or to the ſecond, or to both; but we know not to which.

Attorn. Gen. Yes.

Mr. *Hale.* But we ſay, That that is not ſufficient, upon theſe Reaſons, becauſe it is a Charge of Treaſon in it ſelf, and therefore ſhall not be made an additional and ſupplemental Charge to make out another. And then we ſay, that this is uncertainly charged, whether you will make it ſupplemental to the firſt Charge of Treaſon, that is, the endeavouring of the Subverſion of the Commonwealth; or to the ſecond Charge of Treaſon, which is a diſtinct Charge of Treaſon, of the Promotion of the Intereſt of *Charles Stuart.*

Attorn. Gen. I cannot divide them.

Ld Preſident. Are not theſe as perfect as before? Doth not the Subverſion of this Commonwealth promote the Intereſt of *Charles Stuart?* And doth not the Promotion of *Charles Stuart* ſubvert the Intereſt of this Commonwealth? If he hath laid it, that he did both of theſe by aſſuming it, by a double or multiplied Act; and all theſe multiplied Acts are but one Subverſion: if I ſubvert it by one, or by twenty Acts, both of them are the ſame in nature; for the Subverſion of the one, is the bringing in of the other; and the bringing in of the one is the Subverſion of the other; and ſo they are Relatives fully one to the other, and there cannot be more expreſs'd in the Charge than this. And notwithſtanding all theſe Acts, though that Act hath made the Treaſon, cannot it be by another Act? You may proſecute by virtue of this ſubſequent Act, any thing that was underſtood to be general Treaſon by the Law of the Land.

Mr. *Hale.* My Lord, this is that we inſiſt upon. It is true, we do conceive, though the Promotion of the Intereſt of *Charles Stuart* is not conſiſtent with the Preſervation of the Intrreſt of the Commonwealth, yet every Deſtruction of the Intereſt of the Commonwealth is not therefore a Promotion of the Intereſt of *Charles Stuart*; for then there could be no Treaſon againſt the Commonwealth, but it muſt be a Promotion of the other's Intereſt. Now there may be a Treaſon againſt the Commonwealth, without the Promotion of the other's Intereſt. I urge it to this purpoſe, to make it appear, that they are ſeveral Charges bottomed upon ſeveral Acts; and therefore the reference here made to promote the Deſign aforeſaid, is uncertain to which it ſhall relate: it may fall out the Party may be guilty upon the firſt Article; it may fall out he is not guilty upon the ſecond Article, and then it is uncertain to which Article it relates that he is guilty of, or not guilty of: and here may be the Conſequence of it, then you will make a Treaſon, which to this third Clauſe is a Subſtantive, and contained in it ſelf, to be an Overt-Act to another Charge of Treaſon, and that you cannot do; you cannot make a Treaſon which is ſo charged, to be an Overt-Act, or Expoſition, or a Declaration of that which is contained in the former, like that Caſe I inſtanced in before, of the 25th of *Edward* the Third, That no Man ſhall go about to deſtroy the Perſon of the King, nor to raiſe War againſt his People: ſo that we uſe it not in any other reference, but only to explain and bring the Reaſon of that antient Law to this Law. In that Caſe a Man cannot charge the Overt-Act of going about to deſtroy his Perſon, which is a diſtinct Treaſon of it ſelf, to be an Overt-Act to the Charge of levying War, which is another diſtinct Treaſon. And if he alledge, ſuch a one did go about to deſtroy the Prince, or the Conſort of the King, or the King, and to make the levying of War to be an Overt-Act to it, this he cannot do; becauſe though it is true, it might be an Overt-Act to it, yet notwithſtanding it being made a diſtinct

tinct Treaſon, it cannot be an Overt-Act to another Treaſon: And ſo here, this very aſſiſting and inviting of Forces is made a diſtinct Treaſon. And ſo if you take it ſubſtantively, it is inſufficiently laid: And if relatively, you may not do ſo, becauſe it is a Treaſon of it ſelf, and ſhall not be brought in relation to another Treaſon laid before it.

Attorn. Gen. For that, I hope Mr. *Hale* will leave me to that Liberty I have; that is, That if one Act be an Offence againſt ſeveral Acts, I may aggravate it ſo, as to make him know it is ſo. And I take it for an Aggravation of his Offence, when he hath offended againſt ſo many ſeveral Laws, which he hath done; and that I may have Liberty to ſay ſo, though perhaps that Subverſion of this Government is not in every reſpect a promoting of the Intereſt of *Charles Stuart*: But the Subverſion of this Government, as it is here laid in this Indictment, is a Promotion of the Intereſt of *Charles Stuart*. And ſo it is here. And I have done now with that.

Ld Preſident. Then, Mr. *Hale*, I will add a Word, becauſe that you did put the Caſe of a Man deſtroying the Perſon of a King, and levying of War. If it be laid; thoſe very Acts, if they be laid as a continued, or a *Medium*, or an Enterprize, that he had taken up a War to deſtroy the Perſon of the King; thoſe Words in one Senſe, if it had been laid ſolitarily by it ſelf, and deſtroying the King in another; but if he ſhewed that by levying of War, he endeavoured it, then the Denomination is from the End in that place: And though they be two Treaſons ſubſtantively, yet when they are laid as one continued Act, they are but one. And ſo it is in this Caſe: All theſe, though there are ſeveral Statutes, and ſeveral Treaſons, theſe multiplied Acts make up but one compleat in the Concluſion. If there want one of theſe, if there be ſufficient in the other, it is Treaſon enough, and too much too, (I would it were not ſo:) If they be laid in Subordination, as all theſe are, every one of them further to promote this, and to promote that, ſo they are laid in Promotion of it to every one: And then they are contiguous, and depend one upon another, and are ſubſtantive; and ſo ſubſtantial, as that they may be Relatives one to another. And ſo are theſe.

Attorn. Gen. The next, Mr. *Hale*.

Mr. *Hale*. The next is the fourth Charge; and that is concerning holding Correſpondence by Letters and Meſſages with *Charles Stuart*, and the late Queen his Mother: We ſay that this Part of the Charge is ill laid alſo. It is laid in nature of a Felony by the Act, and laid to be done traitorouſly in the Charge; and that a ſubſtantial (not a mere Formality, but a ſubſtantial) Miſtake: For if ſo be a Woman be indicted of Petty Treaſon, becauſe it is *Proditoria*, yet in truth it amounts but to Felony. Now, in Caſe where ſhe is an Acceſſary to a Felony, the Indictment is naught. If a Man be accuſed that he did traitorouſly ſuch an Action, which in it ſelf amounts but to a Felony, that Charge is nought. And ſo it is here; it is miſlaid: For by the Act of the 29th of *March*, 1650. the Matters therein charged are not made Treaſon, at moſt but capital, but we think it only prohibited, and then we ſay it is an uncertain Charge. And ſo it is, under favour: For though the Act ſaith no Man ſhall hold Correſpondence by Letters, Meſſages, or otherwiſe; yet when we come to inform upon it, or to indict upon it, it is not enough to ſay he held Correſpondence by Letters, Meſſages, or otherwiſe: but, if you will ground your Deed upon that Act, you muſt ſhew what that *otherwiſe* is. And that is the Exception to that Part of the Charge.

The Clerk. *And further, to carry on the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love *divers Days and Times, between the 29th of* March, 1650. *and the 1ſt of* June, 1651. *at* London *and other Places, as aforeſaid, did traitorouſly and maliciouſly give, hold, uſe, and maintain Correſpondence and Intelligence by Letters, Meſſages, Inſtructions, and otherwiſe.*

Mr. *Hale*. *Or otherwiſe* was our Notes; then that is out of doors: But our Exception is, That it is alledged to be done traitorouſly.

Ld Preſident. And the Statute ſaith it ſhall be Treaſon.

Mr. *Hale*. No, it ſaith not ſo: The Act lays it only in nature of a Felony, and in the Charge it is laid to be done traitorouſly; and ſo the Charge is miſlaid.

Attorn. Gen. I confeſs it is expreſt ſo in the 29th of *March*, 1650. and it is not ſaid what the Offence is; but I conceive, in the firſt place, that by the Law of *England* he that holds Correſpondence with a Traytor, will go very near it, my Lord. And then I humbly conceive that ſtill, he going upon the firſt Act, it is laid to be with *Charles Stuart*, and the Queen and Counſel with him, (I think) it is a promoting of his Intereſt: He to hold a Correſpondence with him whom the Parliament hath ſaid, You ſhall in no caſe promote his Intereſt.

Mr. *Hale*. I muſt be bold ſtill a little, to crave Mr. Attorney's Favour, to reply upon him in this kind of way; for I have not had Time.

Attorn. Gen. You have had more Time than I; for I heard not of it till now.

Mr. *Hale*. We ſay the Charge is not good, becauſe it is made Felony only by the Act, and laid in the Charge to be done traitorouſly; and then we ſay that Charge is uncertain to what Deſign it relates: If it relates to the Buſineſs concerning the promoting of *Charles Stuart's* Intereſt, if it be ſo, we conceive it is not proved: For the Proof I mention not; but that is not inſiſted upon, that Maſter *Love* did promote the Intereſt of *Charles Stuart*, contrary to the Act of Parliament; that (I think) is not inſiſted upon.

Attorn. Gen. O, yes.

Mr. *Hale*. I conceive no.

Attorn. Gen. I conceive very much otherwiſe, Mr. *Hale*.

Mr. *Hale*. I deſire that Charge once more may be read, concerning the promoting the Intereſt of *Charles Stuart*,

The Clerk. *And the better to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love, *with the ſaid* William Drake, &c. (*ſince the Death of* Charles Stuart, *late King of* England, *who, for his notorious Treaſons, and other Tyrannies and Murders by him committed in the late unnatural and cruel Wars, was by Authority, derived from the Parliament, juſtly condemned to Death, and executed) ſeveral Days and Times, in the reſpective Years aforeſaid, at* London *aforeſaid, and ſundry other Places within this Commonwealth, and ſince this Nation was ſettled in the Way of a Commonwealth, or a Free State, as aforeſaid, did traitorouſly declare, publiſh, and promote* Charles Stuart, *eldeſt Son to the late King, to be King of* England.

Mr. *Hale*. We are informed that there is nothing of any particular Act of his concerning that: But we have nothing to do with the Fact. But we conceive that no ſubſequent Thing, by way of

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Conſtruction or Interpretation, ſhall make a publiſhing and promoting in ſuch a manner as this is, it muſt be ſuch a Thing as expreſly publiſheth and promotes him to be the chief Magiſtrate of *England*, according to the Words of the Act, and not by way of Dilation: We ſay this is not a Thing to be applied to ſerve the Turn, upon this Reaſon; we ſay that the holding of Correſpondence and Intelligence with *Charles Stuart*, eldeſt Son to the late King, cannot be coupled to the Promotion of the Intereſt of *Charles Stuart*, to be King of *England*, ſeeing that is but by way of Interpretation to bring it within the firſt part of the Act.

Attorn. Gen. For that, I ſhall crave your Direction.

Ld Preſident. It is not interpretative, but poſitive.

Attorn. Gen. But I ſhall crave your Pleaſure; Whether I ſhall in my Impeachments afterwards put in all my Evidence? What is charged, and Evidence proves, that you will judge upon, I hope.

Mr. *Hale.* Then the next part of the Charge, and that is the fifth, That he did hold Correſpondence with divers Perſons of the *Scots* Nation. Our Exception to that is plain: We conceive that part of it is not well laid neither; it is not laid in purſuance of the Act of Parliament, as our Notes are. This is that we ſay, That it is not expreſly alledged, that they were Perſons reſiding in *Scotland*, our Notes are.

Attorn. Gen. Like enough ſo, Sir.

The Clerk. *And further, to carry on and accompliſh the ſaid traitorous and wicked Deſign, he the ſaid* Chriſtopher Love, *ſeveral Days and Times in the reſpective Years aforeſaid, at* London *aforeſaid, and divers other Places within this Commonwealth of* England, *and elſewhere, as aforeſaid, did traitorouſly and maliciouſly hold and maintain Correſpondence and Intelligence with divers Perſons of the* Scots *Nation, viz. with the Earl of* Argyle, Lowdon, Lothian, Bailey, Belcarras, *and divers other Perſons of the* Scots *and other Nations, whom he well knew to adhere to the* Scots *Nation in this War againſt the Parliament and Commonwealth of* England.

Mr. *Hale.* This we conceive is not a good Charge; for the Words of the Act of the 2d of *Auguſt*, 1650, upon which this is grounded, are, That no Man ſhall hold Correſpondence with the *Scots* Nation reſiding in *Scotland*.

Attorn. Gen. You were beſt read further, Mr. *Hale.*

[Then Mr. *Hale* read part of that Act, beginning at theſe Words, [*Be it enacted, ordained, and declared by this preſent Parliament,*] and ending with theſe Words, [*Without the Allowance, Licence,* &c.]

Mr. *Hale.* It is true, there is no Reſiding; for that yet comes not home, we conceive, to part of the Charge. There are two Parts of the Charge; the one, *That he did maintain Correſpondence with divers of the* Scotiſh *Nation; and with divers other Perſons of divers other Nations, whom he well knew to adhere to the* Scots *Nation in this War againſt the Parliament.* As to the firſt, that is out of doors: Then here is no full Charge of holding any Correſpondence with any of *Scotch* Nation; for that part of the Charge reſts upon this, that it muſt be with holding of Correſpondence with any ſuch Perſons as are reſiding in *Scotland*, and with any other Perſon reſiding there. Then as to the other part ——

Ld Preſident. It is a continued Speech; Not with the *Scots*, nor any other.

Mr. *Hale.* Then here is another Thing in it; That it is not averred that ſuch a Correſpondence and Intelligence was held without the Licence of Parliament.

Attorn. Gen. You are miſtaken in that; your Notes are not true.

The Clerk. *And he the ſaid* Chriſtopher Love, *within the Times, and at the Places before mentioned, did traitorouſly aſſiſt, encourage, without the ſpecial Licence of the Council of State, or Parliament, or Captain-General of the Parliament Forces.*

Mr. *Hale.* We ſay then, theſe are two diſtinct Charges, and grounded upon two diſtinct Parts of an Act. But there is this more in it, which we conceive is not to be anſwered, with Submiſſion; under favour, it is ſaid he did it within the Times aforeſaid: The Times that are aforeſaid are between the 29th of *March* 1650, and *June* 1651. Now this Act, whereby this is made traitorous or treaſonable, takes not place till the 5th of *Auguſt* 1650: So that it might be done within the Times aforeſaid, that is, between the 29th of *March* 1650, and *June* 1651, and yet not contrary to the Act of the 2d of *Auguſt*, which was 1650.

Sir *Tho. Wither.* We lay it within all the Times aforeſaid: And I ſuppoſe the Matter of the Evidence hath told you the Times, which now we are not to diſpute.

Mr. *Hale.* Whatſoever is done between the 29th of *March* 1650, and the 2d of *Auguſt* 1650, is not done contrary to the Act of the 2d of *Auguſt* 1650, upon which Act this Charge is grounded: There is a Time between them, and between the Time of exhibiting of theſe Articles. Whatſoever is ſaid to be done between the 29th of *March* 1650, and the exhibiting the Articles, is not ſaid to be done after the 2d of *Auguſt* 1650: For if it be done between the 29th of *March* and the 2d of *Auguſt*, it is done within the Time aforeſaid, that is, between the 29th of *March* 1650, and *June* 1651; and yet not done contrary to the Act of the 2d of *Auguſt*, becauſe done before the Act came forth.

Attorn. Gen. Though Mr. *Hale* will not conſent to it, we will ſtrike out the 29th of *March*; and then he will not deny but that is good enough, with that ſtricken out, before the firſt of *June* 1651. Whether it be not good enough, and no Time laid before it?

Mr. *Hale.* No indeed, it is not good enough.

Attorn. Gen. Why not? It is after the Offence committed.

Mr. *Hale.* Becauſe it may as well be before the Act, as after the Act.

Attorn. Gen. If we lay it after the Offence committed, I ſuppoſe it is well enough; and the wiſeſt will think ſo. Lay it to be the 1ſt of *June* 1651: Suppoſe it were in *September* before, it is good enough.

Mr. *Hale.* If you lay it upon the 1ſt of *June*, it is a Year; before it is not good enough.

Attorn. Gen. That that Mr. *Hale* inſiſts upon, he may ſay it is before the 1ſt of *June* 1651, ſo long ſince; but in a juſt and reaſonable Intendment, when we inſiſt upon that Law that makes it Treaſon to hold it after ſuch a time, and we ſay that before the firſt of *June* 1651, he did commit Treaſon in holding Correſpondence, and ſending Proviſions of War before that Law, though it were before the ſecond of *Auguſt* 1650, that were not againſt that Law.

Mr. *Hale.* Still we ſay, That *contrary to the Form of the Statute*, or *contrary to the Form of the Law*, which is but the Concluſion, ſhall not ſupply that which

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is material to be alledged. Now when here is an Act laid to be done, certainly it is material to alledge that it is done in ſuch a Time as may appear to be after the Time of the Prohibition of it to be done. The Prohibition runs to the 2d of *Auguſt* 1650, That no Man after the 5th of *Auguſt* ſhall do ſuch an Act: Then it muſt be laid to be an Act done after the 5th of that *Auguſt*. But it is not laid ſo here; but laid ſo as may be intended to be done before the 5th of *Auguſt*: For here is a Time laid between the 29th of *March* 1650, and the Time of the exhibiting the Articles, which is in *June* 1651, and that he did this within the Time aforeſaid. Now he that ſaith he did it the 30th of *March*, ſaith he did it within the Time aforeſaid; and yet ſaith not that is within the Act.

Sir *Tho. Wither.* We have given an Anſwer to that: We have laid it within and without the Time. That is within the Time, the Witneſs doth prove it; and Mr. *Hale* ſpeaks not to what we have proved, and cannot ſpeak to it.

Mr. *Hale.* The Proof ſhall never ſupply the Inſufficiency of the Charge: For we may as entirely offer you an Exception to this Matter after you have heard the Proof, as before you have heard it; for it ſtands no was upon the Charge ſingly; ſo that it ſhall not be ſupplied out of Matter that appears in the Proof, but it muſt be conſidered whether the Charge can ſupply it ſelf, or not: for that that is alledgable againſt the Charge before the Proof made, is alledgable as well afterwards. If it were not good before the Proof, the Proof ſhall not be ſupplemental to it: For upon that Reaſon, if an Indictment did want Time or Certainty, then after the Party were heard upon his Defence, it might be ſaid, when this Exception was taken to the Indictment, all this might appear upon the Evidence. But that will not ſupply the Defect of the Indictment.

Attorn. Gen. I am ſure we have laid it late enough, the firſt of *June* 1651, before that Time; and Mr. *Hale*'s Exception is ſtill upon that way of Proceedings upon Indictments: He muſt have that poſitive and ſtrict Certainty in it in each Particular. I muſt give it that Anſwer ſtill, that if you do in theſe Caſes put me to it, to expreſs every particular Circumſtance of every particular Fact, and every particular Time, and that it muſt conduce in the Concluſion of it, I muſt make you Impeachments that will not be fit for you to read, nor hear: But, under favour, if that it contains in it in this way of Charge that convenient Certainty, that Convenience that may put the Priſoner to the Knowledge of it, and to prove it. For this relates not ſingly: For if I ſhould go that way Mr. *Hale* hath laboured to draw me, that is, to take every one of theſe ſeverally, and that I muſt make a diſtinct Charge upon one, and upon the other, and a diſtinct Evidence upon one, and upon the other; I conceive theſe run quite through all the Laws, every one of them. Had I confined this now between the 5th of *Auguſt* 1650, and *June* 1651, then what had become of all the Laws before that Time? Therefore to make them relative to all, I have expreſs'd ſuch a Time as may relate to all: For had I confined it ſingly upon this or that Act, whereas I humbly conceive that theſe Acts, and theſe Offences of Mr. *Love*, are relative to more than one Act of Parliament, and go to ſeveral Acts: And therefore I cannot confine my ſelf to one Act, and ſay it was done at ſuch a Time, and there limit it, and let it die. But my Endeavour hath been, and upon this Particular we debated it, when we did draw it; we put it ſo that the ſeveral Acts may have the ſeveral Effects, and Mr. *Love*'s Treaſons look upon every one of them, and they upon every one of his Treaſons; and as his Offences run through, and againſt all the Acts, ſo muſt our laying it upon him run, and the Evidence alſo. And though we took care to lay it back far enough, that was, to the 1ſt of *June* 1651, and ſo laid it high enough to the other, that it might reach the reſt. And in this way we are not tied ſo to expreſs it in every Particular, as other Indictments run.

Mr. Hall, *Attorney of the Dutchy.* He would charge it upon the Times between the 29th of *March*, and the 1ſt of *June*, that be not the Times that we have expreſt in this; for it is that within the Times aforeſaid we have poſitively laid, that it was in the Year 1651: For we have laid before, that in the Year 1648, 1649, 1650, 1651; then in the Times aforeſaid we have poſitively laid that this Fact was done in the Year 1651, which of neceſſity muſt be ſince that Act concerning the *Scots* was made: And that I conceive is an expreſs poſitive Time mentioned in the Charge, and gives a full Anſwer to that Objection; for it is not within ſuch a Time, but in the Year 1651.

Mr. *Hale.* That Charge is within the Times aforeſaid, which is laſt mentioned, between *March* 1650, and 1651.

Mr. *Hall.* That we ſhall ſubmit to the Court, whether in the ſame Times aforeſaid ſhall not relate to all the Times before mentioned, as well as the particular Times he hath picked out; for we mention that in the Year 1651 theſe Things were done.

Attorn. Gen. For that I have given you, that that is the general Anſwer, if I be put to it: Whereas Mr. *Love* had tranſgreſſed againſt thoſe ſeveral Acts of Parliament, we have put it ſo, that we conceive his Offences run through them all; and ſo we have laid them: And (I hope) we are not upon thoſe Niceties, that we muſt expreſs the direct Days and Times, as Indictments run: But here is enough to make him know his Offences.

Ld Preſident. I conceive it is much better as it is too, and more obvious to every Underſtanding, and their Interpretation, than as you would have it, a great deal: For the Neceſſities of the Day, it is not material, that you will agree; nor the Week, if they lay a Time ſo many Months before, or after, if the Proof come and fall within the compaſs of the Charge. As the Proof is laid, ſo is the Fact; The Proof determines whether it were within the Times without the Law, or within the Times aforeſaid; for it is not within that Time, and every of them, but within the Times generally laid, all thoſe Acts were done. And thoſe muſt be laid in particular which was at one Time, and one at another, which were two Years a brewing, and are by the Proofs laid in general; that is beſt to ſay one Fact was done at one Time, and another at another Time, and at ſuch a Time, and not at ſuch a Time. It can be no Man's Judgment to be ſo laid in an Indictment or Charge; but they muſt be laid thus in general, and the Evidence muſt make it particular, that it was within the Times that are laid; as when there are no Times, as from *March* to *June* and *Auguſt*; and after, if they be both laid, if the Fact be within ſuch a Time that is within the Law, all the other is out of doors.

Mr. *Hale.* My Lord, thus, if it pleaſe your Lordſhip, I think, with Submiſſion to your Lordſhip's Judgment, that in ſuch a Caſe it is not in the Proof to make good a Charge: If the Charge do not contain a ſufficient Certainty, it is not in the

Proof to make it good. My Lord, I inſiſt now upon the Neceſſity of a Day to be preciſely laid. I know (though it is true, it hath been otherwiſe held in ſome Caſes) yet in a Caſe of this nature, the Day is now material; for now we are upon an Act of Parliament. As now, if ſo be the Statute of the 29th of *Elizabeth* enacts that every Man that ſhall knowingly entertain a Jeſuit, that that Man ſhall be a Traytor, ſhall ſtand guilty of Treaſon; if ſo be a Man would ſay in an Indictment, that ſuch a Man between the 28th of *November* in the 28th Year of the Queen, and the 28th of *December* in the 29th Year of the Queen, did entertain ſuch a Jeſuit, this Indictment would be naught, not upon the Uncertainty of the Day, but becauſe it takes in a Time which is not prohibited by the Statute. The Indictment may be true, that he did receive a Jeſuit within that Time, and yet that he did not receive him contrary to the Form of the Statute; and to ſay in the Concluſion *contrary to the Form of the Statute*, will not help it. For that is our Objection, that it is not done contrary to the Form of the Statute, becauſe it takes in ſuch a Time, as that it might be done before the Statute came forth. We ſay, that when there is a Time laid between the 29th of *March* 1650, and *June* 1651, and that within that Time he did do thus and thus, there is the Fault; it doth over-reach the Time of the Prohibition of the Statute, for any thing appears to the Court: The Court may find the Indictment or Information true, that he did it within this Time, that is, between the 29th of *March* 1650, and *June* 1651. and yet for all that the Party not in fault to be impeached, becauſe he might do it contrary to the Act; for he might do it between the 29th of *March* 1650, and *June* 1651, and yet do it before the Act came forth, which was in *Auguſt* 1650.

Mr. *Hall.* My Lord, I conceive Mr. *Hale* hath not anſwered that I alledged: But now, if there were no other Times mentioned in all the Charge, but only between the 29th of *March* and *June* 1651, then it were ſomewhat; but when the Times are expreſs'd before, though that it was in the Year 1651, and then we ſay in the Times before ſaid, I conceive that in the Times aforeſaid ſhall relate expreſly to that Time in the Year 1651, and then it muſt be within the Act.

Mr. *Hale.* That cannot be; that will make the Charge worſe.

Ld Preſident. That I conceive you are upon, is this, The very Letter of the Charge: For you ſay, At this Time that is laid he could not be a Traytor, and you join it with a Time in which he might be a Traytor. This (you ſay) they lay in the Indictment, That he did in ſuch a Time of *March*, and afterward; and at that Time there was no Law to prohibit it, and ſo that could not be a Crime againſt him; and this, you ſay, no Proof will help it: I take it, Mr. *Hale*, this is the Subſtance. But if this be thus laid, and the Proof doth come in, this is very eſſential in my Judgment, when upon the Matter, if this be, as you ſee it appears upon the face of the Thing, that the Proof muſt go to that Time within the Law; and therefore that will not vitiate at all ſuch an Indictment, if it were ſo as you ſay. But I take it, that this being complicated with more Laws, as I ſaid before, though he were not guilty upon this, yet in the Concluſion he is found guilty of that which is as to other Offences.

Attorn. Gen. I ſhall ſay but this: We all know that a Time is expreſs'd but for Formality; and that Time that is expreſs'd, is not material, ſo it be laid far back enough. But if I lay it in *June*, and prove it in *June* Twelve-months, it is time enough for this, as your Lordſhip was ſaying. That which I do ſay is, That I cannot confine this very Act that is ſuppoſed to be, and yet not laid to be againſt that Act of the 2d of *Auguſt* 1650, from this Clauſe, in expreſs Terms, not ſingly. But that which I humbly inſiſt upon is this, That never a one of theſe Offences ſingly tranſgreſs one ſingle Law, but is an Offence againſt ſeveral Laws. I conceive I had done my ſelf and the Commonwealth wrong, had I limited it to any one; for his complying with the *Scots*, and joining with them, and contributing with them, and receiving Intelligence, it is more than againſt that ſingle Act; It is Promotion of his Intereſt, and Subverſion of the Government, and againſt every one of the Laws. And therefore, I conceive, I had not done right to the Place I am entruſted with, if I ſhould have laid it ſingly. But he is indicted, That as a falſe Traytor he hath done theſe Things: that is the Preamble. And then we inſtanced the Particulars, and give a Time; which Time he will acknowledge is not poſitively neceſſary to be true, that that Time muſt be the Day the Fact was committed; but if it be before, it is enough. But he infers, becauſe this ſeems to be an Offence within the Statute of the 2d of *Auguſt* 1650, and is laid between the 29th of *March* 1650, and the 1ſt of *June* 1651, and ſo whether this can relate to that Act: And by Evidence you know it is afterwards. But this being an Offence againſt ſeveral Laws, I cannot charge it to be againſt one Law: But the Art is now, as Mr. *Love* began, to take it aſunder and ſingly, and then it is nothing: And Mr. *Hale* takes it ſingly. It is not againſt this, nor againſt this; but it is againſt every one of them; and not againſt this ſingly, but againſt the reſt of them.

Sir *Tho. Wither.* My Lord, it cannot be contrary to the Form of the Statute, unleſs it be done after the Time, ſo that the Concluſion ſhews it was laid within the Time. But for the Caſe, as Mr. *Hale* inſtanced in: He puts a Caſe of one Act of Parliament; we are now upon Offences againſt ſeveral Acts of Parliament. In that Caſe, of retaining a Jeſuit, he is a Traytor by the Act of the 29th of *Elizabeth*; ſo that if he lays it between the 28th of the Queen, and the 29th, if the Jury find that he did retain him knowingly on the 10th of *May*, 29, then it will not be denied but that it is an Offence againſt the Statute.

Mr. *Hale.* But ſtill we ſay the Indictment is naught in that Caſe, becauſe it takes in a Time which was before the Act came forth; ſo that the Party might do it within the Time expreſt in the Indictment, and yet not do it contrary to the Act: And this is our Caſe.

Attorn. Gen. My Lord, you have heard us for that.

Mr. *Hale.* The laſt Thing is concerning Contribution to *Sylas Titus*, and *Sterks* a *Scotchman*. And to that we have the ſame Exception; That that is not made Treaſon by any Act of Parliament: And therefore it is miſlaid to be done traitorouſly; for the Statute of the 26th of *March* 1650, only prohibits it, and ſo makes it penal, but not Treaſon. But then we ſay again, it is laid very uncertainly too, that is, at the Times before mentioned. If Mr. Attorney of the Dutchy's Conſtructions ſhould ſtand, that is, that the Times before mentioned refer to the Time paſt, then he may refer to a Time before the Act. But we conceive the Thing it

ſelf is not Treaſon by the Act, but only prohibited; and we conceive, under favour, ſtill, that by way of Reduction to any of the former Charges, this ſhall not be made as an Inſtance or an Overt-Act, by way of Reduction to any of the former Charges, becauſe it is charg'd particularly to be traitorouſly done, becauſe there are ſeveral Charges of Treaſon before: And that which Mr. Attorney was pleaſed to obſerve upon another occaſion, That in this Caſe the Charge is againſt ſeveral Acts of Parliament, it is true; but tho it be againſt ſeveral Acts of Parliament, yet it muſt bind and pinch upon one: For we ſay one Treaſon is not to be made an Inſtance to another, and ſo to be made acceſſary, and depending, and accidental to another. And then we ſay in this caſe, that this being not a Treaſon in itſelf, and being as uncertain to which of the former Treaſons it is apply'd, it cannot be well laid, nor well apply'd, that is, to the laſt, that he did voluntarily relieve *Silas Titus*, it is not made Treaſon.

Attorn. Gen. It is againſt the Act of the 2d of *Auguſt* 1650, in expreſs words: read the Impeachment.

The Clerk. *And further to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love, *within the Times and at the Places laſt aforeſaid, did traitorouſly and voluntarily relieve the ſaid* Silas Titus, Edward Maſſey, *Col.* Bamfield, *one* Maſon *late of* London *Gentleman, and one* Sterks *late of* London *Gentleman, who then were, and yet are under the power of the* Scotch *Nation in Arms againſt the Parliament and Commonwealth of* England, *with Moneys and Ammunition. Which Treaſons and traitorous and wicked Practices and Deſigns of him the ſaid* Chriſtopher Love, *were and are to the apparent Hazard of the publick Peace of the Commonwealth and Free-State, Parliament and People of* England, *and to the manifold Breach, Contempt, and Violation of the Laws of this Land, and contrary to the Form of divers Statutes and Acts of Parliament in ſuch caſe made and provided.*

Mr. *Hale.* Then we ſay, it is uncertainly alledged, and uncertainly laid; but we take it, it is not within the Words of the Act, we deſire that Act may be read.

The Clerk. *That ſhall from and after the 5th of* Auguſt 1650, *uſe, hold, and maintain any Correſpondence*, &c.

Mr. *Hale.* Then this is not within this Act, becauſe that this is concerning ſending to Perſons that are in *Scotland*; I obſerve not that it is charged that they were in *Scotland*.

Attorn. Gen. Or ſhall abet, aſſiſt, countenance or encourage the Scotch *Nation, or any other Perſon or Perſons adhering to them in their War againſt the Commonwealth.* What think you of relieving, is not that abetting and encouraging?

Mr. *Hale.* It ſhould be laid ſo then, I deſire that part of the Charge may be read again.

The Clerk. *And further to carry on*, &c.

Mr. *Hale.* My Lord, we think this is not fully charged according to the Act.

Attorn. Gen. I will read you another, of the 26th of *March* 1650.

Mr. *Hale.* That makes it not Treaſon.

Attorn. Gen. It comes very near it, but I inſiſt upon it, it is under the other, relieving them with Money, buying of Arms.

Mr. *Hale.* Still the ſame Exception lies upon it, within the Times aforeſaid, which certainly cannot be acknowledged.

Attorn. Gen. We acknowledge the ſame Exception; and the ſame Anſwer lies to it, that of the 26th of *March* 1650, it is, he ſhall ſuffer Death: and upon this it is Treaſon upon both together, we cannot divide them, but muſt expreſs them ſo.

Mr. *Hale.* Under favour, the one makes it Felony, and the other a Treaſon.

Attorn. Gen. But it is a deadly one.

Ld Preſident. If a Statute Law makes a thing Felony that was not Felony, or recites a thing that is Felony, and ſaith it ſhall be puniſhed with Death, being a Petty Larceny, therein you ſay well; but if the Statute recites that that is Treaſon in itſelf actually, and ſaith that they that do theſe things ſhall ſuffer Death, according to the nature of that Offence that is formerly recited, and limits it ſo in the Recital, if the Recital be Treaſon in the beginning, and then ſay, that that Traytor ſhall ſuffer Death without mercy.

Mr. *Hale.* We have ſhewed our Reaſons in the Caſe, my Lord, it is as much as we can ſay upon this ſudden concerning this Charge; there are ſome other things that are mentioned here by Mr. *Love*, as how far forth there be ſufficient Witneſſes, admitting the Charge were good; how far forth the Witneſſes are ſufficient in themſelves; and then whether here be two concurring Witneſſes to any one Act, and whether any thing be more proved than Miſpriſion of Treaſon, and Concealment of Treaſon: theſe are things Mr. *Love* takes upon him in fact to ſay. And now for thoſe, when the Caſe is made, we ſhall be ready to ſpeak to theſe things; for truly it is ſudden and new to me, for theſe matters came not to my knowledge till this Morning after Eight a-clock; that is, concerning the laſt Paper he offers to your Lordſhip, and that is, Exception to Witneſſes, Proof, and Matter of the Proof, whether the bare Concealment (for thus it is ſtated unto us, the *Concealment*) of any thing that is Treaſon, whether that be Treaſon or no in the Party that conceals it; theſe are things that if we were prepared for, we ſhould ſpeak to. Firſt, we conceive by the Statute of *primo & quinto Elizabethæ*, there is a neceſſity in this Proceeding before your Lordſhip, to have two lawful and ſufficient Witneſſes. Next of all, we think, that if theſe Witneſſes be ſuch as he hath ſtated them to be; which whether they be or no, we know not, for we are utterly unacquainted with the Evidence, yet we ſhould think they are no ſufficient Witneſſes: and then admitting they were ſufficient Witneſſes, yet if ſo be one Witneſs ſpeaks to one Fact, another to another, we conceive theſe are not ſufficient Witneſſes within the Statute, not ſufficient to convict him. And then, if that which they have witneſſed be nothing that amounts to Treaſon, haply committed by others, that makes him not guilty within the Acts. If we had time to underſtand, and digeſt, and conſider, what were the Matters that are alledged, we ſhould be able to ſay ſomewhat to it. My Lord, that which we have ſaid, we have ſaid of a ſudden; and ſo it appears, becauſe we had not that clear Underſtanding of the Charge, as otherwiſe we might have had, and ſo have ſaved much of your time.

Attorn. Gen. For that that hath been ſaid ſuddenly by Mr. *Hale*, I ſhall ſuddenly give it this Anſwer: He hath had more time than I, he hath ſaid from Mr. *Love*, and not from himſelf: he ſaith when the Caſe is made; I think it will appear then, that theſe Exceptions have been made to the Court, that the Witneſſes have not been competent neither in Quality nor Number, they have been

ſpoken

ſpoken to. For the Witneſſes, the Exception to the Quality becauſe they were of the ſame Gang, they had a hand in the ſame Treaſon, that was the Exception; I think that will not be allowed to be a legal Exception, they are Perſons that (as Mr. *Love* pretended) had a hand with him in this Fact, and therefore they ſhould not be competent Witneſſes; that I ſhall appeal to Mr. *Hale*'s Judgment, before Conviction, and upon a Proceeding, whether they may not diſcover (and after Conviction) if they be Approvers. For the next, for two Witneſſes; when the Caſe is made, you will find one, two, three, four, five, ſix, and to moſt of them two, three, and four, for ſo I may make bold to ſay, for ſo I read them to you the laſt day. And then for the laſt Exception, that was for the Concealment of Treaſon, it is far from it, for I know not what a Concealment Mr. *Love* may intend; I am ſure Mr. *Hale* will not think that a Concealment, to run on one, two, or three Years, and run on, and ſend Letters; that when he acts along with them, and hath the Meetings at his Houſe continually, moves them to receive Money, and contribute; I think he was the higheſt Actor amongſt them, for the Meetings were continually at his Houſe, the Advices were there reſolved upon Debates, there he gave his Advice one way, and they another way: I think he will not think this is but Miſpriſion of Treaſon; and we never did charge it, nor intend it ſo, but went a little higher.

Mr. *Hale*. If that be declared to be inſiſted upon, that the non-revealing of Treaſon, though it be a Month or two, or a Year or two, can be no Treaſon, then we have done with that Queſtion; for then it will reſt ſingly upon the Fact before your Lordſhip, whether there be any thing more proved than ſuch a Concealment, then it is true we are diſcharged of that Queſtion. But then concerning the Proof, if Maſter Attorney will pleaſe to admit, that the Proofs are ſuch as Maſter *Love* hath ſtated in this Paper——

Attorn. Gen. That I ſhall not do before-hand, but to debate upon the Proof, I ſhall crave your Lordſhip's Directions; I have gone over them already, and it hath been trouble enough to me; if it be your Lordſhip's pleaſure I muſt go over the Proof again, I ſhall ſubmit to you, but not to him.

Ld Preſident. Mr. *Hale*, there is no Witneſſes that have been heard, but they have been of the ſaid Confederacy, that was one Exception Mr. *Love* made; it was debated at the producing, and over-ruled, and I believe your Judgment will go well with us, that it was no Exception. Another was, That they have been promiſed Rewards; that was likewiſe moved and over-ruled, the Court was of opinion that they may do it; that if there be a Treaſon, and there be many Correſpondents in it, and one out of remorſe, as ſome of theſe did ſay, that when they had been there they did not like their ways, but went from them, and came to them no more; if this Man, or any other Man afterwards ſhall come and reveal this, it is in the power of the State either to reward him with Moneys, and to promiſe him Life too, if he ſhall faithfully do it. And this, we ſay, is a ſtronger Caſe than the Caſe of an Approver, which afterwards when they became Approvers, they muſt confeſs the Fact, and ſay they are guilty of the Fact plainly and openly, and yet then they are good Witneſſes to diſcover this, as it was plotted in Hell, for this was no other, tho they had a Vizard upon them, which was no otherwiſe: I ſay, if any one will diſcover ſuch; nay, haply it was offered to Maſter *Love* himſelf, if he would have done it; I believe there was ſome Overtures made to him. But this is Law too, by the Law of this Land, which is the Law of God; for we have no Law practiſed in this Land, but is the Law of God, and ſo did the Lawyers maintain it before the King, in *Henry* the Eighth's time, the Pope's Legates, and chief Archbiſhops and Biſhops of *England*; and did then prove it to them, that there was no Law practiſed in *England* but the Law of God, which our Miniſters are loth to touch, and buſy themſelves to ſtudy, but ſtudy the Ceremonial Laws of the *Jews*, which are *Moriuæ Mortiferæ*, which are not to be practiſed by any other Nation, till they be eſtabliſhed by a Law: and that which is the Law of God in this Land, that hath ſo much preſerved it, theſe they are wilfully ignorant of, and ſay, it is civil; but I ſay, it is Chriſtian Law. And therefore never diſtinguiſh in a Chriſtian Nation, that the Laws are Moral and Eccleſiaſtical, with that feigned Diſtinction; but all the Laws of this Nation are Chriſtian, and ſtand with Evangelical Truth, as well as with natural Reaſon, and they are founded upon it: and therefore, Maſter *Hale*, we are here now to go on by theſe Laws, which are the Laws of God, and we muſt walk in them, as we would walk to Heaven. And for that you ſpeak of now, Mr. Attorney hath anſwered all the Exceptions every one; and I think for that Matter of Fact, every one of them particularly. Mr. *Love* did take his Exceptions too, and they were over-ruled. Now to come whether theſe are lawful Witneſſes over again, when it is in Matter of Fact, and over-ruled by the Judgment of the Court, Maſter *Hale* will not think that is regular. And then, whether there be two to one Point or not, that is another of your Exceptions; that, I take it, (Maſter *Hale*) is not Matter of Law, but for the Judges to conſider of it: that which ſhould be Matter of Law, is this, whether that ſingle Proofs, ſome to one, and ſome to another, joined all together do iſſue out all this Treaſon. We want not Precedents for that, for this is a heterogeneal Treaſon; every Particular that theſe Statutes make a Treaſon, they are all of them complicated, he hath gone through them all in his Act, and we muſt paſs through them all in our Judgments: tho every one is particular Treaſon, had it been ſingularly laid by itſelf; yet now being laid as one concatenated Treaſon, they all of them make but one. For the next, for that of Miſpriſion, he is not charged here with Miſpriſion at all, but direct Treaſons; and if it be but Miſpriſion, we ſhall not for Miſpriſion judge him a Traytor upon this Charge. But then, what is in his Judgment Miſpriſion? If this be nothing but a Concealment, I think that the Court upon the Evidence will judge that it is more than a bare Concealment; and whether Mr. *Hale* will think, if I be a Promoter and Concealer from one to another, and have ſo many continued Meetings, whether two or three Years together acting with them, and concealing them, for it is not a bare Concealment, but a complicated Act: for if it were but a bare Notion of it, we ſhould have much ado to prove it; but (I think) the Court is ſatisfied, it is more than Notion.

Sir *Tho. Witherington*. I ſhall ſpeak a word to that Mr. *Hale* moved laſt, whether you will be pleaſed to hear any more of Counſel in theſe three Particulars; for, under favour, theſe three Particulars concerning the Witneſſes, concerning their Quality and Number, and the Treaſon itſelf, theſe are

Matters of another kind of nature than all the reſt he inſiſted upon, for the reſt are mere Matters of Law, upon the Formality and Inſufficiency of the Charge: theſe Queſtions of the Witneſſes are Queſtions that are mix'd, for they depend upon the Matters in Fact, and cannot be otherwiſe ſtated. Now Mr. *Love*, tho he had no Counſel appeared before, yet he had in his Defence all theſe Objections too; as of the Incompetency of them, becauſe they were *Participes criminis*, and for that I think (under favour of your Lordſhip's Judgment) he had a full and clear Anſwer to it: in caſe of an Approver, he is *Particeps criminis*, and accuſeth Men that are *Participes criminis*, yet that Man, even *ex merito juſtitiæ*, he ſhall be pardoned, ſaith our Law: and therefore that Objection that is made againſt the Witneſſes, that they are promiſed Rewards and Pardon, that is no Objection, for in that caſe the Approver ſhall have his Pardon *ex merito juſtitiæ*. Then for the other Point, that is, whether by two Witneſſes in ſuch a Plot or no, to prove a Treaſonable Act, that is, conſiſting merely upon the Matter of Fact; that I ſhall not take upon me to repeat, you have heard it: but this I ſaid then, and this I humbly offer now, that if there be two Witneſſes, tho they concur not in the ſame individual Act, yet if they concur in two Acts, concurring to the ſame Treaſon, they prove the ſame Treaſon; if one prove the ſending of Letters, and another the ſending of Money, I take it theſe are two Witneſſes, tho they ſpeak of two diſtinct Acts: but in our Proof we have gone on to two Witneſſes, three or four in moſt points. But then for the Miſpriſion of Treaſon, we did apprehend that that which Mr. *Love* himſelf hath confeſſed, is Treaſon itſelf; but Mr. *Love* is pleaſed to make his own Collection upon his own Confeſſion: *For I confeſs my Preſence and Silence after theſe Meetings and Conſultations, but this I take to be Miſpriſion of Treaſon.* To this I replied, we took it to be Treaſon itſelf; for our Books ſay, a Man muſt not ſleep, nor look back, but go preſently to a Magiſtrate to reveal it: but when a Man will not only ſleep upon it, but keep it back, and act in it, this is more than Miſpriſion. But our Charge is for a Treaſon itſelf, and truly Treaſon comprehends a Miſpriſion of Treaſon in it; but this Point I think neither will come in queſtion now: for we ſay and charge, that it is a Treaſon itſelf, not Miſpriſion; and that Collection Mr. *Love* makes, it is his own, but the Judgment is yours, whether it be a Treaſon or not.

Mr. *Hale*. If it be your Lordſhip's Pleaſure, we are ready to ſay what we can in the ſhortneſs of time; but if it be not your Lordſhip's Pleaſure, we ſhall not ſay it.

Attorn. Gen. If your Lordſhip pleaſe to declare what he ſhould ſpeak to.

Mr. *Hale*. Theſe Points, I ſhall only mention them, I cannot argue them now. This is that I conceive; firſt of all, according as the Caſe is ſtated, that is, Whether a Perſon menaced, that he ſhall loſe his Life if he diſcover not a particular Perſon, and that he ſhall have his Life if he do diſcover him, whether ſuch a Perſon be a competent Witneſs or no?

Attorn. Gen. Hear a word; I appeal then to you, whether any ſuch Perſon were produced before you.

Mr. *Hale*. Firſt, we only go upon what Suppoſition Mr. *Love* makes.

Mr. *Love*. I humbly crave leave to that effect, to prove that particular.

Attorn. Gen. No, not now, Sir.

Mr. *Hale*. We conceive ſuch a Perſon is not a competent Witneſs: then that is out of the Caſe, it ſhould ſeem, Sir. Truly, then the Caſe that is put concerning an Approver, comes not to the queſtion, under favour; for tho it is true, an Approver at Common Law might be an Accuſer, yet we are not now upon a Proceeding at the Common Law, when we talk of Witneſſes now, but we are upon a Proceeding how far forth warranted for the Witneſſes, by the Statute of the firſt and fifth of *Edward 6.* So that what is ſaid concerning an Approver, comes not to this Queſtion; he that may be a competent Witneſs at Common Law, he is not a competent Witneſs upon thoſe Statutes, for the words of the Statute are expreſly, *That he ſhall be a lawful and a ſufficient Witneſs.* And if ſo be that ſuch a Caſe were now, it is not to ſample this Caſe that is before you with the Caſe of an Approver, which is a bare Accuſation at Common Law, and where the Jury likewiſe are to have other Evidence: for either the Defendant may wage his Battel, or put himſelf upon his Country; and then it is at the pleaſure of the Jury, whether they will believe the Approver or no. But by the Act of the firſt and fifth of *Edward 6.* it is expreſly ſaid, *There ſhall be two ſufficient Witneſſes in caſe of Treaſon:* ſo that that hath made an Alteration of what was in the Common Law before; one Witneſs was enough before, now two Witneſſes are requiſite: and we conceive, the words *lawful and ſufficient* conclude ſuch Perſons. If there be not any ſuch, we are not to ſay we know, or know not: but if ſo be any Perſon is drawn to make ſuch a Teſtimony for the Preſervation of his Life, and ſhall make ſuch an Expreſſion, we think, that tho it is true he is a Perſon that is attainted, yet he is a Perſon that is thus drawn, and we think he is not ſuch a Witneſs as is intended, eſpecially in ſuch a Caſe as this is, where the Tryal of the Fact is before your Lordſhip, which is both Jury and Judge to try the Fact, and determine the Law; and therefore perhaps here will be a more rigorous Expectation who ſhould be, and who ſhould not be a ſufficient Witneſs, than in caſe it were a bare Tryal by Jury: there may be thoſe Exceptions alledged againſt a Witneſs when the Tryal is as now it is, that may not be when a Tryal is by a Jury; and therefore if ſo be that a Party be thus drawn to teſtify for the Preſervation of his Life, we think that this is not ſuch a lawful and ſufficient Witneſs as is required in ſuch a Caſe. Next of all, it is ſaid in the Paper, That they have detected themſelves, being Parties of as deep a Guilt as the Perſon that is accuſed. I will not diſpute that at this time; for it is not the Caſe, whether a Perſon that is a Plotter and Confederate with one that commits Treaſon, may be a Witneſs; but when a Perſon is detected by lawful Authority, before the Charge exhibited, whether ſuch a Perſon who is ſo detected, whoſe Life is in the hands of the State, be one of theſe competent Witneſſes, we muſt leave it to your Judgment in that: but we think he is not a competent Witneſs; for there is not a bare Accuſation of a Perſon, but (as the Caſe is ſtated to us) by a Perſon that ſhould be examined, and confeſs himſelf guilty of thoſe things whereof Mr. *Love* is impeached, and that before the Charge is exhibited. My Lord, the next Matter is concerning the Plurality of Witneſſes, the number of them; we think, under favour, with ſubmiſſion, that in this caſe ſuppoſe the Charge had been ſingly upon one Act of Treaſon, we conceive, that

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in that caſe there is a neceſſity of two Perſons to prove that Charge: If the Charge be upon ſeveral Acts of Treaſon, be the Charge ſo; yet if you will bring them within any one of the Acts, you muſt have two Witneſſes to bring them within that Act. For ſuppoſe a Man were indicted of Treaſon heretofore for levying of War, and another Treaſon for adhering to the Enemies, and another Treaſon for counterfeiting of the Coin, or thoſe kind of things; theſe are ſeveral Treaſons, tho they are all put into one Information, and haply may be put, in caſe of neceſſity, into one Indictment, as here are ſeveral Acts put into one Charge. But now a Proof of Treaſon within one of the Acts by one Witneſs, and a Proof of a Treaſon within another of the Acts by another Witneſs, will not be eſteemed and accounted a Proof by two Witneſſes; for it muſt be a Proof, not that he is within the Charge, but within that part of the Charge upon which he is to be arraigned: and here is not a proving each diſtinct part of the Charge by two Witneſſes, as the Statute requires. And then to come nearer, ſuppoſe the Charge were but upon one Act, as that he held Correſpondence with the *Scots*, and did invite them, *&c.* I conceive that in this caſe, under favour, that that particular Act with which you will charge him to be a Traytor within any one Law, muſt be proved by two Witneſſes. The Star-Chamber Courſe, I know what it was, that in caſe there were one general Charge, and then it did deſcend to ſeveral Particulars; one Witneſs would ſerve for one, and another to another, and a third to a third, and theſe ſhould make up two Witneſſes to convict the Party: but we are not now in a Proceeding of Star-Chamber, that is laid by, it was not altogether ſo regular in all things; and then we are not in a thing barely criminal, but in a Caſe of Life; and not in the Caſe of Life ordinarily, but in a Caſe wherein a Party is accuſed of Treaſon, wherein the Statute doth provide that there ſhall be two Witneſſes (as I conceive) to ſwear to the ſame thing, by which you would bring him within it; otherwiſe they ſtand as ſingle Witneſſes, every one apart. I have heard of a Caſe (I have not had ſo much time as to look into it) concerning Mr. *Rolph*, indicted at *Wincheſter*; I will not ſo much as repeat over the Caſe upon my Credit to the Court; but I take it, it was thus: He was indicted for ſomewhat about the Perſon of the King; one Witneſs depoſed about the preſenting of a Piſtol, or that he ſaid he would; another about poiſoning, or that he ſaid he would: theſe two things did conclude in one and the ſame Act; and tho they concluded in one and the ſame as Evidences, complicated Evidences to make good one Charge, and either of them had been ſufficient, if proved by two; yet as I am informed (this is the Inconvenience, upon the ſudden we cannot offer it upon the confidence of our own Knowledge, which a little time would make us wholly decline the mentioning of it, or affirm it upon our Credit; but this I am informed) was not held a Caſe proved by two Witneſſes: and if that be ſo, then I conceive theſe Steps; the firſt will be agreed, that the Proof of ſeveral Charges by ſeveral Witneſſes, againſt ſeveral Acts, will not make a Proof by two Witneſſes; it muſt be a Proof by two Witneſſes againſt one Act. Therefore the Proof of any thing againſt the Act of the 17th of *July* 1649, and another Proof of a thing done againſt the Act of the 30th of *January* 1648, and another for a thing done againſt the Act of the 2d of *Auguſt* 1650; here the Offences are ſeveral, the Treaſons ſeveral, and the Witneſſes to either ſtand ſingly by themſelves. How the Caſe of the Fact is upon the Proof, I cannot tell; that is, whether this falls out to be the Caſe. But again, if the Charge were ſingle, as now upon the Act of the 30th of *January* 1648, for proclaiming of the King, or promoting the Prince of *Wales*'s Intereſt to be King of *England*; we think, with ſubmiſſion, (which we ſhall leave to your Judgment) that in that caſe there is a neceſſity of two Witneſſes to ſpeak to one thing; and not one to ſupply one part, and another to ſupply another: That ſhall be as much as I ſhall ſay concerning that; and I could wiſh that we had had ſo much time as to look into it, to inquire what the Truth of that Caſe was which was try'd at *Wincheſter*, as I take it. Now for the other Matter, that is, Whether Miſpriſion of Treaſon, Concealment of Treaſon, be Treaſon; if that be not inſiſted upon.

Attorn. Gen. No, no.

Mr. *Hale*. Under favour, the Law is, That Concealment of Treaſon is not Treaſon; but if that be not inſiſted upon, then the Queſtion of the Fact is, Whether there be any more than a Proof of a Concealment, or of a Miſpriſion of Treaſon? which if ſo be it be not, I can ſay no more.

Attorn. Gen. Truly, my Lord, I did intend to ſpeak to that of Mr. *Love*'s Caſe, and as of his making, but not now of his making, but as he hath made it formerly; ſurely, it is a great deal of Patience and Favour you have afforded him, that for Matter of Fact and Law you have heard it all over again. As for that firſt, of the Competency of the Teſtimony, I ſhall remember his own Diviſion; Firſt, of the Charge; Secondly, of the Witneſſes and the Teſtimony; the Third, concerning himſelf; and the Fourth, his humble Propoſals to the Court. One part of his Defence was concerning the Witneſſes and Teſtimony, that he made a long Defence to; and if it be not good Evidence, that Parties that are of the ſame Robberies may not accuſe their Fellow-Thieves, I think ſome muſt be unhanged that have been hanged: but that I ſhall not ſpeak to, for I think not that Mr. *Hale*'s Judgment leads him to it; but if they were threatned, and ſhould be made afraid of their Lives, that were ſomewhat; but that is not the Caſe here. The next is for two Witneſſes: I might ſay, that by the Common Law of *England* one Witneſs was enough before the Law of *quinto Edwardi ſexti* was made; for elſe it was not needful to be made. And Mr. *Hale* knows again, that as to Tryal, thoſe Laws are repealed. But not to trouble you with theſe things, or to ſay wherein they muſt concur, I did crave the Favour of you to read the Witneſſes as they depoſed, and I did tell you when it was by Hear-ſay, and when upon Knowledge, and when by two, three, and four, to ſeveral Acts of Mr. *Love*'s own acting, two, three, four Witneſſes, I think they are number enough to accuſe, and detect a Perſon of as high Quality. And for the laſt, for Miſpriſion of Treaſon, Mr. *Love* hath ſaid that which never came into my Thoughts, that ſuch Actings done by Mr. *Love* could be judged Miſpriſion; he that acted with them, conſulted, and debated, and plotted, gave his Judgment one way, moved to raiſe Money, received Intelligence, all brought to his Houſe, and tranſacted there: I would appeal to Mr. *Hale*'s Judgment, whether this could be Miſpriſion of Treaſon, when a Party acts in it, hath the Meetings at his own Houſe, and hath there

Debates

Debates of Commiſſions, and Inſtructions, and Letters; I think this goes as far beyond Miſpriſion, as Treaſon is beyond Miſpriſion. But ſeeing theſe are new Caſes before you, you have ſpent enough of your time, I ſhall not ſpend more to argue the Caſes that are not.

Mr. *Love.* I humbly crave leave, that ſeeing my Counſel ſome of them are rejected by the Court, as not fit to plead before you; and ſeeing another of them, Mr. *Maynard*, the Neceſſity of his Affairs is ſuch, he could not be here this day to plead here; and ſeeing this worthy Gentleman came here unprepared, whoſe Face I never ſaw till this Morning; therefore I humbly pray there may be more Time and Counſel aſſigned me, with your Favour and Leave, that they may fully debate the Argument before you, thoſe Matters of the Law which are under his Hand, and the Hands of the two worthy Gentlemen rejected by you to plead here, that others may be added to Mr. *Hale* to plead the Matters of Law before you, and that I may have a Copy of the Charge.

Attorn. Gen. I hope we have had Delays enough, it is with the Court, now we have done.

Mr. *Love.* And, Sir, there are Witneſſes here preſent that will prove that which Mr. Attorney-General thought none could prove, to wit, not only general Threats, if they would not confeſs in the general, but Promiſes of Favour, and Threatning of Death if they would not teſtify againſt me in particular; and I have manifold Exceptions touching the Incompetency not only of Number, but Quality. One Witneſs ſaid, he could not in Conſcience, and did not ſwear till he was threatned, nay, fined by you, and drawn out of the Court: Another Witneſs had Money laid to him by *Cobbet*, which was given his Wife, which did ſeem to conceal the Bribery the more; but he confeſſed himſelf, that the Money was laid down in his Houſe, and given him to make uſe of, and to be the Price of my Blood (Sir) to teſtify againſt me. I have Witneſſes to produce, Major *Adams* ſaid, he ſhould be hanged, if he did not teſtify againſt me; for he had given Information, and been in hire for many Months together. Major *Cobbet*, and three other Meſſengers have come to him, and offered him Preferment, for four Months together, if he would reveal what he calls a Deſign againſt the Commonwealth; and he hath not revealed this, till he had theſe Promiſes of Preferment, and did not declare againſt me till he was threatned by Death if he did not do it: therefore I beſeech you hear what Witneſſes I can bring in, to invalidate the Teſtimonies of theſe Men.

Attorn. Gen. My Lord, it ſeems I muſt be for all. Now Mr. *Love* begins with the Court, that you threatned them, and puniſhed them: I appeal to all here, whether a Witneſs brought into a Court in Matter of Property, and refuſe to take his Oath, whether that Court be not bound in juſtice to puniſh him; and yet if he ſhall ſee his Error, and ſubmit himſelf to do that which to Juſtice belongs, then (I think) it is Juſtice and Mercy in you to remit him of both: and that it is the Caſe of this Gentleman; in Conſcience he could not ſwear againſt him, a Conſcience well wrought upon; he could not in Conſcience ſwear againſt him: for him it was done in the Court, and by the Court, and (I think) undeniably juſtified.

Mr. *Love.* He is not under an Oath to this day, he hath declared it himſelf.

Attorn. Gen. This is to ſatisfy other Men, but it is not ſo regular and orderly to be done: but my Lord and the Court are pleaſed to give you a fair Hearing and Proceedings, that no Exceptions may be taken to it. There was another that was as good as his Word, that he could not find in his Conſcience to ſwear againſt Mr. *Love*, and that was a Miniſter; that Conſcience deſerved to be rectified more than five hundred Pound comes to, and perpetual Impriſonment: that Man that cannot find in his Conſcience to judge him that was a godly Perſon (as he thought) and againſt him he muſt not give witneſs, not for Treaſon, not to ſave a Commonwealth; and he hath had your Sentence, and moſt juſtly: I think all that was, was too little, my Lord. Then for the reſt, this is a Diſcourſe to ſatisfy People, the Spectators here; for ſurely theſe are Extravagancies, and total Irregularities; he hath had his time to except, and heard to except, and ſaid all that he hath ſaid now: and ſo there is nothing more to be done, but now for us to reſt in your Judgments what you will do further.

Mr. *Love.* I beſeech you, I acquainted your Lordſhip and the Court, that ſome of the Witneſſes were not well, others I could not get them here preſent, but did make offer to bring Witneſſes to prove againſt Major *Adams*, that he hath confeſſed himſelf he was threatned with Death if he did not inform againſt me; and he ſaid theſe words, He could not tell whether he ſhould in Conſcience think rather better to be hanged, than to come in againſt me; and he could ſwear only Generals, and could not ſwear that ever I did write or receive Letters. And Mr. *Jaquel* himſelf, ſince he was ſent away from the Court, hath ſaid he was not under an Oath.

Attorn. Gen. What Courſe ſhall we hold? If you will not be regular, let the Court be regular: had you not time for to do it then? Did he not demand Indemnity for them? And rather than he would produce others to hurt themſelves, he would rather die himſelf firſt.

Mr. *Love.* But theſe are not under a Crime; I beſeech you, the Court would be tender in Matters of Blood.

Attorn. Gen. Be tender of Juſtice.

Ld Preſident. I would you had been ſo too.

Mr. *Love.* This Man declares himſelf he is not under an Oath to this day, he did but put his Hand upon his Buttons.

Ld Preſident. Thoſe were your very words, and very uncivil and indiſcreet; you have not ſpoke at any time yet, but you have hurt yourſelf more than any body elſe hath, and yet your Language is ſo liberal, that no Man ſhall eſcape the Laſh of your Tongue.

Mr. *Love*, I fear no Man, my Lord.

Attorn. Gen. That is a bold word.

Ld Preſident. You have as ill Comments as any Man that wears a Cap; your Guiltineſs appears in this you ſay; we have heard all this that you require before: thoſe very words that you ſay of this Man now particularly, go to them firſt, that he was ſaying, he was not under an Oath: It was ſaid ſo again and again, and again at that time we brought him, and before he was examined, holding up his Hand, we asked him it, and he ſaid, he did; and put it to him again and again, Are you under an Oath? till at laſt he did conclude and teſtify he was under an Oath. I teſtify this before all the Company here, this is noiſed abroad again by many People, the Care we had of that very Man you ſpeak of; you asked him three or four

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times then, and at the laſt, upon the Concluſion, he confeſſed himſelf he was under an Oath: he did not do as you do, you will ſay things are Truth, but you will not ſpeak thoſe Truths before God in a teſtimonial way; though ſome of your Witneſſes that proved it, ſaid it was true in the preſence of God, what they gave under their hands: Theſe Men that do thus, are no better than Jeſuits in Reality, though not in Name. You made a Confeſſion of Miſpriſion of Treaſon you ſaid, but you have confeſſed Treaſon. I will tell you who did the like in the very words almoſt that you did, and that was Father *Garnet*, when he came to ſee the Evidence produced ſo full againſt him by thoſe that were *Participes Criminis*, as you are, himſelf confeſſed when he came to the laſt. Had I thought (ſaid he) that the State had had ſuch clear Proof againſt me, I would have ingenuouſly confeſſed it, and not trifled with them as I have done. So you ſaid, you did not think it would have been proved ſo far as Miſpriſion: but when it was proved ſufficiently in your Apprehenſion, and convicted, and your Counſel had informed you it could not be leſs than Miſpriſion, then you would ingenuouſly confeſs; ſo did *Garnet*. The other Witneſs that was threatned, it was teſtified by a worthy Captain; I ſpeak it again, was not it debated as much as the Wit of Man could? Did you not object that then, that you do now? And did not the Court then ſatisfy you, or at leaſt ſatisfy themſelves that it was not ſo? For I tell you, in that very thing wherein you ſay he was threatned, it was told you, That the Captain that was here then, depoſed what he had done, and how he had done it, and at what time it was delivered; for you were diſcovered long before that, and your Examinations taken long before that. Upon this, now when your Treaſon was diſcovered and declared by ſeveral Witneſſes, and that ſuch a one was in Confederacy; and I think the State might ſafely promiſe him Life, and Reward too; for there is more in the Plot yet, than is yet found out, and that ſome are like to hear of within this fortnight, that were here, which is a dangerous thing: but this you did declare, and the Court was ſatisfied, that all that was promiſed as a Reward, was for diſcovering of a Plot againſt the State; and that was lawful by the Laws of God and Man. And now you bring Witneſs; you were at firſt demanded, whether you would bring them or no? and you asked Indemnity for them; and the next time you denied, you would bring none; and now you asked, What you have to offer to the Court? and after all this time, what come you to do now? To prove that that was acted here in the Court: you ſay, we threatned them; true, that we did threaten ſome; and I think we went thus far, that if he would not, we would ſet five hundred Pounds Fine upon his Head; but he would none of that, but came in again, and delivered his Knowledge. But you had another of your own Robe too that came in, and he would not teſtify, and why? His Conſcience was tender; his Science was perfect enough to ſpeak againſt you, for he was Confederate with you, and hath confeſſed enough of it; but his Conſcience was tender. No Man can tell here whoſe Conſcience is crazy and tender: Conſcience is a thing betwixt God and Man only; and they that lay nothing upon their Conſciences to prove their Integrity, they had as good ſay nothing before a Judge: For though we have a Law of Conſcience in *England*, yet that Law is judged by Rules: and therefore he, whoever he be that pretends Conſcience, there are ſo many Conſciences, as there are Men; and no Men have Power to judge of it but God. But, Sir, for that cauſe that he would not for his tender Conſcience, we did ſet a Fine of 500 *l.* upon him, and ſentenced him to the *Fleet* till he paid it. We call not this terrifying, neither doth the Law; nor any Reward, Favour or Affection, for the Diſcovery of a Traytor, is no illegal Act: this we told you before, but you muſt have it again and again, and again; ſo that you may delay, no time ſhall be omitted by you.

Mr. *Love*. I have but a few words more: your Lordſhip was pleaſed to ſay, that you could juſtify promiſing Rewards to thoſe that would diſcover, and threatning Puniſhments to thoſe that would not; but you ſaid, if I could prove promiſing of Rewards or Threatnings to them that would not teſtify againſt me, they ſhould be heard: now I produce not Witneſſes in general, that they were promiſed Favour, or threatned if they would or would not; but I offer to produce Witneſſes that can witneſs againſt ſome of the particular Witneſſes that ſaid, They ſhould be hang'd, if they did not witneſs againſt me: and this, as your Lordſhip promiſed, I humbly crave.

Attorn. Gen. Truly, he will not want Suggeſtions, he hath had his time to prove it; and one Favour I ſhall beg of the Court, that this your Patience to Mr. *Love*, your juſt Favour toward him, may be no Precedent hereafter; but for this, when we cloſed the Evidence Saturday was ſevennight for the Commonwealth, he had till Wedneſday following to make his Defence. For his Witneſſes he offered them, you offered to receive them; he ſaid, he would have none, now he comes to offer: we produce you no new Witneſs, nor offered nothing ſince Saturday was ſevennight; if we come to Witneſſes again, we ſhall come to an aſperſing one another; we ſhall make it a pretty endleſs Work; we have done our parts, and followed the Rules of Juſtice; and Mr. *Love* hath had his full Liberty to juſtify, to ſay what he could, and prove what he could for himſelf; if he neglect his own time, to his own Peril be it; the Court, I hope, will not be guilty of it, to alter the ways of Juſtice.

Mr. *Love*. I could not compel Witneſſes, there was no *Subpœna's*; but they muſt come when they offer themſelves.

Ld Preſident. You were asked, and you would produce none.

Mr. *Love*. They were not in a Capacity to come, my Lord.

Attorn. Gen. There is nothing reſting more to be done, but now all being done (if you pleaſe, my Lord, all being done) for the Iſſue of the Fact, all his Exceptions to the Impeachments, which are Matters of Law, we are now humbly craving your Judgment upon this Impeachment between the Keepers of the Liberty of *England*, and Maſter *Love* the Priſoner at the Bar. I now humbly demand your Judgment.

Mr. *Love*. I humbly pray, that ſince I never ſaw the Face of this worthy Gentleman till this Morning, and ſo could have no particular Advice from him, that there might be longer time allowed to this Gentleman, and an Addition of three Gentlemen more, and a Copy of the Charge.

Attorn. Gen. You have had more than ordinary Priſoners have had before, I will aſſure you, Mr. *Love*.

Ld Preſident. Mr. *Hale*, you have heard a little opened of our Paſſages and Proceedings which you did not before, but every Man elſe hath lift up his Voice; you have gone over a great deal of the Fact:

now

now for Matter of Law, for that of Miſpriſion, that will reſt, I think, in the Judgment of the Court; there is no Miſpriſion laid, but Treaſon: and I think the Court will find Treaſon upon the Proofs that are before them; they will not need to have any Argument of Miſpriſion, if the Court think there is ſufficient Treaſon laid, then that Argument, we need not deſire more time for that; and if it be Miſpriſion, that the Court ſhall judge it ſo, then upon the Matter there is no Charge againſt him for us to proceed upon; ſo that by that Charge, I cannot ſee what you can ground your Argument upon.

Mr. *Hale.* The Charge is not only for Treaſon, but for Treaſon and other high Crimes and Miſdemeanours.

Attorn. Gen. But not Miſpriſion.

Mr. *Hale.* Though the Word be not in, we think it will reach it.

Ld Preſident. It will not indeed.

Attorn. Gen. We inſiſt upon it for the Commonwealth, for the Charge is as it is laid.

Ld Preſident. For the two next, ſo I told Mr. *Love* before, and he ſpent two Hours at the leaſt in recapitulating the Evidence of the State, not any thing of his own, for he gave no Witneſſes; but he did go over the whole Evidence of the State from Point to Point, and made, I think, himſelf (as he ſaid) the Exceptions that were made againſt them: theſe he went over, though we might have ſhut him up at the firſt. For him to ſum up that which was the Duty of the Court, when he had no Evidence, to ſum up the Evidence of the State, which we might not have let him: but this he did; and it is our part to examine the Evidences, and the Nature of them, and what the Nature of the Thing is, and how many Witneſſes are to every Point; whether there be two Witneſſes to a Point or no, cannot fall under Diſpute of Law, it is Matter of Fact.

Mr. *Hale.* It is true, we are here only to do that Duty which your Lordſhip injoins us to, my Lord. It is true, for us to diſpute whether this Evidence proveth ſuch a thing or no; haply it may not belong to us to do that. But thus far, if your Lordſhip think fit, this may haply be allowable (with Submiſſion to the Court) that is, Whether, if the Proofs be admitted, this Man poſitively proves thus, the other Man proves poſitively thus; whether that theſe two Proofs do make a Proof of one Act? Haply (if your Lordſhip ſhall think ſo fit) there may be ſomewhat of Law in that; that is, whether it make a double Teſtimony within the Statute of *Primo* and *Quinto*. For (with Submiſſion to your Lordſhip) the Statute of *Primo* and *Quinto* is not repealed as to point of Teſtimony; it is repealed as to the Place from whence the Tryal is to come, but not in point of Witneſſes; therein it may come in, queſtionleſs, if your Lordſhip ſhall think fit. But truly, I have not ſeen one word of the Evidence from the Beginning to the End: and if ſo be that any Matter ſhould riſe, that the Court ſhould think fit) as well as proper for me to offer in the Defence of this Gentleman, I muſt profeſs I cannot, unleſs I had ſeen the things; for I have not ſeen one word.

Ld Preſident. For ſeeing the Evidence further than Memory, you, nor no Man elſe ought to know, tho we have given leave to write; and therefore tho we have given leave to take notice of them, yet that is more than ever any Court did, or we need to have done, but only to truſt to their own Memories. But in that you ſpeak of now, for you to have Day to argue, when you are not able to ſay, nor we neither, that there is any ſuch thing; did you ever hear ſuch a thing, to pray Day to argue, that you do not know poſitively it is ſo?

Attorn. Gen. We have ſpent a great deal of time, and all that can be ſaid, will be to run a round; what is to be done, is your own Conſultation among your ſelves.

Ld Preſident. Withdraw your Priſoner.

Mr. *Love.* I beſeech you, allow me time for Counſel.

The Court adjourns.

The Sixth Day's Proceedings, July *the* 5*th,* 1651.

THERE was but little ſaid this day beſides the Sentence. When Mr. *Love* appeared at the Bar, the Attorney-General ſpake to the Court to this purpoſe; That there had been much time ſpent, and Mr. *Love* had had a fair Tryal, and therefore he deſired the Court to proceed to Sentence. Upon which the Lord Preſident ſpake to Mr. *Love* to this effect; That he had heard what the Attorney-General deſired in the behalf of the Commonwealth; and therefore demanded of Mr. *Love* what he had to ſay why Sentence ſhould not be paſs'd upon him? Mr. *Love* anſwered, That he had ſomewhat to ſay, and deſired longer time, and more Counſel to argue thoſe Matters of Law contained in that Paper that he had formerly given into the Court: But the Court would not yield to him in it. Then Mr. *Love* would have ſpoken further, but the Lord Preſident told him, he would ſpeak *ad Populum.* Mr. *Love* anſwered, No, he would ſpeak *ad Magiſtratum.* But the Court preſently overruled him in it, and would not ſuffer him to ſpeak. Then the Lord Preſident told Mr. *Love,* That he had gone out of his Place and Calling in what he had done. Then ſpeaking ſomething about an Elder, That an Elder was one that was ſo, either in reſpect of his Age, or in reſpect of his Office, with ſome other things about Presbytery; and when he had done, he commanded the Clerk to read the Sentence, which was in this manner: the Clerk read over the whole Charge, beginning thus; *Whereas* Chriſtopher Love *the Priſoner at the Bar, ſtands charged (on the behalf of the Keepers of the Liberties of* England, *&c.) of High Treaſon, and other High Crimes and Offences,* &c. [and ſo he read on as it is in the Charge; and ending thus] *For all which Treaſons, and traitorous and wicked Practices of him the ſaid* Chriſtopher Love, *this Court doth adjudge him to ſuffer the Pains of Death, by having his Head ſevered from his Body.*

Mr. *Love.* My Lord, I would ſpeak a word.

Ld Preſident. You cannot be heard now, Mr. *Love.*

Mr. *Love.* But a word, my Lord, and 'tis this, in the words of the Apoſtle; *I have received the Sentence of Death in my ſelf, that I ſhould not truſt in my ſelf, but in God, which raiſeth the Dead.* And, my Lord, though you have condemned me, yet this I can ſay, that neither God, nor my own Conſcience doth condemn me.

Mr. *Love* withdraws, and the Lieutenant of the Tower takes him into cuſtody.

The

The Tryal of Mr. JOHN GIBBONS, *in* Weſtminſter-Hall, *before the High Court of Juſtice; beginning* July 18. 1651.

POTTER and *Gibbons* were both brought to the Bar together.

Potter's Charge was firſt read, unto which he pleaded Guilty, and made a large Narrative of all his Crimes againſt the State: very much was he examined againſt Maſter *Gibbons*, but no hurt at all he did him. After they had done with him, the Charge of Maſter *Gibbons* was read, which when he heard, he ſpake in this manner.

Gibbons. My Lord, this Charge is very new to me; I have been a Priſoner under cloſe Impriſonment for many Weeks together, and never knew before this time what it was, in particular, that was laid to my Charge: And now I do hear my particular Accuſation, it is ſo ſtrange to me, that I do not know what to ſay to it at the firſt hearing; therefore I humbly beſeech your Lordſhip, that I may hear it read again.

Attorney-General. My Lord, Maſter *Gibbons* heard *Potter's* Charge read, which was very like to his own; ſo he hath heard it twice already: however, my Lord, he may hear it read again; for he may hear it thrice.

Keble. Come let him read it again, he is a young Man, let him have what Favour he may have: mark it well, now you hear it again.

After reading, Maſter *Gibbons* ſpake in this manner:

Gibbons. My Lord, I am brought hither by an Order of this Court, which Order mentions a Charge of Treaſon exhibited againſt me; I ſhould betray the Liberty I am born unto, if I ſhould not deſire a Tryal, according to the Fundamental Laws of this Nation, which is by a Jury of my Neighbourhood: the Benefits and Advantages are exceeding great, therefore I do earneſtly crave to have them.

Keble. The State hath thought of another way of Tryal, which you muſt have, and ſubmit to; this is beſt for your Advantage, and more honourable than any other you can have; therefore you muſt plead Guilty or Not Guilty.

Gibbons. My Lord, I ſhall never be ſo prodigal of my Blood, as to throw away my Life, by refuſing a Tryal before you, though I am not ſatisfied in this new way of Tryal; yet I ſhall not refuſe to plead, in Confidence of my own Innocency, and in hope of your Tenderneſs in Matters of Blood. But before I plead, and anſwer to my Charge, I have this humble Motion to make.

Here he ſpake very much on the firſt Day of his Tryal, moving very much for Counſel; but after he had uſed many Arguments to perſuade the Court to incline to it, and could not have it, he deſired the Court to be the Counſel for him, and take care of his Life, and not ſuffer him by his own Ignorance, to weave a Web for his own Ruin and Deſtruction. After much ſaid of this nature, he pleaded Not Guilty: the which being entred in the Book, they proceeded to the Tryal.

Attorn. Gen. The Attorney-General began with a long Speech, how Maſter *Gibbons* had plotted and contrived theſe Treaſons; named the Meetings and the Places, where he ſaid it began preſently after the late King's Death, under the pretence of getting the King to *Scotland*; but the Truth was, they intended to ſettle him upon this Commonwealth. And further, That he the ſaid *John Gibbons*, as a falſe Traytor, and out of a malicious and wicked Purpoſe and Deſign to raiſe Inſurrections in this Nation, did ſeveral Days and Times in the Years 1648, 49, 50, and 51. and at divers other Times and Places within this Commonwealth, together with *Chriſtopher Love*, *Piercy*, *Jermin*, *Maſſey*, &c. and other their Complices, being falſe Traytors to this Commonwealth, traitorouſly, maliciouſly complot, contrive and endeavour to raiſe Forces againſt this Commonwealth, ſettled in way of a Free State, without King or Houſe of Lords; and for the Subverſion of the ſame, did raiſe and collect divers great Sums of Money, and did hold Intelligence by Letters, Meſſages and Inſtructions, with *Charles Stuart*, Son of the late King, and with the Queen his Mother, and divers other Perſons, being falſe Traytors to this Commonwealth.

And further, he the ſaid *John Gibbons*, together with *Chriſtopher Love*, *William Drake*, *Piercy*, *Jermin*, &c. and other their Complices, ſince the Death of the late King, ſeveral Days and Times in the Years aforeſaid, within this Commonwealth of *England*, and elſewhere, did traitorouſly and maliciouſly declare, publiſh and promote *Charles Stuart*, Son of the late King, commonly called the Prince of *Wales*, to be King of *England*, meaning, of this Commonwealth.

And further, to carry on the ſaid Deſign, he the ſaid *John Gibbons* ſeveral Days and Times in the reſpective Years aforeſaid, together with *Chriſtopher Love*, *William Drake*, *Piercy*, &c. did endeavour to procure the *Scots* to invade this Commonwealth of *England*.

And further, That he the ſaid *John Gibbons* on the 6th of *April* 1650. and on divers other Days and Times between the 29th Day of *March* 1650. and the firſt Day of *June* 1651. at *London*, and elſewhere, did give, uſe, and hold Correſpondence with the ſaid *Charles Stuart*, Son of the late King, and the Queen his Mother, *Jermin*, *Piercy*, &c.

And further, to accompliſh the ſaid Deſigns, he the ſaid *John Gibbons*, on the 6th Day of *April* 1651. at the Places afore-mentioned, did hold, and give Correſpondence and Intelligence with divers Perſons of the *Scotiſh* Nation, as *Argyle*, *Lowdon*, *Lothian*, &c. Enemies to this Commonwealth, and adhering to the King in the War againſt them.

And further, the said *John Gibbons* did traitorously and maliciously abet, assist, countenance, and encourage the *Scotish* Nation, and divers other Persons adhering to them; and did convey great Sums of Money, Arms, and Ammunition into *Scotland*, and elsewhere. All which wicked Practices and Designs of him the said *John Gibbons* were against this Commonwealth, Parliament, and People; and in manifest Contempt of the Laws of this Nation and Acts of Parliament, in such Cases made and provided.

[After he had ended, the Witnesses were called: The first was Major *Adams*; the second Colonel *Barton*; the third was Captain *Hatsell*; the fourth Colonel *Baines*; the fifth Major *Alford*; the sixth Captain *Far*; the seventh was Master *Jaquel*; the eighth was Major *Huntington*; the ninth Master *Harvey*; the tenth was Major *Corbet*. *Adams* being first examined, his Testimony was to this effect.]

Adams's *Testimony*.

That the Correspondency of *John Gibbons* with the rest aboveSaid, was to endeavour an Agreement between the King and the *Scots*. The first Meeting was at the *Swan*, in *Fish-Street*, where Master *Gibbons* was. At that Place there was only a Consideration how to carry on the Correspondency. There was also a Petition to be sent to the King, (as I was informed;) and the Meeting in this Place was in reference to that also. There was Letters written to *Scotland*, and some received thence; which Mr. *Gibbons* was privy to.

After Master *Drake* went away, we met at Master *Love*'s House, where Master *Gibbons* met also. There were Letters read; and I think Master *Gibbons* did hear them, and did confer about them. The Letters sent to *Jermin*, *Piercy*, *&c.* at one time or other Master *Gibbons* was present, and heard them read. This was before *Titus*'s going away.

Then after there were Letters sent from the King, which were read at Master *Love*'s House; where Master *Gibbons* was present, and heard them read. Master *Gibbons* brought likewise a rough Draught of the Instructions that were to go to *Holland*.

Also there was a Letter read at Mr. *Love*'s from Alderman *Bunce*, where Master *Gibbons* was present. Also a Letter after *Dunbar*-Fight from *Scotland*, relating how Affairs stood there, (and that Letter, as I remember, was for Arms and Money) was read at Master *Love*'s House; where Master *Gibbons* was present at the reading of it.

Master *Gibbons* was a constant Man at all Meetings.

A Letter was sent from *Massey*, read at Master *Love*'s, for Arms and Money; Master *Gibbons* was present. And three or four hundred Pounds agreed to be sent.

A Letter was written to the Estates of *Scotland*, to procure *Massey* and the *English* to be in esteem.

Master *Gibbons* sometimes acquainted me where we were to meet.

Lieutenant-Colonel Baines's *Testimony*.

A little while after the Death of the late King, there was a Meeting at the *Swan* at *Dowgate*, where several Persons were. But whether Mr. *Gibbons* was there, I know not. But Captain *Titus* was there, and gave a large Commendation of the young Prince; and moved that a Petition might be drawn up, and sent to the Prince from the Presbyterian Party here. There was a Debate upon it; and this Design was looked upon as the only visible Way to preserve the Presbyterian Party, and to bring the Prince to the Crown.

Colonel Barton's *Testimony*.

A while after the Death of the late King I was going into *Cannon-Street*, and at *Dowgate* I met with *William Drake*, who desired me to meet him at the *Swan* at *Dowgate*. When I came there, I found Captain *Titus*, Lieutenant-Colonel *Baines*, and divers other Persons: I believe Mr. *Gibbons* was not there. I came in while they were in discourse, and I could not well hear them. But at their rising, I asked Mr. *Drake* what was the occasion of their Meetting; and he told me that Captain *Titus* had given a good Report of the Prince, and did desire that some Addresses might be made to him, that thereby he might be taken off from his Cavaliering Counsellors.

After a while *William Drake* came to me for 10 *l.* which he said was to furnish a Friend of his which did want 100 *l.* He desired I would not deny him; and because he was a good Customer to my House, I did lend it him. And after I heard it was for Captain *Titus*. As for the Prisoner, I think he was not at the *Swan* at *Dowgate*; for I did not know him till afterwards.

Major Alford's *Testimony*.

At the Meeting at the *Swan* at *Dowgate*, where divers were, Captain *Titus* made a large Narration of the Prince's Deportment, declaring how inclinable he was to cast off his Cavaliering Adherents, if he were but assured there was a People in *England* that stuck to their Covenant; he was weary of his other Counsels, and was ready to apply himself to the Ends of the Covenant.

A Petition was brought to the *Bear* in *Bread-Street*, where it was read, and debated among us, and agreed to be drawn up; and Captain *Titus* and *Drake* were sent away with it.

I do not remember that Master *Gibbons* was at either of these Meetings.

There was Money raised for *Titus*: *Drake* had 10 *l.* of me; he had it in private. Captain *Titus* had 30 *l.* for his Journey. He went over twice, I think; and if so, the second time Master *Gibbons* was there. The second time I saw Master *Gibbons*, he brought me to his Chamber; and the third time he and I went with some Papers to *Gravesend*, agreed on at Master *Love*'s. These Papers were either a Commission, or Instructions, or both together in one. But this was the Substance, That the Lord *Willoughby*, and others, should go to the Treaty at *Breda*, and to press the King concerning this Agreement with *Scotland*.

Master *Gibbons* was at Master *Love*'s House when the Commission and Instructions were agreed upon. He and I went to *Gravesend*; and (I think) he carried the Papers. But of this I am sure, That he knew the end of our going. We tarried there all Night; and delivered the Papers to Mr. *Mason*.

I did go to *Calais* when I came back; but I do not know whether the Papers that I brought over (being read at Master *Love*'s House) were read all at one time, or not: If they were, then Master *Gibbons* was there.

I was present when the Letters came, after *Dunbar*-Fight, at Mr. *Love*'s. The Letters came from Colonel *Massey*. They gave an Account of the Fight there, and of the State of Affairs; and withal,

withal, writ for Money and Arms, to be ſent by way of *Holland*. I cannot ſay Mr. *Gibbons* was preſent. There was Money agreed upon there to be raiſed for *Maſſey* and *Titus*. Mr. *Gibbons* was many times at the *Swan* at *Dowgate*; he was conſtant at the Club. But after Mr. *Drake* fled, we did take in other Men into the Club: Mr. *Gibbons* was as little abſent as any Man.

Mr. *Gibbons* did put me upon it, to ſhew Friendſhip to Mr. *Maſon*; and he gave me this Reaſon, That ſo Mr. *Maſon* might repreſent our good Affections to the King: And Mr. *Gibbons* did deſire me to defray the Charges of that Night's Expences at *Gravelend*; where Mr. *Maſon* was telling me, That if I were not allowed it by our Friends, he would do it.

Maſter Harvey's *Teſtimony.*

I came to the Knowledge of this Deſign at ſeveral Meetings and Places. Mr. *Gibbons* told me of 2000 *l.* which was to be ſent into *Scotland*; and that *Maſſey* was to land Forces in the *Weſt*: And concerning my Lord General's Soldiers, that many of them were run away: And concerning the Trained Bands of the *North*, he ſaid they waited but for one Blow to be given in *Scotland*. He told me alſo of a Town that was to be delivered.

Major Huntington's *Teſtimony.*

The firſt that made me acquainted with this Deſign was Mr. *Gibbons*; who told me, That if I would come to Mr. *Love*'s Houſe, I ſhould hear the News. I went to Mr. *Love*'s: And when I came there, that which I heard was a Paper ſent from *Maſſey*, *Graves*, and *Titus*, brought by *Drake*, and read by him. Mr. *Gibbons* was there then: There was many more there in Mr. *Love*'s Cloſet; but I cannot ſay well who they were.

[The Teſtimonies of the reſt of the Witneſſes could not be well heard; neither can they be had, the Books being ſo cloſe kept.]

[After all was ended, Mr. *Keble* deſired Maſter *Gibbons* to ſpeak for himſelf.]

Gibbons. My Lord, I have now ſtood here near five Hours, and am both ſpent in my Body and Spirit; and that I am as unable in Body to ſpeak for my ſelf, as I am diſabled to make my Defence without the Court grant me Time, a Copy of my Charge, the Depoſitions of the Witneſſes, and aſſign me Counſel. And therefore, before I plead or anſwer to my Charge, I have this humble Motion to make, (I being a Man altogether ignorant and unacquainted with the Laws) That this Court would be pleaſed, as I ſaid before, to aſſign me Counſel to adviſe me in my Chamber, and to plead for me in the Court; and that your Lordſhip and this Court would be pleaſed to give me a Copy of my Charge, and to aſſign me a Sollicitor, to ſollicit my Buſineſs for me.

Keble. Mr. *Gibbons*, you muſt proceed to make ſome general Defence for the preſent.

Gibbons. My Lord, I hope you will do as God uſe to do, allow ſome grains of Allowance, that a Man that hath nothing but Weakneſs and Ignorance may help himſelf.

Upon this Motion the Court adjourn'd, and Mr. *Gibbons* was taken away by the Keeper of *Newgate*; and thereafter came a Warrant to bring him to the Bar the Wedneſday following. The Reply that Mr. Attorney made to Mr. *Gibbons*'s Appeal we cannot have.

In the mean time there were ſeveral Friends that went to mediate and ſpeak for him to the Judge, who did lay out his Simplicity and Innocency, labouring what they could for the ſaving of his Life. The Judge anſwered, That he was not ſo ſimple as he was ſet out by them; and that he doubted not but he was a Servant to greater Perſons, who had imployed him: But if he would be ingenuous, and diſcover the Parties that were in that Deſign, he would labour to ſave his Life, and do him good; but if he would not confeſs, he could not help him. Yet ſtill they interceded for him, until at laſt the Judge told one of them, That verily he was perſuaded that he was innocent: But nevertheleſs, if he did not reveal all thoſe whom he knew to have any Knowledge of the Buſineſs beſides himſelf, nothing could be expected but Death. He was extremely deſirous to have a Diſcovery of ſome Perſons of Quality: But Mr. *Gibbons* conſtantly affirmed he knew of none; neither would he accuſe any; for he had rather die than be a means to ſcandal or hazard any good Man. This he conſtantly affirmed with an undaunted Reſolution to the laſt.

Wedneſday, the ſecond Day's Tryal, July 23.

MAſter *Gibbons* being brought before the Court, my Lord *Keble* ſpake as followeth:

Keble. Maſter *Gibbons*, the Court out of abundance of Favour to you, have given you time from Friday till now, whereby you may be able to make your Defence: Therefore it is now expected you ſhould proceed, and plead what you have to ſay.

Gibbons. My Lord, the laſt time I was before this honourable Court, after I had deſired a Jury, and was denied it, I did in Confidence of my own Innocency, and your Tenderneſs in Matters of Blood, ſubmit to a Tryal, tho I was no way ſatisfied in this new Way of Tryal: But before I could plead, I made this humble Motion, perceiving the Charge againſt me for High Treaſon, was againſt ſeveral Statutes, Laws, and Acts of Parliament, which I never ſaw, heard, or read them in my Life.

My Life and Eſtate thus being drawn into queſtion, my Lord, it did very much concern me to be well adviſed, there being many Things in the Statutes which made for my Advantage, both in my Plea and Defence: Therefore I did humbly beſeech your Lordſhip and this High Court that I might have Counſel in Law aſſigned me, both to adviſe me in my Chamber, and plead for me in this Court, that ſo I might be able to take all thoſe lawful Advantages which the Statutes and Acts of Parliament afford me; which I was not able to do my ſelf, being ignorant of the Laws. This being denied, and I ſeeing I could no way obtain Counſel to preſerve my Life, as I did ſee the State had got great Counſel againſt me, to proſecute me for my Life; I did humbly beſeech your Lordſhip, and this High Court, that you would be ſo far of Counſel for me, a poor Priſoner ſtanding at the Bar, drawn in queſtion before the Juſtice for my Life, that you would not let the learned Counſel of this Commonwealth take any advantage againſt me, thro my Ignorance or want of Skill in the Laws; but that if the Statutes and Acts of Parliament, and Laws of the Land, did afford me any Advantage, which I might over-ſlip through my Ignorance, that your Lordſhip and the Court, out of your Bowels of Compaſſion to a poor Priſoner,

would ſtand for me, that I might not have any Wrong done, nor Law denied me, which by right was due unto me. Upon theſe Conſiderations, my Lord, I did plead Not guilty. I do humbly thank your Lordſhip and the Court for the Time you have given me; but as unable to anſwer or ſpeak for my ſelf now, as I was the laſt time I took my leave of this Court, being wholly unfurniſhed, and altogether diſinabled to make my Defence: For when I came back to my Priſon at *Newgate*, with an Expectation of meeting both the Copy of my Charge, and the Depoſition of the Witneſſes, I found all was taken away from my Notary, whom I brought on purpoſe to this Place to help me therein. Seeing my ſelf thus totally deprived and cut off from all Helps and Hopes of making my Defence, I could not tell whither to go or ſend, but to your Lordſhip, whom I thought, upon my humble Petition, might have granted both a Copy of my Charge, and the Depoſitions of the Witneſſes: But ſeeing that could not be granted, I am left without all Poſſibilities of pleading, or making any Defence. Therefore I do now again, with all Humility, addreſs my ſelf to your Lordſhip and this honourable Court, and do moſt earneſtly deſire a Copy of the Charge, alſo the Depoſitions of Witneſſes, and Counſel aſſigned me to come to my Chamber, to adviſe me there; alſo Counſel to plead for me before this Court, and a Sollitor aſſigned me, to follow my Buſineſs. And if God ſhall not incline your Hearts to ſhew this Mercy, I do not look upon my ſelf as able to make my Defence, as to ſtand before a Company of armed Men.

Keble. The Court will be very tender of your Blood; and they muſt and will be as tender to preſerve the Blood of the Commonwealth, in execution of Juſtice upon Traytors, that ſeek to deſtroy them. You have had a great deal of Favour, and Time given you; therefore now you muſt make your Defence.

Gibbons. My Lord, if ever Priſoner that came before this Court had reaſon to cry and call for poſſible Helps and Advantages that may be allowed them, much more have I cauſe to do the ſame; verily believing never until now there was ever any brought before Juſtice ſo unable to help or anſwer for himſelf, as I am. Therefore I humbly beſeech your Lordſhip, and this High Court; and I do withal earneſtly deſire Counſel, a Copy of my Charge, the Depoſitions of the Witneſſes, without which I am never able to plead, or make any Defence for my Life: And the rather am I invited to crave and deſire the ſame, for that I have both heard and ſeen Precedents before mine Eyes of this nature. Major *Rolfe*, that was accuſed for High Treaſon, had Counſel aſſigned him; by whoſe Aſſiſtance he ſaved his Life. Sir *John Gell*, before this Court of Juſtice, had his Brother, Maſter *Gell*, to ſpeak for him. And ſince, Mr. *Love* had Counſel to plead for him in this very Place.

Keble. Mr. *Gibbons*, you will not be denied Counſel, or any thing elſe, that may help you, if there be found Matter of Law. Go on, and make your Defence; and make it appear to the Court that there is Matter of Law, and you ſhall not be denied Counſel, and whatever elſe may do you good.

Gibbons. My Lord, had I the ſeveral Advantages that others have had, to offer ſuch Matters of Law, I ſhould be as ready as any elſe to do it: But being deprived of all theſe Helps by the Officers of the Court, who took away the Book from my Notary, after he had written the Charge; therefore, my Lord, without a Copy of the Charge, and the Depoſitions of the Witneſſes, it will be in vain for me to trouble this honourable Court, when I never had ſight of the Charge, nor Depoſitions of the Witneſſes; the want of which have ſo diſinabled me, (ſeeing I could not have Help of Counſel to adviſe me) that I cannot tell what in the world to ſay my ſelf.

Keble. Mr. *Gibbons*, you muſt proceed to plead, or elſe you will incenſe the Court more than you are aware of: For you to ſtand out thus, and plead for that which cannot be granted, will do you no good; therefore I adviſe you no longer to ſtand out, but make your Defence.

Gibbons. My Lord, if I ſhould begin to proceed, and make my Defence, being (as I ſaid already) totally ignorant in all the Laws, and utterly unable both in Memory and Parts to take all juſt and clear Objections againſt the Advantages of the Charge and Evidences; if I ſhould make my Defence when all Means are thus taken away, I ſhould certainly throw away my own Life, and become guilty of ſhedding my own Blood: Therefore I had rather, a hundred times, leave my ſelf to the Mercy and Juſtice of the Court, who, I hope, are very ſenſible how much the Life of a Man is worth; and withal, conſider the hard Meaſure I had in taking away the Books of thoſe that wrote for me, that ſo I could never have ſight of the Charge, nor Depoſitions of the Witneſſes, which all others have had, nor no Counſel to adviſe me. Thus being left naked and deſtitute of all Helps, I had rather ſubmit to the Mercy of the Court, than ever plead to ſave my Life. My Lord, I am perſuaded I ſtand to be judged by a Court, where I ſee the Faces of thoſe that truly fear God; and that they will ſeriouſly weigh and conſider that the Blood of any for whom Chriſt hath died, is exceeding precious in the ſight of God, who will not take any Advantage againſt any for their Ignorance; and that you alſo do remember that all your Judgments will be judged over again at the Tribunal of Chriſt, who will both be a Counſel and Advocate for me, a Priſoner now ſtanding at the Bar. Thus hoping that you will reckon the Life and Blood of the meaneſt Perſon, for whom Chriſt hath died, as much worth as the Life of the greateſt, I will rather ſubmit to your Mercy than plead, if I cannot have what I do deſire. But being very unwilling to have any hand to deſtroy my ſelf, and ſo become guilty of my own Death, therefore though for want of Help I be not able to make my Defence, yet I ſhall make an Appeal to the Court; which is all I can do. And therefore deſire you ſeriouſly to weigh and conſider how far ſhort the Evidences come, and how full of Contrarieties and Contradictions. By the Law there ought to be two lawful and ſufficient Witneſſes to make a Man guilty of Treaſon: Theſe Witneſſes muſt agree punctually in their Teſtimony, and the Treaſon they prove muſt be againſt the expreſs Words of the Act. Alſo the Law will not ſuffer thoſe that are guilty and convict of the ſame Crime by their own Confeſſions, whereof they accuſe me, to give Evidence againſt me: Theſe Witneſſes therefore cannot be lawful and ſufficient againſt me, they having confeſſed thus much againſt themſelves, and ſo do either witneſs againſt me out of fear of Death, or promiſe of Reward. This I am certainly inform'd will be proved againſt Major *Adams*, and was declared in the Face of the Court at Mr. *Love*'s Tryal, concerning the Teſtimony of Ma-

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jor *Adams*, which is the moſt material Witneſs againſt me. I hope your Lordſhip and the Court will look upon it, as not only he hath been offered, received, and taken Money to diſcover the Deſign, and witneſs againſt me; but alſo in regard to whatſoever he ſwears, as that I ſhould bring in the rough Draught of Inſtructions to Mr. *Love*'s: And as to my Preſence at the *Swan* at ſeveral Meetings, was both contradicted, and poſitively ſworn againſt by ſeveral other of the Witneſſes. None but he doth ſay that I was preſent at the reading of any Letters of the Fight at *Dunbar*: Nor none but *Adams* ſaith I was preſent at Mr. *Love*'s Houſe, when any Moneys was debated: Nor none but *Adams* ſaith I was a conſtant Man at Meetings; that ever I invited any to a Meeting. I hope your Lordſhip and the Court will conſider, that though there are ten Witneſſes produced againſt me, beſides ſeveral Queſtions asked Captain *Potter* at the Bar concerning me, yet many of them neither ſaid nor ſwore any thing that touched me at all; and of thoſe that do reach me in their Teſtimony, not any two did agree in proving the ſame Fact. As concerning the particular Teſtimony of Mr. *Harvey*, unto which no one Witneſs but himſelf either ſaid or ſwore the leaſt Tittle of it to be true; being ſtruck with Wonder, and amazed to hear theſe Things given in againſt me, which my Heart never thought, nor my Tongue never ſpake; I do both before your Lordſhip and this High Court, and Preſence of all the People, lay it before the righteous God to plead my Cauſe, and judge between me, a Priſoner at the Bar, and Mr. *Harvey*, that falſly accuſed me. I did further deſire, that this Appeal might be ſet upon record, and meet me before the Tribunal-Seat of Chriſt, and that both your Lordſhip, and them that ſit in this honourable Court, might follow this my Appeal to the Judgment-Seat, and there witneſs it before the Preſence of the Lord againſt me when I am pleading for Mercy, if ever I ſpake or heard of theſe Things which he hath accuſed me of. My Lord, I ſhall go further, and did offer unto the Court, That if in all *England* they could find a Man that would ſay any of theſe Things Mr. *Harvey* accuſed me of, then I ſaid more particularly, if any whom I had moſt frequently convers'd withal, or any of thoſe that kept me Company, would ſay they ever heard me ſay any of theſe Words, the next time I came before this honourable Court, I would come and plead guilty. And I do now ſay, if it pleaſe your Lordſhip and the Court to give me Time, I ſhall be able to produce Witneſſes, I ſhall make it appear Mr. *Harvey* is as unfit to be a Witneſs in any Court of Record, as he was unfit to be a Juſtice of Peace in *Eſſex*, where he was indicted for many and notorious Offences. If I might have Time, I ſhould produce Witneſſes that Mr. *Harvey* was the original Reporter of ſome of thoſe Things he accuſed me of. And concerning Major *Corbet*'s Teſtimony, I know little in it, but that I ſhall call God to witneſs I knew not *Maſon*. I did then in the Face of the Court declare how much he had wronged me; for that I had acquainted the Committee who examined me, that I both knew *Maſon*, and told them the Place, and how I came to know him. Beſides, there is a Copy of my Examination abroad that doth confirm the ſame, That *Corbet* came to me more like a Murderer than a Chriſtian; and becauſe I did call God to witneſs againſt theſe Untruths he charged me withal, he did in effect judge my Soul to the Devil, and my Body to the Gallows, and ſo he left me. For which unchriſtian Carriage of his, I both complained to Mr. *Price*, Clerk to the Warden in the *Fleet*, my Keeper, and ſome others. My Lord, I am charged with being a Sollicitor, and repreſented as a Man that had nothing elſe to do but follow ſuch Buſineſſes as here I am accuſed of; which is a Life ſo unlike an *Engliſhman*, and ſo ill-becoming a Chriſtian, that I have all the Days of my Life walked a contrary Courſe: If it were neceſſary, Multitudes of Witneſſes will teſtify the ſame for me. I was entertained by my Maſter to wait upon him in his Chamber: After he was gone to the Houſe, I had conſtant occaſions to go into the City, either to lay out, pay, or receive Money. So much Experience had I gained, as I entred upon a Merchant's Trade, dealt with many and ſeveral merchantable Commodities; having a Wife and Children then living, that was the Trade I reſolved to follow. My Wife dying, I went over to *France* ſome little Time after with my Maſter, and carried many merchantable Commodities with me, where I found Liberty to encreaſe my Experience. My Maſter returning to *England*, where he ſtaid not a Year, but went back again into *France*, I was left behind to wait upon my Lady. My Imployment in my Lady's Service is ſufficiently known to be ſuch as daily led me to go into the City. The 19th of *July* 1650, my Lady went from the City; there was a Neceſſity one Man ſhe muſt leave behind in *London*, which fell to my Portion. And my Buſineſs called me daily into the City; ſometimes to go to Counſel, ſometimes to ſhew Bills of Exchange, ſometimes to pay Moneys, ſometimes to lay out Money, and buy ſeveral Things which both my Maſter and Lady did daily ſend for to me: There was ſome Letters that came conſtantly every Week from my Lady, ſome out of *France*, to one Mr. *Charboner*'s, whoſe Houſe was in *Tower-Street*. I miſſing theſe Letters often on the Monday, went on the Tueſday for them, which was the Day we met at the Club, which was the main reaſon of my being ſo conſtantly there. Where I met for no other end than to ſee the Faces of my Friends, and to diſcourſe of the News of the Town. Moſt of whatever I heard there diſcourſed on, I found in the printed Books: Nothing do I know was ever ſaid or done there prejudicial to the State. But ſince it is looked upon as a Crime, I would I had never come there. Concerning my Maſter, were it neceſſary, I would here make a Declaration that he never left me to do any Buſineſs but to wait upon his Lady, and to provide, buy, and ſend thoſe Things into *France* that were neceſſary for him. For Letters, I never received any from him, but ſuch as might have looked all the World in the Face: Neither, think I, I need ſay much to clear this, for that the State have ſeen moſt of thoſe Letters that my Maſter ſent before they ever came to my Hands. My Lords, this is all I can ſay, being unwilling to trouble the Court any longer; but muſt declare how much I am amazed to be indicted by ſo high a Charge of Treaſon, as I dare ſay never looked any ſuch Man as I am, in my Condition, in the Face till now; and do fully perſuade my ſelf that your Lordſhip will rather pity my Ignorance and ſad Condition, than look upon me as a Man either fit for Plots, or any ſuch Matter I am charged with. I do proteſt, that if I would make a Declaration of every Act I have done, of every Word I have ſaid, of every Line I have written, I never knew it came up to the Border of Treaſon, whatever is laid to my Charge. And whereas Major *Adams* charges me of being at ſeveral Meetings preſently after the late King's Death, I did not ſee them in nine Months after

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the Death of the King: And after, I came acquainted with *Alford*, and all that he lays to my charge, is going down to *Gravesend*, but he did not say whether he or I carried the Commissions or Letters he speaks of. It is hard for me to remember what the Discourse was a year and half since, but I dare say he doth most falsly charge me that I should bid him shew Kindness to *Mason*, that so he might represent the Presbyterian Party considerable to the King; and that I should bid him disburse some Money, and pay all the Charges, and if it was not paid him by the Company again, I would; this, to the best of my remembrance, is all false. Capt. *Far* (who is another of the Witnesses, who went along with me, and *Alford*) did declare it in the face of the Court, that he knew no such thing, and that Major *Alford* was the Man that invited him to *Gravesend*; and so I do protest he did me, or else I had never gone.

For Letters, I do not remember that ever I touched any; nor did Major *Alford* in the least swear positively I did; only he saith, either he or I did deliver them. *Alford* doth not swear that ever I wrote, that ever I saw them open, or ever heard them read. All this, my Lord, was done above a Year and a half ago; and I hope if there shall be any thing found done amiss in that Journey, the Acts will clear me; for that it is said, If a Man be not indicted within a Year, he is not to be arraigned or questioned. All that Major *Huntington* says, is, He saw me at Master *Love*'s when the Instructions were read, but whether I heard them, he could not swear; but he saw me go out of one Room into another: And since he says, I met him in the street, and asked him if he would not go to Mr. *Love*'s to hear News; and when we came there, after Prayer half an hour, *Will. Drake* pulled a Letter out of his pocket, neither swore he what it was, nor that I heard it read. My Lord, upon the whole, I do say, among all the ten Witnesses, there is not one that doth say or swear that ever I wrote Letter, sent Letter, or received Letter; that ever I collected Money, paid Money, or received Money; or that ever I discoursed any thing prejudicial to the State; not any one Witness doth lay any one thing to my charge done for more than this Year and half, besides Major *Adams*: and all that ever he swears, is, being present at Letters read; he neither says I heard them, or ever discoursed any thing concerning them. So, my Lord, except it be one single Witness, there is nothing laid to my charge done this Year and a half: so, my Lord, the utmost that the whole Proof against me doth amount unto, is but hearing of Letters read at the second hand; and all this but in the utmost were but Misprision of Treason if fully proved; but being but one single Witness to swear this, I cannot imagine it will ever hurt me. For *Potter*, *Jaquel*, *Far*, or *Alford*, (who knew as much by me as *Adams*) did not say any such thing; and all that *Adams* did say, is but hearing of Letters, he doth not say that ever I sent Means to the King: tho I never did this, yet I have weakned myself, and opened my Purse to help the State. About the time the King and *Scots* were agreed, I furnished my Brother with a considerable Sum of Money, and sent him into *Ireland* to do the State Service, where he gained a Command under my Lord, and did very good Service for the State. My Lord, had I ever such a mind to the War in *Scotland*, I could have sent my Brother thither, and not into *Ireland*. Thus, my Lord, I have gone as far as I can, in making my Appeal to the Court; being utterly unable to make any Defence, I do hope there will be no advantage taken by my Ignorance, but you will be pleased to take my Condition into your consideration, and yet grant me both Time and Counsel, and give me a Copy of my Charge, and the Depositions of the Witnesses; which is no more Favour than was allowed to the Archbishop of *Canterbury*, and Deputy of *Ireland*. I crave leave of your Lordship, and the Court, that I may not suffer for want of Experience, nor that my Ignorance may be made use of to work my Ruin and Destruction. From my Youth I have studied the Scripture, but never have studied the Laws in my Life; and therefore all that I have to help myself with, is from the Scripture, where I find that Ignorance hath constantly the Plea at the Bar of Heaven, and so I am certain should have at the Bars of all the Courts of Justice. *Abimelech* that committed a very great Sin in taking another Man's Wife from him, he pleaded his Integrity, and God did spare him, because he knew it not. God hath always been wonderful tender of the Life of a Man, and that in the time of the most strictest Laws; so much care did he take to preserve the Life of Man, that he provided Cities of Refuge to fly unto, if any killed a Man by accident, or unawares. Murder is a great crying Sin; yet were it done unawares, God made a City of Refuge to fly unto, that the Man might be safe, and out of danger of the Revenger. My Lord, whatsoever I have done amiss, I do profess it is out of Ignorance; I never knew I broke any of the Acts of Parliament, nor that I offended the Laws of *England*: and therefore I hope my Ignorance shall have the Plea at your Bar, as I am sure it shall have at the Bar of God. I have often heard that the Law of *England* is the Law of Mercy, and that there is no Law in the world looks with more Tenderness and Compassion upon a Man's Life; therefore I say as *David* concerning the Sword of *Goliah*, *There is none like that; give it me.* The same I do say this day, no Law is like to our *English* Laws, therefore let me enjoy them: I know the Benefits and Advantages thereby is wonderful great. I do verily believe I am before a Court that are fully persuaded that the strict-beholding Eye of God looks upon them, and beholds all your Intentions, and the Thoughts of your Heart towards me, and sees whether you do deny me any Help or Advantage that may save my Life. Therefore I earnestly beseech your Lordship, and this Honourable Court, to look upon the Laws of *England*, and see whether there be not some Helps, some City of Refuge to fly unto, where I may be out of danger of all that I am here charged with. My Lord, this is the first time that ever I was brought upon a Stage, the first time that ever my Name was heard of, or I known to be an Offender against the State: And whatsoever shall now be found in me amiss, I desire there may be a favourable Construction made of it, and not to be strained beyond what my Intention was, who have always abhorred from my very Soul all Designs that have tended to Blood. I have always stood firm to the Cause of Liberty and Religion, and all the Interests thereof; these are the Principles I first took up, these are the Principles I have always held; from which Principles I never yet departed. I have always had a bleeding Heart when the Church hath been in a suffering Condition; I have never been of a bitter Spirit, but have always carried a most Tender and Christian Respect towards those that were of an unblamable

blamable Life and Converſation: And where I thought there was Truth of Grace, however contrary to me in Judgment, yet I have loved them, and embraced them as Chriſtians. I have always lived peaceably, never no Diſturber of the Church or State, either by writing, or printing Books, or any thing elſe. May it pleaſe your Lordſhip, it is my deſire you ſhould do as God did, when the Cry of *Sodom* came up before him; *I will go down*, ſaith he, *and ſee whether they have done altogether according to the Cry which is come up to me; if not, I will know*: The Lord, that knows all things, knew before what *Sodom* had done; but after the manner of Men he came down, to teach all Courts of what they ſhould do before they proceed to Judgment. My Lord, here hath been a great Charge againſt me, a great Cry come up unto your Ears; I deſire you to do as God did, that is, to know whether it be according to the Cry, that you would ſeriouſly weigh all that the Witneſſes have ſaid, gather all the Circumſtances together, and ſee the utmoſt that it doth amount unto; and then I am ſure you will ſee the Evidences to come ſo infinite ſhort of what the Charge and Cry hath been againſt me, that you will find Arguments to incline to Mercy: and if I might not be quitted, yet at leaſt you will let me have thoſe Helps and Advantages that the Laws afford me, and God hath commanded you to give me; that you will not keep any thing from me, that I, according to Juſtice, have demanded, and for the want of which ſee me deſtroyed before your faces. Therefore I do once more with all earneſtneſs deſire you will not deny me a Copy of my Charge, alſo the Depoſitions of the Witneſſes, and aſſign me Counſel to come to my Chamber, and plead for me at the Bar, without which you take from me all theſe Helps that ſhould enable me to make my Defence; without which it is impoſſible for me to go any further, and muſt declare that I want all the material things that ſhould help me to ſave my Life, when I ſee before my eyes all poſſible Advantages to undo me. My Lord, I am able to ſay no more; if thus my juſt Requeſt ſhall be denied, I have gone as far as I can without them, both to clear my Innocency, and vindicate myſelf from that which is laid to my charge; and am moſt confident, if you would let me have what you cannot juſtly deny me, a Copy of my Charge, and the Depoſitions of the Witneſſes, I ſhould ſtand as clear in the eyes of the Law, in the eyes of your Lordſhip, and all this Court, as I am clear in the eyes of God, and my own Conſcience, from what is unjuſtly charged upon me. And thus much I have done, and am able to do no more; therefore if you do deny me, I ſhall be abundantly ſatisfied, howſoever it ſhall pleaſe God to ſuffer you to deal with me. Concerning the Witneſſes, I have little further to ſay, but deſire that the Lord would forgive them, as I do freely; I would not change Conditions with them, tho I were ſure to die in Fire flaming, or in the Mouth of Lions, even in the worſt Condition that could be imagined. I both pity and deſire to mourn for them, who have ſo deſperately wounded their own Souls and Conſciences to deſtroy my Life. And the Lord grant, that not one Drop of my Blood which they have endeavoured to ſhed, may not ſtand betwixt them and Mercy, when they are upon their dying Beds a crying for it. And this is the worſt hurt I wiſh them for all the wrong they have done me. Now the Lord of Heaven direct your Lordſhip, and this honourable Court, that you may not ſuffer the Witneſſes Teſtimonies to be ſtrained, for me to loſe my Life upon Circumſtances, or what is ſuppoſed to be, or in Conſcience thought, but according to clear Proof and Evidence. Do that which may give you Comfort upon a dying Bed, and no more than you dare look God in the face withal, and anſwer to me his poor Servant, who am innocent, at the Bar of the Lord Jeſus Chriſt, where I ſhall have free liberty to ſpeak, and you muſt, and ſhall hear me. The Lord of Heaven direct you, that you do no more than what the Law will allow; and that what you do, may be according to the Mind of God, and moſt for his Glory, and the Good of me a helpleſs Priſoner at the Bar. And ſo let it go which way it will, I ſhall ſubmit with abundance of Content and Satisfaction, and with a quiet Spirit ſay, *The Will of the Lord be done.*

Thus having ended his Speech, the Court adjourned until Friday next; and ſo Mr. *Gibbons* was carry'd back by his Keeper, and ordered to be brought before them again on Friday after.

Friday, about Twelve a-clock, Mr. *Gibbons* was brought to the Bar.

Keeble. COME, Mr. *Gibbons*, what have you to ſay?

Gibbons. My Lord, I have not much to ſay, being totally diſ-enabled, and cut off from thoſe Means that might help me to ſave my Life; which the laſt time I was here, I fully declared, and as earneſtly deſired both a Copy of my Charge, and the Depoſitions of the Witneſſes, and Counſel aſſigned me: this I pleaded for, until your Lordſhip told me the Court would be incenſed if I did not proceed to my Defence. Which made me dare to go no further, but rather chuſe to ſubmit to the Mercy of the Court, and make an Appeal to their Juſtice; where I deſired that you would ſeriouſly weigh and conſider how wonderful ſhort the whole Evidences come; there was not any two agreeing: *Adams*, the material Witneſs, moſt what he ſaid, was diſproved by the other ſeveral Witneſſes that came after. I hope the Court is very ſenſible how little is laid to my charge by Major *Adams*, after ſo great an Inquiſition, as he daily ſet upon me, inviting of me to his Houſe in the City, to his Houſe in the Country, going from one Shop to another, where he thought I did come; to *Aldermanbury* Church, and all other places where he did hope to find me: after all this ſifting, and trying, what was it he got out? nothing but the hearing of Letters read, which none but himſelf ſwears. My Lord, all that I have to ſay, is, to deſire both your Lordſhip, and this Court, to conſider with what great Aggravation the Attorney-General did multiply, and aggravate againſt me beyond all that ever the Witneſſes ſaid, leaving out all what might ſerve for my advantage. My Lord, how the Attorney-General could bring Major *Alford* and Major *Adams* together, and ſo make them double Witneſſes againſt me, that is not poſſible for me or any Man elſe to underſtand. Firſt, what *Adams* ſays, is concerning of my bringing in of the rough Draught of Inſtructions, which I wholly deny, and ſo do all the Witneſſes that came after him, to the beſt of my remembrance: and ſome of them ſwear poſitively that *Drake* brought it in; none but himſelf ſays that I brought it in. To teſtify unto this, Major *Alford* ſays nothing:

but

but all that he ſays, is, That I went down to *Graveſend* with him, and did not ſay or ſwear that I either carried the Inſtructions, or delivered them, or that ever I heard them read: all that he can ſay, is, that I went with them, but whether he or I delivered them, that he cannot tell. He ſpeaks of ſome Diſcourſe concerning ſhewing of Kindneſs to *Maſon*; it being a Year and half ago, I am not able to charge myſelf with what I ſaid then, but dare ſay he hath falſly accuſed me. What Major *Alford* ſays more, is only that I ſhould bring them to *Maſon*'s Chamber in the *Strand*, delivered not, nor ſays that we had any Diſcourſe at all, but took our leaves, and came away preſently. Another time, ſaid *Alford*, I brought *Maſon* to *Titus* to Mr. *Whitarr*'s a Bookſeller's, and that *Maſon* and *Titus* went up to the Chamber, where they had private Diſcourſe together: he did not ſay, that I went up to the Chamber, or heard, or knew any thing what their Diſcourſe was. Now, my Lord, I hope by this time both your Lordſhip and the Court are ſatisfied what ſlender Teſtimony there is againſt me. Firſt, my Lord, I was never heard of, till I came to *Graveſend* with Major *Alford*; only ſomething that Major *Adams* ſaith of me, meeting at the *Swan*, which all the other Witneſſes do acquit and clear me from. Now, my Lord, to what Major *Alford* ſaith, is nothing but giving a Viſit to *Titus* and *Maſon*, which, I hope, will never be thought any Crime; for that neither of them both were declared Enemies to the State, and therefore certainly it could be no hurt for me to ſee them. And beſides, whatever Major *Alford* charges me withal, is a Year and half ſince, therefore am acquitted by your own Acts. So that it cannot enter into my Thoughts, by what Act of Parliament or Law you can paſs any Sentence againſt me: for all that ever is laid to my charge done within this Year, is nothing but hearing of Letters read: which not any one but Major *Adams* ſays, and he neither ſaith what theſe Letters were, and that ever I diſcourſed, or ſaid any thing concerning them. Thus, my Lord, you ſee there is but one ſingle Witneſs throughout. My Lord, I waited upon a Gentleman that led me to two or three Meetings, by which means I gained a nearer Acquaintance, which now proves part of my Unhappineſs, ſeeing it is become a Crime to meet Friends at the Club, and other places, and hear Letters, and other News read, which is all that I am charged with. My Lord, I hope I am before a Court that doth conſider, that all thoſe Days Works will be judged over again; therefore I cannot imagine that any Court of Juſtice in the world will proceed to Sentence upon ſo ſlender a Teſtimony that lies before you, but that you will rather allow me thoſe Helps that may enable me to end the Difference that is betwixt the State and me: that is, to let me have a Copy of my Charge, the Depoſition of the Witneſſes, and Counſel aſſigned me; without which, it is as impoſſible to defend myſelf, as for a little Child to encounter an armed Man with a drawn Sword in his hand. My Lord, I have no more to ſay, but ſhall ſubmit to God whatſoever comes; and as I ſaid before, ſo I ſay again, I do freely forgive the Witneſſes, but do deſire that the Court will not proceed upon ſo ſlight and ſlender Teſtimonies, which never can, nor will hold water in the ſight of God, or Law.

Keeble. Mr. *Gibbons*, moſt of what you have ſaid now, you ſaid before, only you made ſome little addition. The Court hath debated your Buſineſs and Life, with as much care as if you were the greateſt Nobleman in *England*; and upon the Debate, they are perſuaded in their Conſciences that you deſerve to be ſentenced.

Attorn. Gen. My Lord, Mr. *Gibbons* pleads for his Life, and I for Juſtice in the behalf of the Commonwealth, therefore I deſire you will proceed to Sentence according to the Judgment of the Court.

Whereupon Sentence was read. After that, all the whole Charge was read, and Mr. *Gibbons* ſentenced as a falſe Traytor, to return to that place from whence he came, ſo to ſuffer Death, by having his Head ſever'd from his Body.

After Sentence, *Keeble* ſpake in this manner:

Mr. *Gibbons*, you have nothing to do, but to prepare yourſelf for God; you have a great Acquaintance among the Miniſters, you ſhould do very well to ſend for them, and reveal what you know, and ſo do the State what good you can before you die. Have you any thing more to ſay?

But Mr. *Gibbons* ſaid not one word more, but took his leave of the Court, humbly bowing to them; and after that, he bowed to the Attorney-General, and took his leave of him, and ſo came down the ſtairs with abundance of Cheerfulneſs, ſpeaking to his Friends, and ſhaking them by the hands. And in this manner he went along the Hall, until he took Coach to go to Priſon.

Capt.

Capt. JOHN STREATER's *Caſe on the* Habeas Corpus, *at the Bar of the Upper Bench in* Weſtminſter-Hall, *Novemb.* 1653. 5 *Car.* II.

The *Habeas Corpus* was read.

BY *the Keepers of the Liberty of* England *by Authority of Parliament. To the Keeper of the Priſon of the* Gate-Houſe *in the Liberty of* Weſtminſter, *in the County of* Middleſex, *or to his Deputy, Theſe, Greeting. We command you that the Body of* John Streater, *in the Priſon under your Cuſtody detained, as it is ſaid, together with the Day and Cauſe of his taking and detaining, by whatſoever Name the ſaid* John *is called therein, you have before us in the Upper Bench at* Weſtminſter, *Wedneſday next after the Morrow of St.* Martin; *to undergo and receive thoſe things which our ſaid Court of Upper Bench ſhall then and there order concerning him in this part. And this you muſt not omit at your peril. And have you then this Writ. Witneſs* Henry Rolle *at* Weſtminſter, *the 12th of* Novemb. *in the Year of our Lord* 1653.

By the Court. *Ex.* Broughton.

Capt. *Streater.* My Lord, I deſire that this Writ with the Return may be filed.

Judge. What ſay you, Mr. *Prideaux?*

Prid. Nothing.

Judge. Let it be filed. Have you any Counſel?

Capt. *Streater.* Yes, my Lord.

Judge. What do you ſay to it?

Capt. *Streater.* I deſire to have a Copy of the Return, and that I may be bailed.

Judge. It cannot be: you are committed by the Parliament, and you muſt ſhew cauſe firſt.

Capt. *Streater.* I am ready: I deſire to ſpeak to it now, both I and my Counſel.

Mr. *Twiſden.* I was a Counſel for the firſt part of the Return, but not for this.

Judge. What ſay you?

Mr. *Freeman.* I deſire he may have a Copy of the Return.

Judge. Do ſo, and let him be here again on Friday next: let it be ſo.

Capt. *Streater.* I deſire, my Lord, I may not be put to the trouble to ſue for a new *Habeas Corpus.*

[And then Mr. *Streater* not being permitted to ſpeak any more, he was taken away by the Marſhal of the Court of the Upper Bench, and carried to the Priſon of the Upper Bench in *Southwark.*]

Colonel *Barkſted* then appeared upon Lieut. Col. *Lilburne*'s *Habeas Corpus*, and gave this following Reaſon for his not bringing the Body of Lieut. Col. *Lilburne.*

'According to my Orders, my Lord, and the 'Return of the *Habeas Corpus*, I brought the Body 'of Lieut. Col. *John Lilburne* on Monday to the 'Court; at which time I was ordered to attend 'the Court again with him here as this Day. But 'this Morning I received an Order from the 'Council of State to the contrary: And here it 'is, my Lord.'

Clerk. *Wedneſday*, Novemb. 23.

Whereas the Body of Mr. John Lilburne, *by an Order of Parliament, was committed to the Tower for the Peace of the Nation; and whereas there was an Order to the bringing of him forth thence to the Upper Bench this day: It is ordered by the Council of State, that they do not bring him, but that he there abide the Pleaſure of the Houſe.*

Mr. Lilb. *Counſ.* My Lord, on Monday it was agreed that they ſhould bring him again on Wedneſday; and I have no Inſtruction from my Client, for I have no Acceſs to him, nor he to me.

Judge. Well, pray adviſe with your Client.

Mr. Lilb. *Counſ.* My Lord, I deſire to have an *Alias Habeas Corpus.*

Baxt. I have only learned, my Lord, to obey Orders, and I ſhall obey them.

Judge. You do well. The Council of State have a Reaſon for what they do in this Buſineſs.

Mr. Lilb. *Counſ.* My Lord, when muſt we attend the Court?

Judge. On Saturday.

The Return to the *Habeas Corpus* for Capt. *Streater* being filed, the Cauſe of Impriſonment ſhewn in the Return was grounded upon two Warrants: firſt from the Council of State.

THESE are to will and require you to take the Body of Streater, *and him you ſhall ſafely keep Priſoner in your Priſon of the* Gate-Houſe; *he being committed for publiſhing of ſeditious Pamphlets againſt the State: Of which you are not to fail. And for ſo doing, this ſhall be your ſufficient Warrant. Given at the Council of State ſitting at* White-Hall, *the 12th Day of* September, 1653.

To the Keeper of the *Gate-Houſe.*

S. Moyer.
R. Tichburn *Preſid.*
R. Lawrence.
John Hewſon.

The ſecond Warrant was ſigned by the Speaker, by Order of Parliament.

BY *virtue of an Order of Parliament, bearing date this preſent 21ſt Day of* November, *Theſe are to will and require you to receive and take into your cuſtody the Body of* John Streater, *and him to keep and retain in*

in safe custody, until he shall be delivered by Order of Parliament. Whereof you are not to fail, as you will answer the contrary at your peril. Given under my Hand this 21st of November, 1653.

To the Keeper of the *Gate-House*, *Westminster*. Francis Rous *Speaker*.

Upon the reading thereof in Court, this Rule following was ordered to be entered.

Wednesday next after eight Days of St. Martin, 1653. *The* Gate-House, Westminster.

THE Defendant was this day brought into this Court, by virtue of a Writ of Habeas Corpus, *to undergo*, &c. *under the Custody of the Keeper of the Prison of the* Gate-House. *And it is ordered by the Court, that the* Habeas Corpus *and the Return thereof be filed, and that the said* Streater *have Copies of the said Writ and Return, and that the said* Streater *be committed to the Custody of the Marshal of this Court, and that he have the Body of the said* Streater *in Court upon Friday next, upon the Motion of Mr.* Freeman.

By the Court.

The second Appearance of Captain Streater, *on Friday the 23d of* November 1653, *by virtue of an* Habeas Corpus, *and the Rule aforesaid of the Court of Upper Bench of the 21st present.*

CAptain *Streater* being at the Bar, the Clerk read the Return, which was only the Keeper's Answer to the *Habeas Corpus*, which requireth him to shew cause why the Prisoner is detained in Prison. He in the Return citeth the Warrant, Order, or Mittimus for Commitment, and certifieth that is the Cause contained in them, and none other.

The Return being read, the Judge asked Captain *Streater* what he had to say to the Return, and who was his Counsel.

Capt. *Streater*. Mr. *Norbery*, Mr. *Freeman*, and Mr. *Twisden*, are Counsel with me.

Judge. What say you?

Mr. *Twisden*. I was a Counsel for the first part, but not for the second, for publishing scandalous Pamphlets. If there be no more in it, he may be bailed.

Judge. No, there is no more in it. What say you, Mr. *Freeman*?

Mr. *Freeman*. My Lord, as to the second part of the Return, it is in these words: *These are to will and require you to take into your Custody the Body of* John Streater, *and him safely keep, till he shall be delivered by Order of Parliament*. My Lord, every Return ought to have these two things in it; the Cause, and how long he shall be a Prisoner: and so you have it in *Magna Charta*, p. 54. My Lord, all Acts of Parliament against the Laws of the Land, are in themselves void. The Law is above the Parliament.

Judge. Good Sir, do not stand to repeat these things before us.

Mr. *Freeman*. My Lord, I do know it; they may pass their Acts according to Law, but not against Law. The Lord *Dyer* hath it so in his Reports.

Judge. When we are in examination of a Prisoner, will you come and overthrow the Acts of Parliament?

Mr. *Freeman*. My Lord, I refer it to your Lordship's Judgment, whether this Gentleman ought to be kept in Prison without cause shewn.

Judge. What say you, Mr. *Norbery*?

Mr. *Norbery*. My Lord, we must look to see if the Return be true: if it be not, we have an Action of the Case against them that made it false. And tho we will not say that is false, yet here is no Offence recited at all. And, my Lord, all the Acts are the Acts of this present Parliament; and we look on them to be, or ought to be, for the Liberty of the People.

Judge. What have you to say to the second part of the Return?

As to the first part of the Return, Mr. *Prideaux* said he should say nothing unto it; therefore the Judges advise Captain *Streater* to speak to the second part of the Return.

[Now for that the Argument that Captain *Streater* had prepared to shew the Insufficiency of the first part of the Return, may be of great use, and fit for publick View, it is thought fit to be inserted here; and after it, his Argument upon the second part of the Return, the which he delivered with an audible Voice at the Bar: With the Attorney-General's Plea thereto, and the Judges Judgment thereupon.]

Captain Streater's *Argument to the first Part of the Return.*

MY Lord, I being brought to this Bar by virtue of a *Habeas Corpus*, which requireth (by virtue of the Law, which is the Supreme Authority of *England*, and only Authority of Parliaments, and all Courts of Judicature) the Cause ought to be shewn why I am detained a Prisoner upon the Return. The first Part mentioneth a Cause, tho not a lawful Cause: the second Part sheweth no Cause.

My Lord, the Intent in Law of an *Habeas Corpus*, is to relieve Prisoners, notwithstanding special Commands for Imprisonment; as appeareth by the Act of Parliament the 17th of the late King, intitled, *An Act for the abolishing the Star-Chamber, and regulating the Council-Table*; which ordaineth, that notwithstanding special Commands for Imprisonment, the Party so imprisoned shall by an *Habeas Corpus* be brought before the Judges of one Bench or other. And if the Cause of his Commitment be legal, he shall be remanded to the Prison from whence he came; if no Cause (that is to say, a lawful Cause) appear, then the Prisoner is to be set at liberty; if it be doubtful, then the Prisoner is to be bailed.

My Lord, with these agree the learned Arguments of Sir *Edward Coke*, Sir *Edward Littleton*, and Mr. *Selden*; together with the Resolves of the Commons in Parliament (1628) thereupon.

And the second Part of *Institutes*, fol. 52. *The Warrant or Mittimus ought to contain a lawful Cause.*

The Writ of *Habeas Corpus* is the Water of Life, to revive from the Death of Imprisonment.

Sir *Edward Coke* in his third general Reason why a *Habeas Corpus* is to remove the Body, notwithstanding of special Commands, saith, That *Imprisonment is accounted in Law a Civil Death, where a Man is deprived of Society, of Wife, House, Country, Friends; and liveth with wicked and wretched Men.*

The

The Writ of *Habeas Corpus*, and the Benefit thereof by Law, (which is the undeniable Right of every *Englishman*) is called *The High Point, the only Point.* Nay, the Commons of Parliament of the 4th of the late King, in the Conference with the Lords, say that they had redeemed the Body of Liberty, by clearing this Point: that is to say, That in case one be committed by virtue of special Command, he shall have the Benefit of the Writ of *Habeas Corpus* to bring his Body, with the Cause, before the Judges of either Bench; where if it be found a lawful Cause, he shall be remanded; if no Cause, delivered; if it be doubtful, then to be bailed.

My Lord, I shall make it evidently appear, when I come to make my Exceptions, that there is no lawful Cause shewn in the Return to the *Habeas Corpus* why I should be a Prisoner.

With your Lordship's Favour, I shall speak one Word or two of the Law of *England*; I shall make use of it anon. It may not improperly be said, it is written by the Finger of God: it is not unlike (in that where indeed the Perfection of it lieth) unto the Laws of the Eternal Law-giver; which is, it is as well binding to the Law-giver, as to those that are to give obedience unto it.

Anno 42 *Edw.* 3. chap. 3. *No Man shall be proceeded against, but according to the old Law of the Land: There shall be nothing done to the contrary, if it be, it shall be void.*

If this serve not my turn, I am sure there be enough that speak the Language I would have them, that say, Be it so and so enacted, and not otherwise.

First, I observe here they command Law.

Secondly, That they command, that none shall command otherwise but by Law.

God himself bindeth himself by his Laws: he is as well bound, as he bindeth those several Beings he gives Laws unto, let them be Eternal, Moral or Natural. If he maketh a Promise, he performeth it: he must not, he doth not but perform it. If he create a World, and willeth it to continue, he must support it in its Beauty and Strength, and by his Providence support the several Beings in it.

My Lord, Law is Supreme; none ought to command contrary to Law. It is not, that he or they are superiour that command, that therefore they should be obeyed; no, it ought to be diligently enquired by the Inferiors, whether Superiors command Law, or not; if not, they are not to be obeyed. For that this is not a Rule amongst Men, is the Reason so much of Absoluteness and Tyranny is so much on foot in the World.

Camerarius mentioneth a Story of *Henry* II. of *France*, his committing to Prison an *Italian* Lackey, and shewing no Cause of his Commitment. The Judges visiting the Prisoner, commanded that he should be delivered. The King again committed him, and commanded that he should be executed. The Judges notwithstanding the second time opened the Prison-Doors for him, for that the Law warranted them for so doing.

Henry III. of *England*, commanded *Ralph Nevil* (Lord Keeper or Lord Chancellor) to deliver the Great Seal. He refused it, because it was to be disposed of by the Common-Council, or Parliament of the Kingdom. This is attested by *Matthew Paris*, and *Matthew* of *Westminster*.

Thomas late Lord *Strafford*'s Plea, That *what he did, was in Obedience to his Superiour, the King his Master*, could not protect him from condign Punishment, for that he had transgressed the Law.

Plutarch saith, the *Spartans* were happy in their King *Agesilaus*, who had such a reverend Esteem of Law, that he gave obedience to a small Scroll of Parchment, which was the Summons of his Country for his Appearance.

That which will make us happy, must be our Laws; not Men, Councils, or Courts. *Aristotle* saith, That it is better to govern by good Laws than good Men.

My Lord, our Laws are good; they are (as to the intent) the only preserving Laws in the World: they are the Strong-holds, the Bulwarks to the weakest.

Edw. 6. *fol.* 36. The Law is called, *The Inheritance of every Subject.* It is the Inheritance of Inheritances; and without which Inheritance, we have no Inheritance: we should be but as Tenants at Will, to be turned out of Life, Liberty and Estate, at pleasure.

My Lord, withal, the Law signifieth nothing at all, if there be not a way to obtain the Benefit thereof; the which should be as certain and unalterable as the Law it self. And therefore I think that the Statute of 42 *Edw.* 3. *chap.* 3. is meant a Proceeding by Record, when it saith, That *no Man shall be proceeded against, taken or imprisoned, but according to the old Law of the Land.* The same Opinion may pass of the 29th *chap.* of *Magna Charta*, which is but an Exposition of the good old Law of the Land.

Mr. *Selden*, in his Argument at the Conference of the Lords and Commons, 1628. saith, *The Law is of no Benefit, if that the way be not open to obtain the Benefit of the Law.*

In all which, Proceedings by Discretion are justly reproved; for they are of evil Consequence, as witness *Empson* and *Dudley* in *Henry* the Seventh's Days, by whom *the Subjects were grieved*, my Author saith.

My Lord, just Proceedings are as necessary as just Judgments.

It is Justice that saveth and defendeth a Nation, that maketh it happy, fruitful and prosperous.

The Frontiers of a Nation may be guarded with Men at Arms, but it will not be preserved thereby; it must be Justice in the midst of it: *If there be but a Man that executeth Justice and true Judgment*, he shall save the City.

There may be good Reasons given for it. Injustice discontents a People; and usually the Foundations of Changes are laid upon the Discontent of the People.

My Lord, I speak not this as reflecting on this Court, or out of fear of Injustice at this Time or Place; no, but only as laying a sure Foundation for my Exceptions.

If the Law be Supreme, and not to be varied from in the least Tittle, then it is a sufficient Sanctuary. Unless this be granted, all my Exceptions will profit me nothing.

I ought not to be remanded, because it cannot but appear I have been proceeded against not according to the Law of the Land, which is my Right; and if my Right, every Man's Right; and if not my Right, it is no Man's Right.

42 *Edw.* 3. chap. 3. *None shall be proceeded against, but by Presentment, or things of Record, according to the old Law of the Land.*

It is not the Law of our Kings, but the Consent of our Forefathers: These are our Privileges and

the present Power hath declared they will be tender of them.

The Writ is by Authority of Parliament.

This Privilege of an *Habeas Corpus* putteth the Difference between the Villain and the Freeman.

My Lord, I shall now make my Exceptions to the Return.

First, The Return is too general, and sheweth not lawful Cause why I should be imprisoned.

I doubt not but to make it appear; and if so, I ought to be set at liberty without Bail.

The Act of the 17th of the late King provideth, That *if no Cause be shewn* (that is to be understood, a lawful Cause) *then the Prisoner shall be discharged.*

A Prisoner is not discharged, if he be bailed, for that he is a Prisoner to his Bail; and if bailed, then it is to be supposed a Cause, though such upon which he may be bailed.

The Cause of Imprisonment shewn in the first part of the Return, is for *a Seditious Pamphlet against the State*: It doth not name wherein it is seditious; it doth not name what Books or Pamphlets.

2 *Part Instit. fol.* 591. on the Statute of 1 *Edw.* 2. Sir *Edward Coke* saith, That *the Mittimus or Warrant must contain the Cause, though not so certainly as the Indictment ought; yet with so much convenient Certainty, as that it may appear judicially what the Offence is*; as for stealing a Horse, or the like. And this is according to Reason, which is the Mother of Law; which hath had good Authority at this Bar, and now hath, and I hope shall have.

As by Variety of Natures, and Forms, and Names, several Beasts are distinguished; so Variety of Titles do distinguish Books or Pamphlets. And for that there is or hath been as many several sorts of Books or Pamphlets distinguishable by their Title or Name, and Matter or Subject wherein they are seditious, as there are several sorts of Beasts distinguishable either by their Nature, Name or Form: therefore if it be needful, if a Man steal a Horse, that the Warrant or *Mittimus* shall say, the Imprisonment is for stealing a Horse, and not for stealing of a Cow, the same will hold good for a Cow, Ox, or any other Creature or Thing.

If so, it had been as needful for the Return to express what Pamphlets or Books, either by Title or Name, Matter or Subject; for that there are, or have been as many several sorts of seditious Pamphlets (so accounted) within these few Years, of several Titles, as there are several sorts of Beasts in the World. And therefore seeing the Return doth not shew for which of them I am imprisoned, it must be presumed there is not Cause for my Imprisonment. Generals are nothing in Law.

Again, my Lord: Sir *Edward Coke*, 4 *Part Instit. fol.* 39. *chap.* 1. *High Court of Parliament*, there in these words, saith, That by order of Law a Man cannot be attainted of High Treason, unless the Offence be in Law High Treason. He ought not to be attainted by general Words of High Treason by Authority of Parliament, (as sometime hath been) but the High Treason ought to be specially express'd.

This is so plain, it need not be pressed further.

Likewise the Resolution of the Commons in Parliament, the 4th of the late King, resolveth, That notwithstanding special Commands for Imprisonment, if there be not lawful Cause of Imprisonment shewed upon the Return of a *Habeas Corpus*, that then the Prisoner shall be acquitted.

I have plainly made it appear, that there is no lawful Cause; yet notwithstanding I shall back it with Reasons that shall carry sufficient Authority with them, to prove my Assertion, That there is not lawful Cause; and to prove that my Imprisonment hath not been according to the Law of the Land, as is provided in the Act of the 17th of the late King, 42 *Edw.* 3. *cap.* 3. 25 *Edw.* 3. *chap.* 4. and *Magna Charta*, *chap.* 29. All which command but the Law, or are rather but Expositions of the Law.

And seeing the Parliament hath left this Court open for any to be relieved, I pray to be relieved.

My Lord, I ought to be proceeded against by due Course of Law.

The Act of the 20th of *September* 1640. provideth, if it be for treasonable and seditious Pamphlets, the Party shall suffer such Penalties as are by the Law of the Land provided. By which it appeareth, that they intended no otherwise a Man should be proceeded against in this case, but by due Course of Law; which is to be by Presentment before Justice, or Thing of Record; as 42 *Edw.* 3. *chap.* 3. at which time it is usual that the Accusers and the Accused are face to face, and there they the Accusers do aver, that that is the Man that hath so and so offended; else how shall it be known that this or that is the Man meant by the Accusers?

Besides, my Lord, *Anno* 10 *Eliz. chap.* 6. it is provided, That two Witnesses be as well at the Indictment as the Arraignment.

Indictment is an Accusation against a Man; and it is upon Accusation the *Mittimus* is made for Commitment. It is fit a Man at his Commitment do know his Accusation and Accuser; if he do not, he cannot make his Defence. It is not fit he should be deprived of any Advantage of that kind.

Festus (Acts 25. 27.) saith, *It seemeth not reasonable that he should send* Paul *to* Augustus Cæsar, *without shewing Cause of his Imprisonment.* There was Cause, but not a lawful Cause; for he saith, *He might have been acquitted, if he had not appealed to* Cæsar.

If it should be objected, That a Privy-Council may, for several secret Reasons of State (if they please) commit Men, and shew no Cause, or at least, not so particular as the Law requireth; Sir *Edward Coke*, 2 *Part Inst. fol.* 199. sufficiently answereth that, and saith, That *the Law admitteth not of Matters of Pleasure.*

My Lord, that good Maxim, That *the Safety of the People is the Supreme Law*, hath been mis-interpreted by some that would have it thus; That if any by their Endeavours do threaten Disturbance to a Government, and that they conceive it safe to take away those Disturbers Lives, or their Liberties, in order to prevent those Mischiefs they apprehend they may be instrumental in: if they cannot do it by Law, then they may repair to extraordinary Courses.

Mr. *Sadler*, in his Book, intitled, *The Rights of the Kingdom, and Customs of our Ancestors*, reporteth, That the old *Saxons* had a Maxim, That *high or extraordinary Justice is Injustice.*

My Lord, and Injustice doth a Nation or State more Mischief and Hurt than all its private and open Enemies can do.

Now having proved that there is no lawful Cause shewn in the Return why I am detained a Prisoner, I shall present your Lordship with my second Exception,

ception, which is, That there is not alledged the Time nor Place where the Crime was committed, that is the pretended Cause of my Commitment.

My Lord, I shall not insist upon Matter of Fact to any other end, than to shew the Insufficiency of the Return.

And that the Law intendeth that Cause, nay, lawful Cause should be shewn of Commitment, in the Warrant or *Mittimus*, upon his first committing, the Cause of Commitment, may the better prepare his Defence; the which the Law intendeth not to deprive a Person of: the which he should be deprived of by such Returns.

I shall shew your Lordship wherein first it may be alledged, that I did commit a Crime at *London* such a time, when I was at *York*.

Mirrour, Chap. 3. Sect. 23. *One that is appealed of Maim, may plead that he was sick at that time.*

My Lord, many times such Circumstances are the Standards to measure the Truth or Falshood of an Accusation.

I shall first offer something to prove, that the Place where the Cause of Commitment was committed, ought to have been shewn in the Return.

Page 621. *Fitz-Herbert, Natura Brevium*, of a Writ of Mainprise, it is in the Beginning of the Writ thus; *The King, to the Sheriffs*, &c. *of the part of* A. *taken and detained in our Goal at* G. *for certain Larceny of a Horse at* S.

Now, my Lord, here is the Place alledged.

Sir *Edward Coke*, 2 *Part Instit. fol.* 317. saith, That *Appeals ought to contain, 1st, The Fact: 2dly, The Year: 3dly, The Day: 4thly, The Hour of the Day: 5thly, The Place where the Fact was done.*

Here are many Certainties, but the Certainty of Time and Place are not to be omitted; they are two Essentials.

So that if Time and Place be not shewn, when and where the Crime was done, that is alledged to be the Cause of Imprisonment, it may be concluded that there is no Cause, if it was done at no Time, nor no Place.

Another Reason why the Time when the Crime was committed, that is the Cause of Commitment, ought to be shewn in the Return, is this: If it were granted that it was so, that I did publish seditious Pamphlets or Books; it may be done seven Years since, for ought that appeareth in the Return.

That the Time when the Fact was done, ought to be shewn, appeareth evidently by the Provision that is made in the Act of the 20th of *Septemb.* 1649. intitled, *An Act for preventing of scandalous and seditious Books and Pamphlets. Provided always, and be it enacted, That no Person or Persons shall be molested and impeached for any of the Offences mentioned in this Act, unless he or they be thereof accused within six Months after his or their Offence so committed or done.*

Then 13 *Eliz. chap.* 1. it is provided, That *none shall be sued, troubled or molested for any of the Offences contained in that Act, unless they were accused thereof within six Months, if the Party or Parties were not out of the Realm.*

Now for ought there appeareth in the Return, the pretended Cause of Imprisonment was committed seven Years since; and it may be as legally presumed to be six or seven Years since, as four Months since. And if so, then I am clear by virtue of those Acts I mentioned: they concern seditious and treasonable Books or Pamphlets. In a doubtful Cause, it is better to acquit the Guilty, than to condemn the Innocent.

My third Exception is, That the Conclusion of the Return ought to be according to Law, and have these Words; *To be delivered by due Course of Law.*

By which is to be understood *speedily*, at the next Goal-delivery. It is not by the Return said by what I shall be delivered, nor when, whether ever or never delivered; it seemeth to intend a perpetual Imprisonment, the which is utterly against the Law of the Land.

2 *Part Instit. fol.* 315. *chap.* 9. on the Stat. *Gloucest. Expedition ought to be used, to prevent long Imprisonment. Imprisonment should be but till the next coming of the Justice. And* (saith he) *it is the Mercifulness of the Law of* England, *that it willeth that none be ruined by long Imprisonment.*

And therefore the afore-mentioned Writ of Mainprise (cited in *Fitz-Herbert's Natura Brevium*) seemeth to take up a Complaint, That the People are not only grieved with wrong Imprisonment, but more especially with long Imprisonment, in these Words; *And him by such Mainprise from the Goal aforesaid hast delayed to deliver, to the no small Loss and Grievance of him the said* R. *and manifest Peril of his Life.*

Brook's 9 Report in *Powler's* Case, and in the end of the Writ, hath these Words; *That the Subject be not detained so long in Prison as till the Justice shall come in Eyre.*

By all which it appeareth, that the Law relieveth against long or perpetual Imprisonment, as also against Imprisonment without lawful Cause, notwithstanding that it be by special Command.

My Lord, my Life nor Liberty cannot be taken away, but by Law; nor given unto me, but by Law. It is a good Maxim, *If we keep the Law, the Law will keep us.*

It would be sad if a Man should be necessitated to plead his Cause by the making of Friends, when the Law shall not be sufficient to plead in his defence, and when Life and Liberty shall be disposed of at pleasure.

It is provided against in 2 *Edw.* 3. *chap.* 2. *of Charters of Pardon*; where is is ordained and enacted, *That such Charters shall not be granted, but only where the King may do it by his Oath*; that is to say, where a Man slayeth another in his own Defence, or by Misfortune: This the Law warranteth to be done.

Now having proved, that there is no lawful Cause shewn in the Return why I should be a Prisoner, together with the Insufficiency of the Return; if so, it is my Privilege by Law to be discharged and acquitted.

And the present Power hath declared to be tender of our Rights and Privileges: We have no Rights, Privileges or Properties, but what we are instated in by the Law: if so, then it is my Right not to be deprived of what the Law doth allow me. Your Lordship is a Judge of the Law.

Captain John Streater's *Argument to the second Part of the Return.*

My Lord,

AS to the second Part of the Return, that mentioneth an Order of Parliament, I make this Exception, *That it doth not mention any Cause at all of my Imprisonment.* And seeing it doth not shew cause, it is of less Strength than the former Part of the Return, wherein is Cause shewn, though not a lawful Cause.

And

And therefore there may be no more, but only the bare reading of it to shew the Insufficiency of that part of the Return.

But here, if it should be objected, That it is grounded upon an Order of Parliament, and that the Parliament are not bound to shew a cause:

Truly, I am of Opinion that the Parliament would not own any one that should so argue, it being so perfectly repugnant to their Honour, it being condemned in Parliament within our Memory, as unjust, illegal, unreasonable and perfectly contrary to Law; and Law is the only Scepter of Senates, Parliaments, Councils, Empires, Kings, Princes, Governours and Magistrates.

The late Parliament in their Declaration upon declaring *England* a Free-State, (*March* 17. 1648.) say, That *their only Authority is by the Law.*

Again, they say that they are sensible of the *Excellency and the Equality of the Law of* England: Also, That they should uphold the true approved Rules of the Law of *England*; and that the good old Laws and Courts of Justice, and the Custom of *England*, are the Badges of our Freedom, Rights and Privileges.

And this Parliament hath declared, That they will be tender of our Rights and Privileges; the which we enjoy by our Laws.

29 *Chap.* Magna Charta; *None shall be taken or imprisoned, but by a legal Proceeding, according to the old Law of the Land.*

The words, *None shall be taken*, imply, That none shall take or imprison any contrary to Law.

And it cannot be denied, but the Law intendeth the Protection of innocent Persons in Freedom: And there being no Cause shewn in the Return, let the Command come from whence it will, the Law will warrant a Discharge.

If it be by an Order of Parliament, if the Order shew not Cause of Imprisonment, not a Cause only, but a lawful Cause.

Parliaments ever made Laws, but the Judges of the Law judged by those Laws.

Who will question but that the Warrant of a Justice of Peace, shewing lawful Cause of Imprisonment, is of greater Force in Law, than an Order of Parliament shewing no Cause of Imprisonment?

But, my Lord, the Parliament is here; it is their Authority that I apply my self unto; there is nothing can be done here but by their Authority; that is to say, the Law.

And therefore the Law, and several Acts of Parliament, as that of the 17th of the late King, and divers others, say, That I shall be discharged.

Shall an Order of Parliament over-rule Laws, Statutes, Customs, Usages and Reason?

No, my Lord, doubtless the Parliament's Intention in ordering that I shall not be delivered but by Order of Parliament, is, That I should be delivered by Order of Law, as I here expect now, and do not question in the least.

Order of Law may be reckoned as the comeliest of all the Parliament's Orders.

Surely none will alledge, that the Parliament intendeth to stop the Proceedings of Law that may relieve me; or that this Order of Parliament is superiour to Authority of Parliament that is judicially in this Court.

My Lord, the Inferior must give way to the Superior. The same Reason that the Commons in Parliament, of the 4th of the late King, judged of the Invalidity of the Record in *James Demestris* and *Cæsar*'s Case; for that it was not argued or debated it was not of weight to be a sufficient Record: The same Reason, I say, may be given for an Order of Parliament not to be in force against an Act of Parliament.

An Order of Parliament hath but the same Proportion with an Act of Parliament, that a verbal Command hath with a Command by Record; for that there are not the Debates, Deliberations, and three Times of reading of an Order of Parliament, as is at the establishing an Act of Parliament.

My Lord, besides, any rational Man will think that the Wisdom and Prudence of the Parliament is such, that they will not lay up such a Portion for their Successors and Children, as a Record that shall be a Law or Precedent to After-Ages, that shall be in effect, *That* J. S. *was remanded to Prison by the virtue of an Order of Parliament, when no Cause is shewn in the one part of the Return, nor lawful Cause in the other.*

When the supreme Authority of Parliament, the Law, and Acts of Parliament that contain Law, say expressly, That *if no Cause* (or lawful Cause) *be shewn in the Return for Imprisonment, that then the Prisoner shall be set at liberty.*

And *Anno* 20 *Edw.* 3. *cap.* 1. That *if Commands come to the contrary, the Judges shall not cease to do even Law and Right.*

Besides, Sir *Edward Coke*, in the 4*th Part* of his *Institutes*, *cap.* 10. *High Court of Parliament*, intimateth that an Act of Parliament is not pleadable in a Court of Record, but by Record, or under the Seal. And Mr. *Sadler*, in his Book, entitled, *The Rights of the Kingdom, and Customs of our Ancestors*, saith as much. Then much less an Order of Parliament, that is not recorded upon the Parliament-Rolls it self.

My Lord, it is not to be imagined, neither do I think, that the Parliament expected that their Order (the inferior part of their Power) shall take place of the superior part of their Power, the Law, and Acts of Parliament that command Law, which is judicially here, as I said before.

My Lord, all Acts of Parliament, that are unrepealed, are their own: They are not theirs, when they disown them by repealing. Until then they are with *not otherwise* in force, and are Law.

My Lord, a Parliament, as they command Law, may be called the Wisdom and Reason of the Nation.

Anno 4 *Hen.* 7. *cap.* 12. the Law is called the *Policy of the Nation.* Indeed it is so: Justice is the best Policy, as I said before.

None can demonstrate what Justice is, without the Law be as the golden Mete-Wand, that Sir *Edward Coke* cautions Parliaments to leave all Causes to be measured by, 4 *Part, Instit. fol.* 41.

Upon the Question of *Henry* VIII. to the Judges, *Whether a Man might be attainted of High Treason in Parliament, and not to call him to his Answer?* The Judges Answer was, *That an inferior Court could not in Law or Justice do so*: And their Opinion was, *That the higher the Court is, the more just they ought to be.*

It is not to be supposed that a Parliament will act contrary to their Wisdom and Policy, which is the Law; or that they would have their inferior Power take place of their superior Power.

Neither will the Parliament plead against me with their Power, no surely, but by Law, legally; else they would have nailed up my Prison-Doors with armed Men, and never have suffered me to come to this Bar. And if that they had not intended that I should have been acquitted, they doubt-

doubtless would have shewn Cause. I know there can be no lawful Cause of Imprisonment shewn against me.

My Lord, *Job*'s Friends, they tell *Job* that because he was guilty, in their Opinion, in the sight of God of Sin, *Job* 22. 4. *Will he* (meaning God) *reprove thee for fear of thee? Will he enter with thee into Judgment?* As much as to say, That God would cut him off from amongst Men because he was sinful, and God powerful. But saith *Job*, (*Chap.* 23. 3.) *O that I knew where I might find him, that I might come to his Seat! I would order my Cause before him, and fill my Mouth with Arguments. I would know the Words which he would answer me, and understand what he would say unto me. WILL HE PLEAD AGAINST ME WITH HIS GREAT POWER? NO; but he would put Strength in me. There the Righteous might dispute with him*, &c. And *Chap.* 38. *ver.* 32. God saith, *Gird up thy Loins like a Man; for I will demand of thee*, &c. And here God declareth his Power and Wisdom visibly in the Creation of Creatures great in Magnitude, as the *Leviathan*; sweet in Influence, as the *Pleiades*; Swiftness and Courage of the Horse in the Day of Battel; and so of the whole Creation. That this great and glorious Eternal God, that gave a Being to all Beings by one only Conception of his Mind; he willed them to be, and they were: This God, you shall find, pleaded with *Job* by and by, in *Chap.* 42. *ver.* 4. *Hear, I beseech thee, and I will speak; I will demand of thee, and declare thou unto me.*

My Lord, will the Parliament plead against me with their Power, that is to say, what they may do? Surely they will not; but rather strengthen me, by affording me the Benefit of the Law at this Time and Place; which is the utmost of what I do expect, and the which they ought to do. By the which I shall arrive at my Liberty, which is my Right by Law, in regard there appeareth no Cause in the one part of the Return, nor lawful Cause in the other.

My Lord, I have seen the Copy of an Order of Parliament, bearing Date the 21st of *November* present, that saith, *That* John Streater *be and do stand committed to the Prison of the* Gatehouse, Westminster, *in order to a Tryal; and that Mr. Speaker do issue a Warrant accordingly.*

Without doubt this is the Tryal intended by the Parliament, here at this Place, to try whether there be cause of Imprisonment, or not.

The Innocent need no other Tryal.

The Cause that is already shewn in the first part of the Return, is to be supposed true, and all the Cause that was to be shewn, and none other; for that the second part mentioneth no Cause at all. And if there had been lawful Cause shewn, it is not to be denied but it had been of force.

By all which appeareth, that they intended me the Benefit of the Law; which speaketh this Language, That *the Innocent shall be acquitted.*

My Lord, an Order of Parliament is but as the first Thoughts of a Man, by which he intendeth this or that.

An Act of Parliament, and the Law, is like the second, third, and fourth Thoughts of a Man, wherein he altereth his first Resolutions, formed by his first Thoughts, unto more safe and better Resolutions.

And it is not contradictory to himself at all, nor never a whit below him.

My Lord, here are the Parliament's second, third, and fourth Thoughts judicially in this Court: It is Law digested by Councils, Debates, Time and Practice, into Safety and Conveniency. The which is for their Honour to act by: The Benefit thereof I pray.

My Lord, the Return saith I *shall not be delivered but by Order of Parliament.* The Order of Parliament saith not such a Word, but to be committed *in order to a Tryal*; at which I am.

My Lord, the Return saith *I shall be committed Prisoner to the* Gatehouse *by Order of Parliament.*

The Authority of Parliament, the Law judicially in this Court, hath committed me Prisoner to the Marshal of this Court; shall this be called a Contradiction to the Order of Parliament? No, surely it will not stand so in the Opinion of this Court.

Neither can it be called a Contradiction to the Order of Parliament, if I should be discharged of my Imprisonment; because the Authority of Parliament, the Law, saith, *If there be no Cause of Imprisonment, I shall be discharged.*

The Law intendeth but three Things only to defend, in which all else is comprehended: They are Life, Liberty, and Estate.

Liberty is the chief: Not a Liberty to do what one lists, either in obeying, or in commanding; but a just preserving Liberty, that shall be for the Good of Society.

It was this that our Forefathers and we have contended for by Arms: And being victorious, will the Parliament deprive us of the Benefit of the Law, which is the Ornament of our Triumph?

No, my Lord, they have declared to the contrary that they will not.

Something of the like nature may be concluded from the Answer of the Council of State to my Keeper: The Keeper of the *Gatehouse*, when he desired of them to know their Pleasure, whether he should allow the Writ of *Habeas Corpus*, or not, in regard I was a Prisoner by their Command; their Answer was, They would leave it unto him. As much as to say, They intended not to deprive me of the Benefit of the Law.

My Lord Chief Justice *Hyde* is not on this Bench, who once was, and to his shame did deliver in effect this Judgment, That for several Reasons of State, the King may do or act contrary to Law.

My Lord, I have power to kill this Gentleman next me, but not by Law.

It did better become Mr. Attorney-General *Heath*, in his pleading for a corrupt Interest (in the Cause of Sir *John Heningham*, and others) at this Bar, to alledge, That the King may act above and contrary to the Law; than Mr. Attorney-General *Prideaux*, that is to plead in the behalf of a State, that some suppose are laying a Foundation of the Kingdom of Christ. If he should, it would be the grandest Inconsistency that possibly could be, to what they have declared, namely, Tenderness of our just Rights and Privileges.

The which Declaration hath invited a national Expectation thereof: The which should be a sufficient Law to them to do nothing that might deprive any Individual, though the most inferior and inconsiderable Part or Person of the Whole; because they were comprehended in the Whole, unto which these Promises were made.

My Lord, upon the Agreement of sharing the *Roman* Empire made between *Octavius Antonius* and *Pompeius Sextus*, it fell out that they agreed to feast aboard of *Pompeius*'s Admiral-Galley, lying at an Anchor off the Head of Mount *Misena*: And when they were all aboard, and merry, *Menas* the Pirate came and whispered *Pompeius* in the Ear,

Come,

Come, saith he, *shall I cut Cable, weigh Anchor, and set Sail, and not only make thee Lord of* Sicily *and* Sardinia, *but of the whole Empire also? No*, saith noble *Pompeius*, *I have not learned to break Faith, although it were to the gaining of an Empire.* When he had invited them to a Banquet, they should not be deprived of what they expected by Imprisonment, or Loss of their Shares of the Empire: Such Advice, and such Practices, do better become Pirates and Thieves, than Persons of Virtue and Honour; the which was in his power to have done.

My Lord, seeing, as I say, that the Parliament did at the first declare that they would be tender of our Rights and Privileges; and seeing it is our Privilege to have the Benefit of the Law; and seeing the Law saith, *That if there be no Cause, there shall be no Imprisonment*; and in regard there is no Cause shewn, why I should be a Prisoner: I do aver that the Parliament cannot have greater Dishonour put upon them, than for any one to alledge that they intended Imprisonment to me, if there should no Cause in Law appear.

My Lord, if there be any Thing else alledged to be against me than what appeareth upon the Return and the Record, the Law requireth you not to take notice of it.

And seeing there is no Cause, there ought to be no Imprisonment: If it should, it would be Injustice.

Justice is one of the Attributes of God, that by his Dispensations he would have administer'd to Men.

The Administration of Injustice is a perfect Fighting against God.

I believe the Parliament would not be found Fighters against God.

My Lord, the Philosopher saith, *Where just Law ruleth, there God may be said to rule.*

If you judge justly, you have no Cause to fear.

I expect it, as you will answer the contrary at the dreadful Day of Judgment.

Judge. What have you to say, Mr. Attorney-General?

Prideaux. That which I have to say is not to argue, but to acquaint the Court he is committed by an Order of Parliament, which is not to give an account to the Court. It is their Pleasure to commit him till he be cleared by an Order of the same Power. And I hope, my Lord, you will not dispute it: For I know it is fresh in your Memory, where Orders of the like nature have been made by the Parliament. He is to remain Prisoner by the Authority that put him there.

Judge. Yea, as in the Case of *Lilburne*, *Chetwin*, and others, which after made their Address to the Parliament; which if this Gentleman do, I make no question but they will do according to Law and Justice by him, and no otherwise, since he is committed by them; and they only know the Cause of his Commitment.

Sir Thomas Witherington, *Serjeant at Law for the Commonwealth.*

There has been two Counsels have spoke something in behalf of the Gentleman at the Bar: one of them pleaded this, That there was an Order of Parliament, but not an Act of Parliament. My Lord, an Order hath force as well as an Act. As for Mr. *Norbery*, he said, Part of the Return was true, and Part was not true. If it be not true, he has an Action of the Case against the Keeper. Again, whereas he says, That all Acts of Parliament were made for the Liberty of the People: truly so they are; but not to give leave to Licentiousness.

Judge. Mr. *Streater*, one must be above another, and the Inferior must submit to the Superior; and in all Justice, an inferior Court cannot controul what the Parliament does. If the Parliament should do one thing, and we do the contrary here, things would run round. We must submit to the Legislative Power: for if we should free you, and they commit you again; why, here would be no end: and there must be an end in all things.

Where you say, we are not to imprison you without Cause shewn: It is true, we are not: but if there be any that do disturb the Peace of the Nation, we are to settle things in Peace and Quietness; for the Cause of the Law is to quiet the Nation.

The second thing that hath been objected against the Return, was by Mr. *Freeman*: He says, The Parliament hath not Power to alter the Laws. Why, they have the Legislative Power, and may alter and order in such sort as they please; they may daily. If they find any thing that is fit to be reformed, they may alter and reform them, and make Laws new. It is strange a Counsellor should say this.

Another Objection was, That there was no Cause express'd. It's true, here there is not. We are Judges of the Law, and we may call inferior Courts to an account why they do imprison this or that Man against the known Laws of the Land; and they must shew cause to any Man. In this Case, if the Cause should come before us, we cannot examine it, whether it be true or unjust; they have the Legislative Power.

Now whereas you say, It is but an Order of Parliament, and has not been three times read in the House: How can you tell but that it has been three times read? Indeed they used to read it thrice when the King and House of Lords and Commons sat; and so it may be now, for ought we know. But if it were but once read, we cannot call it into question, but must conceive it was on just grounds; and it may be they thought it not fitting to express a Case in Matter of State; for if they should express the Cause, and we not able to judge of it, there would be nothing done in it. Therefore, Gentlemen, we can do no more in it, and yet I hope we shall do according to Justice, that the People may not be oppress'd. If it had been a Cause we could have meddled in, something might have been done; but now we see no Cause it should be repealed.

Justice *Garmond*. God made Man, and gave him a Law to live by; and the Laws of *England* are grounded on the Laws of God: and in the Laws of *England* every Man is concerned. And now the Parliament of *England* is grounded on the whole Body of the Nation. Now if one Power were not above another, things would go in a Circle to and fro, and have no end: Now this will bring them to an end, since the whole Law of the Nation is grounded on the Parliaments Laws.

Judge *Nichols*. I am of the same Opinion, every thing must be done in Order: And *God is the God of Order*; and therefore every thing ought to be done in Order, and not in Confusion. Now what the Parliament does, we cannot dispute or judge of: Their Laws are to bind all People; and we are to believe they had Cause for what they did. And for that you say an Order should be read three Times;

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when I was a Parliament-Man, divers Acts past with one time reading. In the next place, you did distinguish between an Order and an Act of Parliament. Why, their Power is a Law, and we cannot dispute any such thing. And whereas you affirm it was once pleaded here, *That the King was above the Law, and might do what he pleased against the Law*; that it was so here, I do not remember: but the Parliament does not so.

Prid. I humbly pray he may be remanded to the *Gate-House* again.

Judge *Nichols.* There is a *Primum Mobile*, or things would come into confusion. The Parliament has the greatest Power.

Capt. *Streater.* I desire I might be bailed; I shall be Prisoner nevertheless: the Law accounteth one a Prisoner, tho he be bailed; and if not bailed, I may be a Prisoner a hundred Years.

Prid. My Lord, pray let him be sent to the *Gate-House.*

Capt. *Streater.* I desire then I may be a Prisoner to this Court. I am a wounded Man, and have done Service for my Country, and deserve not to be shut up in a close Hole. Besides, I have been a Prisoner three days contrary to the Order of Parliament, by Order of Law, to the Marshal of this Court; when the Order of Parliament saith, *I shall be a Prisoner to the* Gate-House: and if the Law can warrant the Court for the doing of the one, doubtless it will for the doing of the other. I am sure it is my Right by Law.

Judge. No, no; no such matter.

Prid. My Lord, I heard this Man say he has been wounded, and that he was for the Parliament; but I am informed he was cashiered. He cited the Order of Parliament, and that they did not publish the Cause wherefore: but I will speak it publickly, it is in order to his Tryal.

Capt. *Streater.* My Lord, he speaks falsly; I laid down my Commission myself.

Judge. We are to judge honourably of the Supreme Power.

Capt. *Streater.* You said but now, my Lord, you could judge of nothing but what was before you upon Record.

Judge. Let him be sent again to the *Gate-House*; he was committed there. And, Gentleman, you should do well to apply yourself to the Parliament in the mean time: for while we are possest otherwise, it must be our Office that you must be sent back according to the Order of Parliament.

Capt. *Streater.* I never petitioned in my life; I shall not now begin.

Prid. When the Cause is done, you may leave him as you found him.

Judge. You had your *Habeas Corpus.*

Capt. *Streater.* I could wish I had the benefit of it, as is my Right by Law. I desire that notice may be taken, that the same Judgment and the same Plea were adjudged illegal, arbitrary, and perfectly repugnant to Law, the just Rights and Liberty of the People, in Parliament, the 4th of the late King, 1628. as in the Case of Sir *John Heningham*, Sir *Humphrey Hampden*, and others, at this Bar.

Judge. The King was Plaintiff against them, and he was but a Feoffee in Trust: the Parliament is Plaintiff against you, and they are a Legislative Power.

The Prisoner was carried back to the *Gate-House.*

The Proceedings upon the Habeas Corpus *in* Hilary-*Term.*

IN the Vacation between *Michaelmas* and *Hilary*-Term, the Parliament dissolving, Mr. *Streater* resolved to apply himself again to the Law; he conceiving that the Order of Parliament was void, inasmuch as the Parliament was dissolved. And accordingly, on Monday 23 *January* 1653, being the first sitting of the Judges in *Hilary*-Term, he had Mr. *Dormer* of Counsel, who moved the Court for an *Habeas Corpus.* It was granted, and made returnable on Thursday the 26th next following. At which time, the Keeper sent the Body of Mr. *Streater*, with a Return of the *Habeas Corpus* not signed: which being in Court, was refused to be received

Mr. *Streater.* My Lord, I am here brought to this Bar, by virtue of an *Habeas Corpus*; I desire that the Writ with the Return may be read.

Ld Ch. Just. Let it be read.

Mr. *Broughton.* My Lord, the Return is not signed.

Ld Ch. Just. If the Return be not signed, we cannot take notice of it.

Mr. *Streater.* My Lord, I desire that another Day may be appointed by Rule of the Court.

Ld Ch. Just. We cannot do so; we cannot take notice of you, whether you are the Person or not, if the Return be not under your Keeper's Hand.

Mr. *Streater.* My Lord, I desire I may have an *Alias Habeas Corpus.*

Ld Ch. Just. We cannot deny you that.

[The *Alias Habeas Corpus* was made returnable on Thursday the 31st of *January* 1653.]

Mr. *Streater.* My Lord, I desire that I may by Rule of Court have assigned of Counsel (with me) Mr. *Twisden*, Mr. *Freeman*, Mr. *Wilde*, Mr. *Norbery*, and Mr. *Dormer.*

Ld Ch. Just. Let them be assigned.

Thursday the 31st of *January* 1653, Mr. *Streater* was again brought before the Court of Upper Bench, by virtue of his *Habeas Corpus.*

Mr. *Streater.* My Lord, I am brought hither by virtue of an *Alias Habeas Corpus.* I desire that the Writ, with the Return, may be read.

The Clerk reads the Return.

OLiver, *Lord Protector of the Commonwealth of* England, Scotland, *and* Ireland, *&c. To the Keeper of the Prison of the* Gate-House, Westminster, *in the County of* Middlesex, *or his Deputys there, Greeting. We command you, as formerly we have commanded you, that the Body of* John Streater *Gent. in Prison under your custody detained, together with the Day and Cause of his taking and detaining, by whatsoever Name the said* John *is called therein, you have before us at the Upper Bench in* Westminster, *upon Monday next after the fifteen Days of St.* Hilary *next to come; to undergo and receive those things which our Court of Upper Bench aforesaid of him shall consider of in this behalf. And this you must not omit in any wise, and upon peril that will follow thereupon. Witness* Henry Rolle, *at* Westminster, *the 26th Day of* January 1653.

And the Return of this Writ appears in a certain Schedule hereunto annexed, and the Answer of *Aquila Wykes*, Keeper of the *Gate-House* Prison in *Westminster*.

TO *his Highness the Lord Protector of the Commonwealth of* England, Scotland, *and* Ireland, *and the Dominions thereof, in the Upper Bench at* Westminster, *at the Day and Place in the Writ to this Schedule annexed named; do certify, that before the coming of the said Writ to me directed, that is to say, the* 12th *Day of* September 1653, John Streater *in the Writ named was committed to my custody, and there detained by virtue of a Warrant from the later Council of State, the Tenour of which Warrant followeth in these words.*

'THESE are to will and require you to receive into your custody the Body of *John Streater*, and him you shall safely keep Prisoner in the Prison of the *Gate-House*, he being committed for publishing seditious Pamphlets against the State. Of which you are not to fail: and for so doing, this shall be your sufficient Warrant. Given at the Council of State at *Whitehall*, this 12th Day of *September* 1653.'

Rob. Tichburn Presid.
H. Lawrence.
Sa. Moyer.
J. Hewson.
Ch. Howard.

To the Keeper of the Gate-house.

And the said John Streater *is also detained by virtue of a Warrant under the Hand of the Speaker of the Parliament; the Tenour of which Warrant follows in these words.*

'BY virtue of an Order of Parliament, bearing date this present 21st Day of *November*, These are to will and require you to receive and take into your custody the Body of *John Streater*, and him to keep and retain in safe custody, until he shall be delivered by Order of Parliament. Whereof you are not to fail, as you will answer the contrary at your peril. Given under my Hand this 21st Day of *November* 1653.'

Francis Rous Speaker.

And the said John Streater *is also detained by Rule of the Upper-Bench Court; the Tenour of which Rule follows in these words.*

'THE Keepers, *&c.* against *John Streater*. Friday in fifteen Days of St. *Martin* 1653. The Defendant was this day brought in Court by virtue of a Rule of this Court, under the custody of the Marshal of this Court: And it is ordered, That the said Marshal do deliver the Body of the said *Streater* to the Keeper of the Prison of the *Gate-House* in *Westminster*, to remain under his custody according to the Order of Parliament, upon the Motion of Mr. Attorney-General.'

By the Court.

And these are the Causes of the detaining the said John Streater, *whose Body before the Protector aforesaid I have ready accordingly, at the Day and Place in the said Writ contained, as I am within commanded.*

Aquila Wykes, *Keeper of the* Gate-House.

Ld Ch. Just. Mr. Attorney, what say you to it? The Prisoner hath been here many times.

Attorn. Gen. My Lord, I heard not of it.

Mr. *Streater*. My Lord, I sent him notice the same day the Writ was granted.

Attorn. Gen. My Lord, he sent me a Man that said he lived in *Fleet-street*, I do not know where.

Ld Ch. Just. How cometh it that you did not send him other notice?

Mr. *Streater*. My Lord, I beseech your Lordship that I may not be intercepted by such Pretences, and that I may not suffer any delay for want of such Formalities. My Lord, Mr. Attorney-General hath appeared often enough in this Case; he cannot with Credit pretend he is unprovided to speak to it.

Ld Ch. Just. Let the Prisoner be here again on Friday.

[Mr. *Streater* was again sent back to the *Gate-House*, and was, on Friday the 3d of *February* 1653, brought by Rule upon the *Alias Habeas Corpus*.]

Mr. *Twisden*. My Lord, I desire that the Prisoner may be bailed.

Mr. *Wylde*. I desire that the Writ and Return may be filed.

Ld Ch. Just. Mr. *Atkin*, what have you to say why it may not be filed?

Mr. *Atkin*. Nothing, my Lord.

Ld Ch. Just. Let it be filed, and let the Prisoner be here again on Thursday next.

Mr. *Streater*. My Lord, I desire that I may have assigned of Counsel with me, Mr. *Latch* and Mr. *Windham*.

Ld Ch. Just. Let it be so.

[The Prisoner was carried by the Marshal of the Upper Bench unto the Upper-Bench Prison *Southwark*; and on Tuesday the 7th of *February* 1653, was again brought into Court, under the custody of the Marshal of the Court.]

Mr. *Twisden*. I desire that the Prisoner may be bailed. He is committed by two Orders; the one from the Council of State, the other from the Speaker of Parliament, by virtue of an Order of Parliament. The Order of Parliament is out of doors, the Parliament being dissolved.

Mr. Attorney-General began thus:

My Lord, this Gentleman the Prisoner stands committed by Order of Parliament: And whereas in his behalf the Counsel assigned for him have alledged, That the Order of Parliament is void, by reason (as they say) the Parliament is dissolved:

My Lord, Parliaments cannot be dissolved; the Parliament are the same Power is in being now.

And Parliaments were to be once a Year, as by the Statute of the 4th of *Edward* 3. at which time he may be relieved. In the North Parts, the Assizes can be held but once a Year.

But grant that the Meaning of the Parliament was to deliver him themselves, and not that they meant the Parliament to be on the 3d of *September* 1654; yet for that they ordered that he should not be delivered but by Order of Parliament, I conceive he can be delivered no otherwise than by an Order of Parliament, nor by any other but a Parliament.

Possibly when that the Parliament consisted of King, Lords, and Commons, an Order of one or two Houses, without a threefold Consent, had not been binding; but now the Power that was

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in the Lords and King, are joined in the Commons, and therefore is of greater force.

And it is not material whether they shew Cause or not; there may be good Cause: And it cannot be presumed that the Parliament would commit a Man, and have no Cause at all for so doing.

But without question, a Parliament may commit Men, and shew no Cause.

But suppose his Commitment be in order to a Tryal in Parliament, will this Court take upon them to judge in the Cause? Or can they by *Habeas Corpus* bring the Body of the Prisoner and the Cause before them, out of Parliament?

The Lord of *Strafford* was tryed in Parliament: I believe this Court would not in such a Case remove the Tryal before them, nor indeed can they. Upon the Return it appeareth, he is committed by Order of Parliament, and to be delivered by Order of Parliament: if they had intended he should have been delivered otherwise, they would have either said nothing, or have ordered he should be delivered according to Law.

When Kings die, it is true, that Commissions do cease; but when Parliaments do dissolve, their Acts do not cease. Besides, a Parliament is the Supreme Court, and they do constitute other Courts; and therefore it is not for other Courts to question the Proceedings of a Parliament.

It will not be expected of me to shew that the Parliament had sufficient Matter or Cause of Imprisonment.

To this the Judges answered, No, no: if he had any thing more to speak to the Order of Parliament, that was it that was to be spoken unto.

Mr. Attorney. My Lord, this Gentleman might make his Application for his Liberty to the present Authority elsewhere; and I doubt not but it would be granted him: for now Parliamentary Authority is in one Person.

My Lord, I doubt not but the Court will be cautious in meddling in this Case, but will rather remand him to Prison: First, for that it may be that the Proceedings against him are not yet ripe; it may be yet under examination. Secondly, for that this is the first Precedent of the like nature, and it being of so great and high Concernment.

Mr. *Twisden.* My Lord, a Parliament may determine, and Parliaments do determine; and when they do, their Orders also determine with them. It is true, that Acts of Parliament do continue; but this is but an Order of Parliament, and not an Act of Parliament.

My Lord, we must come hither to be relieved; this is the Place, this is the Court appointed for Relief in this Case: we expect it, and, my Lord, desire that the Prisoner may be bailed.

Besides, my Lord, this is not an Order of Parliament upon Return, but a Warrant of the Speaker.

Mr. *Windham,* of Counsel with the Prisoner.

My Lord, it is true, we find Writs of Error returnable in Parliament, as in *Flowerdew*'s Case, and in *Basset*'s Case of Error given in this Court of *King's-Bench* against *Basset*, in a Judgment for the King: *Rot. Parl.* 25 *R.* 2. *num.* 24. This is after Tryal of Law, and not before.

As to the Case of the Lord *Strafford*, we know not but that by Law he ought to have been appeach'd here.

As to the Order, it is determined by Law.

Mr. *Wylde*, of Counsel with the Prisoner.

My Lord, the Order cannot be a Bar but that the Prisoner may be bailed.

Besides, the Order is void, for that the Parliament discontinueth; and it is ordained, That *he or they that shall say the Parliament continueth, shall be guilty of an high Offence.*

An Act or Order of Parliament is not a Judgment of Parliament.

We are here *coram Protectore.*

Capt. *Streater.* My Lord, I should not at all undertake at this time, having so many learned Counsel assigned, who attend my Cause, and who have sufficiently urged enough Law to warrant the Court for my Discharge, but that the Attorney-General hath both last Term and this Term endeavoured to asperse me, to discourage the Court, so as to delay or deny me Justice: As the last Term, by suggesting to the Court that I was a dangerous Person, and stood accused in Parliament for high Misdemeanours; and said that they were such, and so dangerous, that they for many secret Reasons of State thought it convenient not to discover them. And this Term, by saying, the last Day of hearing, that I was a stubborn refractory Person, and would not make my Application to the present Authority, where he assured me that I might have my Liberty for asking for it; and that my Endeavours were to strike at the very Power of Parliament.

My Lord, as to what great and high Matters or Things that were by him suggested to this Court to be in Parliament, certainly it would have appeared upon the Return: they have not been intercepted, as to Time, in the making of their Return to the *Habeas Corpus*; they have also had time to make several Returns; and lastly, to amend the Returns by Rule of Court. Without question, my Lord, if they had had other Cause, they would have made it appear. However, your Lordship can take no notice of any thing but what appeareth upon Record.

My Lord, as to the other that Mr. Attorney urgeth, That I am a stubborn Person, and refuse to make my Application to the present Authority; I deny it: my Actions give another Testimony of me, in this applying myself to the present Authority in this manner, and at this place, by Law; this is the proper and only superiour Court for Relief, in case of false or long Imprisonment: it ever was in this Court settled by Law, the Supreme Authority of this Nation, and the only Authority of those that will take upon them Supreme Power. The Lord Protector hath sworn to govern this Nation according to its Laws, Statutes, and Customs: and here I make my Application to the present Authority judicially in this Court. The Writ of *Habeas Corpus* is in the name of the Lord Protector: by which it appeareth, that those Suggestions are false, and that I own the present Authority in its proper Channel, and own its true Basis, by applying myself to the present Authority here in this Court.

My Lord, I should have insisted upon the whole Matter now before you; but I see that there hath been enough urged by my Counsel, to shew the Invalidity of the Order of Parliament, the only Business where all sticketh.

My Lord, I shall not spend time to answer Mr. Attorney-General, for that the Substance of his Argument is but of little weight, and not worthy of any Answer.

Here followeth the Argument that Mr. *Streater* had prepared to have insisted upon in this place: but for that he perceived the Opinion of the Court was, that the Order of Parliament was not in force now, he omitted to urge it further. But for general Satisfaction, it is here presented the Reader word for word, according to his Copy.

I AM brought here by virtue of an *Habeas Corpus*, which doth require that Cause be shewn why I am detained a Prisoner; not who committed me to Prison.

Upon the Return, there is in the first part a Cause, but not a lawful Cause: in the second part of the Return, no Cause at all.

My Lord, the Intent in Law of a *Habeas Corpus* is to relieve Prisoners, notwithstanding of special Commands for Imprisonment: as appeareth by the Act of Parliament of the 17th of the late King, intitled, *An Act for the abolishing of the Star-Chamber, and for regulating the Council-Table*; which ordaineth, 'That notwithstanding of special Commands for 'Imprisonment, the Party so imprisoned shall by 'an *Habeas Corpus* be brought before the Judges of 'one Bench or other: and if the Cause of his 'Commitment be legal, he shall be remanded; if 'no Cause, (that is to say, a lawful Cause) he 'shall be set at liberty: and if it be doubtful, 'then the Prisoner shall be bailed.'

This Act reciteth several Acts, as that of 17 *R.* 2. *chap.* 31. 42 *Edw.* 3. *chap.* 3. 28 *Edw.* 3. *chap.* 9. *Magna Charta, chap.* 29. and the *Petition of Right*. These Acts declare, that this is the Intent and Meaning of the aforementioned.

My Lord, with these agree the learned Arguments of Sir *Edward Coke*, Sir *Edward Littleton*, and Mr. *Selden*; together with the Resolution of the Commons in Parliament 1628 thereupon, in these words.

Die Jovis, 3 Aprilis, 4 Caroli Regis.

'Resolved upon the Question, That no Free-'man ought to be detained or kept in Prison, or 'otherwise restrained, by the Command of the 'King, or the Privy-Council, or any other, un-'less some Cause of the Commitment, Detainer, 'or Restraint, be expressed, for which by Law he 'ought to be committed, detained, or restrained.

'That the Writ of *Habeas Corpus* may not be 'denied, but ought to be granted to every Man 'that is committed or detained in Prison, or other-'wise restrained, tho it be by a Command of the 'King, the Privy-Council, or any other, he pray-'ing the same.

'That if a Freeman be committed or detained 'in Prison, or otherwise restrained, by the Com-'mand of the King, the Privy-Council, or any 'other, no Cause of such Commitment, Detainer, 'or Restraint, being express'd, for which by Law 'he ought to be committed, detained, or re-'strained, and the same be returned upon an *Ha-'beas Corpus* granted for the said Party; then he 'ought to be delivered or bailed.'

2 *Part Instit.* fol. 52. *The Warrant or Mittimus ought to contain lawful Cause.*

Sir *Edward Coke* in his first general Reason why a *Habeas Corpus* is to remove the Body notwith-standing of special Commands, saith, 'That Im-'prisonment in Law is counted a Civil Death, 'when Men are taken from their House, Wife, 'Children, Country, Friends, and familiar Acquain-'tance, to live with wicked and wretched Men.'

Mirrour, Chap. 2. Sect. 9. saith of Prisoners and Prisons thus: 'A Goal is nothing else but a com-'mon Prison: and as a Leper, or a Man who hath 'a diseased Body, is not to be suffered to dwell or 'remain amongst Men who are sound, *&c.* there-'fore mortal Offenders ought to be separated from 'the Society of People, to the end the Innocent be 'not infected with their Offences.'

Now, my Lord, if it be so, it was of absolute necessity for the Law to provide against long Imprisonment as well as wrong Imprisonment, notwithstanding any special Commands.

The Writ of *Habeas Corpus*, and the Benefit by Law, is the undeniable Right of every *Englishman*; it is called *the high Point, the only Point*. Nay, the Commons in Parliament, of the 4th of the late King, in their Conference with the Lords, say, That *they had recovered the Body of Liberty*, by clearing of this Point. In this is the only difference between Slaves and Freemen, Villains and Free-men.

My Lord, the Law of *England* doth settle a Freedom in the People of *England*, in their Life, Liberty, and Estate: it doth relieve against any thing that shall by any be done to their detriment, either in one or other.

Mirrour, Chap. 2. Sect. 18. of Appeals of Impri-sonment thus: *Darling* here appealeth *Weloc*, for that whereas the said *Darling*, &c. the said *Weloc* came and arrested the said *Darling*, brought him to such a place on such a day, and put him into the Stocks or in Irons, or in other Pain or Incloſure: Such a day, *this Felony he did feloniously.*

My Lord, here we see the Law ever did allow of a Remedy to be had against false Imprisonment.

Here is no Cause of Imprisonment at all shewn, in either one part of the Return or other; there-fore I ought to be set at liberty without Bail, as is expressly proved in the Act of the 17th of the late King, in these words: 'If there appear no Cause 'of Imprisonment upon the Return, then the Pri-'soner shall be set at liberty, and not bailed.'

My Lord, he that is bailed, is still a Prisoner; for he is a Prisoner unto his Bail. If bailed, it is to be presumed a Cause, tho such upon which he may be bailed.

The following Clauses of this Act explain the Meaning to be so, in these words; 'If the Cause 'be doubtful, then the Prisoner shall be bailed.'

My Lord, if it should be objected, That the greatest and only Cause of my Imprisonment is an Order of Parliament, or a Warrant grounded upon an Order of Parliament, that saith I shall not be delivered but by Order of Parliament: I have seen a Copy of the Order of Parliament, wherein there is not any such word mentioned; but it only saith this, *That Mr. Speaker do issue forth a Warrant* (according to the Order) *for my Imprisonment*, &c.

But for that your Lordship is not to take notice of any thing but what appeareth before you upon Record, I shall make no use of that; I shall not need.

First, for that the Order itself is out of doors, the Parliament being dissolved.

Sir *Edward Coke*, 4 *Part Instit.* fol. 23. Chap. *High Court of Parliament*, saith, That *an Ordinance of Parliament bindeth not in Succession*: then much less an Order of Parliament.

Besides, if Orders of Parliament were binding in Succession, there would be no need of Acts of Parliament.

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And more especially such Orders are not binding, that there is no Reason or Law in them, but are opposite to Reason and Law.

Nay, but an Act of Parliament could not make such a Return to be good or allowable, as this, that shall mention no Cause for which a Prisoner is committed: it is against Reason a Man should be committed for nothing; and if there appear no Cause upon the Return, this Court is to presume there is no Cause, and therefore ought to deliver the Prisoner, and cannot but look upon such Returns as unreasonable, and against Law.

The Doctor and Student, pag. 4. Chap. 2. saith, That *such Statutes, Ordinances and Prescriptions, as are not according to Reason, or are against Reason, they are not Statutes, Ordinances, or Prescriptions, but are things void in Law.*

Again, my Lord, a Parliament cannot over-rule just Proceedings in or by this Court, that are according to Law and Justice: but a Parliament may over-rule Proceedings in this Court that have Error, or are not according to Law and Justice.

My Lord, we understand Parliaments to be Legislative Powers, and therefore not to be the Executive: it is not for Law-makers to be Justices of the Peace; a Sheriff cannot be a Justice where he is Sheriff. There is a Maxim, *That Law-makers must suppose all Men to be evil, and therefore they make Laws against such Offences in all Persons: But Judges of the Law must suppose all Men good, until Conviction.*

If so, my Lord, a Parliament are not competent Judges who and who not shall be Prisoners. But here are the Judges, before whom I am; here is the Place where I am, that a Cause of that nature should be determined.

My Lord, I dare confidently aver, That if ever it had entred into the Consideration of our former preceding Parliaments, that a succeeding Parliament would ever do such a thing as commit a Man for no Cause at all, they would have provided against it by an Act of Parliament, in Testimony of their abhorring of so great an Absurdity as it is.

Anno 1 *H.* 4. *Chap.* 14. It is provided, That *Appeals are not in any wise to be pursued in Parliament.* No Man can imagine it to be lawful in any inferior Power to a Parliament.

If so, it cannot be lawful in a superior Power.

Upon the Question to the Judges by *Henry* VIII. 'Whether a Man that was forth-coming, might be 'attainted of High-Treason by Parliament?' Their Answer was, 'That an inferior Court could not 'do so;' they thought a Parliament would not: Their Opinion was, 'That the higher a Court is, 'the more just they ought to be, to give example 'to inferior Courts.'

4 Part Inst. fol. 37. Chap. *High Court of Parliament: If it be necessary for inferior Powers to shew cause of Commitment, it is as absolutely necessary that a superior Court should.*

From whence it may be concluded, That were the Parliament in being, yet I might by Law be relieved by this Court.

1. For that the Law doth warrant my Discharge, in case no Cause of Imprisonment appear in the Return; as by the 17th of the late King, who had then the Executive Power in his Hands, as supreme Magistrate: And the same Reason why that it should be limited and bounded when it was distinct from the Legislative and Judicial, may be given, why it should be limited when they are all joined in one; which is, That it may not extend to grieve any contrary to Reason and Law.

2. That none ought to be taken or arrested, but by such against whom a Remedy may be had in case of false Imprisonment.

It was Sir *John Markham's* Opinion, That *the King could not arrest, because a Remedy could not be had against him in case of false Imprisonment.* Much less a Remedy be had against a Parliament that may possibly arrest or commit Men upon false Suggestions.

Again, my Lord, if it had been an Act of Parliament that had provided I should be a Prisoner in general words, and had provided I should not have had the Benefit of an *Habeas Corpus*, I conceive I might have been relieved by an *Habeas Corpus*. This I suppose, if in case an Act could be made against Law and Reason, as such an Act as should deprive me of a common Benefit that is due unto all, and to every Individual, throughout the whole Nation.

Parliaments ever made it their Work (as in duty they ought) to keep parallel to Law and Reason: they ever did make Laws agreeable to both. But the Judges of the Law, in open Courts of Judicature, did judge by those Laws: Nay, Parliaments ever did advise with the Judges of the Law. The Judges of the Law were as the Watchmen or Sentinels to the just Liberty of the People; and our Laws the Bulwarks of Defence.

Mr. *Waller*, in a Speech in Parliament at a Conference of both Houses, the 6th of *July* 1641. saith, *That out of Parliaments all our Courts of Justice are governed and directed by the Judges of the Law; and in Parliaments, the Lords and Commons were assisted by them: otherwise* (saith he) *it might be stiled* Parliamentum indoctorum.

And further he saith, *That Judges that delay Justice, or give false Judgment, or Opinions that are contrary to Law, that they are no other than Conspirators against the Commonwealth.*

My Lord, Mr. Attorney-General hath not omitted to possess this Court with strange Apprehensions of the Dangerousness of me, both in what he urged in this Court the last Term, of Dangerousness, and this Term, of Stubbornness: so that as much as in him lay, by his false Suggestions, to prevent me of my Right by Law; as in his words to your Lordship, desiring that I might be remanded till my Stomach came down.

My Lord, you sit here to raise the Spirits, Minds, and Stomachs of Men, by doing of them Right by Law, to encourage them to Improvements and Industry, by defending them in Life, Liberty and Estate, as the Law requireth and intendeth.

My Lord, Articles were exhibited against Sir *Robert Berkley*, one of the Justices of the *Kings-Bench*, and others. The Substance of the first Article against Sir *Robert Berkley*, was, *That he did traitorously and wickedly endeavour to subvert the Fundamental Laws and Established Government of* England, *by traitorous Words, Opinions and Judgments.*

The tenth Article: That *the said Sir* Robert Berkley *being one of the Justices of the Court of* Kings-Bench, *and duly sworn as aforesaid, in* Trinity-*Term* 1637, *deferred to discharge or bail* Alexander Jennings, *Prisoner in the* Fleet, *brought by an* Habeas Corpus *to the Bar of the said Court; the Return of his Commitment being, That he was committed by two several Warrants of the Lords of the Council, dated the 5th of* November 1636. *the first being only read in Court, expressing no Cause; the other, for not paying Messengers Fees: he was remanded in* Michaelmas-*Term. After, the said* Jennings *being brought by another* Habeas Corpus *before him, and the same Return, yet the said Sir* Robert Berkley *refused to discharge him*, &c.

My

My Lord, I hope this Court, nay, I doubt not but that you will eye the future, and judge according to Law and Reason, not by Discretion.

My Lord, such Advice followed, as Mr. Attorney gave, is the ordinary Cause of Changes in States and Commonwealths.

1. Injustice brings the Judgments of God upon a Nation.

2. Injustice discontents a People, and Discontents are the ordinary Foundations that Changes are laid upon.

It was but the other day the Lord Protector took an Oath to govern according to the Laws, Statutes and Customs of this Nation: and now his Attorney-General would have Matters ruled by Discretion in this Court, contrary to Law and Reason, to pull Mens Stomachs down.

My Lord, I make my Application to the present Authority in its proper Channel, where of right I ought to be relieved here in this Case of mine by an *Habeas Corpus*.

My Lord, I do aver, that my Life, Liberty, or Estate, cannot be taken away, or given unto me, but where the Law doth it.

My Lord, God himself ruleth by Law, Eternal, Moral and Natural; and they have Certainty in them; and he ruleth not otherwise, or contrary to them. And can it be imagined, that there is a Mortal living, that will think it a Diminution to his Honour, if Men chuse the Law for their Sanctuary, rather than their changeable Affections, and mutable Will and Pleasure?

There is a Maxim, 'That the Law delighteth 'in Certainty, and it doth abandon Incertainty, as 'the Mother of all Debate and Confusion, than 'which there is nothing more odious in Law.'

My Lord, another Reason why I make my Application to the present Authority this way rather than any other, is, that the Record in this Case will be of singular Use and Benefit, not only to the present, but to future Ages; the which I do in duty, in regard a Man ought to prefer the Good of his Country before a private Good.

The contrary will tend to the subverting of our *English* Liberties. Our Forefathers left us a Law, by which we might demand Justice, and not be necessitated to make use of Friends to beg Justice.

Mirrour, Chap. 3. Sect. 6. *Of Exceptions to the Power of a Judge*, thus it is; *Sir, I demand the Hearing and Sight of your Commission, by which you claim Jurisdiction over me.*

Anno 13 Edw. 1. Chap. 3. *When any is impleaded before any Justices, and doth alledge an Exception, praying that the Justices will allow it; which if they will not allow,* &c. *he shall require the Justices to put to their Seal,* &c.

My Lord, this Law of *England* is a Law of Freedom, and a Law for Freemen, and not for Slaves: it is a Law that settleth a Right in its Subjects.

Now, my Lord, having presented your Lordship with what the Law accounteth of Imprisonment, as in the Writ of Mainprise:

Whereas thou A. *hast delayed to deliver* B. *to the no small Grievance of him the said* B. *and manifest Peril of his Life.*

And, pag. 162. *Fitz-Herbert's Natura Brevium*; of the Writ *de Homine replegiando*. The King. *Whereas* A. *hath complained to us,* &c. *We command you that he be replevy'd,* &c. *that we may hear no more a Clamour for want of Justice.*

Seeing the Law relieveth as well against long Imprisonment as wrong Imprisonment; and seeing that there is no lawful Cause of Imprisonment shown in the first part of the Return, nor Cause at all in the second; although it be grounded upon an Order of Parliament, it is void in a two-fold Consideration. First, For that the Parliament is dissolved. Secondly, For that it is against Law and Reason: And also considering that this Court is the highest Court of Judicature that can relieve in this Case; and it being contrary to Reason, that a Legislative Power should be an Executive Power, for they will be Parties to judge by their own Law, they will vindicate their own Commands, and will take upon themselves to give their Sense, possibly different from the Letter of their own Commands.

And therefore it is safer for the Judges of the Law to judge by the Letter of the Law, and not otherwise.

Mr. *Robert Brook*, Serjeant at Law, in his reading upon the 16th Chapter of *Magna Charta*, saith, *If a Man hath Judgment to be hanged, and if the Sheriff do behead him, it is Murder.*

The Letter of the Law is duly to be observed, and not to be varied from, for any Pretences of Matters of State whatsoever.

All which considered, I pray to be discharged, as the Law hath provided: Your Lordship is Judge of the Law.

Mr. Attorney. My Lord, for ought we know, this is a Judgment in Parliament.

If it be not, yet it hath the same Stamp that an Act hath; that is to say, Parliamentary Authority.

If this Order be not good, the Prisoner hath an Action of false Imprisonment against the Jaylor. If the Order die by the Dissolution of the Parliament, the Jaylor ought to have set the Prison-doors open unto the Prisoner at the time of the Dissolution of the Parliament.

Mr. *Twisden.* My Lord, they have not returned an Order of Parliament, but a Warrant from the Speaker of Parliament.

Chief Justice *Rolle.* Mr. Attorney, what if the Parliament by Order do appoint a Committee, the Parliament dissolved; doth the Committee continue by virtue of that Order, or not?

Mr. Attorney. I think the Persons are dissolved: But although it be said, by Order of Parliament, I think that is not much material whether the word Act, Order or Ordinance be used. My Lord, it is by Parliament.

Lord Chief Justice *Rolle.* By your favour, Mr. Attorney, it is the word Order, Act or Ordinance, we must take notice of. How shall we know how to judge, but by the Word or Letter to direct us?

Judge *Aske.* Mr. Attorney, if an Order of Parliament shall be in force after the Dissolution of a Parliament, and there be an Order made for the Commitment of one or more, as in the Case now under Consideration; I pray which way shall the Subjects be relieved, if not this way, in case we should live to see a Parliament but once in one Age, as in the latter end of the Reign of King *James*, and as in the Reign of the late King?

Lord Chief Justice *Rolle.* This Court is the proper Court to relieve in this Case; this Court is a standing Court, and the Law doth adjourn it from time to time; but a Parliament is a new Court, they appear, and are always summoned by new Writs.

Mr. Attorney. The Prisoner knoweth he might have his Liberty for asking for.

Ld Ch. Just. *Rolle.* A Man is not bound to do that. Well, let the Prisoner be remanded until Saturday; and then we shall deliver our Opinions: It is a weighty Business. And, Gentleman, in the mean time you may make your Application otherways for your Liberty.

Mr. *Streater.* My Lord, the Law hath provided no other way; and I am bound to take notice of the way the Law hath appointed.

Our Forefathers knew no other way.

My Lord, I desire that I may have the Liberty to go to my Counsel with my Keeper: Both the last Term, and this, I have not at all advised with my Counsel.

Ld Ch. Just. *Rolle.* That will not be denied you.

Mr. *Wylde.* My Lord, it was moved this Term, and it was denied, being opposed by the other side; but it was before the Writ was filed. And I suppose that the Court may grant that Liberty to the Prisoner under the Custody of their own Marshal.

Saturday, February 11.

THE Prisoner was brought again to the Bar, under the Custody of the Marshal of the Court.

Ld Ch. Just. *Rolle.* Sir, have you your Counsel here?

Mr. *Streater.* Yea, my Lord.

Ld Ch. Just. *Rolle.* Where are they?

Mr. *Windham.* I am of Counsel for the Prisoner.

Mr. *Streater.* My Lord, here is also Mr. *Wylde*, Mr. *Freeman*, Mr. *Norbery.*

Ld Ch. Just. *Rolle.* Deputy-Marshal, go into the *Chancery*, and acquaint Mr. Attorney-General that we are going to deliver our Opinions in *Streater's* Case: And if he please to be present, he may; or if he hath any thing more to urge.

Mr. Pain, *Deputy-Marshall.* My Lord, I have been with Mr. Attorney-General; and he saith he will be here immediately.

[After a little space of Time, Mr. Attorney cometh into the Court.]

Ld Ch. Just. *Rolle.* Mr. Attorney, here is Mr. *Streater* again by Rule of Court. He hath been a long time in Prison; and I see here is nothing come against him that is material.

Mr. Serjeant Twisden, *of Counsel for the Prisoner.* My Lord, we desire that he may be bailed.

Ld Ch. Just. *Rolle.* What, have you any thing more to say, Mr. Attorney?

Mr. Attorney. My Lord, I thought I should have heard of him; but I did not. The Court must do Justice: He is committed by Order of Parliament.

My Lord, if you will undo an Order of Parliament, he is to be delivered: But I hope the Court will not.

Mr. *Windham.* The Order of Parliament is undone by the Parliament's being dissolved.

Mr. Attorney. Commissions of Sewers are granted by Parliament, and they do continue after the Parliament is dissolved. Goal-Delivery is but once a Year in the North-Parts: And I suppose the next Parliament will be sitting before he hath been a Year in Prison; at which time he may be tried, or delivered: And although this be called an Order of Parliament, yet it was acted by Parliament.

Ld Ch. Just. *Rolle.* But all that the Parliament acteth, are not Acts of Parliament.

The first part of the Return is too general: It mentioneth not what Books, nor whose Books, or where they were, or when published.

The second part of the Return is grounded upon an Order of Parliament: We are to take notice when a Parliament sitteth, and also when it is dissolved; or when it endeth or determineth. Discontinuance is a Determination.

A Writ of Error many times is made returnable in the next Parliament; but that lieth after Tryal at Law. The Word *Order* is a proper Phrase to that which is not an Act.

An Order of Parliament is not binding in Succession: How shall the next Parliament take notice of a former Parliament's Order?

Committees that are appointed by Order of Parliament do cease upon the dissolving of the Parliament. I have been of the Parliament: I ever found Parliaments of the same Opinion.

We must look to the first Imprisonment, and no farther: If you had returned other Cause, we should have taken notice of it.

We do not reverse the Order of Parliament; that is reversed by the Parliament's being dissolved: And it being dissolved, there is no visible way how the Prisoner shall be relieved, though there may be a probable way.

Judge *Ask.* I am of the same Opinion; and that it could not be, that the Order of Parliament, by saying he should not be delivered but by Order of Parliament, but that they meant by the same Parliament, and not by a successive Parliament. If it should be taken to be by Order of the next Parliament, where shall be the Liberty of the Subjects? Or how shall they be relieved in long Interval of Parliament? As in the Reign of King *James*, and the Reign of King *Charles*, we had not Parliaments in many Years together; and although it be so, that the Parliament, by the Statute of the 4th of *Edw.* 3. should be once a Year, or oftner, if need be. Besides, here is no Succession of Parliament, but a Dissolution. Another Parliament, must be another Session; and therefore an Order cannot be in force until another Session. If they had made an Act of Parliament, or passed a Judgment of Parliament, it had been another Case.

Upon the Consideration of the whole Matter, the Judges Opinion was, That the Prisoner ought to be discharged, and this Rule enter'd.

Saturday next after eight Days of the Purification, 1653.

The Lord Protector against *John Streater* Gent.

THE Defendant was brought into Court by the Marshal, upon Habeas Corpus; *and by the Court discharged of his Imprisonment, by the Motion of Mr. Serjeant* Twisden.

By the Court.

Ld Ch. Just. *Rolle.* Sir, you will do well to carry your self conformably to the present Power, and walk inoffensively.

Mr. *Streater.* My Lord, I ever have been, and, I hope, shall be, a Subject to Government, so as the Law requireth me to be: It is not my Duty to be otherwise subject.

POSTSCRIPT.

IF you obſerve the Tenor of my Writ of *Habeas Corpus*, as it is obſerved by Mr. *Streater* in his laſt Argument, that the Writ doth only require that Cauſe be ſhewn why the Party is impriſoned, not who did commit the Party to Priſon: If any Cauſe lawful was returned, then the Party is to continue ſtill in Priſon; but without Cauſe no Commitment, from what Power ſoever, can or ought, in Law or Reaſon, to be binding. That it is the Cauſe only for which a Priſoner is committed, that cutteth the Priſoner off from the Benefit of a *Habeas Corpus*, and not the Will, Pleaſure, or Power of thoſe in Power. Here take Sir *Edward Coke*'s Nine General Reaſons, why a *Habeas Corpus* is to relieve againſt illegal or long Impriſonment.

The Firſt General Reaſon.

The Firſt General Reaſon is drawn *à re ipſa*, from Impriſonment, *ex viſceribus cauſæ*, be it thoſe or other Impriſonments, which are divided into three Parts.

1. No Man can be impriſoned at the Will and Pleaſure of any, but he that is bound, and a Villain; for that Impriſonment at Will is *Tailes luy haut & baſe*, are *propria quarto modo* to Villains.

2. But if Freemen of *England* might be impriſoned at the Will and Pleaſure of the King, or any other's Command, then were they in worſe Caſe than Bondmen and Villains: For the Lord of a Villain cannot command another to impriſon his Villain without Cauſe, as of Diſobedience, or refuſing to ſerve; as it is agreed in our Books.

3. Impriſonment is accounted in Law a Civil Death; *Perdit Domum, Familiam, Vicinos, Patriam*; his Houſe, his Family, his Wife, his Children, his Neighbours, his Country, and to live among wretched wicked Men.

If a Man be threaten'd to be killed, he may avoid a Feoffment of Lands, Gifts of Goods, *&c.* So it is, if he be threaten'd to be impriſoned, he ſhall do the like; for that is a Civil Death.

The Second General Reaſon.

The Second General Reaſon is, *A minore ad majus; pœna corporalis eſt majus qualibet pecuniaria:* but the King himſelf cannot impoſe a Fine upon any Man.

But it muſt be done judically by his Judges, *per Juſticiar' in Cur', non per Regem in Camera.* And ſo it hath been reſolved by all the Judges of *England.*

The Third General Reaſon.

The Third General Reaſon is drawn from the Number and Diverſity of Remedies, which the Law giveth againſt Impriſonment, *viz. Brevia de homine replegiando, de Odio & Atia, de Habeas Corpus, & Brev' de Manucaptione.*

The former of theſe are antiquated; but the Writ *de Odio & Atia* is revived, for that was given by the Statute of *Magna Charta, cap.* 26. And therefore though it were repealed by the Statute of 28 *Edw.* 3. *cap.* 9. yet it is revived by the Statute of 43 *Edw.* 3. *cap.* 1. by which it is provided, That all Statutes made againſt *Magna Charta* are void. Now the Law would never have given ſo many Remedies, if the Freemen of *England* might have been impriſoned at Free-will and Pleaſure.

The Fourth General Reaſon.

The Fourth General Reaſon is drawn from the Extent and Univerſality of the pretended Power to impriſon; for it ſhould not extend only to the Commons of the Realm, and their Poſterity, but to the Nobility, and the Realm, and their Succeſſors; to all Perſons, of what Condition, or Sex, or Age ſoever; to all Judges, Officers, *&c.* whoſe Attendance are neceſſary, without Exception of any Perſon.

The Fifth General Reaſon.

The Fifth General Reaſon is drawn from the Indefiniteneſs of Time: The pretended Power being limited to no Time, it may be perpetual during Life.

The Sixth General Reaſon.

The Sixth General Reaſon is drawn *à Dedecore*, from the Loſs and Diſhonour of the *Engliſh* Nation, in two Reſpects: 1. For their Valour and Power, ſo famous through the whole World. 2. For their Induſtry: For who will endeavour to imploy himſelf in any Profeſſion, either of War, Liberal Science, or Merchandize, if he be but Tenant at Will of his Liberty? And no Tenant at Will will ſupport or improve any Thing, becauſe he hath no certain Eſtate. And thus it ſhould be both *Dedecus & Damnum* to the *Engliſh* Nation: And it ſhould be no Honour to the King, to be a King of Slaves.

The Seventh General Reaſon.

The Seventh General Reaſon is drawn *ab Utili & Inutili:* For that appeareth by the Statute of 36 *Edw.* 3. that the Execution of the Statute of *Magna Charta*, 5 *Edw.* 3. 25 *Edw.* 3. and 28 *Edw.* 3. are adjudged in Parliament to be for the common Profit of the King, and of his People: And therefore the pretended Power being againſt the Profit of the King, and of his People, can be no part of his Prerogative.

The Eighth General Reaſon.

The Eighth General Reaſon is drawn *a Tuto:* For it is ſafe for the King to expreſs the Cauſe of the Commitment, and dangerous for him to omit it. For if any be committed without expreſſing the Cauſe, though he eſcape, albeit the Truth be it were for Treaſon or Felony; but if the Cauſe be expreſſed to be for Suſpicion of Treaſon or Felony, then if he eſcape, albeit the Truth be it were Treaſon or Felony, yet the Eſcape is neither Felony nor Treaſon: But if the Cauſe be expreſſed to be for Suſpicion of Treaſon or Felony, then if he eſcape, albeit he be innocent, it is Treaſon or Felony.

The Laſt General Reaſon.

The Laſt General Reaſon is drawn from Authorities. 16 *H.* 6. *Means de Fait*, 182. by the whole Court: The King in his Preſence cannot command one to be arreſted, but an Action of falſe Impriſonment lies againſt him that arreſteth. 22 *H.* 7. 4. *Newton.* 1 *H.* 7. 4. The Opinion of *Markham*, Chief Juſtice to *Edward* the Fourth; and the Reaſon, becauſe the Party hath no Remedy.

Forteſcue, cap. 8. *Proprio ore nullus regum uſus eſt, &c.* to commit any Man.

4 *El. Plo. Com.* 236. The common Law hath ſo admeaſured the King's Prerogative, as he cannot prejudice any Man in his Inheritance: And the greateſt Inheritance a Man hath, is the Liberty of his Perſon; all other are acceſſary to it.

The Proceedings of the Commiſſioners of Berks, *for ejecting Scandalous and Inſufficient Miniſters, againſt* John Pordage *of* Bradfield, *in the ſame County. Written by the ſaid* John Pordage, Anno 1654.

I Was firſt warned by this ſubſequent Summons, to appear before the Commiſſioners.

Monday, the 18th of *September* 1654.

Berks, ſſ. *By the Commiſſioners appointed by an Ordinance of his Highneſs the Lord Protector and his Council, for the ejecting of Scandalous Miniſters.*

WHereas ſeveral ſcandalous Articles have been exhibited againſt Dr. *John Pordage* of *Bradfield*, in the ſaid County of *Berks*; which ſaid Articles lying now before the ſaid Commiſſioners, it is thereupon ordered by the ſaid Commiſſioners, that the ſaid Dr. *Pordage* do make his perſonal Appearance before the ſaid Commiſſioners, on Thurſday the 5th Day of *October* next, at the *Bear* in *Speenhamland*, by *Newbury*, at Nine of the clock in the Morning, to anſwer the ſaid Articles exhibited againſt him: Whereof he is not to fail. Given under our Hands and Seals in *Reading*, the Day and Year aboveſaid.

Chr. Whichcot.	*William Strowde.*
Sam. Wightwick.	*William Natkine.*
Ri. Fincher.	*Will. Cooke.*

Accordingly at the Time prefixed I appeared, about Nine of the clock in the Morning, in the Place above expreſſed; where I waited till betwixt Three and Four of the clock before I was called in. Then came the Door-Keeper to tell me that the Commiſſioners called for me.

I preſently obeyed, and followed their Servant, with two Friends that accompanied me. Then the Door-Keeper commanded my two Friends to go forth of the Room. I told him they were to be there. He replied, That he was ordered by the Commiſſioners to let none in but my ſelf; and therefore they ſhould be put out: And ſo began in an uncivil manner, by Violence, to thruſt them forth. Whereupon I applied my ſelf to the Commiſſioners, telling them theſe two were my Friends; and that I brought them as Eye-witneſſes of the Proceedings; and that it was no reaſon that I ſhould be alone. To which it was anſwered, They muſt depart, it being reſolved upon by them to have none but my ſelf there preſent. Then the Door-Keeper began with violence to pull them forth, crying out, Do you not hear the Senſe of the Commiſſioners? I turning towards them again, ſaid, I deſire none preſent but theſe my two Friends. It was replied, it ſhould not be ſo. Upon this I was neceſſitated to ask them, againſt my Will, what they were, whether a publick Court of Juſtice, yea or no? For if they were, I demanded the Liberty of a Subject, that their Doors might be opened, for all to come in that would; that ſo their Proceedings might be open. Moreover, I ſhewed how this was the Cuſtom of all Committees above, and of all ſuch Courts of Judicature. Whereupon the Doors were opened, and the People came in; Mr. *Wightwick* openly averring that I ſhould fare the worſe for it. Thus was I neceſſitated to contend for this juſt and reaſonable Privilege; for which my Cauſe was unjuſtly threaten'd.

The Commiſſioners then ſitting were theſe, with one or two more; Mr. *Fettiplace* Chairman, Mr. *Samuel Wightwick*, Mr. *Samuel Dunch*, Major *Fincher*, Major *Allin*, Mr. *Cox*, Mr. *Strowde*, Mr. *Augell Bell*. The Miniſters were theſe, with ſome other, Mr. *Hewes*, Mr. *Tickle*.

But to proceed: As I ſtood ſilent before them, Mr. *Dunch* turned to me, and with much ſeeming Bitterneſs and Paſſion ſpake thus; Dare you deny Chriſt to be God? And again, How dare you deny the Godhead of Chriſt? To whom I replied, I came to know my Charge which was exhibited againſt me; and that I hoped he had not judged my Cauſe before it was heard.

Hereupon the Chairman commanded *Langly* the Clerk to read theſe following Articles in open Court.

Articles againſt Dr. Pordage *of* Bradfield.

1. THAT the Fiery Deity of Chriſt mingles and mixes it ſelf with our Fleſh.

2. That the Imputative Righteouſneſs of Chriſt is a Sapleſs Righteouſneſs.

3. That the Diſcoveries of the Sinfulneſs of Sin, the Terrors of the Law, the Death of Chriſt, the Free-Grace of God, are fleſhly and flaſhy Diſcoveries.

4. That the Liberty and Freedom ſpoken of, purchaſed by the Blood of Chriſt, and applied by the clinging and cleaving of the Soul to, is not a Liberty or Freedom from the Guilt of Sin, the Curſe of the Law, the Wrath of God; but the Fiery Deity of Chriſt in the Centre of our Souls.

5. That by Male and Female, *Gen.* 1. we are to underſtand by Male the Deity, by the Female the Humanity; and that theſe two became one Fleſh. Theſe Things were delivered without any Limitation whatſoever.

6. That Gifts and Graces of the Spirit are but Fleſh.

7. That Chriſt is a Type, and but a Type.

8. That Chriſt is not God.

9. That Chriſt is not *Jehovah.*

Tickle witneſſeth.

After theſe Articles were read, the Chairman demanded my Anſwer. To whom I replied, That I had been acquitted from all theſe, four Years ſince, by the Committee of Plundered Miniſters, and that after a full Hearing and Debate; therefore I deſired that (according to Law) they would paſs by theſe old ones. But if they had any that were new, I told them I was ready and willing to receive and anſwer them. I further replied, I hoped they would give me the Liberty of a Felon, who, after Tryal and Acquitment, cannot be queſtioned for the ſame thing again. To which Mr. *Dunch* replied, with much ſeeming Fierceneſs, You are worſe than a Felon, for ought I know. Which Language coming from a Judge to the Defendant before Tryal, let all ſober Perſons judge of, who are acquainted with the Rules of Civility, Morality, or Chriſtianity.

Here Mr. *Hewes* the Miniſter interpoſed, affirming, That a Felon might be acquitted at one Aſſizes, and hang for the ſame Thing at the next: Of which he gave an Inſtance in a Story not worth the relating. To which I replied only this, That it could not be for the ſame he was acquitted of before. But I ſeeing that he had gone *ultra crepidam*, beyond his Office, and beyond Reaſon, ſaid no more to him; though he was very bitter and pragmatical, ſpeaking oft as Judge, although he was but an Aſſiſtant, and that only in reference to Ignorance and Inſufficiency.

But afterward, applying my ſelf to the Chairman, I further urged, That theſe Articles were not within the Cognizance of the Commiſſioners, in that I had been diſcharged from them, by thoſe who had full Power and Authority to do it.

After this, all were commanded to withdraw; and about an Hour after I was called in again, and asked for my Diſcharge. I anſwered, I came now only to know my Charge; and that I had not my Diſcharge there, but would bring it when they would appoint me.

Then they declared, That notwithſtanding my Diſcharge in another Court, yet it was the Judgment of the Commiſſioners, that they had Power to take Cognizance of the Articles exhibited: Whence they made this Order, *viz.*

Berks, ſſ. *By the Commiſſioners for ejecting of Scandalous Miniſters,* &c. October 5. 1654. *at the* Bear *in* Speenhamland.

DR. *John Pordage*, Rector of *Bradfield*, in this County, hath in Obedience to our Warrant, dated the 18th of *September* laſt, to him directed, this Day attended, and pleadeth that he hath been already diſcharged from the Articles that are exhibited to us againſt him, by the Parliament and the late Committee of this County, and therefore not again to be queſtioned or proceeded againſt for the ſame by theſe Commiſſioners. But the ſaid Doctor hath produced no ſuch Diſcharge.

Reſolved, upon the Queſtion, That by virtue of the Ordinance of his Highneſs the Lord Protector and his Council, for ejecting of ſcandalous, ignorant, and inſufficient Miniſters and School-Maſters, the ſaid Commiſſioners have power to queſtion the ſaid Doctor upon the ſaid Articles; and that notwithſtanding his Plea, as aforeſaid, of a former Diſcharge.

And it is thereupon ordered, That the ſaid Doctor do give his poſitive Anſwer to the ſaid Articles unto us on this Day-fortnight, being the 19th inſtant, at this Place: Whereof he is not to fail.

Now this was the Subſtance of the Things which were tranſacted the firſt Day of my Appearance; which I have here preſented in Truth and Righteouſneſs to the impartial Reader.

My ſecond Appearance before them was the 19th of *October*, at the ſame Place.

The Commiſſioners then ſitting were theſe; Mr. *Wightwick* Chairman, Mr. *Dunch*, Mr. *Evelyn*, Mr. *Bell*, Mr. *Mills*. The Miniſters, Mr. *Woodbridge*, Mr. *Fowler*, Mr. *Hewes*, with ſome others.

The firſt Thing they demanded, was my Anſwer to the Articles exhibited againſt me. But I deſired them to receive my Diſcharge, which I hoped would be inſtead of a full and ſatisfactory Anſwer. So I produced it; and it was received by them, and delivered to the Clerk; who, after it was read, took a Copy of it, and then returned it to me again.

The Tenor of it was as followeth:

At the Committee for Plundered Miniſters, March 27. 1651.

UPON hearing the Cauſe, in preſence of Parties and Counſel on both ſides, concerning Dr. *Pordage*, Miniſter of *Bradfield*, in the County of *Berks*; and upon reading the Papers and Examinations depending againſt him before this Committee, and full hearing what could be ſaid by both Parties; this Committee hath taken the ſaid Cauſe into ſerious Conſideration and Debate: And do thereupon order that the ſaid Cauſe be diſmiſſed. And the ſame is hereby diſmiſſed.

Gilb. Millington.

Afterward they asked me how they ſhould know that this was a true Copy. I returned anſwer, I received

received it from their Clerk there preſent, who knew it to be true: And beſides, I had a Friend by, who being with me when I received it, could atteſt the Truth of it by Oath. Then they waved my Diſcharge, and called for my particular Anſwer to the Articles; alledging, That notwithſtanding the Diſcharge, the Commiſſioners had judged the Articles under their Cognizance. So that after I had preſſed my Diſcharge with as much Earneſtneſs, as in Modeſty I could, they ſtill haſtily calling for my further Anſwer, I was neceſſitated to give in this which followeth:

My Anſwer to the Articles exhibited againſt me, conſiſts in theſe Particulars.

Partic. 1. I Humbly conceive that none of the Articles exhibited againſt me are comprehended in the Act, entitled, *An Act againſt ſeveral Atheiſtical, Blaſphemous, and Execrable Opinions, derogatory to the Honour of God, and deſtructive to human Society*; without the Senſe and Meaning of the Words expreſſed in the Act be ſtretched and wreſted beyond the literal Scope and Drift of the Act. And this is not my Judgment only, but the Judgment of ſome pious and judicious Lawyers of this Land. Which Thing, in all Humility, I leave to your ſerious Conſiderations.

Partic. 2. I humbly conceive that the foremention'd Act cannot take into Cognizance thoſe Articles exhibited againſt me; becauſe they are acknowledged by the Accuſers to have been uttered a Year before this Act had a Birth in the World. Now can any Guilt be legally imputed from any Law, before the original Being of it? This ſeemeth contrary to Reaſon. Now thoſe Articles were charged upon me *Aug.* 16. 1649, and this Act made and publiſhed *Aug.* 9. 1650.

Moreover, theſe Articles are not puniſhable by that Act; becauſe, according to the Concluſion of the ſaid Act, no Perſon is to be impeached, moleſted, troubled, or puniſhed, for any Offence mentioned in that Act, unleſs he be for the ſame Offence accuſed, preſented, indicted, or convicted within ſix Months after ſuch Offence committed. Now it is ſix Years ſince ſome, and four ſince any of theſe Expreſſions were pretended to be uttered by me.

Partic. 3. I humbly conceive that the foremention'd Act cannot take into Cognizance the Articles exhibited againſt me; becauſe upon Examination of Witneſſes on both ſides, I was cleared by the Vote of the honourable Committee of *Berks*, who had full Power, by an Act of Parliament, to put out, and to put in Miniſters in this County.

Partic. 4. I humbly conceive that the foremention'd Act cannot take into Cognizance the Articles exhibited againſt me; becauſe, after Examination of Witneſſes, and after a full Hearing, I have been diſmiſſed and acquitted from all Guilt and Offence charged upon me from them by the honourable Committee of Plundered Miniſters, who had full Power to put out, and to keep and put in Miniſters. Now the judicious Lawyer ſaith, That theſe Articles having had their original Dependance before two Committees of Parliament, who had an abſolute Power, by Act and Ordinance of Parliament, to put out and put in Miniſters, and they having cleared and acquitted me from the pretended Guilt of ſuch Articles, it is not according to the Liberty of the Subject, or Tenor of the Law, that it ſhould be within the Cognizance of this Act, or of this Committee; it being againſt that fundamental Maxim of *Magna Charta*, *Nemo bis punietur pro uno delicto.*

Moreover, it ſeemeth contrary to the ſixth Article in the *Inſtrument of Government*, publiſhed by his Highneſs the Lord Protector's ſpecial Command; in which it is expreſſed, *That the Laws ſhall not be altered, ſuſpended, abrogated, or repealed, but by Conſent of Parliament, ſave as it is expreſſed in the thirtieth Article.* Therefore my former legal Diſcharge, according to the former Acts and Ordinances of Parliament, is ſtill in force, and holds good, not being abrogated by the Government, or by any thing expreſſed or included in the ſaid thirtieth Article of Parliament.

I ſhall now proceed to anſwer each Article in particular.

Art. 1. *That Chriſt is not God: That Chriſt is not* Jehovah.

1 *Part. Anſw.* I do acknowledge that ſuch Expreſſions were uttered by me: But I hope the bare Expreſſions of ſuch Negations doth not make me come within the Guilt of the Act; for it muſt be known what Words preceded ſuch Expreſſions, and what followed. To ſay in Preaching, *There is no God*, doth not make the Preacher guilty of Atheiſm, if the Words going before be but annexed, *The Fool hath ſaid in his Heart, there is no God.* So do but annex the ſubſequent Words to the former Expreſſions, That Chriſt is not God, *viz.* the Father; That Chriſt is not *Jehovah*; *Jehovah* taken ſtrictly for the Perſon of the Father, the firſt Perſon of the glorious Trinity: I ſay, add but theſe Words, and there is nothing blaſphemous or culpable in ſuch Expreſſions.

2 *Part. Anſw.* Though I do acknowledge that ſuch Expreſſions fell from me, yet I never avowedly uttered or maintained ſuch Propoſitions; for they were only uttered by way of Diſpute, and that upon this occaſion: Mr. *Daniel Blagrave*, then being Chairman of the Committee, demanded of Mr. *Tickle* what Blaſphemy was. He anſwered, Evil-ſpeaking againſt God the Father. I replied, A lame Definition of Blaſphemy. Had Mr. *Tickle* ſaid Evil-ſpeaking againſt God, which is a Word implying the Trinity in Unity, then there had been no occaſion given of Conteſt; for the ground of theſe Expreſſions aroſe from the Weakneſs of his Definition of Blaſphemy, in that he ſaid Blaſphemy was Evil-ſpeaking againſt God the Father. To which I replied, His Definition of Blaſphemy doth not reach that of which he accuſed me; for that which he chargeth me with, is not Blaſphemy againſt God the Father, but againſt Chriſt, God the Son. And I have uttered no Evil-ſpeakings againſt God the Son, but ſeemingly to my Accuſer, in ſaying, That his Imputative Righteouſneſs would prove a Sapleſs Righteouſneſs to all thoſe that had not the Fiery Deity of Chriſt in the Centre of their Souls, burning up their Luſts and Corruptions. Mr. *Tickle* then replied to the Committee, Pray take notice that the Doctor denieth that Chriſt is God, which I prove out of *John* 1. 1. To which I replied, Chriſt was not God the Father, but God the Son. Chriſt is *Jehovah*, and ſo called the Lord our Righteouſneſs, ſaid Mr. *Tickle*. To which I replied, Chriſt is not *Jehovah*, if you take *Jehovah* for the Perſon of the Father. And this is the Truth, as the whole Committee of *Berks* then preſent can teſtify; by whoſe Vote I was then cleared of all theſe unworthy Aſperſions, and diſmiſſed, and

ſince, upon Proof of Witneſſes, acquitted and diſmiſſed; and that after a full Hearing by the Committee of Plundered Miniſters.

3. *Part. Anſ.* I do humbly conceive, that altho the former Act did expreſly adjudge and condemn Evil-ſpeakings, or Blaſphemy againſt Chriſt, yet my delivering ſuch Expreſſions in an extempory Diſpute, *viz.* That Chriſt was not God, or Jehovah, did not make me obnoxious to the Guilt and Penalty of that Act; becauſe *p.* 980, & 981. they only are condemned as guilty, who ſhall avowedly profeſs, maintain, or publiſh in word or writing, ſuch or ſuch execrable Opinions: which I never did. Nay, I profeſs avowedly the contrary, and do declare in the Sincerity of my Heart, that the Thought never entred into my Heart, to deny the Godhead or Deity of Chriſt; but I have avowedly in Words maintained, and publiſhed by Preaching, That Chriſt is God, out of that Text, *John* 1. 12. *The Word was made Fleſh*, &c. From whence I did maintain and publiſh, That Chriſt was God, coequal, coeternal, and coeſſential with the Father, contrary to all thoſe blaſphemous and execrable Opinions, that deny Chriſt to be God. So that now I hope the mere uttering of ſuch Expreſſions, by way of diſpute before a judicious and underſtanding Committee, doth not make me a Tranſgreſſor, according to the true Senſe and Meaning of this Act.

Artic. 2. *That the imputative Righteouſneſs of Chriſt is a ſapleſs Righteouſneſs.*

Anſ. I thus deliver the Truth: As I was paraphraſing on that Portion of Scripture mentioned in *Dan.* 9. 24. of everlaſting Righteouſneſs, I did ſay words to this effect; *That the imputative Righteouſneſs of another, was a ſapleſs Righteouſneſs to all thoſe that had no Right or Intereſt in it.* I ſhall deſire a little to explain myſelf on this Propoſition, that the imputative Righteouſneſs of Chriſt in this ſenſe will prove a ſapleſs Righteouſneſs: For he that hath not the Spirit of Chriſt dwelling in his Heart by Faith, notwithſtanding all this Application of Chriſt and his Merits, yet to him it is but a ſapleſs Righteouſneſs: ſo ſaith the Scripture, *He that hath not the Spirit of Chriſt, is none of his*, notwithſtanding his Application of the imputative Righteouſneſs of Chriſt to himſelf: But here I do not deny the imputative Righteouſneſs of Chriſt, nor his active and paſſive Obedience to be the material Cauſe of his Juſtification; yea, I own and acknowledge Chriſt's Righteouſneſs to be the Soul's Righteouſneſs in point of Juſtification, when it is apply'd upon a true ground, according to the true Senſe of the Spirit in the Scriptures.

Artic. 3. *That they ſhould look to the fiery Nature of Chriſt's Deity in the Centre of their Souls, burning up the Droſs and Chaff of their Luſts and Corruptions.*

Anſ. For the Explanation of this Article, we muſt conſider theſe are Scripture-Metaphors, and Chriſt is often clothed with a Garment of Fire, according to that of *Paul*, Heb. 12. 29. *Our God is a conſuming Fire*; and in another place, *Chriſt ſhall come in flaming Fire.* None, or few underſtand theſe Scriptures, or the like, of elemental material Fire; but either of the Fire of his divine Love to burn up our Luſts and Corruptions, or the Fire of his divine Juſtice or Wrath in deſtroying Sin and Sinners.

Artic. 4. *That the fiery Deity of Chriſt mingles and mixeth itſelf with our Fleſh.*

Anſ. I was then ſpeaking of the myſtical Union betwixt Chriſt and his Church: And in the Illuſtration of this Union, I apply'd that Expreſſion out of the 5th of the *Canticles*, *He mingleth his Wine and his Milk together*; ſo in this Union, Chriſt's divine Nature mingleth itſelf with our Humanity, his Spirit with our Fleſh. This Expreſſion Mr. *Tickle* was pleaſed to charge with Blaſphemy; asking me what I meant by Fleſh. I anſwered in Conference, By Fleſh I underſtand not the ſinful and fleſhly part of the Soul, that luſteth againſt the Spirit; for with this there can be no Union. 2. By Fleſh I mean not the outward elementary Fleſh of the Body; but by Fleſh I underſtand our pure Humanity, the pure regenerated part of the Soul, the converted part of our Spirit: And thus the Spirit of Chriſt and regenerated Part are really in Union one with the other, according to the Apoſtle's Phraſe, *We are made Partakers of the Divine Nature.* And againſt this Anſwer he had nothing to reply.

Artic. 5. *That Chriſt was a Type, and but a Type.*

This was in Conference: He asked me whether Chriſt was a Type or no. I anſwered, Chriſt was a Type, ſo expreſſed 1 *Tim.* 2. 21. How was Chriſt a Type, reply'd Mr. *Pendarvis?* I anſwered, His Life and Converſation was a Type, that is, a Pattern and Example for us Chriſtians, to ſquare our Lives and Converſations by. Who denies this, ſaid he? Why, I affirm no more, ſaid I, than that Chriſt is a Type. Is he but a Type, reply'd Mr. *Pendarvis?* I anſwered, Why lie you thus on the catch? I ſay Chriſt is a Type; but I will not affirm Chriſt is but a Type. And this they both confeſs in their Anſwers.

Artic. 6. *That the Gifts and Graces of the Spirit are but Fleſh.*

I confeſs I ſaid the common Gifts and Graces of the Spirit were but Fleſh; but this I opened after this manner, That they were but fleſhly, weak, and carnal in point of Juſtification, in point of Truſt and Confidence in regard of Salvation and Life eternal; and no otherwiſe, as their own Witneſſes on Examination confeſſed before the honourable Committee of *Berks.*

To conclude: As for theſe Articles, eſpecially all the latter, I look not upon them as under the Cognizance of the Act; yet for your Satisfaction I have tranſcribed my former Anſwers, and do here preſent them again to your Conſideration, by which you may clearly ſee my Innocency in reference to the horrid Opinions for which I am accuſed.

John Pordage.

This being read by the Clerk, we were all commanded to withdraw. About an hour or two after, I was called in again; and they told me, if I would, I ſhould have an Order to fetch in my Witneſſes to prove what they could on my behalf, in reference to that Charge. I reply'd, That I hoped my Diſcharge and Anſwer were ſufficient, and that they would not put me to the trouble and charge of traverſing this Buſineſs (*viva voce*) by my Witneſſes again; in that (beſides my Diſcharge) I had brought all their Depoſitions delivered by Oath to the Committee of Plundered Miniſters; which I deſired might be then read before them, becauſe the Witneſſes could but ſay, *viva voce*, what was there wrote down.

Hereupon I delivered them to be read; and ſo being handed to the Clerk, the Commiſſioners asked me how they ſhould know them to be true. I reply'd, The Clerk delivered them as a true Copy, and I would affirm on my Oath, that they had not been altered ſince I had them. But notwithſtanding

withſtanding this, they rejected them, alledging that they would not take notice of any written Depoſitions taken out of another Court; but that I muſt again bring in the former Witneſſes, to teſtify what they could by Word of Mouth: ſo that all the Reaſons and Arguments I could uſe, could not prevail with them to free me from the Charge and Trouble of bringing in my Witneſſes again; for which the Clerk was then commanded to draw me up an Order.

Berks. *By the Commiſſioners for ejecting of Scandalous Miniſters*, Octob. 19. 1654. *At the* Bear *in* Speenhamland.

DR. *Pordage* of *Bradfield* hath this day again attended, and hath exhibited an Anſwer in writing to the Articles exhibited againſt him. Ordered, That the ſaid Doctor do attend again before us on this day fortnight at this place; at which time he is to give Anſwer to the additional Articles now exhibited againſt him, and to produce his Witneſſes, if he have any, for Proof of his Defence; and Summons are to iſſue out for that purpoſe, if he deſire the ſame.

Then they told me they had a new Charge of Articles againſt me; which were theſe that follow, then openly read by the Clerk.

Articles againſt Dr. Pordage, *Parſon of* Bradfield, *to prove his Ignorance and Inſufficiency for the Miniſtry.*

1. IMprimis, One Miſtreſs *Lewyn* being with child, and near the time of Travail, ſent for Dr. *Pordage*'s Mother to be her Midwife; but he would not ſuffer her to go, ſaying, they would not be guilty of ſuch a beaſt-like Life, meaning Miſtreſs *Lewyn*'s being with child by her Husband.

2. The ſaid Dr. *Pordage* coming to the Houſe of Miſtreſs *Lewyn*, in his Diſcourſe with Mrs. *Lewyn*, blamed her for having Children by her Husband, and argued with her the Unlawfulneſs of having Children by her Husband.

3. In his Diſcourſes to Mrs. *Lewyn* concerning the ſame Subject, endeavoured to maintain the Unlawfulneſs of their having Children, and ſaid that *Adam* was made Male and Female in himſelf, and had he not fallen, he had brought forth Children himſelf; and ſeemed to maintain and prove the ſame by Scripture, and otherwiſe.

4. In his Diſcourſes with Mrs. *Lewyn*, which was about the time that one *Everard* was with him in his Houſe at *Bradfield*, who was generally reputed to be a Conjurer, he asked Mr. *Lewyn* whether he would not be afraid if he ſhould ſee his own Picture, or Shape; intimating that he himſelf had uſed to ſee his.

5. The ſaid Dr. *Pordage* hath had for ſome Weeks together in his Houſe the ſaid *Everard*, and one *Tawny*, who ſtiled himſelf King of the *Jews*, who had been queſtioned (as it is generally reported) for holding dangerous and unſound Opinions; as, That there is no Hell, and the like.

A True Copy, *Joſeph Cook.*
Mat. Langley *Regiſt.*

After theſe were read, I deſired the Court in the firſt place to finiſh the firſt Paper of Articles; urging, that if they were ſufficient, they might ſave both them and me much trouble. But this they denied, tho I much urged it: Whereupon they commanded this ſubſequent Order to be drawn up, *viz.*

Berks, ſſ. *By the Committee for ejecting of Scandalous, Ignorant, and Inſufficient Miniſters and School-Maſters in this County*, Octob. 19. 1654.

ORdered, That Mr. *John Tickle*, Mr. *John Pendarvis*, Mr. *Francis Pordage*, *John Higgs*, *Gifford Luinton*, *Richard Luinton*, *Mary Pocock*, and *Roger Stevens*, do make their perſonal Appearance before the ſaid Commiſſioners on Thurſday the ſecond Day of *November* next, by Eight of the clock in the Morning, at the *Bear* in *Speenhamland* by *Newbury*, to teſtify their Knowledge of all ſuch Matters as ſhall be propounded unto them concerning Dr. *John Pordage* of *Bradfield* in this County; whereof they are not to fail. Given under our Hands and Seals, the Day and Year above-mention'd.

Samuel Wightwick. *Samuel Dunch.*
Ar. Evelyn. *Angell. Bell.*
Ed. Mills.

But this I muſt ſpeak on the behalf of Mr. *Wightwick* and Mr. *Evelyn*, that by their Preſence things were tranſacted that day with much more ſeeming Modeſty and Calmneſs than at other times; the Miniſters then containing themſelves within the limits of due Silence, which gave me ſome hopes that the latter part of my Tryal might be tranſacted in ſome Moderation, Equity, and Civility. But theſe two ſitting no more after that day, there broke forth much Confuſion, Raſhneſs, and Incivility in their Carriage; ſome Miniſters (who were bitter Enemies againſt me) acting the part of Commiſſioners, and ſeeming to have great Influence upon all their Proceedings, being ſuffered to break forth into uncivil Scoffs, and Railings againſt me in the open Court, as it will afterward appear.

But thus much for my ſecond Day's Appearance, here repreſented according to the Line of Truth and Equity.

On the ſecond of *November* I appeared before them again at the ſame place, according to their laſt Order, at which time Major *Fincher* was Chairman; beſides whom, there were preſent, Mr. *Dunch*, Mr. *Stroud*, Mr. *Cook*, Mr. *Bell*, with two or three more Commiſſioners: the Miniſters were Mr. *Fowler*, Mr. *Woodbridge*, Mr. *Hughes*, Mr. *Tickle*, &c.

The firſt thing they demanded of me, was to give in my Anſwer to the ſecond Charge of Articles exhibited the laſt Day againſt me. I reply'd, that my Anſwer was ready; but I deſired that they would keep to their own Order, and firſt hear my Witneſſes, and ſo finiſh my firſt Charge, that we might not run into confuſion. But they would not hearken to this rational Requeſt, importuning me for my Anſwer, reſolving to hear nothing till I had given it in: ſo being neceſſitated to yield to their Command, I gave in this ſubſequent Anſwer.

My Anſwer to the ſecond Articles exhibited againſt me, is as followeth.

IN the firſt place, I ſhall take liberty to reply to the Title of the Articles; which is, to prove my Ignorance and Inſufficiency for the Miniſtry, by the Articles produced.

1 *Part. Anſ.* I do here humbly deſire, that Ignorance and Inſufficiency for the Miniſtry may be preſerved as diſtinct Heads from Scandal and Hereſy, according as it is intended by the Authors of the Ordinance: for certainly it is againſt the Judgment of the Lord Protector, and the Intendment of his Council, who made the Ordinance, to confound that which may be called Scandal, or Hereſy, and Inſufficiency together. We ſee it is uſual this day among us, for knowing and learned Miniſters to differ in their Judgments, both in Doctrine, Worſhip, and Things indifferent; who yet thereupon are not accounted ignorant and inſufficient for the Miniſtry. So that altho theſe Articles could be proved true, they are to be referred either to Scandal or Hereſy, and not to Ignorance and Inſufficiency.

2 *Part. Anſ.* If Ignorance and Inſufficiency for the Miniſtry be taken for the want of an inward ſpecial Gift, as it is qualified with human Arts and Sciences, attained by much Pains and Induſtry, in relation to Academical Learning: Or if Ignorance and Inſufficiency for the Miniſtry are taken for the want of inward Abilities, qualified with ſpiritual Gifts, as with thoſe of Prayer, Utterance and Preaching: Or if Ignorance and Inſufficiency be taken for the want of a ſaving Principle of Grace, manifeſting itſelf in Convictions of Sin, Legal Terrors, or Evangelical Illuminations into the Free Grace and Love of the Father, or into the meritorious Death of Chriſt for the Redemption of loſt Sinners: Or if it be taken for thoſe Effects flowing from ſuch a ſaving Principle of Life, as that of ſaving Faith, true Repentance, Pardon of Sin, Peace of Conſcience, a holy Life in all univerſal Obedience to the holy Will and righteous Commands of God: Then I humbly conceive, that mere Ignorance and Inſufficiency, without the Pretenſions of Hereſy and Scandal, will be found a Bed too ſhort, and a Covering too narrow for my Ejection out of the Work of the Miniſtry, according to the true Intent of the Ordinance.

3 *Part. Anſ.* Hence my humble Deſire to you for time to come, is, that you would not make your Ephah of Ignorance and Inſufficiency ſo ſmall, that Hereſy and Scandal may not ſtand diſtinct in it; and that you would not make your Shekel of Ignorance and Inſufficiency ſo great, as to ſwallow up Hereſy and Scandal into the boundleſs and endleſs Extent of it: For what is this but to falſify the Ballances of Juſtice and Equity by a deceitful Weight, in not preſerving Inſufficiency as a diſtinct Head from Scandal and Hereſy; which in time may prove very prejudicial to that Liberty of Conſcience, which of late years hath been, and is ſtill preſerved and aſſerted by the Rulers of this Nation?

In the ſecond place, to the Articles themſelves I thus reply.

Anſ. 1. As to the four firſt, I know not how or what poſitively and directly to anſwer to them, till I ſee them firſt proved by Oath, and that by ſuch Perſons who are without juſt Exceptions; and then I ſhall be capable of returning a more full and compleat Anſwer.

Anſ. 2. Neither do I ſee, that ſeemingly to maintain and argue, by way of diſpute only, the Unlawfulneſs of Mrs. *Lewyn*'s having Children by her Husband, for the ſifting forth of Truth from Error, could it be proved that I did ſo, could argue or evince my Ignorance and Inſufficiency for the Miniſtry: For this, tho it were evinced to be my Crime, cannot in Juſtice and Equity be referred to that Head of Inſufficiency, but to Scandal; except Ignorance and Inſufficiency be reſolved into the boundleſs Liberty of the Wills of the Judges, that what they deem ignorant and inſufficient, muſt be ignorant and inſufficient, whether Ignorance and Inſufficiency be real in ſuch a Subject or not.

As to the fifth Article, which concerns my giving Entertainment in my Houſe to one *Everard*, reputed a Conjurer, and to one *Tawny*, reported to hold unſound Opinions, I thus anſwer:

As to the firſt part of it, I confeſs that one *Everard*, about four Years ſince, was received into my Houſe at *Bradfield*, for the ſpace of almoſt three Weeks, and no longer; and that after this manner: He came in Harveſt-time with a new Pair of Harveſt-Gloves on his hands, to ſhew his Willingneſs and Readineſs to work; and asking to ſpeak with me, told me, That if I pleaſed to employ him in Harveſt-Work, he came to offer his Service. Hereupon I entertained him as a Workman. And thus you ſee both the Manner of his Coming, and the Cauſe of his Entertainment.

Whereas it is ſaid he was generally reputed a Conjurer:

Anſ. 1. I anſwer, I never heard any the leaſt Intimation from any, that he was ever ſuſpected to be a Conjurer, till after his departure from my Family: if he was a Conjurer before he came, it was more than I knew, or had heard of; but after his departure, I confeſs there aroſe a general Report up and down the Country, that he was a Conjurer. But from that time to this, I have never ſeen him, nor known what is become of him.

Anſ. 2. After his abſence, I do further affirm, That I was ſtrongly inclined to believe, according to the general Rumour, that he was a Conjurer. Hereupon I was in a great ſtrait in my own Spirit, whether I ſhould proſecute him not; my Zeal for God's Glory, and my Obedience to the Command of God, that ſaith, *Suffer not a Witch to live*, giving me ſome Impulſions to do it. But after ſerious Debate and Conſideration within myſelf, I reſolved this Caſe or Scruple of Conſcience thus; That my own Perſuaſions and Jealouſies, tho they had ſome ground of Probability, yet not being certain, afforded me not a ſufficient ground of proſecuting him as a Conjurer, or of ſwearing poſitively he was ſuch. Now I leave it to your ſerious Conſiderations, whether this Tenderneſs of Conſcience keeping me from proſecuting of him, or ſwearing againſt him, for fear of that heinous Sin of Perjury, makes me either ignorant or inſufficient for the Miniſtry.

As to the ſecond part of the fifth Article, which concerns my Entertainment of one *Tawny*, reputed (as it is there expreſſed) to be one that holds unſound Opinions:

Anſ. I anſwer, It is well known, as I invite none,

none, ſo I turn away none that come to viſit me, tho their Principles in Matter of Doctrine, Worſhip, and Diſcipline, be different from mine. I will here ſhew you briefly my Grounds and Ends: My Grounds are theſe; I look upon it as my Duty, according to the Goſpel of Chriſt, to entertain all Strangers that be in want and neceſſity, profeſſing the Name of Chriſt. If Enemies hunger, we are to feed them; if they are naked, we muſt clothe them; and as for Strangers, we are to lodge and entertain them, *Heb.* 13. 2. And as in the Practice of this I break no Law of God, ſo no Law of Man. And you may remember, that in the 37th Article of Government it is expreſſed, That all ſuch as profeſs Faith in God by Jeſus Chriſt, tho differing in Judgment from the Doctrine, Worſhip, or Diſcipline publickly profeſſed, ſo as they abuſe not this Liberty to the Civil Injury of others, nor to the actual Diſturbance of the publick Peace, ſhall be protected; and then ſurely their hungry Bellies may be fed, their Backs clothed, their Wants ſupply'd, and their Perſons lodged and entertained.

And further, my Ends are theſe, which are Pure and Evangelical, That I may prove all things, and hold faſt that which is good: that I may try the Spirits, for many falſe Spirits are gone forth into the World. Now how are they to be proved and try'd? Not by carnal Weapons, as by Penalties, Mulcts, Impriſonments, and other external Puniſhments; but by convincing of them with ſound Doctrine, Chriſtian Diſcourſe, ſpiritual Arguments, and by the Example of a good Converſation. And thus God's Glory, and the Good of others are my only Ends, in giving Entertainment to all Strangers that come in Civility to viſit me.

Now the Cauſe of many Strangers coming to me as Gueſts from all Quarters of this Land, ariſeth from theſe lying printed Pamphlets, which have hardly a word of Truth in them; theſe draw all ſeeking inquiring Minds to viſit me, for divers Ends beſt known to themſelves: Let it but be proved that ever I gave Entertainment to any common Swearer, or to any open Drunkard, Sabbath-breaker, or to any known profane Perſon, and I ſhall judge myſelf obnoxious to your Cenſure; but all that I give free Entertainment to, appear clothed under ſome Shew of Godlineſs or other; but if they have not the Power, it will be their own Miſery.

In a word, the Strength of this Article doth but amount to thus much, That as Chriſt was ſuppoſed to be a Friend of Publicans and Sinners, ſo am I ſuppoſed to be a Friend to all People that profeſs Religion, and walk orderly, be their Opinion in Matter of Doctrine or Diſcipline never ſo much differing from mine own, or from thoſe commonly received: yet this doth not argue my Ignorance or Inſufficiency for the Miniſtry; but if in it any thing be culpable, it is to be referred to the Head of Scandal. But here being no Law of Prohibition, I cannot ſee any Tranſgreſſion in it, either againſt the Law of God or Man.

To conclude, I cannot give a more direct Anſwer to theſe Articles, being Matter of Fact, till I ſee them proved, and each Article referred to its proper place, either of Scandal or Hereſy, or Ignorance and Inſufficiency.

John Pordage.

This being read, we proceeded to the Proof of the firſt Charge of Articles atteſted by Mr. *Tickle*, one of the Aſſiſtants, whom I deſired to ſee ſworn in the open Court; alledging that I was altogether ignorant whether he had ſworn or not; but the Clerk affirmed that he had done it already: but after much diſpute, it was granted that I ſhould hear him ſworn in the open Court. Then I craved liberty to croſs-examine him openly, and began to put my Interrogatories to him; but this juſt Privilege they peremptorily denied me, tho I uſed many Reaſons and Arguments to ſhew the Equity and Reaſonableneſs of it. Then they commanded me to write down my Interrogatories, which ſhould be propoſed and anſwered in private, without my preſence, according to their fixed Reſolution. Then all being commanded to withdraw, I wrote down my Interrogatories; and when I gave them in, I deſired they might be asked in the open Court: but it was deny'd. Then I requeſted that I myſelf might be preſent at the Croſs-Examination, tho all the reſt withdrew; urging, that altho I had given in my Interrogatories, yet there might be many neceſſary Circumſtances and Queſtions emergent in the Examination, which I could not then give in in writing, nor make uſe of without I was preſent, which yet might ſerve very much to clear the Truth: but notwithſtanding this, and more which was then ſaid, I could not prevail, but was commanded to withdraw.

After this I was called in again, and as I thought to receive Mr. *Tickle*'s Anſwers to my Interrogatories; which tho I preſſed it with much earneſtneſs, was deny'd, they reſolving, as it ſeemed to me by their Anſwer, to keep them private till Publication: which appeared to me very partial dealing, in regard I could not know how the Queſtions were anſwered, againſt the time of making my Defence by negative Witneſſes.

But afterward importuning the Court to examine my Witneſſes according to their own Order, I was interrupted by their commanding of the Clerk to read a third Charge of Articles exhibited againſt me by Mr. *Fowler*, an Aſſiſtant Miniſter to the Commiſſioners; whoſe Zeal moving ſwifter than the Clerk's ſlow reading of the Articles, cauſed him to take them out of his hands, and to read them himſelf, with much Courage and Reſolution. The Articles were theſe that follow.

Further Additional Articles exhibited againſt Dr. Pordage, *by Mr.* Fowler, *Miniſter of* St. Mary's *in* Reading.

1. THAT the Righteouſneſs of Jeſus Chriſt was a poor, vain, ſapleſs Righteouſneſs.

2. That Jeſus Chriſt was not perfect, alledging that Text to confirm it, becauſe he cry'd out, *My God, my God, why,* &c.

3. That the Blood of Chriſt was not meritorious of any Man's Salvation.

4. That it was a poor thing to live upon the Blood of Chriſt; and fetching it over again, in a contemptuous kind of ſpeaking, *Piſh*, ſaid he, *thou art a Babe, thou knoweſt nothing; to live upon the Blood of Chriſt, is a poor thing.*

5. That one ſpeaking to him of the glorious Perſons in Trinity, he reply'd, *Perſons in Trinity! Piſh, there is no ſuch thing.* And again, *There is no ſuch thing as Perſons in Trinity.*

6. That it was a Weakneſs to be troubled for Sin.

7. That he might ſay any thing to the Men of the World.

8. That he aſſerted he knew nothing to the contrary, but that a Man might company with more than one Woman; being taxed with keeping

ing carnal Company with a Woman in *London*.

9. That he hath very frequent and familiar Converſe with Angels.

10. That a great Dragon came into his Chamber with a Tail of eight Yards long, four great Teeth, and did ſpit Fire at him: and that he contended with the Dragon.

11. That his own Angel came and ſtood by him while he was expoſtulating with the Dragon; and the Angel came in his own Shape and Faſhion, the ſame Clothes, Bands and Cuffs, the ſame Bandſtrings, and that his Angel ſtood by him and upheld him.

12. That Mrs. *Pordage* and Mrs. *Flavel* had their Angels ſtanding by them alſo, Mrs. *Pordage* ſinging ſweetly, and keeping time upon her Breaſt; and that his Children ſaw the Spirits coming into the Houſe, and ſaid, Look there, Father: And that the Spirits did often come into the Chamber, and drew the Curtains when they were in Bed.

13. That the ſaid Mr. *Pordage* confeſſed, that a ſtrong Enchantment was upon him, and that the Devil did appear to him in the Shape of *Everard*, and in the Shape of a fiery Dragon; and the whole Roof of the Houſe was full of Spirits.

14. That Mrs. *Margaret Pendar* acquainted with this Doctrine of Spirits, and pretended to be converted by Viſions of Angels, doth think that ſhe was bewitched by them of *Bradfield*.

Her Confeſſion.

SHE was taken ill upon Wedneſday in the Afternoon, in *July* 1653. About Nine of the clock the ſame Night, there appeared the Viſion of a Man ſtanding at her Bed's-feet: on Thurſday the next day he had a Book in his Hand, and ſtood by her all that Day, and ſaid nothing. On Friday it ſpake audibly unto her, ſaying, Why art thou ſo diſcomforted? I anſwered, *A wounded Conſcience who can bear?* He replied, He that hath wounded thee, will make thee whole. I ſpake much of my own Unworthineſs; he anſwered, There was Worth in Chriſt, and he had paid a Ranſom for me. Then he told me, that that Book in his Hand, was the Book of the Lamb, and that my Name was written in it. I ſaw the Book, a broad Book with a Parchment-Cover; and I ſaw Writing in it, and then was I lifted up with a great deal of Joy. About Four of the clock the ſame Friday, the dark Angel came and ſtood by the other Viſion, with a Knife in his Hand, and ſaid, Thou haſt had a great deal of Joy; and offering her the Knife, bid her diſpatch her ſelf, and ſhe ſhould enter into that eternal Reſt her Soul ſo much thirſted after. Upon this ſhe trembled, the Bed ſhook, and my Miſtreſs held me.

The ſame Friday I had Viſions preſented upon the Wall; I ſaw the World, and the Reſurrection of the Dead, and the Son of Man appearing in the Clouds of Heaven.

She ſaw clearly the Viſion of a Friend of hers in *London*, in her Chamber at *Southcot*; her Friend was much inclined this way: ſhe much wondred at it, and told Mrs. *Pordage* of it; who anſwered, Alas! ſo do we ſee abundance of thoſe we never knew before, when once they come into our way.

On Saturday Dr. *Pordage* came to her, being ſent for, and prayed in a very ſtrange Language, ſhe did not underſtand well what he ſaid; ſhe heard him ſay, Lord; but nothing of Jeſus Chriſt, but the Abyſs and bottomleſs Eternity.

She heard a great Noiſe of Drums and Trumpets. She asked the Doctor what the rattling of Drums and Trumpets meant? He anſwered, It was an Alarm to the ſpiritual War.

One of the Nights ſhe ſaw the Viſion of young Mr. *Daniel Blagrave*, which came to her Bed-ſide; ſhe took him by the Hand, and it felt cold. She asked the Doctor what it meant? He anſwered, The Coldneſs of the Hand did ſignify his beginning to be cold to Vanity.

She asked Dr. *Pordage* what the Viſions meant? He anſwered, They durſt not reveal one another's Viſions; he did not queſtion but God would diſcover himſelf, and reveal wonderful things to me.

She was from Wedneſday Noon till Monday Noon, and did not eat one piece of Bread, but ſometimes a little Water and Sugar; and ſhe ſaith ſhe was not ſick at all, after the firſt two Hours: and when ſhe was about to eat, ſhe heard a Voice come to her; *We are not to live upon Bread, but upon every Word of God*: And upon that Voice ſhe did not eat.

She ſaith, that ſhe hath oftentimes ſeen at *London* Flaſhes of Light in her Chamber, and at laſt heard a Voice which put her into a very great Fear and Sweat, ſaying, Thou haſt married a Lump of Clay; but thou muſt return to thy firſt Husband, who is thy Saviour, and thou muſt go to *Joppa*.

And upon this ſhe was convinced that theſe Viſions were of the Devil, becauſe the Voice was clean contrary to the Scriptures. She ſaith, that ſhe hath heard it reported at *Southcot*, That e'er long Dr. *Pordage* ſhould have Power from him to beſtow ſaving Graces on whom he pleaſed: as alſo, that Marriage was the way of Beaſts.

Francis Knight of *Wallingford* ſaith,

That diſcourſing with ſome of *Blewbery*, that uſe to go to Dr. *Pordage*'s, they ſpake very much againſt the Lawfulneſs of Marriage; he wondred at it, and ask'd them whence they now came? They anſwered, We came juſt now from the Doctor's from *Bradfield*.

16. Doctor *Pordage*'s Chamber at *Bradfield* hath ſometimes been almoſt filled with Spirits.

17. That Doctor *Pordage* preached, That Water-Baptiſm was not the Ordinance of Jeſus Chriſt.

18. That about *Michaelmas*, in the Year 1653. he was commanded by his Angel, or from Heaven, to give off preaching, and take no more Tythes; but ſince he conceives he hath had a Diſpenſation.

19. That in *July* laſt, 1654. he was to be taken up into Heaven; and it is ſaid by ſome, he hath been there, and diſmiſſed again about his Buſineſs.

20. That in the midſt of theſe Viſions he is ſcandalouſly covetous.

21. That he curſed the People of *Bradfield* in his Pulpit, and their Poſterity for ever in this World, and in the World to come.

22. That he preached at *Bradfield*, and afterward did labour to defend it pertinaciouſly, That the little Horn in *Dan.* 7. *v.* 8. was Chriſt; and being told, that the little Horn made War with the Saints, yet he perſiſted to ſay it was Chriſt; and endeavoured to make his Hearers believe that he was falſly charged.

23. That he ſaith Goodwife *Pocock* ſingeth the higheſt Hymns very ſweetly; that ſhe knoweth not a word when ſhe begins, but is taken with a burn-

ing

ing about her Heart; and when she hath done, she cannot repeat a word of it, if it were to gain the World.

24. That Goodwife *Pocock* lately came to Colonel *Evelyn* and told him, she had a Word to him from God, *viz.* Have nothing to do with that just Man.

25. And that on or about the tenth of this Month Dr. *Pordage* sent to invite Mr. *Snelling*, and his Wife and Children, to come to the Doctor that Day; and the same Day Mr. *Snelling* and his Wife did go to the Doctor's House; and when he came, Mr. *Snelling* desired to know wherefore he sent for him? Dr. *Pordage* told him, to go with him and meet his Bridegroom. And then Mr. *Snelling* told the Doctor he knew not what he meant, and so departed. And the next Morning Mr. *Francis Pordage* met with Mr. *Snelling*, and told him he had lost his Part in Heaven, being he did not wait upon the Doctor at that time.

26. That Dr. *Pordage* sent his Man *Bolt*, in a very rude and uncivil manner to fetch Mrs. *Forster* to his House; that she being frighted at the Message, and enquiring to what end she was sent for, the said *Bolt* answered, She should there see the Heavens opened, and the Colours flying in the Air, and hear the Drums beat, and the Trumpets sound.

27. That Mr. *Forster* going to the Doctor's House, he told him at his first coming in, that he should see such things, as if he were Emperor of a thousand Worlds, he would give them all to see it. After asking him for his Wife, and he answering, She was not well, and could not come, the Doctor called to them to send forth a winged Messenger to fetch her, for she must come.

28. That two days after, one Goodwife *Pocock* coming from thence to Mr. *Forster*'s House, and they enquiring of her, what was the cause of those Behaviours in the Doctor's Family? She answered, They had a foul Spirit sent amongst them, and the Doctor had fought many Hours with the black Power, and had overcome it; for which she should ever think him a bright Man: That all his Family had been strangely acted, the Power taking them, some in their Legs, and others in their Arms, and that then they spake very glorious things.

29. That Mrs. *Flavel* was in a Trance, and when she came out of it, spake many precious things which she had seen in that Trance; what was the Philosopher's Stone, that so many Learned Men had sought after, which she knew to be the Divinity in the Humanity: and many other things to the same effect.

Further Articles preferred against Dr. John Pordage, *Minister of* Bradfield-*Parish, by some of the Inhabitants of the same Parish.*

1. THAT Dr. *Pordage*, about eight Years past, did carry Mrs. *Flavel* behind him on horseback on the Road to *London*, and about *Hounslow* did enquire for a private House, and was directed to one Goodman *Loader*'s a Smith, who lives in *Hessen*-Parish, half a Mile out of the Road, between *Hounslow* and *Brentford*; and when he came, asked if his Friend behind, *being sick*, might have Entertainment? 'Twas answered, Yes. Then the *Doctor left her there, but never owned she was with Child, till she was in travail.*

2. Mrs. *Flavel* in a short time fell in travail, and then desired no Company might be called in; yet the Woman of the House, Goodman *Loader*'s Wife, called in three or four.

And Mrs. *Flavel* was then brought to bed of a Daughter, having then no Husband that the World knew of, Mr. *Flavel* being dead.

3. That Dr. *Pordage* came to that House, and christned that Child, and named it *Hannah*; and the Doctor came often to visit her there, and always alone by himself.

4. That the Child being put to nurse in the same Parish, the Doctor moved Mrs. *Flavel* to *Kensington*, and paid the Smith for her being at his House: That a little while after the Nurse went to *Kensington* to enquire for Mrs. *Flavel* to pay her some Money; but she was removed: and the Nurse saying, she left a Child with her, the Company smiled, and said, They thought she was such a Woman.

After this, the Nurse's Husband wrote a Letter to the Doctor to *Bradfield*, that he was twenty Weeks Pay behind, and could not forbear; whereupon he was paid: and shortly after sent for the Child away from the Nurse's.

5. That a little while after, this Mrs. *Flavel* came again to the Doctor's Family, and a little Child called *Hannah*, it was also brought thither; and Mrs. *Flavel* took the care of it ever since. And Mrs. *Flavel* being by Neighbours asked whose Child it was? said, a dear Friend of hers: but none could ever hear in the House whose Child it was. And some telling Mrs. *Flavel*, that the Child was so like her, that they should take it to be hers, had she not said the contrary; she answered as before, 'Twas a dear Friend of hers, but never named whose.

6. That this Child, who was called *Hannah*, this last Summer they changed her Name, and called her *Ruth*; they have also changed all their Names: The Doctor is called Father *Abraham*, his Wife is also called *Deborah*, and old Goodwife *Pocock* is called *Rahab*, and so the rest.

7. That Goodman *Loader*'s Son being a Soldier, saw Mrs. *Flavel* in *Bradfield* Street, and spake to her, but she took no notice of it. Afterward Mrs. *Flavel* coming to his Father's House, his Mother in Discourse asked, Whether she lived at *Bradfield*? Mrs. *Flavel* answered, She knew no such Place. I will call my Son in, who saw you there. Mrs. *Flavel* said, People be given to lying, and would not have him called; and presently called for her Horse, and went away, though before she had resolved to stay all night: and never since was there, except since the Doctor hath been questioned.

31. That Dr. *Pordage* is extreme covetous, and hath exacted five Shillings at a time to marry one Man, or else told him he would not marry him. The Man told him, He could not justly demand so much: The Doctor answered, Without five Shillings he would not marry them; and took five Shillings.

32. That his Preaching doth not tend to Edification.

33. That he is a very ignorant and insufficient Man for the Work of the Ministry.

September 9. 1650.

34. I came into *Bradfield* Parsonage in the Evening, and there I heard a very mournful Cry, as if it had been one in extreme Pains; but what it was I know not; for it continued all the time I was at the Door, which was well near a quarter of an Hour; and so it continued when I went away. And then the 10th Day in the Morning I came un-

to Mr. *Francis Pordage* at the Parsonage of *Stanford-Dingley*; and he enquired of me what I did think of the Noise that I heard? I told him I could not tell. Then he related to me, that the Lord was about a great Work in this Kingdom, and to this Nation; and the Cause of this Cry was one in travail: and the Pain was so extreme, that had I staid there a little longer, I might have heard it as far as the Town; but now she was delivered of a Man-child, and the Travail was at an end, and that he and others were Eye-Witnesses to it.

The Testimony of Richard Seward.

35. That in Dr. *Pordage*'s House in *Bradfield*, lately the New *Jerusalem* hath been seen to come down from Heaven, all of precious Stones; and in the New *Jerusalem* was a Globe, which Globe was Eternity; and in that Eternity were all the Saints.

36. That at the Doctor's House the Face of God hath been seen; not as *Moses* saw him, but the very Face, as one Man may see another's.

37. That one being in the said Doctor's House in a Trance, the said Doctor's Daughter being by her, said, That she saw two Angels all in white, with Crowns over her Head.

The Examination of Goodman Seward, *concerning Mr* Pordage.

THis Deponent saith, That Mr. *Pordage* did affirm Marriage to be a very wicked thing, contrary to the Word of God. Goodman *Seward* telling the aforesaid Mr. *Pordage*, that a Friend of his had buried his Wife, and intended to marry again; Mr. *Pordage* replied, That it was a very wicked Act, and wondered at it. The Deponent replied, That he took Marriage to be an Ordinance of God. Then demanding if his Wife should have died, what he should have done? He replied, Would you be so wicked as to marry? This the above-mentioned Deponent will aver with his Oath.

A true Copy, examined by
Matth. Langley *Regist.*

After he had done, it seemed not enough to him to have read such a horrid, scandalous, confused Charge to the People against me; but he proceeded to speak to them, desiring them to take notice what a strange Person I was, representing me to be guilty of Blasphemy, Deviliism, and of Looseness in my Conversation; promising to prove that Charge of Articles, or to be counted a Slanderer. After which prevaricating Speech, he suddenly departed.

After I further urged the Commissioners to hear the Testimony of my Witnesses, in reference to the first Charge of Articles, that so it might be dispatched, that so I might be freed from the Trouble of answering so many together, which would unavoidably bring Confusion and Disorder to mine and their Proceedings. I further shewed, that according to their Appointment, my Witnesses were present and ready, desiring them to consider that I had been at Trouble and Charges in bringing them; and that I must unavoidably be at more, if they would not then hear them: Notwithstanding this, they denied to hear them at that time, calling for two Witnesses which they had summoned to attest my second Charge of Articles. Here I desired, that as my Charges had been openly read to the People, so the Examination of the Witnesses might be open, that so the People might as well hear the Proof, as the Accusation: but this could not be granted. Then I requested that I might be present; this was also denied: So two Witnesses were privately examined to the second Charge, whose Examination concluded that Day's Transactions, in reference to me; and I received an Order to appear before them again the 22d of *November* at the *Bear* in *Reading*.

Berks. *By the Commissioners for Ejecting of Scandalous Ministers*, November 2. 1654. *at the* Bear *in* Speenhamland.

ORdered, that Dr. *Pordage* of *Bradfield* (now present) do appear again before us on Monday the 22d Instant at the *Bear* in *Reading*, and that he then give in his Answer to the further additional Articles now exhibited against him. And it is further ordered, That the said Doctor do then produce his Witnesses, and bring in his Interrogatories in Writing, upon which he will examine the Witnesses in his Defence, or cross-examine them produced for Proof of the several Charges against him.

On the Day prefixed I appeared at the appointed Place; the Commissioners then sitting, being Mr. *Dunch*, Chairman; Major *Fincher*, Mr. *Trapham*, Mr. *Stroud*, Mr. *Cook*, Mr. *Nutkins*. The Ministers, Mr. *Fowler*, Mr. *Lee*, Mr. *Woodbridge*, Mr. *Tickle*, Mr. *Hewes*, with two more.

Just as they were going to Dinner, I was called in, and asked for my Answer to the last Charge of Articles: I told them it was ready, but I should be very long in delivering it; but if they thought fit, I would give it in before Dinner. At this, one Mr. *Trapham* a Chirurgeon and Commissioner, began to be very rough, pressing me to give in my Answer, and to leave it with them. I replied, That it was in my power whether I would give it in in Writing only, or by Word of Mouth, and that I resolved of the last. So I was commanded to withdraw.

After Dinner, being called in again, I read this Answer following, and then delivered it to them in Writing.

My Answer to the third Charge of Articles, I present in this Form following:

I Shall first present something by way of general Preface, and so descend to Particulars.

In the first place then, I look upon the first Articles charged upon me by young Mr. *Tickle*, to be as the casting of my innocent Person, with *Daniel*, into the Lion's Den: But those Articles, as the Mouths of the Lions, I conceive, were stopped, so that they could not hurt me, because the Authority and just Proceedings of two former Committees, authorized by Acts and Ordinances of Parliament, with some other legal Privileges, had sufficiently muzzled the Mouths of those Lionish Articles.

And as for the second, subscribed by an unknown Name, I believe there hath not been, nor cannot be any thing proved, which may render me obnoxious to any legal Guilt.

As for my third Charge brought forth by Mr. *Fowler*, who is both my Accuser and my Judge; I look

look upon it, as the Design of the Evil One, to cast me, with the three Children, into the hot fiery Furnace of unparallelled Wrath and Envy: for I know it will one Day appear, that these Articles were raked together from a Spirit of Bitterness and Spleen, which seem to me as the Furnace heated seven times hotter by the Fire of Wrath, to burn up and consume my Name, Liberty, Estate and Posterity.

But be it known unto you, O you Judges and Commissioners! I am not sollicitous what the Event may be; I know the God whom I serve in the Integrity of my Heart, who is *Jehovah*, the true and only God, is able to deliver me from this hot fiery Furnace, and to punish those who cast me in: But however God as yet may order and dispose of me, in reference to the Execution of my Enemies Intents, I believe my strict and holy Conversation, with my holding forth what God in the Riches of his Grace hath bestowed upon me, will clearly demonstrate that I am no such Person, as the false and unworthy Aspersions of these Articles represent me to be.

As to the particular Articles (which are raked together in much Confusion, without reducing of them to their particular Heads, of Scandal or Insufficiency, many of them being incapable justly to be referred to either) I thus begin my Answers.

Art. 1. *THAT the Righteousness of Christ was a poor, vain, sapless Righteousness.*

1 *Part. Answ.* This Article was in my former Charge, and I was cleared of it by two Committees, who had Power legally to acquit me, even as they did.

2 *Part. Answ.* I do cordially acknowledge, That Christ's Righteousness is not a poor and sapless Righteousness, but very precious, being the material Cause, and spotless Robe of a Christian's Justification; and that every Saint ought to be found in this Righteousness of Christ in point of Justification, and not in his own Self-righteousness.

3 *Part. Ans.* I deny that ever I spake such Words, without some Limitation; which Limitation, if annexed, would free me from any Guilt resulting from such Expressions: and though any one should swear I spake those Words, yet that could not render me justly guilty, it not being declared what preceded, or what followed in the Series of my Discourse. And I have many Witnesses sufficiently known, and pious, who being constant Hearers of me, have testified by Oath, and will upon occasion again, that the Scope of my Ministry drives not against the due Application of Christ's Righteousness to the Souls of Believers, but against the mis-applying it to those who have not the Spirit of Christ living in their Hearts, purifying their Consciences, and subduing their Lusts.

Art. 2. *That Jesus Christ was not perfect*; alledging that Scripture to confirm it, *My God, my God, why hast thou, &c.*

1 *Part. Ans.* I do nakedly, without any Veils, profess that I ever did, and still do look upon Christ as a most perfect Copy and Pattern to square our Lives and Conversations by; yea, and to be a perfect Mediator, in reference to that Work he undertook for the Redemption of the World, being free from the least Tincture either of original or actual Sin: and truly the Thought of any such thing never lodged in my Heart.

2 *Part. Ans.* But suppose I uttered such Expressions as these, yet the manner of it will sufficiently free me from that Guilt my Accuser may hope, and believe I am obnoxious to by it: I confess I uttered these or the like Words, yet it was only by way of relating what I heard in a Sermon of Mr. *Erbery's* in *Somerset-House*, who at that time endeavoured to enumerate Christ's (supposed) Imperfections, whereof he made his crying out upon the Cross, in those Expressions, one. Now I leave it to your Considerations, whether my relating to some that were wise and knowing, what I heard from another, with much Grief to my Soul, makes me any way culpable or guilty.

Art. 3. *That the Blood of Christ was not meritorious of any Man's Salvation.*

Ans. I call Heaven and Earth to witness, that such Thoughts never entred into my Soul; nor did such Words ever come out of my Mouth: For my Judgment ever hath been, and still is, that the Blood of Christ is satisfying, reconciling, cleansing Blood; that it is interceding, redeeming, meriting Blood, in relation to all those who through Faith and Patience come to inherit eternal Life.

Art. 4. *That it was a poor thing to live upon the Blood of Christ; and fetching it over again in a contemptuous kind of speaking, Pish, said he, thou art a Babe, thou knowest nothing; to live upon the Blood of Christ, is a poor thing.*

1 *Part. Ans.* I acknowledge that about four Years since such Expressions were uttered by me to one Mrs. *Grip*; but without any such Intent as may be supposed by my Accusers, and not with that circumstantial Aggravation of repeating it in a contemptuous manner, which is but a Supposition of my Adversary, and cannot be attested by an Oath, without this Witness pretends infallibly to know my Thoughts and Purposes.

2 *Part. Ans.* Again, this being spoken to a particular Person, on a particular Occasion, might be true, if the Circumstances of the Discourse were accordingly added; though as here presented it seems very monstrous.

3 *Part. Ans.* Therefore to make things clear, I shall here insert some particular Circumstances, which may present this Article, though in a new, yet true face. I coming to Mrs. *Grip's* House, she took me into a private Room to have some Conference with me alone, where she brake forth into a violent Passion of Tears, weeping and wringing her Hands, and pouring forth bitter Complaints and Invectives against Mr. *Fowler*, as that he was a graceless Man, a Lyar, a Slanderer, not worthy to come up into a Pulpit, or to have the Name of a Minister of Christ, with other such bitter Expressions. The Cause of which was, as she then told me, Mr. *Fowler's* reporting about, That she then lived in Adultery. And after her Passion was somewhat allayed, she brake forth into these or such like Expressions of high Assurance; Christ hath loved me, and died for me, and justified me by his Blood, from all Guilt of Sin; I am an elect Person, a justified Person, and what is this *Fowler* to charge Sin upon me? These and other Expressions fell from her to this purpose; from some of which, I feared she was drenched with Antinomianism, and told her more than once, it was a poor thing to live upon the Blood of Christ, and to look so much upon that, except she had the Nature of Christ, and the Spirit of Christ; asking her, where was the Meekness of Christ, and the Patience of Christ, to suffer as an innocent Lamb quietly? But still she crying out, she lived on the Blood of Christ; I told her, it was a

poor Thing to be thus exalted with Notions of the Blood of Chriſt, without mentioning Sanctification, and thoſe holy Graces which flow from Chriſt's Nature dwelling in the Soul. Now by theſe Expreſſions of mine, my Scope was to make Mrs. *Grip* ſee the Neceſſity of Sanctification, and of a pure and holy Life, and not to make void the bleſſed Effect of the Blood of Chriſt, applied according to the Mind of God and the true Meaning of the Scripture. And now having related the Circumſtances as near as I can remember, I believe a ſober and knowing Chriſtian will not judge me either ſcandalous or ignorant for theſe Expreſſions.

Art. 5. *That one ſpeaking to me of the glorious Perſons of the Trinity, I replied, Piſh, there is no ſuch Thing as Perſons in Trinity.*

1 *Part. Anſw.* I do here profeſs and avow from the Sincerity of my Heart, that I believe the Trinity of Perſons as an Article of my Faith, *viz.* That there are three Perſons diſtinct from each other; the Perſon of the Father, the Perſon of the Son, the Perſon of the Holy Ghoſt, yet not ſo as to prejudice the Unity in Eſſence; and I ſo believe the Unity, as not to confound the Trinity of Perſons.

2 *Part. Anſw.* I never uttered ſuch Expreſſions in that way, as to give any juſt ground of Suſpicion of my denying the Trinity. But I remember, about four Years ſince, being before the Committee of *Berks*, Mr. *Fowler*, or Mr. *Gilbert*, I remember not which, deſired the Committee to give them liberty to ask me two or three Queſtions: Amongſt the reſt, they asked me whether there were three Perſons in the Deity. I anſwered them, I believed the Trinity as it is recorded in 1 *John* 5. 7. *There are three that bear record in Heaven, the Father, the Word, and the Holy Ghoſt.* Thus you ſee I believe the Trinity. But do you believe the Trinity of Perſons, ſaid they? I replied, I find not the Term Perſons in the Text; but to put you out of doubt, I do not ſtumble at the word Perſon. And this afterward I told to the above mentioned Mrs. *Grip*, in a private Conference, ſome Years ſince; to whom I affirmed, that I found no ſuch Expreſſions as Perſons in Trinity in the Scripture; and that the word Perſon being a School-Term, was very difficult to be apprehended by common Capacities. But I never ſpake thus to prejudice the true Notion of the Perſons in the ſacred Trinity, which I do cordially believe; but only to ſhew that ordinary Chriſtians ſhould not be too curious in prying into that deep Myſtery of the three Perſons in the Trinity, but rather content themſelves with what the Scripture plainly affirms of the Father, Son, and Holy Ghoſt, as diſtinct, yet one. But to conclude this Anſwer, pray conſider what hard Meaſure it is, thus to pick a broken Sentence out of a long Diſcourſe, and ſo to accuſe one without relating the Circumſtances which might ſerve to clear what otherwiſe may ſeem very ſtrange to prejudiced Perſons.

Art. 6. *That it was a Weakneſs to be troubled for Sin.*

Anſw. I do not remember that any ſuch Expreſſion as this ever dropped from my Mouth, either publickly or privately; and I am perſuaded that no one dare aſſert it with an Oath: Which if they did, would not make much to the purpoſe; for with a charitable Qualification it might thus be made forth, That 'tis a Weakneſs for one to be troubled for Sin, who hath the Aſſurance of God's Love, his Sin pardoned, his Perſon juſtified, ſanctified, and his Will converted from, and crucified to Sin: For ſuch a one ſhould be triumphing in the Power of Faith and Love, enjoying ſweet heavenly Communion with God, and ſaying, *O Death, where is thy Sting? And there is no Condemnation to them that are in Chriſt Jeſus, who walk not after the Fleſh, but after the Spirit.* Whereas Trouble for Sin thus pardoned and mortified, may be an Engine of Satan to make a Soul queſtion God's Love, and to bring it out of a bleſſed ſpiritual Enjoyment of God, into a ſlaviſh Fear and Diſturbance.

Art. 7. *That he might ſay any thing to the Men of the World.*

1 *Part. Anſw.* I anſwer, To the beſt of my Remembrance, I never uttered any ſuch unchriſtian Maxim, much leſs ever held it as my Judgment; and I confidently believe there is no one on the Earth that dare witneſs it with an Oath.

2 *Part. Anſw.* I know very well that Mr. *Fowler* hath been, if not the Author, yet the Reporter of my holding this monſtrous Tenet; for he hath confidently averred, and often inſinuated into ſome of the Gentry of this County, and into his own Proſelytes, that I am a Familiſt, and that it is my Principle to ſay or unſay any thing that may make to my own Advantage. Which God knows is a ſad Scandal, and a monſtrous Untruth; and clearly appears, to thoſe who know the Integrity of my Principles and Converſation, to be a Blur caſt upon me from the Contrivance of ſubtile *Machiavellian* Policy, to prejudice all I ſay or anſwer to thoſe horrid Things objected againſt me: For if this be once ſettled in thoſe who are my Judges, it is vain for me to anſwer, deny, or avow any thing. But the Lord forgive my Adverſary for this his unchriſtian Dealing, and grant he may repent of it before he comes to give up his laſt Account before the great Tribunal of Chriſt.

Art. 8. *That I aſſerted I knew nothing to the contrary, but that a Man might company with more than one Woman; being taxed for keeping carnal Company with a Woman in* London.

Anſw. I never kept ſcandalous Company with any Woman in *London*; neither was I ever taxed for any ſuch Thing, except once by Miſtreſs *Grip*, who I believe is the Witneſs againſt me; and that upon this Occaſion:

At the time I had my former Conference with her, the Heat of her Paſſion being over, ſhe told me that I was alſo taxed for keeping of carnal Company with a Woman in *London*. I replied, I am a Man born to all kind of Sufferings; and told her, that ſhe ſaw and knew the manner of my Converſation; asking her whether ſhe believed it. And ſhe anſwered, No truly. And then I ſolemnly proteſted the contrary. And this is all the Taxing I ever had from any one. At which time I was earneſt with Mrs. *Grip* to diſcover to me from whom ſhe heard it: But ſhe put me off, telling me ſhe did not believe it, and that ſhe would tell me ſome other time. But from that long Diſcourſe I had with her, fearing, as I ſaid before, ſhe was deeply tinctured with the Principles of Antinomianiſm, and not knowing whether ſhe might not be tainted with ſome Notions of Rantiſm, which at that time were every where frequently diſcours'd of, I took this occaſion to try her; telling her (as near as I remember) that there were ſome that affirm'd they knew nothing to the contrary, but that a Man might company with more than one Woman. But, to ſpeak the Truth, ſhe let it fall, without ſeeming to approve of any ſuch thing. And this I ſolemnly avow to be the Truth, as near as I can remember. And I believe Mrs. *Grip* dare not ſwear that I maintained any ſuch thing as my Judgment, or

produced

produced one Scripture or Argument to defend it.

I profeſs to the whole World, in the Preſence of that Eye that ſeeth through all Hearts, that all ſuch looſe Principles, which turn the Grace of God into Wantonneſs, and that run oppoſite to the Laws of Morality, Civility, Modeſty, and Sobriety, or that any ways indulge Wantonneſs and Laſciviouſneſs, are as inconſiſtent with my Principles, as Heaven and Hell, Light and Darkneſs, are oppoſite one to another; which will one day clearly appear to the World, whatever I am now thought of.

Art. 9. *That he hath frequent and familiar Converſe with Angels.*

Anſw. As this Article is preſented in general Terms, without expreſſing whether the Communion be viſible or inviſible, I do not ſee how it can touch me, tho my Enemies were my Judges; becauſe every true Chriſtian hath frequent Communion or Converſe with Angels, as you may ſee ſolidly and clearly proved from Scripture by the Lord *Lawrence*, one very learned and pious, now Preſident of the Lord Protector's Council, in his Book, entitled, *Our Communion and War with Angels.*

Art. 10, 11, 12, 13. *Concerning the Viſion of a Dragon, and the Apparition of Spirits.*

Anſw. 1. I may deny theſe four Articles as they are taken together, and expreſſed in thoſe Terms, and in that Manner, in which they are ſet down in my Accuſation; for I believe none dare ſwear the Meaſures and Teeth of the Dragon with the Appearance of my own Angel, *&c.* without the Crime of Perjury.

Anſw. 2. I will not confeſs any Apparitions in particular till they be proved, leſt I ſhould ſeem to accuſe my ſelf; they being brought in as a Crime againſt me, and as Inſtruments to condemn me.

Yet in general I acknowledge, that ſome four Years ſince there were many ſtrange and wonderful Apparitions ſeen in my Houſe. But what can theſe in Juſtice amount to, though atteſted by Oath, and confeſſed particularly by my ſelf, when brought before thoſe who profeſs themſelves Chriſtians, and acquainted with the Hiſtory of the Holy Scriptures? Pray was not *Job* a pious, ſincere, and eminent Righteous Man? Yet how was he ſcared with Dreams, and terrified through Viſions? *Chap.* 7. *ver.* 14. Did not *Zechariah* the Prophet (*Rev.* 3.) ſee Satan ſtanding at the Right-hand of *Joſhua* to reſiſt him? Did not *John* (*ver.* 12.) in a Viſion behold a great red Dragon, that made War againſt *Michael* and the Holy Angels? And was not Chriſt himſelf tempted of the Devil by Voice and Viſions? *Matt.* 4. 6, 8. *Now the Servant is not greater than the Lord,* John 15. 20. and therefore not exempted from the like Attempts of the Devil. I beſeech you conſider whether this Earth be not the Place where the Devil walks up and down, ſeeking whom he may devour? How then can *Bradfield*, or any other Place, be exempted from his appearing, when God permits? And may not all this be for the manifeſting of his Glory, Goodneſs, and Power? And who can tell whoſe Family may be next expoſed, by God's Permiſſion, to be tried and proved by the Repreſentations of *Satan?* And I deſire you ſeriouſly to conſider how any ſuch Apparitions, raiſed by the Devil, and permitted by God for his own Glory, argue me either ſcandalous, ignorant, or inſufficient? Surely it rather argues that he hath bleſt me with a ſtrong Faith, in that he permitted ſuch great Tryals, and made me inſtrumental to overcome them by Prayer and Faſting. If it can be proved that I ever ſo much as looked toward the unlawful Art of Black Magick, or that any evil Spirits were raiſed up by any Compact of mine, explicite or implicite, or that thoſe evil Apparitions were ſubdued and overcome by any other Means than by God's Bleſſing upon our Faſting and Prayers; I ſhall judge my ſelf worthy of Puniſhment. But otherwiſe it is hard Meaſure to be proſecuted and prejudiced for the Malice of the Devil towards me, inflicting what I was paſſive in, and could not help; eſpecially by thoſe who profeſs the Chriſtian Religion, and know that the God of Heaven rules over all, permitting and diſpoſing of whatever comes to paſs.

Art. 14. *That Mrs.* Margaret Pendar *doth think ſhe was bewitched by them of* Bradfield.

1 *Part. Anſw.* Here is a long and tedious Relation, in which Truth and Untruths are mixed together: The whole Structure of which Relation, ſo far as it concerns me, depends on this weak Baſis and Foundation, That ſhe thinks ſhe was bewitched by them of *Bradfield.* But what a ſad thing is this, for my Accuſer to impeach me for that which might endanger, if true, my Eſtate and Life, upon the Thoughts of a diſcompoſed Maid? Becauſe ſhe thinks I ſent thoſe Viſions, therefore I muſt be thus arraigned. But, for my part, I do not believe ſhe dare ſay ſo, much leſs ſwear it, having no ground at all for it.

2 *Part. Anſw.* I ſhall briefly relate ſome Circumſtances which concern this Buſineſs, and may ſerve ſomething to clear it up. Before theſe Viſions of hers, I had never ſeen her, as I know of, nor exchanged ſo much as a Word with her. In the time of her Viſions, Mr. *Daniel Blagrave*, whoſe Servant then ſhe was, came for me himſelf, to fetch me to his Houſe, to viſit her. To which Motion I yielded, being ſuitable to the Law of Chriſtian Charity. And when I came, I had no Conference with her but in the Preſence of Maſter and Miſtreſs *Blagrave*, with others that were then preſent. And from this Viſit there aroſe a Rumour that I was a Conjurer, and a Sorcerer: Which Report was ſpread abroad by two that carry the Name of Miniſters of Chriſt, Mr. *Fowler* and Mr. *Ford.* The laſt of which ſo exceeded the Bounds of Charity and Chriſtian Moderation, as in his Sermon, at the Aſſizes, to call me a horrid Blaſphemer, aſſerting that the Devil was as viſibly familiar in my Family as my own Servants; and ſo excited the Magiſtrates to perſecute me.

3 *Part. Anſw.* As for thoſe Untruths which are mixed in the Relation, I ſhall not trouble my ſelf to anſwer them; for I know when they come to be ſworn to, and to be croſs-examined, they will appear to be but the fulfilling of that wicked Maxim, *Calumniare audaciter aliquid hærebit*; Calumniate and aſperſe boldly, ſomething will ſtick. Which being a Piece of Jeſuitical Policy, hath been practiſed by my Accuſer in this confuſed Rhapſody of Articles.

Articles of one Francis Knight *of* Wallingford.

Art. 1. THAT *ſome of* Blewbery, *who ſpake againſt Marriage, ſaid they came then from my Houſe.*

Anſw. I hope I have enough to do to anſwer for my ſelf; what need the Aſſertions of others be alledged as Articles againſt me? They ſpake againſt Marriage, having lately been at my Houſe, there-

fore I muſt be guilty of it: Surely this Conſequence is neither according to natural, artificial, nor divine Reaſon.

Art. 2. *That my Chamber hath been filled with Spirits.*

Anſw. I hope none will be ſo unadviſed as to ſwear to this Article, being Spirits are immaterial, and cannot take up Place, or fill a Room.

Art. 3. *That I preached that Water-Baptiſm was not an Ordinance of Jeſus Chriſt.*

Anſw. It was never ſo preached by me. All that I then affirmed was this; That Water-Baptiſm could not be proved to be the Ordinance of Chriſt, by way of Eminency ſo called, from that Text of Scripture, *Matt.* 28. 19. *Go teach all Nations, baptizing them in the Name of the Father, Son, and Holy Ghoſt:* For that Baptiſm may very well be underſtood of the Baptiſm of the Spirit, which by the Diſciples was inſtrumentally adminiſter'd to all Converts. Yet I denied not Water-Baptiſm to be a Goſpel-Ordinance, inſtituted by *John*, as the chief Inſtrument under God, from whom he received his Commiſſion. And that this was the Sum of what I then preached, I can prove by Oath.

Art. 4. *That about 1653. I was commanded by my Angel, or from Heaven, to give off Preaching, and to take no more Tithes; but that ſince I have had a Diſpenſation.*

Anſw. I believe no one, that hath the Fear of God before his Eyes, dare atteſt this Article by Oath, which is here ſtated. This is Anſwer enough to ſuch a Thing, which is merely brought in as an *Odium* by my Accuſer, the more to prejudice me.

Art. 5. *That in* July *1654. I was taken up into Heaven*, &c.

Anſw. If *Paul* were now upon the Earth, he were in danger to be accuſed by my Accuſer, for his Rapture into Heaven or Paradiſe. But this concerning me will prove but ſome idle Dream, created by ſomebody's Fancy to make People wonder at me.

Art. 6. *That I curſed the People of* Bradfield *in my Pulpit, and their Poſterity for ever*, &c.

Anſw. This Article was one of thoſe heard and examined four Years ſince by the Committee of Plundered Miniſters, from which I was acquitted by them; theſe Witneſſes, *viz. Richard Luinton, John Hambleton, Mary Pocock, Richard Holmes*, with four more, atteſting by Oath that I did not curſe the People of *Bradfield*, ſo as is expreſſed in the Article. The Teſtimony of theſe Witneſſes was this: That they being preſent *September* 29. the Doctor expreſſed himſelf thus; Bradfield *is a Place partly made famous, partly infamous, by reaſon of the falſe and lying Reports that are abroad: But I ſay, Curſed be the Tongue and the Mouth that ſhall ſay, That what is done by the Power of God, is done by the Power of the Devil.* What one Pariſhioner is here curſed by me, except any one's Conſcience accuſeth him of the Guilt of that forementioned Blaſphemy?

Art. 7. *Concerning the little Horn mentioned* Dan. 7. *to be Chriſt.*

This Article was four Years ſince exhibited againſt me, from which I was diſcharged by the Committee; *Richard Higs, John Higs*, and *Richard Luinton*, atteſting on Oath that I paraphraſing on the Seventh of *Daniel*, and ſpeaking on the little Horn, ſaid, That ſome Interpreters would have the little Horn in the Letter to be meant of *Antiochus Epiphanes*, a bloody and perſecuting Tyrant; others think the little Horn to be the *Turk*, who is a great Perſecuter of Chriſtians: But in the Myſtery, in regard of its Power, we will apply it to the Power of Chriſt in a Chriſtian, who is often in Scripture reſembled to the Horn of *David*, and to the Horn of Salvation; and that upon three Conſiderations:

Conſid. 1. In regard that Chriſt's Power in the Soul doth appear to be a little Horn, a ſmall deſpiſed Inſtrument to Senſe and Reaſon; for Fleſh and Blood look on it as a poor Inſtrument, in regard of bringing down the Strength of Sin in us.

Conſid. 2. In regard of Sin and Satan, who laughs the Power of Chriſt in the Soul to ſcorn, yet before him his accurſed Kingdom muſt fall.

Conſid. 3. In regard its Birth and Beginning in the Soul is at the firſt a very little Grain of Muſtard-ſeed, yet in due time it will deſtroy the Kingdom of Sin, and ſet up the Kingdom of Holineſs in us.

Having thus drawn away the Veil from this Article, I hope it appears with a more tolerable and innocent Face.

Art. 8. *Concerning Goodwife* Pocock's *ſinging Hymns and Spiritual Songs.*

Anſw. She acknowledgeth it as her Gift beſtowed by God, being according to the Gifts of Chriſtians in the primitive Time. But this doth not directly concern me.

Art. 9. *Concerning the ſame Perſon's coming to Coloael* Evelyn's, *and ſaying ſhe had a Word from God, viz. Have nothing to do with that juſt Man.*

Anſw. She owneth theſe Words, and looks upon me as a juſt Man, and a true Chriſtian; and believeth that Colonel *Evelyn* will one Day know ſhe gave good Counſel upon good grounds.

Art. 10. *Concerning Mr.* Snelling *and his Wife coming to my Houſe*, &c.

Anſw. This Article hath as little of Truth as Senſe or Force to prejudice me; and I believe none will be found to ſwear it: However, I think it not worthy of a larger Anſwer.

Art. 11, 12. *Concerning the ſending of my Man* Bolt *in an uncivil manner for Mr.* Forſter, *with his ſpeaking of ſtrange Things there to be ſeen, and of my telling Mr.* Forſter *he ſhould ſee very wonderful Things*, &c.

1 *Part. Anſw.* Theſe Articles were heard, and I acquitted four Years ſince by the Committee of Plundered Miniſters; and are of ſo little Conſequence, that they might well have been omitted, but that my Accuſer thinks he hath never enough againſt me.

2 *Part. Anſw.* I believe Mr. *Forſter* dares not ſwear to theſe Particulars, ſome of which are very untrue.

3 *Part. Anſw.* The forementioned *Robert Bolt* aſſerted on Oath that I ſent him not with any Meſſage, but that it was his Miſtreſs that ſent him to deſire Mr. *Forſter* and his Wife to come to my Houſe.

Art. 13. *Concerning Goodwife* Pocock's *coming to Mr.* Forſter's, *and ſaying, The Doctor had fought with, and overcome an evil Spirit; and that the Family had been ſtrangely acted, the Power taking ſome of them in one part, ſome in another; and that they ſpake glorious Things.*

1 *Part. Anſw.* This was another of the Articles heard, diſcuſſed, and I acquitted by the forementioned Committee, becauſe nothing material could be made of it.

2 *Part. Anſw.* The ſaid *Mary Pocock* atteſted on Oath ſhe ſaw no Apparitions in my Houſe, being croſs-examined concerning that Particular. And though ſhe did ſay God gave extraordinary Power to ſuſtain both our Spirits and Bodies in an extraordinary Tryal, what Hurt was there in that?

Why

Why ſhould it be brought as an Article againſt me?

Art. 14. *That Mrs.* Flavel *was in a Trance, and in it ſaw the Philoſopher's Stone, which ſhe knew to be the Divinity in the Humanity.*

Anſ. Not to ſpeak any thing concerning the myſtical Writings of the deep Hermetick Philoſophers, or what the Judgment of ſome of them is concerning this Secret, I myſelf being not here accuſed to have ſeen it, or to have affirmed it was the Divinity in the Humanity; all that I ſhall anſwer is this, I wonder that this is brought in as an Article againſt me, to prove me Scandalous, Ignorant, or Inſufficient; it not directly proving any thing againſt me, being affirmed of another, and being one of thoſe Articles I was diſcharged of by the Committee for Plundered Miniſters.

Art. 15. *Touching* Sawood's *Depoſitions of the Birth of a Child, and one being in Travail.*

Anſ. 1. This was one of the Articles of which I was acquitted by the fore-mentioned Committee.

Anſ. 2. Mrs. *Elizabeth Pordage* and *Mary Pocock* aſſerted on Oath, That there was no Woman in Travail, nor any Child born, nor any other Cry heard, but of thoſe at Prayer; which was alſo witneſſed on Oath by Mr. *Francis Pordage.*

Art. 16. *That in my Houſe the* New Jeruſalem *hath been ſeen to come down from Heaven, and that in it was a Globe, in which Globe was Eternity, and in that Eternity all the Saints.*

Anſ. As to the Subſtance of this Article; If God have favoured any with ſuch a Viſion, ſurely they would be no more aſhamed to own it, when called to it, than *John* was, when to write *Rev.* 21. 1. That he ſaw the Holy City, New *Jeruſalem*, come down from God out of Heaven; where he alſo deſcribes it by all the moſt precious Stones in the Creation. But in reference to my Family, I believe none dare atteſt they heard this ſpoken by any of them, which I believe will prove but ſome groundleſs Imagination.

Art. 17. *That in my Houſe God hath been ſeen face to face,* &c.

Anſ. As this Article is ſtated, I ſhall give no other Anſwer but this, That I ſhall wait to ſee who dare ſwear to it, or what Proof can be brought of it.

Now I am come to the Articles exhibited againſt me by ſome of *Bradfield* Pariſh.

And as to thoſe which concern Mrs. *Flavel*, I ſhall anſwer,

1. Somewhat in general touching their Import and Nature.

2. By way of Negation.

3. By way of Acknowledgment or Affirmation.

Anſ. Gen. This Charge of Articles hath no legal Reference of Charge at all to me, but is merely ſcandalous, importing but a Libel, nothing of Fact really criminous being laid to my charge; which will more clearly appear, when the erroneous Circumſtances of it are detected: by which alſo the Subtilty and Envy of my Adverſaries will be diſcovered, who poſitively alledge nothing againſt me that may bear any Action of Damage at the Common Law, by which they might ſuffer for their injurious Dealing; yet by plauſible prevaricating Circumſtances, would ſeem to make me highly criminous and guilty.

Now I ſhall anſwer negatively to many erroneous prejudicing Circumſtances, which are by deſign heaped together, to put a plauſible Face upon an envious Libel or illegal Charge.

1 *Circ.* It's ſaid it was ſome eight Years ſince I brought one Mrs. *Flavel* to Goodman *Loader's*, *&c.*

Anſ. neg. Which is an Error, tho one of the ſmalleſt, brought in to prejudice the more, for it was ſome nine Years ſince.

2 *Circ.* It's further ſaid, this was carrying her to *London.*

Anſ. neg. Which I deny; for it was coming from *London*, where ſhe had for ſome time been.

3 *Circ.* That I asked whether my Friend behind me, being ſick, might have Entertainment, *&c.*

Anſ. neg. This I alſo deny; ſhe was not then ſick, neither did I uſe any ſuch Expreſſions.

4 *Circ.* That I never mentioned ſhe was with child.

Anſ. neg. Tho I did not, it not concerning me to do it, yet ſhe herſelf did not deny it.

5 *Circ.* That in a ſhort time ſhe fell in Travail.

Anſ. neg. A ſhort time may ſeem to imply ſome few Days, or Weeks, being brought in as an aggravating Circumſtance; whereas it was ſome four or five Months after.

6 *Circ.* That ſhe had no Husband then, as the World knew of.

Anſ. neg. She owned then to the People where ſhe was, and doth ſtill, that ſhe had had a ſecond Husband, which ſome in the World knew of very well, whoſe Teſtimonies ſhe can and will produce when ſhe hath ſufficient occaſion offered by a legal Call thereto: who is alſo able and ready to give a ſufficient account, when occaſion ſerves, of her not openly aſſuming her ſecond Husband's Name, her Eſtate then ſtanding as it did; which having concealed for that time ſhe was in Law, ſhe thought good ever ſince to be called by her firſt Husband's Name. But this ſubtile Dealing of her Adverſaries by libelling Scandals, without poſitively aſſerting ſhe was not married, makes her incapable of recovering any Damage of thoſe who now enviouſly, yet indirectly aſperſe her: which the Commiſſioners ought to take notice of, who ſhould not receive ſuch Libels, which tend to the blaſting of one's Credit and good Name, which all ſober Chriſtians ought (for the Goſpel ſake) to value; and yet abſolutely prove nothing of ſuch criminous Fact, which they deſign ſeemingly to prove, nor yet give ſufficient ground of calling them to an account for ſuch evil malicious Scandals. But this not directly concerning me, I ſhall omit much which might be ſpoken of it.

7 *Circ.* That I came often to viſit her.

Anſ. neg. This is not true; it was rather ſeldom, being but three times in three quarters of a Year, and that in Term-time, upon urgent Occaſions at Law.

8 *Circ.* That I removed her to *Kenſington.*

Anſ. neg. This is falſe, for I knew not when ſhe removed thither.

9 *Circ.* That I paid the Smith for her being at his Houſe.

Anſ. neg. This is another Untruth; I never paid him a Penny, neither did I ever agree with him for her being there.

10 *Circ.* That the Nurſe's Husband wrote a Letter to me at *Bradfield*, for Money for the Child's nurſing.

Anſ. neg. This is a mere Lye; for no ſuch Letter was wrote, neither did I ever agree to pay for the nurſing of it, as the Nurſe and her Husband can witneſs.

11 *Circ.*

11 *Circ.* That ſhortly after he ſent for the Child away.

Anſ. neg. This I alſo deny, it containing two Untruths in it: For firſt, the Child was not ſhortly after ſent for away, neither did I ſend for it at all, for it was fetch'd away by the Mother herſelf.

12 *Circ.* That a little while after, the ſaid Littleone was brought into my Family.

Anſ. neg. This is alſo falſe.

13 *Circ.* As to the ſeventh Article of this libelling Charge, in which many Circumſtances are produced to ſcandal the Gentlewoman, as tho ſhe had told a great Untruth; it deſerves no other Anſwer but this, That it is compacted of many Lyes, nothing being there true that really tends to prejudice her, as I believe will appear by the Event.

Thus in this ſhort Relation, wherein there is ſome Truth, pray take notice how many Untruths and mere Lyes are mixed with it, to put a beautiful Face upon an envious and unchriſtian Deſign: And is not this to bear falſe witneſs againſt one's Neighbour? May not any one's Innocency and Integrity be in this manner undeſervedly clouded, aſperſed, and wounded? Which I leave to the ſerious Conſideration of the Judges.

As to my affirmative Anſwer, what I acknowledge is this:

Anſ. Affirm. ABout nine Years ſince I brought behind me from *London* the fore-mentioned Mrs. *Flavel*, who had been of antient and near Acquaintance with me and my Family, to one Goodman *Loader*'s a Smith in *Heſſen*, where ſome four or five months after ſhe was brought to bed of a Daughter, which ſhe owned to the People where ſhe then was, to be by a ſecond Husband, even as ſhe ſtill acknowledgeth. And further, that I viſited her three times in the ſpace of three quarters of a Year, at Term-time, being then engaged in a Law-Suit that concerned her; that one of thoſe times I chriſtned her Child, and called it *Hannah*: That afterward her Occaſions not requiring ſo much Privacy, ſhe came to live with her antient Acquaintance at my Houſe, where alſo for ſome Years her Daughter hath been with her.

Now to take away any thing that may ſeem to reflect upon me in this my Acknowledgment, pray conſider theſe ſubſequent Particulars.

1. THAT I and Mrs. *Pordage* being of very near and long Acquaintance with her, it was but a Friend's Courteſy, for me upon her deſire to carry her to this Houſe behind me.

2. That ſhe had ſufficient ground to retire into ſome ſuch place in the Country: firſt, in that the City-Air was offenſive to her Health: ſecondly, in that by the Counſel of able Lawyers ſhe was adviſed to retire into ſome private place, ſhe being then in Law-Engagements, and continually ſubject to Arreſts, by the Entanglement of her firſt Huſband's Eſtate; her Brother-in-Law, who was her Adverſary, then threatning to ſieze on her if ſhe were above-ground.

3. In reference to my Engagement in her Law-Buſineſs, I think it material briefly to relate the Ground and Occaſion of it. In the time of her Widowhood, her Brother-in-Law began a Suit with her in the Common Law, which fearing he ſhould there be overthrown, he removed to the Chancery: now ſhe being very unfit and incapable to manage this herſelf, ſhe earneſtly deſired me, as an antient and truſty Friend, to undertake it. Upon this I went to Judge *Rolle* and Mr. *Chute* with her, who looking into her Evidences, and into the Will of her late deceaſed Husband, found that for want of one Clauſe in it ſhe was liable to many Suits and Arreſts, and to great Entanglements, and that her Intereſt could not be eſtabliſhed, but by much difficulty; and at length this was the Reſult of the Counſel, That ſhe muſt let all her Eſtate, which was under Mortgage, be forfeited into the hand of ſome faithful Friend, and ſo ſell it away. Hence I through much Importunity laid down ſome hundred Pounds, reſcued the Mortgage, and ſo became intereſted in a Suit at Chancery, which laſted three Years.

Now from this may further appear ſufficient ground why I brought her to that private Houſe: ſecondly, why I came to her in the time of her Retirement, I then receiving Money from her to follow her Suit: thirdly, why I came alone, it being then her Intereſt to be concealed, being ſubject to Arreſts.

I ſhall now proceed to add ſome few Circumſtances more, which may ſerve to clear me before all ſober Perſons.

1. AT my coming, I told the People my Name, and that I dwelt at *Reading*, and that I was Miniſter of *St. Lawrence* Church, knowing the Gentlewoman to be ſober and pious. Now had I been as my Enemies enviouſly pretend, I might have concealed my Name, Quality, and Place of Reſidence.

2. We diſcovered to them that the Gentlewoman had an Eſtate in the Bulwark at *London*, and Rents there to receive, which they might enquire after (as they did) for their Security: Now this was not the way to cover a Work of Darkneſs.

3. She ſometimes went to *London* to the Lawyers, whilſt ſhe was there, ſome belonging to that Family accompanying her; who found, that as ſhe had related, ſhe was in great Troubles at Law, and were convinced that ſhe returned on that account.

Now in reference to moſt of theſe Particulars, in which I have contradicted and deny'd the alledged Circumſtances, and further vindicated myſelf, they are exactly agreeing with what I have in writing confeſſed and acknowledged by *Loader* himſelf, from whom this Charge is pretended to be received, and by the Nurſe of the Child, ſubſcribed by them both before Witneſſes; which Acknowledgment I ſhall produce when I ſee occaſion.

And by this I hope it may appear to moderate, ſober, and judicious Men, that this libelling Charge, drawn up ſo falſly, enviouſly, and yet ſo ſubtilly, calling from the dead a Buſineſs paſt ſome nine or ten Years ſince; (which tho it were criminous, as it is not, were invalid legally to prejudice, by the Act of Oblivion, or general Pardon, as all other things pretended to be ſpoken or acted by me before 1651, according to the Judgment of judicious Men, which I leave to the Commiſſioners to conſider of) I ſay, that this is but the Effect of the evil and wicked Policy of my Accuſer, brought forth to prejudice and overcloud that pure and innocent Principle, which I profeſs and faithfully live to; and the better to cover that evil Deſign they have againſt my Perſon and Livelihood.

And now I appeal unto you the Commiſſioners, and to all that are pious and ſober-minded, whether my Enemies do not deal very unreaſonably, enviouſly,

enviously, and unbeseeming Christians, from this Business, so long since past, in which nothing criminous is positively objected against me, to draw such horrid Conclusions, as commonly to report that I now live in base Lust and Wantonness, notwithstanding my commending of, and owning the Virgin-Life; I say, whether this be not exceeding hard Measure, and ungodly Dealing, let all judge. But I see the Design of the Devil in it, which my Enemies may be ignorant of, which is to overcloud and darken by monstrous Lyes and Scandals, which are the Smoke of the bottomless Pit, that Life of Purity, Chastity, Mortification, Self-denial, and heavenly Enjoyment, which God hath favoured me to live in, and so to affright all from my Acquaintance, which otherwise might very much prejudice and overthrow his Kingdom. For the old Serpent knows very well, as also my near Friends and Acquaintance, that for these four Years, even since the time of my great Tryals, by the extraordinary Temptations and Representations of the Devil, that I have been abstracted more than ordinary from all outward things, giving myself up wholly to Prayer, Watchfulness, Mortification, and constant Self-denial, in dying to all earthly Pleasures, even to things permitted and accounted lawful; as finding many things which ordinarily are embraced, to be great Hindrances of the Soul's Progress to God, and great Burdens to a Spirit which hath tasted much of that Tree of Life which groweth in the midst of the Paradise of God, and great Clogs to a Soul that sees through the Veil of the sensitive Nature into the spiritual Glory of Eternity. But what I have enjoyed and experimented in this time of my extraordinary Mortification and Self-denial, in the Death of the Animal Man, and rising of Christ's Image in me, is not seasonable now to declare; yet for the Glory of my God, and the undeceiving of those who strangely mistake me, this much in all humility I must say, That did my Accuser and my Enemies know what I have enjoyed in this Way of the Cross, of the secret hidden Treasures of Eternity, and of the Out-goings of divine Goodness; were they but acquainted with these Discoveries of celestial Glory, Instillations of the heavenly Dew, and secret Touches of the Holy Ghost; did they but know those bright Irradiations of Eternal Light, those strong Motions of Divine Life, and pleasant Streams of Eternal Love, together with those deep Sufferings in bearing Christ's Cross, which I and many in my Family have in this time experienced; they durst not thus condemn me, and judge me as an Evil-doer, and one that lives in the Lusts of the Flesh. But my God hath taught me to bless whilst they curse, to pray for them whilst they design to ruin me, and to love them whilst they hate me; and to say with Christ, *Father forgive them, for they know not what they do.*

This I thought fit in all humility to annex to that libelling Charge concerning Mrs. *Flavel*, from which I have undeservedly suffered so much, by the Malice of the Devil. And now I shall proceed to answer the remaining Articles, one of which is intermixed with the former seven that concern Mrs. *Flavel*; which is this.

Artic. *That we have changed our Names.*

Answ. 'Tis well known that we own and subscribe our Names in our Civil Converse with the World, as this and my former Answers testify; I shall therefore wait to see, whether any one dare swear to this Article: And tho we did in our own private Family call one another by Scripture-Names, yet I conceive it did not concern the Civil Magistrate to take cognizance of such a thing, it being not practised to make any Disturbance or Confusion in the State.

Artic. 8. *That I am extremely covetous, taking five Shillings at a time to marry one.*

Answ. I wonder my Accuser should let this Article pass, whose Consequence is so much against Reason, as to argue me extremely covetous for one such poor inconsiderable Act done six or seven Years since: and I appeal to the Inhabitants of *Reading*, and Mr. *Fowler*'s own Conscience, whether he hath not taken ten Shillings oftner than five for marrying.

Artic. 9. *That my Preaching doth not tend to Edification.*

Answ. I can bring those that are knowing, spiritual, and sober Christians, who will assert that my Preaching doth tend to Edification, and to the building up of Souls in the true Knowledge and Love of Christ; and I believe these my Accusers will be found to be like those of *Chorazin* and *Bethsaida*, of whom Christ said, That *if the mighty Works which were done amongst them had been done in* Sodom *and* Gomorrah, *they had repented long since in Dust and Ashes.* And was Christ's Ministry ineffectual, because they did not believe, but remained in the Hardness and Impenitency of their Hearts? Neither doth it follow that my Preaching doth not tend to Edification, because those that bring this Article, through their Unbelief, are not edified by it: for there are many, that come from places round about, that are edified, strengthned, and refreshed by it; and there are many that have been enlightned, convicted, and converted by it, who still receive quickning Growth and Comfort under it, confessing that God is in it of a truth, as finding it instrumentally effectual to the pulling down of the Kingdom of Sin and Satan, and to the erecting the Kingdom of Christ in their Hearts; for which I bless God, and praise his Grace, by which it is what it is.

Artic. 10. *That I am very ignorant and insufficient for the Work of the Ministry.*

Answ. I believe those that exhibit this Article against me, upon tryal will be found very ignorant and insufficient to judge of it; and as to those that are to be my Judges, I hope they will not make their own Wills the Rule of Ignorance and Insufficiency, but proceed according to the Canons of pure Reason, or supernatural Revelation, in giving Judgment concerning this Particular: the Event of which I leave to God.

Now to conclude: Tho in reference to this, and the two last Charges of Articles, I stand free from any Guilt in the sight of God, and I hope, by my Answers to them, in the sight of all judicious and sober Men: yet to leave any inexcusable, that may design, whether by Law or without Law, absolutely to condemn me; I crave the Benefit and Privilege of the Act of general Pardon, in reference to all those things that are pretended to be spoken or acted by me before the Year 1651, as most of these are, that seem to be of any moment and consequence.

John Pordage.

After this was read, not knowing but that the Commissioners retained their former Resolution of examining their Witnesses in private, I pressed them to an open Examination, for the Satisfaction of all Parties, and for the more full Discovery of

the Truth; alledging, that I hoped they would not deal worse with me than the *Jews* did with Christ, and the Ethnick *Romans* with *Paul*, who suffered them to hear their Accusers face to face. So after some dispute it was granted, and agreed upon.

But before I proceed to give you an account of the Depositions taken *pro* and *con*, I must inform you, that the 22d of *November* was the time of my fourth Appearance, which continued three days; all which three days were wholly spent in taking the Depositions of my Accusers Witnesses, to make good the first and last Charge: And when they had ended their Examinations on the 24th, being Friday, late at Night, they called upon me to produce my Witnesses, if I had any. I answered them, I had Witnesses, but they were not then present, neither had I received any Summons for their Appearance; whereupon I desired a Summons to call in my Witnesses, which they after much Debate, and many Outcries against me for not having them ready, granted; together with an Order, by which I was to appear at the *Bear* in *Speenham-land* at *Newbury* the 30th of that Month, which was just a Week after, to make proof of my Defence by Witnesses. I seeing they had prescribed so short a time for making my Defence, alledged that it was impossible for me to be ready with my Witnesses so soon, and desired a fortnight's time; which, tho I urged it with many Reasons, could not be granted me.

But I was afterward prevented by a vehement Cold, in reference to my appearing at *Newbury* on the Day prescribed: whereupon I sent three Friends to attest my Inability to appear on that Day before them; who likewise presented the Commissioners with a Letter from me, in which I gave them an account of my great Distemper. Whereupon, the Truth of my extraordinary Weakness being attested by those I sent, this Order with a new Summons was granted by the Commissioners.

Berks. *By the Commissioners for ejecting of Scandalous Ministers*, Novemb. 30. 1654.

WHEREAS Dr. *Pordage* was required this day to appear before us in the Cause depending concerning him; and it is now attested that the said Doctor is sick, and cannot without further danger of his Health this day appear: It is therefore ordered, that he shall have further day given till the seventh of *December* next, at the *Bear* in *Reading*; which Day is to be peremptory unto him.

According to which Order, I appeared at *Reading* the seventh of *December*, with my Witnesses; where two Days were spent in Examination, (now this was my fifth and last time of Appearance) the Transactions of which cannot distinctly be set down by themselves, in regard of my joining the Depositions then taken, with those of the adverse Party, according to this subsequent Method.

Now then I shall proceed to the Merits of the Cause, *secundum Allegata & Probata*.

Here then I must present you with the Depositions of the Witnesses, and first with those that concern the first Charge of Articles; in reference to which, Mr. *Tickle* gave Evidence by Oath against me, first at *Newbury* the fifth of *October*, and again at *Reading* the 22d of *November*, being the Day in which my Answer was read.

Now to the first Article;

John Tickle Minister of *Abingdon*, sworn at *Newbury* the fifth of *October*, deposed, That I delivered in the Pulpit, That the fiery Deity of Christ mingleth and mixeth itself with our Flesh.

On farther Examination upon Oath at *Reading*, *Novemb.* 22. Mr. *Tickle* affirmed, That he charged Blasphemy on the former Expression, and that I repeated my Sense to be thus, *viz.* That I did not mean with our Corruption, but with our Flesh; holding my Hand over the Pulpit.

The said Mr. *Tickle* being cross-examined touching this Article, upon this Interrogatory, *viz.* Whether he did swear positively to this Article, as thus delivered by me in the very same Terms, and Order, without any addition or diminution; or only so, according to his best Remembrance; thus reply'd, That the Sum and Substance of that Article was clearly and fully delivered by me, and as far as he could remember, in these words, or words to that purpose.

The same Person being sworn again, and further examined at the *Bear* in *Reading*, *Novemb.* 22. after some Expostulation with me, in which he grew somewhat passionate, further said, That after I had held up my Hand, as he had formerly deposed, I said I did not mean our Flesh, but with the Soul of Christ; and that this was delivered without any the least Limitation as to the Sense of it.

'Now these last Depositions were taken by the 'Court from Mr. *Tickle* occasionally, (after he had 'answered the cross Interrogatories by writing) 'when Mr. *Tickle* was sometimes raised into seeming Passion against me, from accidental Discourses that fell in upon Examination.'

But I shall here discover my own Meaning, and bring in the intended Evidence of my Witnesses in reference to this Article. My Meaning then (notwithstanding Mr. *Tickle*'s rash Allegations) was this; By Flesh I meant the pure regenerated part of the Soul, with which the Spirit of Christ is united, according to that of the Apostle, *Eph.* 5. 30. *For we are Members of his Body, of his Flesh*, &c.

'My Evidence was this, there were present 'three Witnesses, *viz.* Mr. *Francis Pordage* Minister, Mrs. *Mary Pocock*, and one *Robert Bolt*, who 'offered to attest upon Oath, That they being present at the Committee of Plundered Ministers, 'about *March* 27, 1651. heard me upon the Interpretation of this Article, *That the fiery Deity of 'Christ mingles itself with our Flesh*, explain myself 'thus; That by Flesh I understand not the sinful 'and fleshly part of the Soul, that lusteth against 'the Spirit, for in this there can be no Union, for 'these are contrary; neither by Flesh did I understand the outward elementish Flesh of the Body, 'but by Flesh I understood the pure regenerated 'part of the Soul.

'But this Testimony they rejected, and would 'not receive it as Evidence, denying to examine 'the Witnesses, in regard they were not present 'at *Ilsley*, where Mr. *Tickle* alledged this was spoken. But I believe the judicious Reader will find 'this Testimony to be more pertinent to the clearing of the Truth, in reference to my Sense in 'the former Proposition, than what Mr. *Tickle* hath 'uncertainly, according to his best Remembrance, 'asserted.'

To the second Article;

Mr. *Tickle* saith, That I delivered, *That the Imputative Righteousness of Christ is a sapless Righteousness.*

And

And being further examined by Interrogatories, he answered to the first of them, That this was fully and roundly delivered in my Sermon at *Ilsley*.

But to the second Interrogatory, which was this, Whether it was with a Limitation, or without? he thus answers, That he doth not remember any Addition therein, unless it were in opposition to the Righteousness, which (as he said) I called sapless.

Being further examined *Nov.* 22. the same Deponent said, That I did not deliver any such Limitation, as I made in my Answer thereunto, and that there was no such word as *except* spoken, nor any thing like it.

Roger Stevens, sworn to the same Article, deposed, That I delivered in a Sermon at *Ilsley*, *That the Righteousness of Christ was a sapless Righteousness.*

And that he doth not remember any thing to the contrary, but that the same was an intire Sentence, and only so. And that to his apprehension the Drift of my Sermon was to take away the Strength and Efficacy of the Righteousness of Christ.

And this Deponent further said, That in the aforesaid Sermon at *Ilsley* I delivered these words, *That you are not to look to this*, (meaning, as the Deponent apprehended, Christ's Righteousness) *but to the fiery Deity burning in the Center of our Souls, consuming and destroying Sin there.* Which said words did not immediately follow the words that I used, when I said the Righteousness of Christ was sapless; but the same were further off in my Sermon, *to his best Remembrance.*

Now I shall present the Depositions of my own Witnesses touching the second Article.

Mrs. *Mary Pocock* being sworn and examined *Decemb.* 7. was asked by me whether she heard me deliver the second Article at the Sermon at *Ilsley*, *viz.* That the imputative Righteousness of Christ was sapless; she reply'd, she was then present at the Sermon, and did hear these words delivered. Then being further asked, Whether delivered with a Limitation, or without a Limitation? she answered, that it was with a Limitation. Then she was further asked, What that Limitation was? she re-answered, That it was with this Limitation, *Except the fiery Deity of Christ be in the Center of our Souls, burning up our Lusts and Corruptions.* And being further asked, Whether these last words were spoken, together with the other words, to make up one Sentence? she said, Yes, in these express words, *viz. That the Righteousness of Christ was sapless, except the fiery Deity of Christ be in the Center of our Souls, burning up our Lusts and Corruptions.*

After this I brought three Witnesses more to be sworn touching this Article.

'Their Evidence was this, which every one in 'particular intended to give in, in writing, after 'this manner, *viz.* I do confess I was present be- 'fore the Committee of Plundered Ministers, the '27th of *March* 1651; where I did hear the Doc- 'tor, upon his Examination touching that Article, '*That the imputative Righteousness of Christ is a sap- 'less Righteousness*, deliver himself to this purpose; 'That to him that hath not the Spirit of Christ 'indwelling in his Heart by Faith, notwithstand- 'ing all his Application of Christ and his Merits, 'it is but a sapless Righteousness: so saith the 'Scripture, *He that hath not the Spirit of Christ, is 'none of his.*

'But this Testimony and Evidence the Com- 'missioners rejected, and would not suffer the Wit- 'nesses to depose it upon Oath.

'In the next place, I certified the Commissio- 'ners, that I had present divers knowing Chris- 'tians that were constant Hearers of me, who 'were ready to depose on Oath what the Scope of 'my Ministry was, and what they had frequently 'heard me hold forth in it, touching Christ's im- 'putative Righteousness.'

But the Commissioners rejected this Testimony also, and would not hear the Evidence of these intended Witnesses; saying, that it was not to the purpose, but merely dilatory. To which I reply'd, That altho the Proofs were weak and altogether impertinent, yet being Judges, they ought to hear them, and afterward to judge of their Force or Invalidity; and I further told them, That this Proceeding of theirs, in thus preventing and rejecting the Testimony of my Witnesses, in not suffering them to depose what they could, did much strengthen my Belief of the common Report spread abroad the Country, That they had resolved before-hand to condemn and eject me, whether by right or wrong. At this Mr. *Trapham*'s Choler seemed much to be stirred, that the Court, of which he was one, should thus be charged; saying with much passion, That this should be looked upon as a Contempt and an Affront against the Court.

But the Commissioners peremptorily resolving not to take the Evidence of the forementioned Witnesses, because it contradicted not Mr. *Tickle's* Testimony, *quoad idem tempus*, in reference to the same particular time; I was forced to tell them, that I must be subject to the Determinations of the Court: but I hoped they would be more ingenuous and christian-like, than condemn me for a Word or Expression, tho proved ever so clearly, if the Drift and Tenour of my Ministry were otherwise.

But I shall here insert, and so leave it to the Judgment of the Reader, what eight substantial Witnesses, who almost constantly hear me, would willingly have deposed upon Oath, touching this Article, *viz.* That the Scope of my Ministry is not to take away the due Application of Christ's Righteousness, but the misapplying of it in reference to those who have no Interest in it.

After this, I further pressing the Commissioners to hear those Witnesses which were to attest this, they seemed somewhat to change their Resolution, and to admit one or two of them to be examined. So I mentioned Mrs. *Mary Pocock*, a very pious and experienced Christian, and so known to be in the place where she lives. Against whom it was objected, that she was one of my own Tribe. Then I mentioned another discreet prudent Christian, by name *Richard Higgs*, who is known to be one of a very good Conversation. Against whom Mr. *Fowler* having somewhat to object for his supposed Judgment, was willing to have him called to Examination.

So this *Richard Higgs* being sworn, deposed, That he had been a Hearer of me at certain times for five or six Years last past, and that during that time, for ought the Deponent knew, the Scope of my Ministry hath not been against the right and due Application of Christ's Righteousness, but against the Misapplication thereof, for ought he knew or ever understood. And being asked, Whether he had been a constant Hearer of me? he said, he had heard me very often, but that he was usually at his own Parish in the Morning, and that sometimes he was absent, but had often heard me.

And being further asked, What he had usually heard me preach concerning the imputative Righ-

teousneſs of Chriſt, he ſaid, He could not charge his own Memory, but had a Note to which he would reflect, for recollecting his Memory; and thereupon produced a Note, which he confeſſed was given him from the Doctor.

[Here, upon this, were many Outcries againſt me, from the Accuſer, and others of the Miniſters and Commiſſioners, as though I had committed ſome heinous Act in ſuborning a Witneſs to ſwear what I pleaſed: whereas there was no ſuch thing; for this Man and two more, meeting at my Houſe, compared their Note-books together, out of which this was taken, which was in that Paper, which he after mature Deliberation, and Reflection upon it, could with a good Conſcience ſwear to; as looking upon it more ſafe, than to ſwear upon ſudden Memory.]

But I ſhall now proceed to the further Examination of this Witneſs, as it was taken by the Clerk, but very partially, as you ſhall ſee preſently.

This *Richard Higgs* being asked, what he meant, or what the Doctor meant by the Righteouſneſs of Chriſt? he ſaith he cannot depoſe: but the Doctor interpoſing, ſaid, Chriſt's Righteouſneſs was his active and paſſive Obedience. And thereupon the Deponent being asked, What was Chriſt's active Obedience? preſently denied his words again.

To this he refuſed to ſubſcribe.

'The Clerk hath left out ſomething touching *Richard Higgs*'s Anſwer to that Queſtion about Chriſt's active Obedience; which Anſwer being caught up by the Clerk, before he had liberty to expreſs his Meaning, he might very well deny, though the Clerk had wrote it down, it being not according to his Meaning and Purpoſe; and ſo not fit to be ſubſcribed.'

After this, Mr. *Fowler*, the Accuſer, openly atteſted againſt this Deponent, That he denied the Bible to be the Word of God; and ſaid, that the ſame was but old Declaratives, which the ſaid Deponent denies.

'Here the Clerk's Partiality is again apparent, who left out a weighty Diſtinction which the Deponent made, concerning the Word of God, in anſwer to Mr. *Fowler*'s Accuſation, which was this; That he never denied the Scripture or Bible to be the written Word, but had ſaid, it was not the Eſſential Word: And this very Diſtinction the Deponent had formerly given to the Miniſter of the Pariſh, who being preſent, confeſſed it before the Court, acknowledging that he walked like an honeſt and ſober Chriſtian in his Converſation.

'But to proceed: Although this Deponent's written Evidence would not be received, yet I ſhall here preſent it as it was to be given in, and atteſted by ſeven more Witneſſes beſides himſelf. The Form of it was this; I confeſs I have heard the Doctor preach at *Bradfield* about the Year 49. out of *Dan.* 9. 24. thus: *Queſt.* What is meant here by this Righteouſneſs? *Anſ.* By this Righteouſneſs is meant Chriſt's Righteouſneſs, *John* 23. 6. *The Lord our Righteouſneſs.* And *Paul* deſireth not to be found in his own Righteouſneſs, but in the Righteouſneſs of Chriſt, *Phil.* 3. 9. Chriſt's Righteouſneſs is the Soul's Wedding-Robe; *Iſa.* 6. 10. *He hath covered me with the Robe of Righteouſneſs.* As to the nature of Chriſt's Righteouſneſs, it is a pure, ſpotleſs, perfect and compleat Righteouſneſs, *Eph.* 5. 27. *That he might preſent to himſelf a glorious Church*, in this Righteouſneſs of his, *not having Spot or Wrinkle.*

'This which follows was alſo intended to be given in, and was to be atteſted by three Witneſſes: I confeſs, I heard the Doctor preach in *Bradfield* Church, out of *Luke* 1. 68. That the free Grace of God the Father is the firſt Cauſe of the Soul's Juſtification.

'*Queſt.* What is the matter out of which a Sinner cometh to be juſtified in the ſight of God? *Anſ.* It is Righteouſneſs. As a Man cannot live without a Life, ſo a Chriſtian cannot be juſt without Righteouſneſs; and this Righteouſneſs is called Chriſt's Righteouſneſs; no other Righteouſneſs, but the Righteouſneſs of Chriſt, can juſtify the Soul. Therefore he is ſtiled, *Jer.* 23. 6. *The Lord our Righteouſneſs.* 1 Cor. 1. 30. *Chriſt is made unto us Wiſdom and Righteouſneſs*; that is, for our Juſtification. This Righteouſneſs of Chriſt, in its own nature, is an everlaſting Righteouſneſs, *Dan.* 9. 24. 2 *Cor.* 5. *That we might be made the Righteouſneſs of God, in being cloathed upon with Chriſt's Righteouſneſs. Phil.* 3. 9. We are not to be found in our own ſelf Phariſaical Righteouſneſs, but in Chriſt's Righteouſneſs, which is the Righteouſneſs of Juſtification. And the formal Cauſe of a Sinner's Juſtification, is their Union and Communion with this Righteouſneſs of Chriſt, through Faith and believing on it; *Rom.* 10. 6. *The Righteouſneſs of Faith ſpeaketh on this wiſe*, &c. that is, the Righteouſneſs of Chriſt apprehended by Faith.

'This was alſo intended to have been given into the Court in Writing, being tranſcribed out of three or four Note-Books compared together, and afterward ſeriouſly conſidered and weighed; to which the Witneſſes could ſwear with good Conſciences, notwithſtanding all thoſe Outcries were againſt this Evidence by ſome of the Miniſters and Commiſſioners, as though I had preſcribed what they ſhould ſwear; and that we were all combined to commit a heinous Sin, and bring the Guilt of Perjury upon our ſelves: whereas we all ſtood in Innocency as to this thing, having no other End in it, but the ſtable Aſſurance of the Truth of what was to be atteſted by ſerious Reflections upon it, after the comparing of divers Note-books together, which ſerved to help and ſtrengthen the Memory of the Witneſſes; together with the avoiding of the Clerk's Prevarications in Writing, by partially taking the Depoſitions, in which we oft found him defective.

'But to conclude this Article, I have produced theſe Teſtimonies to ſhew my Judgment touching Chriſt's Righteouſneſs, which (with the poſitive Depoſition of Mrs. *Mary Pocock*, That I ſpake that of the imputative Righteouſneſs of Chriſt with a Limitation) may in Juſtice out-weigh the Depoſitions of the other two Witneſſes againſt me, being neither of them are poſitive, and ſo not effectual in Law or Reaſon.'

Now I ſhall paſs to the third Article;

To which Mr. *Tickle* being ſworn, ſaith, That I delivered, that the Diſcoveries of the Sinfulneſs of Sin, the Terrors of the Law, the Death of Chriſt, the free Frace of God, are fleſhly and flaſhy Diſcoveries.

Afterward being croſs-examined by me to this Interrogatory, Whether this Article was delivered in the ſame expreſs Words, and in the ſame Order? he anſwered thus:

That the very Sum and Subſtance of this Article was delivered fully and roundly by me, and in the

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expreſs words for the Subſtance of them, and to the beſt of his Remembrance.

'Now I not remembring that ever I ſaid that 'theſe were but fleſhly and flaſhy Diſcoveries, 'and knowing that it was but his ſingle Teſtimo-'ny, and not poſitively ſworn to, and ſo no legal 'Evidence to condemn; and beſides, that it was 'not comprehended in the Act of blaſphemous O-'pinions, to which the Ordinance refers: I paſ-'ſed it by formerly without any Anſwer. But now 'to ſatisfy knowing Chriſtians concerning my Judg-'ment in this Particular, I ſhall here preſent this 'Anſwer; That I then held forth, and do ſtill 'own it, That the Diſcoveries of the Sinfulneſs of 'Sin, the Terrors of the Law, the free Grace of 'God, the Death of Chriſt, were but preparato-'ry Works under the Father's Diſpenſation, to the 'higher and more powerful Workings of God un-'der the Diſpenſation of the Son, in changing 'and transforming the Heart into his Image; and 'ſo but weak in compariſon of the more full and 'clear Manifeſtations and Operations of God up-'on the Soul, in bringing it up into divine Union 'and Fruition.'

To the fourth Article;

Mr. *Tickle* ſaith, that I delivered, That the Liberty and Freedom ſpoken of, purchaſed by the Blood of Chriſt, is not a Liberty and Freedom from the Guilt of Sin, the Curſe of the Law, the Wrath of God, but the fiery Deity of Chriſt in the Center of our Souls.

Mr. *Tickle* being further examined on this Article by me, to this Interrogatory, *viz.* Whether this was delivered firſt in the ſame expreſs Words? Secondly, and in the ſame Order? Anſwers,

Firſt, The very Sum and Subſtance of this Article was delivered fully and roundly by the Doctor. Secondly, That it was delivered in the expreſs words, for the Subſtance of them.

To a third Interrogatory propoſed by me, *viz.* Whether this Article was thus expreſſed by me, without any Addition or Diminution of his own? He thus anſwers; To the beſt of his Remembrance, without any Limitation, Addition or Diminution of his own.

'But here, courteous Reader, you muſt give me 'leave to ſhew you Mr. *Tickle*'s Uncertainty and 'Diſagreement with himſelf in delivering this Ar-'ticle, which cannot but make it invalid in the 'Eyes of thoſe that are judicious.

'In his atteſting of this Article three ſeveral 'times, he never agreed with himſelf, but either 'diminiſhed or added. The firſt time he ſware to 'this Article, he had this Clauſe (*And applied by 'the clinging and cleaving of the Soul to Chriſt*) 'as you may ſee in the firſt Paper of Articles, 'which, being ſworn again *Octob.* 5. he left out: 'and neither of theſe agreed with his own Depoſi-'tion given under his own Hand ſome four Years 'ſince, to the Committee of plundered Miniſters, 'when it was more freſh in his Memory, and yet 'not delivered ſo fully and poſitively as now; which 'you may ſee by his own words (taken out of 'his former Depoſitions) which were theſe.

'Another Preparation was the inſtating of the 'Soul into a glorious Liberty and Freedom, in 'theſe Expreſſions: Which Liberty and Freedom 'is not that Liberty and Freedom from the Guilt 'of Sin, the Curſe of the Law, the Wrath of God, 'brought about (or in an Expreſſion of the ſame Sig-'nification) by the Death and Blood of another; 'and applied (or a word like it) by the clinging 'and cleaving of the Soul to Chriſt.

'Now you may take notice, that in the two for-'mer, this Clauſe was added, *viz. But the fiery 'Deity of Chriſt in the Center of the Soul*; which 'here is not mentioned. Moreover the Order is 'changed, and ſome doubtful Expreſſions are in-'ſerted; which ſhewed his Uncertainty four Years 'ſince. All which compared with that Anſwer of 'his, given by Oath at my late Tryal, That this 'Article was delivered in the ſame expreſs words, 'for the Subſtance of them, cannot but ſhew that 'he hath almoſt, if not altogether, incurred the 'Sin of Perjury. Now all this being well weigh-'ed, cannot but demonſtrate that this Teſtimony 'is of no force at all.

'And although I formerly gave no Anſwer to this 'Article, becauſe it was not ſworn to poſitively, 'but with Reſerves and Alterations, and that by 'one Witneſs only, and came not under the Act of 'ſcandalous Opinions; yet I ſhall now ſpeak ſome-'thing to it, and ſhew you the Deponent's Miſ-'take, which was in leaving out this word (*only*) 'which inſerted, makes it appear with a more in-'nocent Face.

'But now I ſhall further anſwer, That I deli-'vered this Sentence thus, which I ſtill own, *viz.* 'That the ſecond preparatory Work that Chriſt 'did in the Soul of a true Saint, for the manifeſt-'ing of his Glory in it, was the inſtating of the 'Soul into a glorious Liberty and Freedom, which 'doth not *only* conſiſt in the Liberty and Freedom 'from the Guilt of Sin, the Curſe of the Law, the 'Wrath of God; but alſo in the enjoying of the 'Spirit of Chriſt in the Center of the Soul, there 'purifying our Natures, mortifying our Luſts, and 'reſtoring us into the Image of God. And ſo this, 'truly repreſented, is a glorious Truth; though as 'Mr. *Tickle* by Miſtake delivered it, it ſeemed mon-'ſtrous.'

To the fifth Article;

Mr. *Tickle* ſaith, that I did deliver, That by Male and Female, *Gen.* 1. we are to underſtand by Male, the Deity; and by Female, the Humanity; and that theſe two became one Fleſh. Theſe things were delivered without any Limitation whatſoever.

Mr. *Tickle* being further examined on this Article, *viz.* Whether I ſpake this as my own avowed Judgment, or as the Judgment of ſome other Perſon? anſwers thus: That I delivered thoſe Expreſſions of the Article with Approbation; and that therefore he had cauſe to believe it was my Judgment; and, as far as he remembers, it was delivered as my Judgment.

'Here the Reader may obſerve, that Mr. *Tickle* 'doth not anſwer directly and nakedly as a Chriſ-'tian ſhould, but ſubtilly and indirectly, like a 'Sophiſter; for he anſwers, That I delivered this 'with Approbation: but whether this Approba-'tion was from my ſelf, or from ſome other (I 'might then cite) he doth not expreſs, paſſing it 'over in ſilence. Afterward he ſaith, he hath 'Cauſe to believe it was my Judgment; which is 'a mere Prevarication, but no Anſwer to the Queſ-'tion; which was not, Whether he believed it to 'be my Judgment, but whether I delivered it as 'my Judgment, or as the Judgment of another? 'To which in the laſt Clauſe he anſwers ſome-'what, *viz.* That I delivered it as my own, as far 'as he remembers. But though this be ſomewhat

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'to the Question, yet not much to the Purpose, it 'being no legal Proof or Evidence; for his Memo- 'ry might fail him.

'Now the Reason of this Interrogatory was, 'in that Mr. *Tickle*, some four Years since, when 'this was better in his Memory than now it can be, 'gave in this that followeth, under his own hand, 'to the Committee of Plundered Ministers, *viz.* 'That *Gen.* 1. by Male, we are to understand, saith 'Mr. *Pordage*, the Deity; by the Female, the Hu- 'manity. This he gave from a Rabbi, with that 'Approbation.

'Now how consistent this is with his late An- 'swer to my Interrogatories, let all judge; espe- 'cially with that part of it in which he affirms, 'that as far as he remembers, I delivered it as my 'own Judgment.

'But now to answer something positively to this, 'which may give Satisfaction to judicious and 'knowing Christians, I acknowledge that in the 'Sermon before-mentioned, I delivered for Sub- 'stance, this which follows, *viz.*

'That another preparatory Work that Christ did 'in the Soul of a true Christian, for the manifesting 'of his own Glory in it, was the bringing up the 'Spirit of the Soul into a glorious, mystical, yet 'real Union with himself: And after I had pro- 'ved the Truth and Substantiality of this Union 'betwixt Christ and a Christian, from several Texts 'of Scripture, which directly evinced it; I came 'by way of Illustration to speak of that Scripture, '*Gen.* 1. out of which I said, That by Male and 'Female, according to the Judgment of a learned 'Rabbi, the Deity and pure Humanity might be 'shadowed forth, which by Union become one; 'the Male representing the Deity, the Female 'the pure Humanity, or regenerated part of the 'Soul, which by Union is made Partaker of the 'Divine Nature.

'By this you may see, that if Mr. *Tickle* had been 'but a charitable and knowing Christian, he need- 'ed not have troubled himself and me about this 'Article.'

To the sixth Article;

Mr. *Tickle* saith, That he heard me deliver in Dis- course with Mr. *Pendarvis*, That the Gifts and Graces of the Spirit were but Flesh.

Being further examined, he said, That to this sixth Article there was no Limitation whatsoever in the delivering of it.

'Here the Reader must know that Mr. *Pendarvis* 'was summoned by me to witness to the Truth in 'this particular, but he came not; alledging that 'he could say no more than what he had al- 'ready deposed. Whereupon I desired the Com- 'missioners (after Information that I had summon- 'ed him) to hear his former Deposition read; but 'they peremptorily denied it. By which I clearly 'saw that they had more mind to take all Occa- 'sion of Advantage against me, than to be fully in- 'formed of the Truth of things.

'But Mr. *Pendarvis*'s Deposition given in before 'the Committee of Plundered Ministers, was this, 'viz. That the Doctor, in Conference, did say, 'That the Gifts and Graces of the Spirit, were but 'Flesh; and I opposed him: but then the Doctor 'replied, by way of Explanation, that he under- 'stood them only to be Flesh; that is, weak in point 'of Rest and Trust on them for eternal Life and 'Salvation: and in this I agreed with him.

'Correspondent to this, was my Answer to, and 'Explanation of this Article before the Commit- 'tee of Plundered Ministers, which three Witnes- 'ses were ready to depose on Oath before the pre- 'sent Commissioners, who refused to hear their 'Testimony.'

To the seventh Article;

Mr. *Tickle* saith, That he heard me deliver in Discourse, That Christ is a Type, and but a Type.

Being further examined, he saith, That I endea- voured to prove that Christ was but a Type, out of *Peter*, where he is called τυπος.

Further, *Roger Stephens* being sworn to this Ar- ticle, deposeth, That the Doctor, in Dispute with Mr. *Pendarvis*, delivered, That Christ was but a Type, and went to prove it by that Scripture, 1 *Pet.* 2. *He is our Example.* To which Mr. *Pendar- vis* replied, That is not meant by way of Righte- ousness to Justification, but by way of Example, as to Reproaches. To which the Doctor answered, You understand it one way, and I another; or words to that effect.

Now to ballance these Depositions, the Reader must take notice,

'1. That my true Sense of this Article may be 'seen in my Answer to this first Charge, in which 'I have truly shewed in what Sense I owned Christ 'to be a Type, *viz.* as he is a Pattern and Ex- 'ample for us to imitate and follow.

'2. That this Discourse being with Mr. *Pendar- 'vis*, it is requisite I should here insert his Depo- 'sition taken by the Justices of Peace of that Coun- 'ty, and afterward presented to the Committee 'of Plundered Ministers; which was as follows:

'This Examinant (which which was Mr. *Pen- 'darvis*) further saith, That the said Doctor *Por- 'dage*, in a Conference had with him at the same 'time, after his Sermon at *Ilsley*, said, That Christ 'was a Type, and but a Type: but this Expres- 'sion was immediately waved by him, but he con- 'stantly affirmed that Christ was a Type.

'But because Mr. *Pendarvis* could not be there 'to witness *viva voce*, the Commissioners would 'not admit this Evidence.'

But Mrs. *Mary Pocock* being sworn and examined on this Article, saith, That she heard the Doctor maintain in that Discourse with Mr. *Pendarvis*, That Christ was a Type; and proved it out of *Pe- ter* (*He was an Example*) and that she heard the Doctor say, He would not stand to the word *But.*

And further,

John Pordage, Son to the Doctor, aged between 19 and 20 Years, and examined *December* the 7th; this Deponent saith, That in Dispute between the Doctor and Mr. *Pendarvis*, about five or six Years since, about Christ's being a Type, the Doctor said, That Christ was but a Type. To which Mr. *Pendarvis* asked, Do you say but a Type? Whereupon the Doctor answered, He did not stand to the Expression, *but a Type*; it was but the slip of his Tongue: but he maintained that Christ was a Type.

'You see here are three Witnesses that attest I 'never owned or stood to that of Christ's being but 'a Type.'

Correspondent to which Testimony, I gave in my Answer before the Committee of Plundered Mi- nisters,

niſters, which I offered to prove by three Witneſſes then preſent, who heard me, who were ready to atteſt this which follows, *viz.*

'That they being preſent (about the 27th of '*March* 1651.) before the Committee of Plunder-'ed Miniſters, heard me touching this Article, '*That Chriſt was a Type, and but a Type*, deliver 'my ſelf thus; That I had owned Chriſt to be 'a Type, that is, a Pattern and Example for us 'Chriſtians to ſquare our Lives and Converſations 'by; but that I had not owned him to be but a 'Type, or a Type only: But the Commiſſioners 'would by no means hear this Evidence.

'After this I earneſtly preſſed them to hear what 'my Witneſſes could further ſay, touching what I 'had publickly delivered in my Miniſtry about this 'Subject; telling them, that ſuch Evidence was in 'Juſtice more to be reſpected, than a Miſtake in 'ſudden ſpeaking, preſently retracted: but they 'denied all ſuch Evidence, and would not hear; 'which clearly ſhewed their Partiality, and that 'they little regarded what my avowed Judgment 'was.

'Notwithſtanding, I ſhall here inſert what ſome 'were ready to witneſs, in reference to this Ar-'ticle, who had been conſtant Hearers of me; 'whoſe Teſtimony was this: We confeſs we have 'heard the Doctor preach out of *Luke* 1.68. Firſt, 'This by way of Doctrine, *viz.* That God's free 'Grace is the firſt and chief Cauſe of our Re-'demption. Then he proceeded thus: That the 'inward Man was redeemed in, for, and through 'Chriſt, *Rom.* 3.24. through the Redemption that 'is in Jeſus Chriſt. How through Chriſt? *Anſw.* 'Through Chriſt's Death and Paſſion; *Iſa.* 53.5. '*He was wounded for our Tranſgreſſions, he was broken 'for our Iniquities.* 1 Pet. 2.24. *Who bare our Sins in 'his own Body on the Croſs.* Rom. 4.25. *Who was de-'livered for our Offences to the Death of the Croſs.* '1 Cor. 5.7. *Chriſt our Paſſover is ſacrificed for us.*

'Now this clearly ſhews, that Chriſt is more 'than a Type, and that he is a compleat Redeemer.' So much for this Article.

To the eighth and ninth Article;

Mr. *Tickle* ſaith, That he heard me deliver before the Committee of this County, ſitting at *Reading*, That Chriſt was not God; and that he was not *Jehovah*.

Being further examined to this Article, my Interrogatories to him were theſe:

1. *Whether theſe Words were not expreſſed in a hot Diſpute before the Committee?* To this Mr. *Tickle* replied, That I endeavoured in Diſpute with great ſeriouſneſs, before the Committee, to maintain, That Chriſt was not God, that Chriſt was not *Jehovah*.

My ſecond Queſtion was this, *Whether, in the ſame Diſpute, this Article was not limited and explained by me?*

'But this Queſtion was wholly waved and paſ-'ſed over in ſilence; but whether voluntarily by 'Mr. *Tickle*, or by the Clerk's Deceit, the Inter-'rogatories being given in in Writing, I do not 'know; but this I am ſure, it was much to the 'prejudicing of my Cauſe to let ſuch a weighty 'Queſtion paſs without an Anſwer.'

3. *Whether this Article was held forth by me as my avowed Judgment?*

Anſ. To this he thus anſwers: The Doctor did maintain and defend this Article as his avowed Judgment.

'Here Mr. *Tickle* is very peremptory in a raſh 'Anſwer, though that Interrogatory before could 'be ſlided over in ſilence; the Anſwer to which, 'if Mr. *Tickle* had not eaſily incurred Perjury, 'would have much cleared the Truth, in regard I 'meant, and explained my ſelf, of God the Father, 'as you ſhall ſee afterward.'

This Deponent, Mr. *Tickle*, further depoſeth to the eighth and ninth Article, That there was no ſuch Expreſſion, *of the Father*, uſed in the Definition of Blaſphemy, as is mentioned in the Doctor's Anſwer; but ſaith that the Definition was, That Blaſphemy was an Evil-ſpeaking againſt God, derogating from his Glory, either in his Name, Nature, Word or Works. Mr. *Tickle* further affirms, That my immediate Words thereupon were, Hark! he anſwereth, Blaſphemy is an Evil-ſpeaking againſt God; and in his Paper chargeth me with Blaſphemy againſt Chriſt, as if Chriſt were God: And hereupon we began a hot Diſpute about the Godhead of Chriſt.

'The Reader muſt here know, That upon Mr. '*Tickle*'s defining Blaſphemy to be an Evil-ſpeak-'ing againſt God the Father, as I then really ap-'prehended, I immediately cried out, Hark! he 'defineth Blaſphemy to be an Evil-ſpeaking againſt 'God the Father, and in his Paper chargeth me 'with Blaſphemy againſt Chriſt, who is God the 'Son. Whereupon began a Diſpute; in reference 'to which Mr. *Tickle* further depoſeth,'

That he asked the Doctor if Chriſt were God: who did deny it, and put the Deponent upon Proof of the ſame. Whereupon he cited that Scripture, *In the Beginning was the Word*, &c. To which the Doctor replied, He is called God, but he is not *Jehovah*. To which the Deponent replied, He is *Jehovah*; which the Doctor likewiſe put him upon Proof of. To which he anſwered that Scripture, *His Name ſhall be called* Jehovah, *our Righteouſneſs*: And, as he remembers, the Doctor did diſallow of that Proof, as being out of the Old Teſtament; to which he cited that Scripture, *He that was, is, and is to come*, as of the ſame purpoſe with *Jehovah*.

'Tis well that Mr. *Tickle* adds, According to 'his beſt Remembrance, which ſaves him from 'Perjury: For I eſteem the Old Teſtament to be 'Scripture as well as the New; neither did I diſ-'allow of that Proof as being taken thence, as he 'would inſinuate: But I ſaid that *Jehovah* in the 'Old Teſtament moſt commonly ſignified the Per-'ſon of the Father.'

But now we ſhall paſs to the next Witneſs.

Thomas Trapham, one of the Commiſſioners, ſworn and examined, depoſeth;

That, to his Remembrance, the word *Father* was not in Mr. *Tickle*'s Definition of Blaſphemy; and that the Doctor did then deny Chriſt to be God; which the Deponent did acquaint Mr. *Blagrave* with. To which Mr. *Blagrave* ſaid, If he ſay Chriſt is not God, we muſt take further Courſe with him. To which the Doctor replied, Chriſt is not *Jehovah*: and that when Mr. *Tickle* had confuted him in that Argument, (I muſt now tell the whole Truth) the Doctor replied, He was not God the Father.

'*Note*, This was rather a Confutation of Mr. '*Tickle*'s own Apprehenſions concerning me, than 'of my Meaning in what I then ſpake: And if he 'ſwears truly that the Term *Father* was not in his 'Definition, then as he miſtook me, I miſtook 'him; upon which Miſtakes his needleſs Proofs 'were grounded.'

But

But now to the next.

Mr. *Roger Stephens*, of *Reading*, ſworn and examined *November* 22. depoſeth, That the Doctor did confeſs in the Deponent's hearing, in a Sermon, That Chriſt was not *Jehovah*.

'*Note*, Before I proceed any further, I cannot 'but deſire all ſober Chriſtians to take notice 'what a bitter and envious Spirit this Deponent is 'of; which will appear by what follows.'

After his before-expreſſed Depoſitions, I put theſe Interrogatories to him:

1. Where did you hear me preach this? To this he replied, In a Sermon at *St. Lawrence*'s Church.

2. I asked him before whom? He anſwered, Before the Committee of *Berks*.

3. I demanded of him how I explained my ſelf, when in the Sermon I affirmed openly, That Chriſt was not *Jehovah*? He replied, He did indeed explain himſelf thus, That he had ſaid that Chriſt was not *Jehovah*, in oppoſition to the Father.

'*Note*, Here the Reader muſt know that this 'Sermon was delivered at *Reading* by the Appoint-'ment of the Committee, (before which we had the 'Diſpute about the Godhead of Chriſt) in which 'Sermon I openly cleared my ſelf from that diſ-'mal Aſperſion of denying the Godhead of Chriſt; 'which ſo ſatisfied the Committee, that upon this 'they judged me innocent in that particular, and 'by Vote cleared me. And now conſidering the 'Scope of my Sermon at that time, together with 'the Deponent's Depoſition, *viz.* That he heard 'me in a Sermon confeſs that Chriſt was not *Je-'hovah*, without adding any more to ſhew how I 'ſaid it, till I croſs-examined him: I ſay, weigh-'ing theſe well together, the judicious Reader can-'not but ſee this Deponent's Envy and Partiality, 'and Unfitneſs to take Oath, or be much regard-'ed after Oath; who ſwearing to ſpeak all the 'Truth, dares yet take one Sentence out of a 'whole Diſcourſe, without adding any further Ex-'planation of it, to make the Commiſſioners be-'lieve that I accuſed my ſelf of Blaſphemy at that 'time, when my whole Scope was to vindicate my 'ſelf from the undeſerved Imputation of it.

Now I ſhall preſent you with the Depoſitions and Evidence given in on my behalf, touching the Eighth and Ninth Articles, *viz.* That Chriſt is not God; and, That Chriſt is not *Jehovah*.

BUT in the firſt place I refer you to my Anſwer to theſe Articles; in which you may ſee the Occaſion of the Diſcourſe before the Committee, touching the Godhead of Chriſt; and that I never owned any ſuch monſtrous Poſitions, as, That Chriſt is not God.

In the ſecond place I come to the Witneſſes: The firſt of which was Mr. *Francis Pordage*, Brother to me.

Now this Deponent being asked whether the Words, *That Chriſt was not God, and that Chriſt was not Jehovah*, before the Committee at *Reading*, were not delivered in a hot Diſpute; he ſaith they were.

And being further asked whether in the ſame Diſpute theſe Words, *That Chriſt was not God*, were not limited by me; he ſaith, The Doctor did expreſs it with this Limitation, *That Chriſt was not the Father*.

Now follow the Croſs-Examinations of the Accuſer, and ſome other of the Miniſters.

MR. *Pordage* being asked by them the ground of this Diſpute, he thus anſwered, That the Diſpute aroſe upon a Definition of Blaſphemy which Mr. *Tickle* gave to Mr. *Blagrave*, That it was againſt God. To which the Doctor replied, He ſaith it is againſt God, and yet chargeth me for ſpeaking againſt Chriſt.

'*Note*, Here are ſome Things prevaricated by 'the Clerk, the Miniſters at that time being very 'hot in examining this Deponent.

'I muſt here therefore a little correct it by the 'Line of Truth.'

Mr. *Pordage* indeed ſaid that the Diſpute aroſe upon a Definition of Blaſphemy, which Mr. *Tickle* gave to Mr. *Blagrave*: But then a Miniſter asking him whether the Definition was not thus expreſſed, That Blaſphemy was an Evil-ſpeaking againſt God? he replied, He could not tell whether it was expreſſed againſt God, or againſt God the Father. But now I ſhall proceed as the Clerk took them.

Mr. *Pordage* being further asked by me, whether in that Diſpute I did deny that I held Chriſt not to be God? he ſaith the Doctor did declare to Mr. *Blagrave*, That Chriſt was God.

Hereupon he was asked by the Commiſſioners and Miniſters, whether there was not ſo much diſtance of time at the leaſt between the Doctor's Denial of Chriſt to be God, and his correcting of it afterwards, as required Proof of Mr. *Tickle*, to prove him to be God and *Jehovah*? the Deponent doth acknowledge the ſame.

And the Deponent being asked whether he did hear Mr. *Tickle* ſpeak any Word of God the Father in that Diſpute? he ſaith, He doth not remember that Mr. *Tickle* uſed any ſuch Expreſſion.

This Deponent being asked by me, whether frequently in that Diſpute, when I ſpake of denying Chriſt to be God, I did not ſpeak it always in relation to God the Father? he thus anſwered, The Doctor did then ſpeak it in relation to God the Father; but he cannot ſay frequently or always.

Moreover the former Deponent being asked by me, How I did explain my ſelf in *St. Lawrence* Church concerning the Divinity of Chriſt, when I was commanded by the Committee at *Reading* to explain my ſelf in a Sermon there? he ſaith, In that Sermon the Doctor did clear himſelf concerning the Trinity of Perſons, and that Chriſt was God; and did aſſert the ſame as his avowed Judgment.

After this, being asked by the Commiſſioners whether the Doctor did not make his Limitation, if any, after he was confuted by Mr. *Tickle* concerning the Deity of Chriſt? the Deponent anſwereth to this, That it was after Mr. *Tickle* had cited many Scriptures to prove the Deity of Chriſt.

But laſt of all, being asked by me, whether he underſtood me at that time to be confuted or miſtaken? he ſaith, Miſtaken.

Francis Pordage.

The next Witneſs is *Mary Pocock*, ſworn again, and further examined.

WHO being asked by me whether this Expreſſion, *That Chriſt was not God and* Jehovah, was not ſpoken in a Diſpute before the Committee at *Reading*? ſhe ſaith, She was before the Committee of *Berks*, where ſhe heard the Doctor in a Diſpute with Mr. *Tickle* concerning Chriſt; in which Diſpute ſhe heard the Doctor ſay, *Chriſt was not the Father*: But ſhe did not hear him deny that he was God the Son, neither then, nor at any other time, but owning him to be perfect God, and perfect Man.

And being further asked, whether ſhe did not hear the Doctor expreſs that Chriſt was not God

with

with a Limitation, and with what Limitation? She answered, Yes; and that the same was thus, *He was not God the Father.*

And being further asked by the Doctor, Whether she did not hear him deny in that Dispute, That he held Christ not to be God? she saith, she did apprehend him so, *viz.* That he did deny he held Christ not to be God; and so far as she was satisfied with it.

And being asked by the Commissioners, Whether she did not hear the Doctor in that Dispute, deny Christ to be God? she answereth, she heard him deny Christ to be God the Father.

And being further asked, Whether the Words of God the Father were not spoken by the Doctor, after Mr. *Blagrave* did tell him, If he held such Opinions, they must proceed against him? To this she saith, Mr. *Blagrave* put some Questions to him, what it was, she cannot remember.

And being further asked, Whether the Doctor did not bring in the Expression of God the Father, after many Scriptures cited by Mr. *Tickle* to prove Christ to be God? To this she saith, some Scriptures Mr. *Tickle* did bring; but she is not able to say it was before the Doctor did express God the Father.

Mary Pocock.

After this, I desired the Commissioners, that if they were not yet satisfied, they would hear my Witnesses which I had there ready to be sworn; that I had formerly cleared my self of holding Christ not to be God and *Jehovah*; and that I had held forth the contrary as my avowed Judgment, *viz. That Christ was God and* Jehovah, in a Sermon before the Committee of *Berks* at *Lawrence*-Church in *Reading*; and how afterward I was cleared by their Vote from these Articles now in Debate, and particularly from this of holding Christ not to be God. But they would not suffer me to produce the Evidence of these Witnesses, replying, They had nothing to do what other Committees before had done; they would proceed according to the Proofs of the present Witnesses.

But nevertheless I shall here present to the judicious Reader the Evidence which they through prejudice rejected.

Which was this that follows.

'I confess I heard the Doctor deliver himself in 'a Sermon at *Reading* in *Lawrence*-Church, where 'the Committee of *Berks* was present, out of *Ezek.* 'cap. 9. ver. 4, 5, 6, 7. after this manner, That *Je-* 'hovah, taken *late*, largely, including the Trinity 'of Persons, so they are all *Jehovah*: But take *Je-* 'hovah *stricte*, only for the Person of the Father, 'and then Christ is not *Jehovah*. And hereupon 'he further said, What Dealings have I had from 'my Fellow-Ministers, but as *Jacob* had from *Esau*, 'Obad. ver. 10, 12. who spake proudly against his 'Brother *Jacob* in the Day of his Distress. And there 'he avowedly delared, That the Thought of deny- 'ing the Deity or Godhead of Christ never enter'd 'into his Soul.

Moreover,

'These following Witnesses were present to at- 'test on Oath their former Depositions, taken be- 'fore the Committee of Plundered Ministers, which 'were these.

'This Deponent (Mr. *Francis Pordage*) further 'saith on Oath, That he was present before the Ho- 'nourable Committee of *Berks*, when the Doctor 'was cleared by the Vote of the whole Committee, 'touching the Business at *Ilsley*, and concerning 'those Articles, That Christ is not God and *Je-* 'hovah.

'This Deponent (*John Hambleton*) saith on his 'Oath, That he was present before the Honoura- 'ble Committee of *Berks* when the Doctor was 'cleared by the Vote of the whole Committee, 'concerning *Ilsley* Business, and these Articles of 'Christ's not being God and *Jehovah*.

'And this Deponent further saith on Oath, That 'he was at *Reading* before the Committee of *Berks*, 'where the Doctor was cleared of the Business at 'Ilsley, and from the false Aspersions laid to him, 'as if he denied Christ to be God or *Jehovah*, 'and that by the Vote of the whole Committee.

'But the Commissioners not receiving these Tes- 'timonies, I earnestly desired them they would 'hear the Evidence of some Witnesses there pre- 'sent, touching the Tenor of my Ministry since 'that Dispute concerning Christ's being God, 'which I looked upon more considerable than one 'Expression uttered in a Dispute upon a Mistake, '(if Mr. *Tickle* swears the Truth.) But they de- 'nied this reasonable Request, saying, They were 'in haste; and that these Testimonies were but 'dilatory and impertinent. Which notwithstand- 'ing I shall here present, to be weighed by the 'judicious Reader.

'These four Witnesses (Mr. *Francis Pordage*, *Ri-* 'chard Higgs, Mr. *Samuel Pordage*, *John Higgs*) were 'ready to attest this which follows upon their 'Oaths, which was writ down in some of their 'Note-Books.

'We confess we heard the Doctor preach out of 'Matt. 1. 23. in the Year 1652. concerning Christ's 'Birth; at which time he speaking of six Won- 'ders, deliver'd the four last after this manner:

'The third Wonder in Christ's Birth was this, 'That he was born a perfect Man, a true natural 'Man, *Luke* 1. 42. where Christ is called by *Eli-* 'zabeth the Fruit of the Virgin *Mary*'s Womb; 'Gal. 4. 4. made of a Woman; *Gal.* 1. 1. not on- 'ly in and through a Woman, but out of the Sub- 'stance and Nature of the Virgin. Fourth Won- 'der, That Christ was born perfect God, *Joh.* 1. 14. 'The Word was made Flesh: Who is meant by this 'Word? The Eternal Word, the Word Christ, 'Heb. 1. 2. Fifth Wonder, Behold two distinct 'Natures born in him, *viz.* The Deity and Hu- 'manity, the Godhead and the Manhood, *Rom.* 1. '3, 4. According to the Flesh, he is of the Seed of 'David; and according to his divine Nature, he 'is the Son of God. These two Natures remain 'distinct in Christ's Person; *Joh.* 8. 58. *Before* Abra- 'ham *was*, *I am*. According to his divine Nature, 'he was before *Abraham*; and according to his 'human, after. Sixth Wonder, Behold two Na- 'tures hypostatically united in one Person! These 'two Natures do not make two Persons, two 'Christs, but both these Natures hypostatically 'united together, make up but one Person, *Mat.* 1. '23. Emanuel, *God with us.*

'The Nature of this Union was after this man- 'ner explained:

'It was an inconvertible Union, an indivisible 'Union, an inconfused Union, an inseparable U- 'nion, a substantial and real Union, yet a mystical 'Union.

'We also heard the Doctor in *Bradfield* Church, 'at another time, about 1653. deliver himself '(out of *John* 1. 14. concerning the Word's being 'made Flesh) thus, *viz.* That this Word was 'Christ, the Eternal Word, that is co-eternal, co- 'essential, and co-equal with the Father, *Prov.* 8.

'22, 23, 24, 25. *I was set up from everlasting*, &c. 'John 10. 30. *I and my Father are one.*

'Besides, we can with a good Conscience testify, that in his publick Ministry, out of divers 'Texts of Scripture, we have heard him clearly 'hold forth Christ to be God.'

So much for these Articles, as to the Testimony of Witnesses.

'And now we must inform the Readers, that I 'have hitherto in truth, without Partiality toward 'myself, or Passion and Prevarication toward my 'Adversaries, presented the Depositions and Evidence on both sides, touching the first Charge: 'I would therefore request, that these following 'Particulars, drawn together by way of Recapitulation, may be seriously weighed and considered.

'*Part.* 1. That to most of these nine Articles 'they have but one Witness, without any concurrent Testimony, which is not sufficient Proof, 'according to the Ordinance they are to act by; 'in which it is expressed, that at least there must 'be one Witness with concurrent Evidence.

'*Part.* 2. That whersoever the Accuser hath 'two, I have also two to ballance them.

'*Part.* 3. That altho many of the Articles are 'in gross sworn to positively, yet in the Cross-'Examinations you will find such Limitations as 'these, According to our best Remembrance, and 'according to our Apprehensions, in the same express words for the Substance of them, *&c.* 'which cannot therefore amount to legal Evidence, 'being invalid in point of Law; because, as the 'judicious Lawyer saith, if the Deponents swear 'not positively and syllabically, they may by 'changing, adding to, or taking from the express 'words, usurp the place of Judges, and so prevent 'their Work and Duty, which is to judge whether 'such express Terms are criminous or not; which 'they cannot do after the Terms be altered, and 'made criminous already by the Witnesses misrepresenting them.

'*Part.* 4. That my Witnesses, in reference to 'the most substantial Questions, are positive in 'their Answers.'

Now I come to the second Charge of Articles in reference to the Proof, being exhibited against me by one *Joseph Cook*, an unknown Person.

Art. 1. *ONE Mrs.* Lewyn *being with child, and near the time of Travail, sent for Dr.* Pordage's *Mother to be her Midwife; but he would not suffer her to go, saying they would not be guilty of such a beast-like Life, meaning Mrs.* Lewyn's *being with child by her Husband.*

Depos. Mr. *John Lewyn* of *Hamsted-Norris* sworn and examined the second of *November*, at the *Bear* in *Speenhamland*, before the Commissioners, to this Article saith, he cannot depose.

Ann Lewyn, Wife of *John Lewyn*, Minister of *Hamsted-Norris*, sworn and examined to the second Paper of Articles exhibited against *Dr. Pordage*, saith to the first Article she cannot depose.

Art. 2. *The said Dr.* Pordage *coming to the House of Mr.* Lewyn, *in his Discourse with Mrs.* Lewyn *blamed her for having Children by her Husband, and argued with her the Unlawfulness of having Children by her Husband.*

Depos. To this Article Mr. *Lewyn* saith he cannot depose.

To this second Article Mrs. *Lewyn* saith, That the Doctor told her, when she had two Children, a Boy and a Girl, she had enough, one for her Husband, another for herself: To which the Deponent answered, *As it shall please God.* Then the Doctor reply'd, *Pish, it is as yourselves will.* But she saith the Doctor did never persuade her to live from her Husband.

Art. 3. *In his Discourse to Mr.* Lewyn *concerning the same Subject, he endeavoured to maintain the Unlawfulness of their having Children; and said, that* Adam *was Male and Female in himself, and had he not fallen, he had brought forth Children himself; and to maintain and prove the same by Scripture and otherwise.*

Depos. To this third Article Mr. *Lewyn* saith, That about three Years since the Doctor and this Deponent had some Discourse at the Deponent's House, about some Principles of Religion: the Doctor did urge that place in *Genesis*, That he made them Male and Female, but whether he meant *Adam* singly, or what mental Reservation he had, the Deponent knoweth not. And further to this Article he cannot depose.

To this third Article Mrs. *Lewyn* saith, She heard the Doctor and her Husband in discourse to the purpose of the said Article; but what the words were, she cannot depose.

Art. 4. *In his Discourse with Mr.* Lewyn, *which was about the time that one* Everard *was with him in his House at* Bradfield, *who was generally reputed a Conjurer, he asked Mr.* Lewyn *whether he would not be afraid, if he should see his own Picture or Shape, intimating that he himself had used to see his.*

Depos. To this fourth Article Mr. *Lewyn* saith, That about the time mentioned in the Article, the Deponent met the Doctor in *London*; in Discourse with him the Doctor asked him, If it would not be terrible to see Apparitions? but did intimate nothing, that he used to see any himself.

To this Mrs. *Lewyn* saith she cannot depose.

Art. 5. *The said Dr.* Pordage *hath had for some Weeks together in his House the said* Everard *and one* Tawny, *who stiled himself King of the* Jews, *who had been questioned, as it is generally reported, for holding dangerous and unsound Opinions, as that there is no Hell, &c. the like.*

Depos. To this Mr. *Lewyn* deposeth nothing, and Mrs. *Lewyn* saith she cannot depose.

'Now all that I shall say to this Charge, and 'the Proofs of it, consists in these three subsequent 'Particulars.

'*Part.* 1. What *Paul* saith, *Acts* 24. 13. *Neither 'can they prove the things whereof they now accuse me,* 'I may say here; for many things are laid to my 'charge, but nothing proved by this unknown Accuser. But it is an Act of subtile Policy, to 'charge boldly, tho they prove little of it, which 'hath been practised against me in this Tryal, as 'every one may see.

'*Part.* 2. For the further Satisfaction of the Reader in reference to this Charge, let him look back 'upon my former Answer, given unto it before the 'Witnesses were examined.

'*Part.* 3. I look upon myself in some measure 'obliged here to give a short account of my Judgment concerning Marriage; the holding forth of 'which, may have occasion'd my Enemies to have 'framed some of the precedent Articles against 'me. I must therefore acknowledge, That I prefer Virginity before Matrimony, the single State 'before the conjunct; and that Persons, tho in a 'married State, [1 *Cor.* 7. 38.] may by consent abstain from the Enjoyments of that State, and so 'be in it as tho they were not in it, living as sin-

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'gle, tho in an united Form. This now is my 'Judgment and deliberate Practice, being accor- 'ding to that of Christ, *Mat.* 19. 12. *He that is able 'to receive it, let him receive it:* where he speaks of 'the Law of Abstinence, and Christian Eunu- 'chism, which these words immediately going be- 'fore shew, *viz. There be Eunuchs, that have made 'themselves Eunuchs for the Kingdom of Heaven's sake.* 'Here is the Practice, and the End of it, which 'ought to be the Growth and Increase of God's 'Kingdom in the Heart; to which the Morti- 'fication of the Affections, and the Abstraction 'of the Soul from the corrupt sensitive Nature, does 'make way. And certainly it were well, if Chris- 'tians, in this corrupt declining Age of the World, 'did more eye and imitate the Pattern of Christ's 'Life, who as he was born of a Virgin, so lived 'in Virginity, and the single devoted Life; leav- 'ing an Example to all that are able [*Mat.* 29. 12.] 'to tread in his steps, and follow him. And fur- 'ther, it is fit for all that are either single or mar- 'ried to consider, that all private Bonds, Laws, 'and Engagements, ought to strike sail to our 'highest Laws and Engagements to God; and 'that whensoever they cross one another, the 'highest and supreme Law, by which we are ob- 'liged to live to God in Purity and Integrity, 'must have the precedency. Now my holding 'forth and declaring this my Judgment, together 'with my own Practice, hath given occasion to 'many (who are as the Generation before the 'Flood, eating and drinking, marrying and giv- 'ing in Marriage, and taking complacency in the 'Delights of the Flesh) to speak evil of me, as 'one that breaks Bonds between Relations, tho no 'such thing can (in truth) be proved against me: 'for it is not my design to make Proselytes to my 'Judgment, being willing to leave all to the Rule 'of Light in their own Consciences. Tho I have 'said, and cannot but say, that it were well if 'Christians would more labour after, and pray for 'the Gift of Continency, and not involve them- 'selves in the Entanglements of the World, till 'they had used all Means of Mortification pre- 'scribed in the Holy Scripture, to subdue their 'Natures: and it were happy if the present Ge- 'neration could clearly distinguish betwixt those 'Marriages that are Idolatrous, Adulterous, and 'Bestial, and those that are Holy, Pure, Divine, 'being made in the Lord, according to his Will, 'and so lawful and honourable. But alas! most 'People now are as those in the days of *Noah*, 'who being insensible of God's intended Judg- 'ment by the Deluge, solaced themselves in the 'Pleasures and Delights of the Earth, till the 'Flood came and destroy'd them. Hence there is 'much need of some at this time, to call People 'to Self-denial and Imitation of Christ's Life, to 'live up to the highest and purest Rules of Chris- 'tianity, in the Mortification of their Flesh, and 'in the compleat devoting of themselves to a con- 'stant Attendance upon the Lord, as waiting for 'his coming in Spirit, to destroy the Man of Sin, 'and overthrow *Babylon* with all its Idols. So 'much for the third and last Particular, which 'shall conclude the things of this Charge.'

Now I am come to the Depositions of my third and last Charge, some of which were taken *Nov.* 22. being the fourth time of my Appearance; the other *Decemb.* 7, & 8. being the fifth and last time of my appearing before the Court.

But before I present the particular Depositions, I must here inform the Reader of two things, which relate to the last time of my Appearance, and to this last Charge; one of which shews the Cruelty, the other the Injustness of the Commissioners. The first then is this: The seventh of *December* having been taken up in the Examination of my Witnesses to the first Charge, which continued till it was late in the Night, the Commissioners called for more Lights, that they might proceed to the Examination of Witnesses in reference to the third Charge. Whereupon I reply'd it was late, and I had many Witnesses to examine upon the last Charge. At this Mr. *Fowler* the Accuser rose up, and urged the Proceeding to the last Charge; saying, it would quickly be dispatched. Then the Commissioners cry'd out, Fetch us more Candles, we will make an end of it this night. To which I reply'd, Gentlemen, I have here stood very long before you, and having not dined, (through the Urgency of my Business) I am not well, being very faint, and much spent and wearied; I desire you would therefore stay till the next Morning. But they peremptorily denied this just Request, and resolved to proceed. But they permitting me to withdraw for a little space, through Emptiness and Weariness I fell very sick, and was forced to go into my Bed: at which the Commissioners were very much troubled, seeming to consult whether they should proceed to Judgment. The second thing is this; On the morrow the Commissioners requiring me, against many Objections which I made, to give in my Interrogatories by writing; afterward judged most of them dilatory and impertinent to the Business, and so not fit to be examined. To which I objected, whatever my Proofs were, they ought in justice to hear them, by examining the Witnesses to my Interrogatories, and afterwards to judge of them, whether valid or invalid. But nothing I could speak prevailed with them, to obstruct their rejecting most of my Testimonies.

But now as to the particular Depositions, relating to the third Charge, exhibited by Mr. *Fowler*, I shall here present them to be weighed in the Scales of Justice by the Reader.

Art. 2. *THAT Jesus Christ was not perfect; alledging that Text to confirm it,* He cry'd out, My God, my God, why, *&c.*

Mr. *Christopher Fowler* sworn and examined (at *Reading, Novemb.* 23.) to this Article, saith, That about five Weeks or a Month since, he acquainted Mr. *Daniel Blagrave* the younger, that the Commissioners did intend to summon him to testify what he knew of Dr. *Pordage* in relation to Jesus Christ; and the Deponent asked him, if he heard the Doctor say, *That Christ was not perfect?* To which he answered, Yes.

Now as to my Defence against this Testimony, not repeating the Illegality and Invalidity of it, I have these things to say.

1. THAT the Clerk hath left out some Cross-Interrogatories, which were proposed by me to the Accuser, in reference to this his Deposition. As first, Whether he asked Mr. *Blagrave*, whether I spake it from myself, as my Judgment, or related it as delivered by and heard from another? Which Question the Accuser waved. And secondly, If he did ask it, what was reply'd to it by Mr. *Blagrave?* Which likewise was waved by him

him, without any positive Answer. Whereupon I said to the Commissioners, I hope you will not take this Deposition as Evidence against me, without summoning Mr. *Blagrave* himself, who only can resolve the Truth of these Particulars.

2. In the second place, I shall refer you to my Answer to this Article; in which you may see, that I only related what I had heard another speak at a publick Meeting in *London*, the thing itself being much against my Judgment.

'3. In the third place, I must tell you that I had 'three Witnesses ready to depose on Oath, That 'after my coming from *London* they heard me re'late this, as spoken by Mr. *Erbery* in a publick 'Sermon at *Somerset-House*; which Testimony was 'according to my Answer to this Article, tho ac'counted impertinent by the Commissioners, and 'so rejected, without examining the Witnesses.

'4. Farther to clear my Innocency in this parti'cular, I desired them to hear what my Witnesses 'could say, as to the Tenour of my Ministry, 'touching Christ's being a perfect Redeemer: But 'this was also rejected as impertinent. But whether 'this subsequent Testimony, intended to have been 'given in, was not as weighty as the Accusers 'Deposition or Hearsay, let the Reader judge.

"We have heard the Doctor preach in *Bradfield*-"Church (about 1652, out of *Coloss.* 1. 14. *In whom* "*we have Redemption*, &c.) after this manner. "These words he divided into three Particulars; "1. Into the Redeemer, in whom. 2. The Re"deemed, We. 3. The Act itself, Redemption. "As to the first Particular, he thus enlarged him"self; Who can this Redeeming Person be, but "Christ? Acts 4. 12. *Neither is there Salvation in* "*any other, for there is no other Name given under* "*Heaven, whereby we must be saved.* 1 Cor. 3. 7. "*For other Foundation can no Man lay, than that is* "*laid, which is Jesus Christ.* As to the second "Particular, The Persons redeemed, he said they "were the whole mystical Body of Christ. Third"ly, As to the third Particular, the Act itself, "Redemption, he said it imply'd a Deliverance "from a State of Bondage into a State of Liber"ty; which he opened at large in every Particu"lar, setting forth the Riches of this Redemption "to us by Christ.

"And we heard him further preach in *Bradfield*-"Church, about 1654, from these words out of "1 *Tim.* 1. 15. That Jesus Christ came into the "World to save Sinners, *viz.* That Jesus Christ "was a perfect Saviour, in reference both to his "Prophetical, Priestly, and Kingly Office, every "one of which Heads he opened at large."

'Now let the Reader but impartially weigh the 'Accusers illegal Deposition, with the Particu'lars here recited on my behalf, and judge whe'ther the Commissioners have not broken their 'own Law, the Law of Nature, and the Law 'of Scripture, in taking this Deposition of my 'Accusers into their Sentence of Ejectment, in 'which they expresly condemn me for holding, '*That Christ was not perfect.*'

Art. 3. *That the Blood of Christ was not meritorious of any Man's Salvation.*

To this Mr. *Christopher Fowler*, sworn and examined, deposeth, That about three Weeks or a Month since he asked Mr. *Daniel Blagrave* the younger, whether he did not hear the Doctor say, That the Blood of Christ was not meritorious of any Man's Salvation? he answered, He heard him to that purpose.

To ballance this Deposition, let the Reader consider,

1. That the Accuser is here Deponent, which is against Law.

2. That the Deposition is but a Story or Hearsay, and no legal Testimony.

'3. That the Deponent was not able to answer 'to any of my Interrogatories, so as to declare 'where, before whom, or on what occasion this 'was spoken; only protested as he was a Minister 'of the Gospel, that Mr. *Blagrave* told him so.

'4. That I am not guilty of holding any such 'thing, as my Answer to this Article shews.

'5. That seeing I had no other way of clearing 'my Innocency, but by shewing my Judgment, 'and producing Proofs of the Tenour of my Mi'nistry touching this particular; I desired them 'to examine some Witnesses, that were there rea'dy to attest this which follows.

"We heard the Doctor in *Bradfield*-Church (a-"bout 1652, out of *Coloss.* 1. 4. viz. *In whom we* "*have Redemption through his Blood*) deliver himself "thus: That the fourth particular in this Text, "was the Means of this Redemption, expressed "in the last words, *Through his Blood*, to be un"derstood *per modum meriti*, through his merito"rious Blood. 1 Cor. 6. 20. *Ye are bought with a* "*Price*, that is, the Price of Blood. 1 Pet. 1. 18, 19. "*Forasmuch as ye know that ye were not redeemed with* "*corruptible things, as with Silver and Gold, from* "*your vain Conversations, but with the precious Blood* "*of Christ.* Acts 20. 28. *Which he hath purchased* "*with his own Blood.*

"We also heard the Doctor in *Bradfield*-Church, "(about 1654, out of these words, *Isa.* 25. 6. *In* "*this Mountain will the Lord of Hosts make a Feast* "*of fat things*, &c.) speak thus; That one Dish "amongst the Dainties of this Feast, was the "Blood of Christ, which he opened, to be clean"sing purging Blood: 1 Joh. 1. 7. *Having cleansed us* "*from all our Sins through his Blood.* And reconciling "Blood, Coloss. 1. 20. *Reconciled through his Blood.* "And pardoning Blood, Coloss. 1. 14. *Through his* "*Blood, even the Forgiveness of our Sin.*

"And we have oft heard him in his Ministry "thus set forth the Efficacy of the Blood of "Christ."

'But you must know that this Testimony would 'not be received, for they judged it invalid, tho 'they received the Accusers Hearsay as Evidence 'against me. Now whether this Dealing was 'not more suitable to corrupted Ethnicks, than 'to such Professors of Religion, let knowing Per'sons judge.'

Art. 4. *Pish! It is a poor thing to live upon the Blood of Christ.*

Depos. Susannah Grip, Wife of *John Grip* of *Reading*, Joyner, sworn, deposeth, This Deponent told Dr. *Pordage*, That it was a high thing to live upon the Blood of Christ. To which he replied; To live upon the Blood of Christ, that is a poor thing: and repeated the same again, and said, Thou art a Babe, thou knowest nothing; to live upon the Blood of Christ, that is a poor thing. Whereupon the Deponent's Heart fell almost dead with Fear at his Words. And being asked by the Doctor, whether the same were delivered in the same very words? she answered, Yes, in the very same words. Being asked where? she replied, In the Kitchin: Being further asked when? she saith, Four Years since, to the best of her Remembrance; but who was then present, she doth not remember.

And

And being asked by the Doctor, upon what Occaſion the ſame was ſpoken? ſhe ſaith, The Doctor was ſpeaking ſomething in a rambling manner, which ſhe did not underſtand; but ſhe ſaid, ſhe thought would ſpeak ſomething to him, that he ſhould underſtand and rejoice with her for it: and that was the Occaſion of the Diſcourſe; and that the Doctor's words were without any Explanation. This Deponent being ready to faint, ſaid, What then, Doctor? He anſwered, I know not what the matter is, that I muſt ſpeak to you; I do not uſe to diſcover my ſelf: but he told her ſomething of the Man that died at *Jeruſalem*, which ſhe did not remember, being then ſo amazed.

The Doctor's Anſwer to the eighth Article being read unto her, ſhe ſaith, that all the Circumſtances mentioned in the ſaid Anſwer, are all of them falſe and untrue.

Now as to this Depoſition, what is further to be added, to give the Reader more Light to judge of both the Article and Depoſition, is this:

NOT to ſpeak any thing of the Levity and Raſhneſs of this Woman, which is well known to the Inhabitants of *Reading*, and may make her Teſtimony the leſs to be valued; ſhe in her raſh Denial of the Circumſtances of my Anſwer, confidently ſpake a known Untruth upon her Oath, and ſo made herſelf guilty of open Perjury.

Whereupon, when I came to make my Defence, to invalidate her Teſtimony, I preſented four Witneſſes, who were ready upon Oath to prove her perjured.

The firſt of theſe was one Mr. *Richard Stockwell*, eſteemed by all moderate Perſons that know him, to be a ſober and pious Chriſtian. Although he was excepted againſt by Mr. *Fowler* the Accuſer, as an *Erberiſt*, as this ſubſequent Depoſition ſheweth.

Mr. *Fowler* being ſworn, as to his knowledge of Mr. *Stockwell*, depoſeth, That he conceives the ſaid *Stockwell* is an *Erberiſt*; becauſe that when the Deponent (being charged to be a Slanderer of him) did offer to make a publick Recantation, and to confeſs himſelf to be a Slanderer, in caſe the ſaid Mr. *Stockwell* would deny the Doctrine and Opinion of Mr. *Erbery*, which he refuſed.

Notwithſtanding which, the Commiſſioners would examine him, if the Doctor would ask him any material Queſtion; but do not think fit to examine him to their due or undue taking of Mr. *Grip*'s Examination, which the Doctor inſiſteth on.

Now let the Reader judge whether the Queſtion was not material, which this Witneſs would have anſwered to by Oath, *viz.* Whether Mrs. *Grip* did not aver on Oath in open Court, That ſhe never railed againſt Mr. *Fowler*? To this one Mr. *Tench* was ready alſo to be ſworn in the Affirmative: there were alſo many others which heard it. And further, I had two more ſubſtantial Witneſſes, who offered to ſwear they had heard Mrs. *Grip* rail againſt Mr. *Fowler* in publick Meetings before many Witneſſes. Mrs. *Eleanor Burleigh* was willing to depoſe, That ſhe heard Mrs. *Grip* ſay, That Mr. *Fowler* was a Son of *Belial*, &c. and one Mrs. *Kent* would have atteſted, that ſhe heard her rail againſt Mr. *Fowler* in the ſame and the like Speeches, with much more. Now becauſe the Clerk had not taken that Expreſſion of hers, That ſhe never railed againſt him, therefore the Commiſſioners made it their Pretence, of not examining the Witneſſes to it, as a thing impertinent; though by the Atteſtation of that, with the Teſtimony of the other two Witneſſes, ſhe had been proved directly perjured. But Mr. *Fowler* the Accuſer, being a great Friend of the Woman's, and ſeeing ſhe was in danger to be proved perjured, and ſo an inſufficient Witneſs in all her Teſtimonies, prevailed with the Court againſt the importunate, rational and legal Pleas of my Counſel, to reject theſe fore-mentioned Witneſſes. The Unjuſtneſs, palpable Partiality and Illegality of which Action I leave to be weighed in the Ballance of Equity by the impartial Reader, who in Juſtice may eſteem this Woman as really perjured, as though the Witneſſes had proved it, and value her Teſtimony accordingly. And truly, ſome of the godly Party at *Reading* hearing with what Impudency and Raſhneſs ſhe affirmed on Oath ſhe never railed againſt Mr. *Fowler*, confeſſed they could not but wonder at her, being it was ſo commonly known.

But, to conclude, let the Reader take notice, Firſt, That this Article may be either true or falſe, according to the applying of it to particular Perſons. Secondly, That though it were taken in the worſt Senſe, yet it were not within the Act of Scandal. Thirdly, That there was only one Witneſs to it, to whoſe Teſtimony what Credit is to be given, let the foregoing Particulars declare. Fourthly, That I had Witneſſes ready to depoſe, That in the Tenour of my Miniſtry, I had often held forth Chriſt's Blood to be of a cleanſing, redeeming and juſtifying Nature. Fifthly, That in my Anſwer to it, I have given the true Ground and Occaſion of it.

Art. 5. *Piſh! there was no ſuch thing as Perſons in Trinity.*

Depoſ. The former *Suſannah Grip* ſaith, That the Doctor came into her Kitchin at another time, as ſhe thinks, from the Committee, and ſaid, That whereas Miniſters ſpake of Perſons in Trinity, there is no ſuch thing; *There are three that bear record in Heaven*: but there is no ſuch thing as Perſons in Trinity—— Note, In that Scripture, 1 *John* 5. 7. would be added; and that in reference to the Terms, as it is in the Margin.

Now my Interrogatories to her upon this Article, were theſe: 1ſt, When I ſpake theſe Words? She ſaith, When I came from the Committee, which was two or three Years ſince, or thereabouts. 2dly, Before whom? She anſwereth, Whether her Maid, or any body elſe, or who was preſent, ſhe doth not remember. 3dly, Being further asked, Whether this Expreſſion was delivered without any further Limitation or Explanation? She replies, Without any, as ſhe remembers

Now what I have more to add, to clear the Truth in reference to this Depoſition, is this.

Firſt, I refer the Reader to my Anſwer to this Article, in which you may ſee that I made a Relation to this Woman of what had paſſed before the Committee, where ſome Queſtions were propoſed to me concerning the holy Trinity. Secondly, I had a Witneſs preſent to teſtify on Oath, That what I ſaid before the Committee, was only this, That there was no ſuch word as Perſons in Trinity in that Text, 1 *John* 5. 7. a Relation of which I made to this Woman, who as it ſeems, miſtaking my Meaning, comes now four Years after to accuſe me; though at the very time ſhe ſeemed to aſſent to what I ſpake, and made no Exception againſt it; nor ſo much as asked me to explain my ſelf for her

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Satisfaction, though she had a very convenient Opportunity. Thirdly, She is but a single Witness, and her Testimony not positive, she adding, As she remembers. 'Fourthly, I desired the Commissioners 'to hear what my avowed Judgment was, from 'the Testimony of some Witnesses who were ready 'to depose what I had held forth in my publick 'Ministry, touching the Persons in the holy Tri-'nity. But the Commissioners refused to examine 'the Witnesses, whose Evidence was this:

'We heard the Doctor in *Bradfield* Church (a-'bout 1653. from these words, *John* 1.14. *The Word 'was made Flesh*) deliver himself thus: For the 'understanding of the Person that was made Flesh, 'you must consider the unutterable Mystery of the 'holy Trinity; the Unity distinguishing it self in-'to three Persons, the Father, Son and Holy Ghost: 'Mat. 28. 14. *Baptizing them in the Name of the Fa-'ther, Son, and Holy Ghost.* 1 John 5. 7. *There are 'three that bear record in Heaven, the Father, the Word, 'and the Holy Ghost.* Now which of these three 'Persons are made Flesh? 'Tis not the first Person, 'the Father, nor the third Person, the Holy Ghost; 'but it is to be understood of the Son, the second 'Person in the Trinity.

'We have also heard him out of these Texts, '*Ezek.* 9. 4, 5, 6. *Psalm* 110. 1. *Matth.* 28. 19. '1 *John* 5. 7. deliver in *Bradfield* Church, the Dis-'tinctions of the Persons in the Trinity; as that 'the Father is not Son, nor the Son the Holy 'Ghost, and the Holy Ghost neither the Father 'nor the Son, but each distinct.'

So much for this Article.

Art. 6. *That it was a Weakness to be troubled for Sin.*

Depos. Mr. *Benjamin Woodbridge*, Minister of *Newbury*, sworn and examined, deposeth, That Mr. *William Twiss* of *Dorchester* told the Deponent, That Dr. *Pordage* maintained it to him, or spake in his Company, That he was no Christian that could not commit the greatest Sin, and not be troubled for the same; or Words to that effect, to his best Remembrance.

To this I replied before the Court:

I knew not the said Mr. *Twiss*, and to my knowledge I never saw his Face. Being then ingaged in the business of examining my Witnesses, I said not much to the Vindication of my self, as to this horrid Imputation; the Testimony being but a mere Hear-say, and the Deponent rendering it more invalid by these Expressions, *viz. or Words to that effect*, and, *to his best Remembrance.*

But I desire the Reader here to take notice of the Weakness or Envy of Mr. *Woodbridge*, that he should thus with a Hear-say only, which he himself did not exactly remember, thus endeavour to asperse me, and render me odious, when he saw there were so many horrid things laid to my charge before: but I believe he will one day be touched in his Conscience for dealing thus with me; for the Lord knows I am innocent as to the acting or holding of what he saith.

'I therefore (for the Satisfaction of the Reader) 'solemnly protest in the presence of Almighty God, 'that I never held any such Opinion; for it is dia-'metrically opposite to my Principles: neither 'did I ever utter any such Expressions as my Judg-'ment, and am confident, were that Mr. *Twiss* 'brought to my Face, he durst not aver any such 'thing.'

To the seventh Article nothing is deposed, being contrived and reported abroad by the Accuser, to draw an *Odium* upon me, as you may see in my Answer to it.

Art. 8. *That he asserted he knew nothing to the contrary, but that a Man might company with more than one Woman*, &c.

Depos. Susannah Grip saith, she told the Doctor, That she heard it was reported of him, he should keep unlawful Company with a Woman in *London*, and asked him, if it were true? To which the Doctor asked her, Who said so? The Deponent replied, She would not tell him. Whereupon the Doctor smiled, and was not troubled, but denied it, saying, No: but he made her a further Answer, That he did not disallow of any such thing, as she understood him. But what his expres's words were, she cannot not remember.

Note, This last Clause makes all invalid, and shews her Rashness in swearing, that I did not disallow of any such thing; being she hath forgotten my words, by which only she can judge of my Sense.

And the Answer of the Doctor to this Particular being read to her, she thus replied: She doth not remember the Doctor uttered any such Passages as are therein mentioned; to wit, That he should say, I am a Man born to all manner of Sufferings.

It was further read to her, That the Deponent knew his Life and Conversation: This she could remember; and doth confess, she did then reply, she did not believe any such thing of him.

Being further asked by the Doctor, Whether this was expressed as his own Judgment, or the Judgment of some other? She thus replied; As far as she conceived, the Doctor did speak that Passage of allowing that a Man may have more than one Woman, as his own Judgment, not as another Man's.

Note, She did conceive amiss; for if ever I spake it, it was in reference to the Ranters, who then were much talked of: for such carnal Principles are very much against my Judgment, and questionless against the Truth.

Being further asked, Where it was spoken? she saith, In the Deponent's own Court: Being asked before whom? she answers, No body else was then present. Being asked when? she saith, it was about three or four Years since.

But let the Reader here take notice,

1. That this Article is not within the Limits of the Act. 2. That her Testimony is not legal, in that it is single and not positive, she confessing that she had forgot the express Words. 3. That this is against my avowed Judgment; to prove which, besides my own Assertions, I had present three Witnesses, who were ready to depose, That I had often affirmed in Conference, That although this Principle was owned by the Ranters, yet it was much against my Judgment, as you may further see in my Answer.

Artic. 9. *That he hath very frequent and familiar Converse with Angels.*

Depos. Mr. *Christopher Fowler* of *Reading*, sworn and examined, deposeth, That about three Weeks or a Month since, he asked Mr. *Daniel Blagrave* the younger, whether he could not speak to the Doctor's Converse with Angels? He answered (as far as the Deponent remembers) he could speak much.

Mr. *Fowler* sworn again, and further examined, *November* 23. at the *Bear* in *Reading*, before the Com-

Commiſſioners, depoſeth, That about *Michaelmas* laſt, the Deponent ſpeaking with Mr. *Daniel Blagrave* the elder, concerning the Viſions of Angels that were at his Houſe, in reference to Mrs. *Pindar*; the Deponent told him, he the ſaid Mr. *Blagrave* was able to ſay much to the purpoſe, it being in his Houſe: and deſired him thereupon to ſpeak his knowledge of the Truth, both in point of Conſcience and Reputation, being cenſured for ſupporting ſuch a Man as Dr. *Pordage*.

The ſaid Mr. *Blagrave* anſwered, Why, the Doctor doth converſe with Angels; and I believe when he comes before the Commiſſioners, he will not deny but he doth converſe with Angels.

The Deponent thus replied to Mr. *Blagrave*, If the Doctor will confeſs them Angels, we will prove them Devils.

'Note, How full of Pride and Raſhneſs was this 'Speech of Mr. *Fowler*'s, and how unſuitable to 'the Scriptures, and the Law of Charity? For 'there are two ſorts of Angels and Spirits, good 'and evil, light and dark, holy and wicked, which 'are continually tending upon Men in this World: 'the evil to tempt and draw Men into the ſame 'Condemnation with themſelves: the good, to 'guard and preſerve them from the evil Influences 'and malicious Deſigns of the other. But doth not 'the Accuſer ſeem to forget, that the Miniſtration 'of the holy Angels ſtill abides; who are *miniſtring 'Spirits ſent forth to miniſter for thoſe who ſhall inhe-'rit Salvation?* Heb. 1. 14. And the Pſalmiſt ſays, '*The Angel of the Lord pitcheth his Tent round about 'thoſe that fear him.* How then dare Mr. *Fowler* 'affirm, that if I confeſs I have Communion with 'Angels, they will prove them Devils? How dare 'he thus limit the Holy One of *Iſrael*, and ſhut 'up his Favours within the narrow Limits of his 'own Conceptions and Enjoyments? And why 'may not God, for the Support and Comfort of 'ſome precious Saints, who in Humility, Self-'denial and Abſtractedneſs of Spirit, ſerve him 'Day and Night; I ſay, why may he not afford 'ſuch a ſweet and heavenly Converſe with the ho-'ly Angels? What Scripture is there that ſpeaks a-'gainſt it? Is it not ſuitable to what he afforded 'the Patriarchs, Prophets and Apoſtles, and the 'Primitive Chriſtians? But if my Accuſer lives ſo 'much in his Senſes, as to have no Senſe or Know-'ledge of it, yet why ſhould he thus raſhly condemn 'others?'

But the Accuſer proceeds in his Depoſitions:

And further, this Deponent ſaith, That he hath credibly heard ſomething tending to this purpoſe, That Doctor *Pordage* hath ſeen the Viſion of the ſaid Mr. *Blagrave*, ſomewhat a bright Viſion.

But here I put in a Queſtion, which was this: Mr. Chairman, I do confeſs in my Anſwer, Communion and Converſe with Angels; but pray ask Mr. *Fowler*, What Converſe with Angels Mr. *Blagrave* underſtood, viſible or inviſible?

To this the Deponent further ſaith,

That the entrance of this Diſcourſe with Mr. *Blagrave*, was in reference to Viſions that were ſeen with a bodily Eye; and mentioned the Viſions of Mrs. *Pindar*, that were by her reported to be ſuch. Upon this, he underſtood Mr. *Blagrave*, that the Purport of his Anſwer was a viſible Converſe with Angels.

And the Deponent further ſaith, That he delivered a Summons for Mr. *Blagrave* to atteſt theſe things in perſon, to Mr. *Cook*, one of the Commiſſioners, who ſent the Deponent word by Letter, that he had ſhewed the ſame to Mr. *Blagrave*, who hath notwithſtanding refuſed to appear.

And further, he ſpake thus in open Court againſt Mr. *Blagrave*, though the Clerk did not take it, *viz.* I do verily believe, ſuch a Judge as he was in this Caſe before, ſuch a Witneſs he would have been, were he now preſent: But I ſay, it was the Plague of this County to have ſuch a curſed Committee.

Note, Mr. *Fowler* here asked me ſome Queſtions to enſnare me, as, Whether I had not ſeen the Viſion of Mr. *Daniel Blagrave*? To which I anſwered, To this profound Queſtion I will anſwer when I ſee it atteſted upon Oath. And further asking me concerning Converſe with Angels; the Clerk took this Anſwer:

The Doctor doth confeſs that he hath daily Converſe with Angels: But he deſires Mr. *Fowler* to declare what Converſe with Angels Mr. *Blagrave* did inform that the ſaid Doctor had.

The Doctor doth further ſay, That he heard it credibly reported, that he hath every Day two Angels dreſſing of him: To which he added, That they that reported it to him, ſaid they had it from the Mouths of two godly Miniſters, that would not lye, *viz.* Mr. *Fowler* and Mr. *Ford*.

Note, I brought in this Story to ſhew the Vanity and Invalidity of ſuch Proofs as the Accuſer had before produced, as that he had credibly heard ſomewhat to that purpoſe, That I had ſeen the Viſion of Mr. *Blagrave*. And, for all the Accuſer knows, that which he heard ſo credibly reported might be as great an Untruth as that which I heard reported of my ſelf, as coming from him and his Brother *Ford*, whoſe Function ſeems very unſuitable to that of Lying and Slandering.

Afterward Mr. *Fowler* asked me again, Whether I had ſeen the Viſion of Mr. *Daniel Blagrave*? I anſwered, As long as it is atteſted only upon Report, I would not anſwer to it.

Art. 10, 11, 12, 13. *Concerning the Apparitions of Spirits, and of a great Dragon.*

Here I muſt entreat the Reader ſeriouſly to weigh the following Depoſitions, from which my Enemies have charged me to be a Conjurer and a Sorcerer; that ſo it may be ſeen whether they have any better ground thus to eſteem me, than they have to eſteem *Job*, who was terrified through Viſions; and Chriſt, who was tempted by Voice and Viſion in the Wilderneſs; and *John*, who in Viſions ſaw a great red Dragon, and terrible Locuſts go forth of the bottomleſs Pit, and three unclean Frogs, the Spirits of Devils, going forth to deceive the World; I ſay, than they have to eſteem theſe Conjurers and Negromancers for ſuch Sights.

But now to the Depoſitions:

Depoſ. Suſanna Grip, Wife of *John Grip*, of *Reading*, ſworn and examined, depoſeth, That the Doctor told her that a great many Spirits hovered about his Window, and kept a Noiſe; but the Doctor ſaid, He told the Company there ſhould come in but one at a time; and that a Dragon did come in with a long Tail, and great Eyes and Fangs, and did ſpit Fire at him.

And this Witneſs further ſaith, That his Angel ſtood by him in his own Shape, in the ſame Clothes, Band, and Cuffs, and did protect him.

Note, Where this Woman ſpeaks Truth, I ſhall not contradict her: But where ſhe miſtakes, I muſt inform

inform the Reader of the Truth, and ſhew that ſhe raſhly ſwears Untruths. This then I told her, That I had an Angel of God that ſtood by me, aſſiſted me, comforted me, and protected me, when that dreadful Apparition was before me; and that the Dragon was then overcome.

And I further told her, That the Angel or Spirit of one *Everard* appeared in his own Shape, Clothes, Band, and Cuffs, *&c.* Which compared with Mrs. *Grip*'s Depoſition, ſhews her Miſtake. This *Everard* I ſuſpected to be a Conjurer, and to be inſtrumental in the raiſing of thoſe Apparitions; though I was not ſo ſure of it as to proſecute him, or to ſwear he cauſed them: for the Devil may take up any one's Shape by God's Permiſſion, as it is generally thought he did *Samuel*'s.

Further this Deponent ſaith, That the Doctor likewiſe told her, that Mrs. *Pordage* and Mrs. *Flavel* had their Angels ſtanding by them; and that he overcame the Dragon; and that he ſaid the Children ſaw the Spirits, and ſaid, Look there, Father! being not afraid, after they had faſted and prayed. And that the Doctor further ſaid, That the Spirits did afterward come into their Chambers, and drew the Curtains, and looked on them; but they would not take notice of them: And that the Spirits did come about three Days after he had faſted and prayed, and flaſhed open the Curtains, and looked upon them.

'*Note*, For three Weeks or a Month there were 'very many, and very ſtrange Apparitions; but 'the Curtains were never drawn but once, and 'that was by a Spirit in the Shape of *Everard*. 'For ſome other Particulars of this Depoſition, I 'do not remember whether I ſpake them or not.'

Depoſ. The Doctor being asked by Mr. *Fowler*, What he ſaith concerning the Apparition of the Dragon? the Doctor doth confeſs before the Commiſſioners, That he hath ſeen very many dreadful Apparitions of Devils at his Houſe; and that ſome of his Family did ſee them; and that a Dragon did come into his Houſe with a long Tail, and great Teeth: but that he ſaid his Angel did protect him, he denies. But he further ſaith, That about four Years ſince he had Apparitions both of good and bad Angels, for three Weeks together, at his own Houſe: But from that time to this, they have ceaſed in that manner.

Being further asked by Mr. *Fowler*, the Doctor doth deny that ever any Angel appeared in his Clothes, Band, and Cuffs; and further ſaith, That his Angel never did appear to him in any viſible Shape.

And being asked, Whether he ever ſaw Mrs. *Pordage*'s and Mrs. *Flavel*'s Angels ſtanding by them? he anſwereth, He never ſaw them ſtanding by them; but it doth not therefore follow that they might not ſtand by them: And though he can, yet he will not anſwer to any Queſtions, but ſuch as concern himſelf immediately.

And being further asked by Mr. *Fowler*, Whether he did not relate to Mrs. *Grip* that Mrs. *Flavel* and Mrs. *Pordage* had their Angels ſtanding by them? he anſwereth, He can neither affirm nor deny it; for he doth not remember whether he did, or no.

And being further asked by Mr. *Fowler*, Whether he did not relate to the ſaid Mrs. *Grip* that his Children ſaw the Spirits come into his Houſe, and cried, Look there, Father! and that the Spirits did often come into his Chamber, and drew the Curtains when they were in Bed?

To the firſt Part of the Queſtion he anſwereth, He cannot affirm or deny it; for in truth he doth not remember whether he did, or no. To the ſecond Part of the Queſtion he ſaith, He doth deny it poſitively; and he will prove the Depoſition to be Perjury.

And the Doctor being further asked whether or no he knows that the Children did ſee the Spirits come up and down the Houſe, or no; and whether they thereupon did ſay, *Look there, Father!*

To the firſt part of this Queſtion, he ſaith, He cannot know what the Eyes of Children do ſee; and otherwiſe he will not anſwer. And to the other part of the Queſtion, he anſwers, He cannot remember whether the Children did ſay ſo, or no; and therefore will neither affirm nor deny it.

2*d Witneſs.* *Suſanna Grip*, Daughter of the foreſaid *John Grip*, aged 21 Years, ſworn and examined, depoſeth;

That about three or four Years ſince, in her Mother's Kitchin ſhe heard Dr. *Pordage* ſay, That a Dragon came into his Chamber, and that he expoſtulated and contended with it; and that he ſaid the Dragon did ſpit Fire at him; and that his Angel did appear to him in the Shape of a Man, with his Band, and his Clothes, and Band-ſtrings, and did ſupport him while he contended with the Dragon. The Deponent further ſaith, That ſhe heard the Doctor ſay that the Spirits did come into his Chamber, and drew the Curtains, and looked upon him; and that the Doctor likewiſe ſaid they were affrighted at it at firſt, but afterward, when they were uſed to it, they were not.

She ſaith ſhe heard ſeveral other Things to this purpoſe, which ſhe cannot now remember to depoſe.

And being asked by the Doctor, whether the Doctor ſaid that the Angel that appeared with the Band and Band-ſtrings, was the Doctor's own Angel, or the Angel of ſome other? ſhe ſaith, To her beſt Remembrance, he ſaid it was his own Angel.

3*d Witneſs.* *Elizabeth Benwell*, Servant to Mr. *Ellis* of *Shinfield*, and formerly Servant to the Doctor, ſworn and examined, depoſeth;

That ſhe ſaw ſomething like a Star in the Red Chamber in the Doctor's Houſe by the Bed's Leg: It was light, and ſomewhat like a Star; but the Deponent cannot ſay it was a Star. Yet it was in the Night, and no other Light in the Room, to the beſt of her Remembrance.

She further ſaith, That ſhe hath heard Muſick at ſeveral times at the Doctor's Houſe, when ſhe did not know that any Inſtruments or Muſicians were in the ſaid Houſe. She ſaith ſhe hath heard it in the Kitchin, and in her Miſtreſs's Cloſet; did apprehend the ſame to be near her, but ſaw none playing.

She further ſaith, That Mrs. *Flavel* did uſually lie in the Doctor's Bed-chamber during the Time the Deponent was Servant there, which was about a Year and a quarter.

But immediately to this the Maid added, But I never lived in ſuch a Family for Piety and Holineſs, as that was; and I believe never ſhall again, except I return thither.

But this, by the Clerk's Knavery, was left out, although I ſtood by, and asked him why he did not write down thoſe Words. To which he replied, If you will have me, I muſt. I ſaid, I will have it. Yet he neglected it; and I believe by the Command of ſome of the Court, who were troubled at any thing that ſeemed to make for

me:

me: But what Unjuſtneſs this was, let the Reader judge.

'But from theſe preceding Apparitions of Spi-'rits in my Family, in which we were merely 'paſſive, and by which we were excited the more 'to wait upon God in Prayer and Faſting, my Ene-'mies have ſcandalized me for Conjuration and 'Sorcery, reporting ſo confidently that I am a 'Conjurer, that many, who are not acquainted 'with my Principles and Converſation, believe it 'ſo in earneſt. But theſe horrid Scandals I take 'up as my Croſs, and ſee my ſelf in them conforma-'ble to Chriſt's Sufferings, who was reckoned 'amongſt Conjurers and Tranſgreſſors by the 'Jewiſh Zealots.

'But the Lord hath given me Peace in my Con-'ſcience, whilſt my Enemies have railed againſt 'me in their Pulpits, as Mr. *Ford*, in his Sermon 'at the Aſſizes held at *Reading*, *Feb* 28. 1653. 'In which, *Page* 22. he ſaith, That there is one 'of the moſt eminent Church-Livings in the Coun-'ty poſſeſſed by a Blaſphemer, and in whoſe Houſe 'the Devil is as viſibly familiar as any of the Fa-'mily; and ſhall the Horns of theſe Beaſts never 'be pared off by the Civil Magiſtrate?

'Here you ſee he endeavours to brand me for a 'Conjurer, and calls me Blaſphemer, exciting the 'Magiſtrate to perſecute me. And this was he 'who was choſen by the Commiſſioners to make a 'Speech in the Court before they gave Sentence 'againſt me, who there by envious Prevarication 'ſhewed himſelf a ſecond *Tertullus*, though no 'Orator.

Art. 14. *That Mrs.* Margaret Pindar *acquainted with this Doctrine of Spirits, and pretending to be converted by Viſions of Angels, doth think ſhe was bewitched by them of* Bradfield, *&c.*

Depoſ. Mr. *Chriſtopher Fowler*, ſworn to this Article, and examined, ſaith, That Mrs. *Pindar*, being asked by him, did acknowledge on Thurſday laſt, at *London*, that at Mr. *Blagrave*'s Houſe, at *Southcot*, ſhe heard a great Noiſe of Drums and Trumpets; which Dr. *Pordage* (who was then ſent for to her) told her was the Alarum to the Spiritual War. And that one Night ſhe had the Viſion of young Mr. *Daniel Blagrave* come to her Bed-ſide, and ſhe took him by the Hand, which Hand felt cold; which Dr. *Pordage* expounded to her thus, That the Coldneſs of his Hand ſignified that he began to be cold to Vanity. And that ſhe asked the Doctor what the Viſions meant; and he replied to her, We do not uſe to reveal one another's Viſions.

The Depoſition taken on my behalf was this that follows:

MRS. *Elizabeth Blagrave*, Wife of Mr. *Daniel Blagrave*, ſworn and examined: This Deponent ſaith, She never heard Mrs. *Pindar* ſay that ſhe was bewitched by them of *Bradfield*; but the ſaid Mrs. *Pindar* told the Deponent that her Viſions were from God; and that the ſaid Mrs. *Pindar* told the Deponent ſhe never ſpake with the Doctor in her Life.

This Deponent further ſaith, That Mrs. *Pindar* told her ſhe had been at Mr. *Fowler*'s Houſe; and that Mr. *Fowler* examined her touching her Viſions, and the Deponent asked her what ſhe ſaid: To which ſhe replied, She was ſure ſhe had ſaid nothing to him that could hurt the Doctor. Hereupon the Deponent asked her if ſhe told Mr. *Fowler* that the Doctor did ſend theſe Viſions? To which ſhe anſwered, She could not ſay the Doctor ſent them for a World.

This Deponent further ſaith, That Mr. *Pindar* told the Deponent that his Wife ſaid, when ſhe came to *London*, ſhe would not ſay what ſhe had ſaid to Mr. *Fowler*, if it were to do again; for ſhe perceived it was a Snare, or a Trap.

This Deponent further ſaith, She was by when the Queſtion concerning the Coldneſs of young Mr. *Blagrave*'s Hand was put; and the Deponent asked it her ſelf to one in the Room: And the Anſwer was, That the Coldneſs of his Hand, as far as they knew, ſignified his dying to Vanity; which was delivered in a jeſting manner. Which Anſwer was not delivered by the Doctor. And the Deponent ſaith, The Doctor never gave ſuch an Anſwer in his Life, as ſhe knows.

Here follow the Depoſitions of *John Grip* of *Reading*, Joiner; who being ſworn and examined, depoſeth:

That he was at Mr. *Blagrave*'s when Mrs. *Pindar* ſaw the Viſions that are mentioned in her Confeſſion; and that ſhe ſaid ſhe ſaw a Man in white, (as ſhe thought) with the Lamb's Book; and that the ſaid Man told her her Name was written in the Book; and that ſhe heard a Watch going; and that there appeared another in the Likeneſs of a black Man, with a Knife, which he offered unto her.

And this Deponent further ſaith, That at another time, at the Deponent's Houſe, the ſaid Mrs. *Pindar* did inform the Deponent that Dr. *Pordage* had ſaid he had power to beſtow the Gifts and Graces of the Spirit on whom he pleaſed.

Note, That this diſagreeth from Mrs. *Pindar*'s Confeſſion, under the Head of the 14th Article, where ſhe ſaith that ſhe heard it reported at *Southcot*, That e'er long the Doctor ſhould have power —— to beſtow ſaving Graces on whom he pleaſed.

And this Deponent further ſaith, That another time he was at Mr. *Blagrave*'s Houſe, when the ſaid Mr. *Blagrave* was ill, and kept his Chamber; and Mr. *Blagrave* and the Deponent fell into Diſcourſe concerning Dr. *Pordage* in preſence of Mrs. *Blagrave*; that in the ſaid Diſcourſe Mr. *Blagrave* ſaid to his Wife, That the Doctor held ſtrange Opinions, ſuch as were not agreeable to the Word of God: for he did maintain that Jeſus Chriſt was not God; and that he was a Type, and but a Type; Man, and not God; a Shadow, and not the Subſtance. And Mr. *Blagrave* did labour very much to take off his Wife's Affections from the Doctor and his Ways; but could not prevail. This was about three quarters of a Years ſince, to the Deponent's beſt Remembrance.

In reference to theſe two laſt Particulars, touching Mr. *Blagrave* and his Wife, conſider this following Depoſition and Evidence.

MRS. *Blagrave*, ſworn and examined, depoſeth, That ſhe never knew any thing of the Doctor's Judgment; neither did he ever bring the Deponent into any Judgment; and that ſhe had never any Diſcourſe with the Doctor, till ſhe did firſt begin with him: and that if ever he had confirmed her in any thing, it was in nothing diſagreeable to the Word of God.

As to that part of the former Depoſitions, which concerns Mr. *Blagrave*'s Relation of what Opinions I held, I had a Summons for his perſonal Appearance to witneſs the Truth in that Particular: But he being detained in *London* by earneſt Buſineſs, could not appear according to the Summons, and therefore wrote this following Letter to the Commiſſioners, which was exactly copied out by a Friend of mine, who had the Favour from Mr. *Blagrave* to read it.

Gentlemen,

UNderſtanding by this Bearer, Mr. *Samuel Pordage*, that one *John Grip* of *Reading*, upon his Examination againſt Dr. *Pordage*, did affirm upon Oath, That having Diſcourſe with me lately touching the Doctor's Opinions, I ſhould ſay that he denied that Chriſt was God; and that he held him to be a Man, and not God; a Type, and but a Type; a Shadow, and not the Subſtance: The Things are highly blaſphemous, if true. But this I aſſure you, if ever any ſuch Language fell from me, (which truly I do not remember) it was ſpoken as relating to that Charge he lay under at that time, raiſed by ſome who ſeem to know Mens Meanings and Opinions better than I do. In ſhort, this I do affirm, and ſhall readily atteſt upon Oath, when required, That the Doctor hath ſeveral times moſt ſolemnly avowed the contrary; and to me by Scripture, under his own Hand, evinced it: For the truth is, I have with much Boldneſs charged the Doctor with Things of that nature, having received them upon report. But upon Debate he hath given me ſuch clear Satisfaction, both touching the Divinity of Chriſt, and other Matters of Faith of the higheſt Concernment, that I have ſtood ſilent, having nothing to object againſt him. I did therefore apprehend it a Duty incumbent upon me thus to write; for as I will never be inſtrumental to clear him in what he is guilty, ſo not to condemn him wherein I believe he is innocent.

Thus, deſiring the juſt and all-knowing God to direct you in this great Work, I remain,

Gentlemen,

28 Novemb. 1654. Weſtminſter. *Your Friend and Servant,*

Dan. Blagrave.

I deſired that this Letter might have been read in the open Court: But they denied it, though I alledged that it was Evidence on my behalf. But whether this was not more conſiderable, and ſo more fit openly to be read, than Mr. *Grip*'s Stories and Hearſays to be openly received as Evidence, let the Reader judge.

But Mr. *Grip* further on Oath depoſeth, That at other times he hath often had Conference with Mr. *Blagrave*: And at one time, above the reſt, walking over the Fields toward *Southcot*, we fell into Diſcourſe concerning Dr. *Pordage*; and the ſaid Mr. *Blagrave* did then tell him that the Doctor did go about to perſuade him to leave off all Imployment, and to ſell his Eſtate, and retire to his Houſe; for his Houſe was the Ark, as *Noah*'s Ark was, to receive all thoſe that muſt be ſaved. This was ſome time the laſt Summer. And that Mr. *Blagrave* did ſeem very much to ſlight and ſcorn it, and asked the Deponent what he thought he ſhould have got by it, had the Doctor prevailed. To which the Deponent replied, That he thought the Doctor had a grand Deſign in it: For Mr. *Blagrave* being taken notice of to be one of the wiſeſt Men in the County, if the Doctor had prevailed to draw him away, he might likewiſe have drawn away moſt of the County; and then the Doctor would have ſet himſelf up like a *Mahomet*.

In oppoſition to this Story, Mrs. *Blagrave*, ſworn and examined, depoſeth, That ſhe had heard a Muttering that Mr. *Grip* ſhould ſay that the Doctor had perſuaded Mr. *Blagrave* to leave all, and come and live with him. Whereupon the Deponent asked Mr. *Blagrave*, about five or ſix Weeks ſince, concerning it; and the ſaid Mr. *Blagrave* anſwered to the Deponent, That he did not remember that the Doctor ever ſaid any ſuch thing.

This Deponent, *John Grip*, further ſaith, That Mr. *Daniel Blagrave*, the younger, told him, When the Spirit came upon the Doctor, he could leap over Pales of a great height, about five Foot and an half high, as the Deponent could conceive by his Relation; and that this was told him within five Months laſt paſt.

This Deponent further ſaith, That Mr. *Charles Blagrave* told him ſome time the laſt Summer, that Dr. *Pordage* ſhould ſay that Chriſt was not perfect; and that he quoted that Place of Scripture, mentioning our Saviour's Paſſion, when he cried out, *My God, my God, &c.* to prove the ſame.

Art. 28, 29. *Concerning Mrs.* Mary Pocock*'s Relation to Mrs.* Forſter, *of what was acted in my Houſe; and of Mrs.* Flavel*'s being in a Trance, and ſeeing what was the Philoſopher's Stone.*

The Depoſitions of Mrs. Mary Pocock, *taken at the* Bear *in* Speenhamland, November 30. *before the Commiſſioners, for the Proof of the two former Articles.*

MRS. *Pocock*, ſworn and examined, depoſeth: The Queſtion being asked, Whether the Deponent did not tell Mrs. *Forſter* and Mrs. *Evelyn*, That the Doctor had contended with the dark Power in his Shirt two or three Hours? ſhe anſwereth, It is ſo long ſince that ſhe cannot remember any thing poſitive ſhe then ſaid: But ſhe ſaith there was ſome great Power then amongſt the Doctor's Family.

And being asked, Whether ſhe did not ſay to the aforeſaid Parties, that when the Doctor contended with the dark Power, there was ſuch an Expoſtulation between them, as, *Thou lyeſt; and thou lyeſt, &c.* ſhe anſwereth, She cannot tell.

And being further asked, Whether upon this Conqueſt of the dark Power by the Doctor, ſhe did not tell the aforeſaid Parties ſhe ſhould think the Doctor to be a bright Man? To this Queſtion ſhe anſwereth, If ſhe did not ſay ſo, ſhe hopes ſhe ſhall, when he hath the Victory.

And being asked, Whether ſhe did not tell the aforeſaid Parties, the Doctor's Family were ſtrangely acted, ſome in their Legs, Thighs, and Arms? To this ſhe anſwereth, She cannot tell.

And being further asked, Whether ſhe did not tell the ſaid Parties, that Mrs. *Flavel* did ſee in a Trance the Philoſopher's Stone? ſhe ſaith, She cannot tell.

And

And being further asked, Whether the Philoſopher's Stone, ſeen by Mrs. *Flavel* in a Trance, were not the Divinity in the Humanity? ſhe anſwereth, She knows no ſuch Thing.

Art. 30. *This conſiſts of ſeven Particulars, being the firſt that relates to Scandal in my Converſation.*

Depoſ. Roger Laughton of *Heſton* in the County of *Middleſex*, Lockſmith, ſworn and examined, depoſeth;

That about nine Years ſince, or upwards, Dr. *Pordage* brought to the Deponent's Houſe Mrs. *Flavel* behind him, under the Name of Mrs. *Fruin*; and that both the Doctor and the ſaid Mrs. *Flavel* did ask for Entertainment for her; and that they did 'ask what they ſhould give for her Board, and her Son *Stephen*'s: and that they did bargain for eight Shillings a Week, and then he carried her away; and ſhe came not till after *Chriſtmas*. But he ſaith, How ſhe then came, whether in a Cart, with her Trunk and Clothes, or otherwiſe, he knoweth not; but the Doctor did not then come with her. And after ſhe had been there a while, the Deponent's Wife conceived ſhe was with Child; which ſhe denied, ſaying it was a Tympany. And that ſhe remained there till betwixt *Eaſter* and *Whitſuntide*, where and when ſhe was brought to bed of a Daughter; and ſhe did not deſire any ſtore of Company to come to her Labour, though the Deponent's Wife did deſire it. And after ſhe had been a ſhort time delivered, the Doctor came and baptized the Child in the Deponent's Chamber, and named it *Hannah*. And after that the Doctor called the Deponent aſide into his Orchard, and prayed him to find out a private Place, two or three Miles from the Deponent's Houſe, where the ſaid Mrs. *Flavel* might come now and then to ſee her Child. The Deponent ſaid it would be inconvenient, becauſe it was a Time of Soldiers, and the Corn was high; and thereupon the Deponent did not look out as he deſired. And he further ſaith, When the Nurſe did bring the Child oft-times to ſee the ſaid Mrs. *Flavel*, ſhe would not permit her Son *Stephen* to call her Siſter, ſaying, *Stephen*, it is Nurſe's Child. Afterwards the ſaid Mrs. *Flavel* departed from the Deponent's Houſe to *Kenſington*, where ſhe remained about a Month. And that the Deponent having occaſion to go to *London*, called at *Kenſington* by the way, to ſpeak with her; but ſhe was gone: Whereupon the Deponent ſaid her Child was not well. Then two Gentlewomen of the Houſe told the Deponent, that ſhe denied unto them that ſhe had any other Child but her Son *Stephen*. And the Deponent further ſaith, That the Doctor came to the Deponent's Houſe three or four times, in Term-time only: And that both the Doctor and the ſaid Mrs. *Flavel* did inform the Deponent that ſhe was married to one Mr. *Fruin*, a Miniſter; but was now a Widow, as both of them ſaid when they came to the Deponent's Houſe.

For the clearing of Truth, in reference to this Depoſition, I ſhall here annex the Confeſſion of the ſame Perſon, as ſubſcribed by him, and owned before two ſufficient Witneſſes; which is as follows.

THat about nine Years ago Dr. *Pordage* brought a Gentlewoman, by Name Mrs. *Fruin*, behind him from *London*, as he ſaid, to one *Roger Laughton*'s Houſe, a Smith in *Heſton* Pariſh: That the ſaid Mrs. *Fruin* agreed with him her ſelf for her Boarding.

That ſhe told his Wife, at her firſt coming, ſhe knew not certainly whether ſhe were with Child, or not; but thought ſhe was.

That her firſt Husband's Name was Mr. *Flavel*; and that ſhe had had a ſecond Husband, by Name Mr. *Fruin*, who alſo was then dead.

That the Cauſe of her private living there was, in that her Brother-in-Law threaten'd he would have her Body, if it were above Ground, ſhe being then in Law with him.

That at the ſame time the Doctor owned that he dwelt at *Reading*; and that he was Miniſter of *St. Lawrence* Church; and that he knew the Gentlewoman to be ſober and godly.

That ſhe told him, for his Security, he might enquire at the *Bulwark* by the *Tower* of *London*; where he might know that ſhe had there an Eſtate in Houſes.

That after ſhe had been in the ſaid *Roger Laughton*'s Houſe about four Months, ſhe was brought to-bed of a Girl, which was chriſtened by the ſaid Doctor, and named *Hannah*. That the Time of her Continuance with him was about three quarters of a Year; in which Time the ſaid Doctor viſited her ſome three times, or four at the moſt, and that in Term-time, when he went to *London*.

That by Enquiry he came to know ſhe was in great Troubles at Law.

That the ſaid Doctor never agreed with him, nor paid him for her Board, nor removed her, ſo far as he knows, to *Kenſington* from his Houſe.

R. L.

This was delivered into the Court after *Laughton* had finiſhed his Depoſition: But they would not ſuffer it to be enrolled among the Depoſitions, it in ſome Particulars croſſing *Laughton*'s preſent Teſtimony, and in others, tending to clear the Truth, in reference to the Occaſion of Mrs. *Flavel*'s being there. But the Accuſer asking him whether he would not ſtand to his preſent Depoſition? he ſaid, Yea. Whereupon the Clerk returning me the Paper again, wrote this at the bottom of it, *Mr.* Laughton *acknowledgeth the two Letters*, R. L. *to be his Writing; but will ſtick to what he hath now depoſed.*

'There was not a Word altered after he had 'ſubſcribed the Paper, as two Witneſſes then pre-'ſent could atteſt by Oath. Now the Particulars 'in which he croſſeth himſelf, cannot be all true. 'And if a Man will ſolemnly own and ſubſcribe 'an Untruth, he may after ſwear an Untruth: 'But the Confeſſion here wrote laſt is much to 'be regarded, being he owned and ſubſcribed it 'before the other, being then in a calm, ſober 'Poſture; but the other he depoſed after my 'Adverſaries had been a whole Day tampering 'with him at the *Bear* in *Reading*, and poſſeſſing 'him with Prejudice againſt me; which he open-'ly ſhewed in the Court by bitter Expreſſions, 'and by thoſe Circumſtances in the former Depo-'ſition, which tend to blaſt the Gentlewoman's 'good Name and Reputation.

'But for further Satisfaction, 1. I refer you to 'my Anſwer; in which I have largely ſhewed the 'Reaſons of her private Retirement there, which 'may in Juſtice clear me from that undeſerved Aſ-'perſion my Enemies have caſt upon me.

'2. Conſider that this, as to me, is no legal Proof 'of any Crime, but a mere circumſtantial Thing, 'brought to raiſe Suſpicions and Prejudices againſt 'me, being but of the nature of a Libel, and ſo 'unfit to have been received into a judicial Court: 'for whoſe Name and Reputation may not be 'blaſted, if ſuch libellous illegal Things, ſo long 'paſt, ſhould be received into Courts of Judicature 'as Accuſations to condemn them?

'3. Tho that Crime, which my Accuſer would 'render me ſuſpected for by this circumſtantial De-'poſition, had been ever ſo clearly proved, yet the 'Date of it (being nine or ten Years ſince) had 'put it quite out of the Cognizance of the Com-'miſſioners, not only by the Act of general Par-'don, but alſo by another Law, made particularly 'by the Parliament in reference to Things of this 'nature, which takes away all legal Guilt from 'any Perſons that are not accuſed within a Year 'after the Commiſſion of any ſuch Crime; beſides, 'the Act to which the Commiſſioners are confined, 'as their Rule to judge of Scandal, was made ma-'ny Years ſince. Therefore, I ſay, they neither 'had nor have Power to take a Buſineſs ſo long 'paſt, tho otherwiſe ever ſo criminal, into their 'Cognizance.

'But notwithſtanding theſe Things, the Com-'miſſioners ſent a Summons for Mrs. *Flavel*, tho 'they had no poſitive Charge againſt her; and af-'ter her Appearance, would have forced an Oath 'upon her, and examined her to Queſtions con-'cerning her ſelf. But ſhe, as in Juſtice ſhe might, 'refuſed to anſwer them, alledging, That if any 'one durſt lay any poſitive Crime to her Charge, 'ſhe would anſwer by the Mouth of her Lawyer. 'Whereupon the Commiſſioners threaten'd to ſend 'her immediately to Priſon, tho they durſt poſi-'tively accuſe her of nothing.'

Art. 33. *That he is a very ignorant and inſufficient Man for the Work of the Miniſtry.*

George Haſtlet, of *Bradfield*, Weaver, ſworn and examined, depoſeth, That he heard Dr. *Pordage* in a Sermon, in the Church of *Bradfield*, about two Years ſince, deliver, That it was a vain Thing to truſt in the Blood of him that died at *Jeruſalem* 1600 Years ſince, or more, unleſs it were acted in me, or in thee; for that was but in the Type, the Subſtance muſt be fulfilled in us: And that Chriſt muſt be crucified in us, we muſt have the *Jews* and *Pilate* to put him to death in us; otherwiſe it was a vain Thing to believe in him that died at *Jeruſalem* 1600 Years ſince without us.

'*Note*, As I own and embrace the Hiſtorical 'Birth, Life, Death, and Reſurrection of Chriſt 'without us, with the bleſſed Effects of them, 'clearly held forth in the Goſpel; ſo do I alſo be-'lieve the Myſtical Birth, Death, and Reſurrec-'tion of Chriſt in us, according to the Scriptures, '*Matt.* 12. 50. *Gal.* 3. 1. *Epheſ.* 2. 5.

'And to ſay that both theſe are neceſſary to be 'known, at leaſt experimentally enjoyed by all 'that will be ſaved; and that it is vain to depend 'upon the firſt, without ſome Senſe and Feeling of 'the laſt, as it is to depend upon a notional Juſtifi-'cation, without a real Sanctification: I ſay, to 'aver this, is not againſt, nay, altogether accord-'ing to the Holy Scriptures; *For we know that 'Chriſt Jeſus is in us, except we be Reprobates:* And 'if we have not his Spirit, we are none of his.'

This Deponent further ſaith, That the ſaid Doctor, about a Month ſince, in *Bradfield* Church, did deliver, That doubtleſs the Apoſtles by that Text (*Know you not that your Bodies are the Temple of the Holy Ghoſt?*) did not mean theſe earthly Bodies.

'*Note*, I never denied our elemental Bodies to 'be the mediate Temples of the Holy Ghoſt, 'but the immediate: For the immediate Temple 'of the Spirit is the Image of God in us, which 'is renewed in Righteouſneſs and true Holineſs, 'and may truly be called the Body of Righteouſ-'neſs and Life, in oppoſition to that Body of Sin 'and Death, *Rom.* 7. 24. which hath many Mem-'bers, *Coloſ.* 3. 5. being the evil corrupt Inclina-'tions and Habits of the Old Man. This inward 'Body, which is the immediate Temple of the Spi-'rit, is called, *Rev.* 16. 15. our Garments, which 'we are exhorted there to keep, leſt we walk na-'ked; and the Armour of Light, *Rom.* 13. 12. 'which we are there commanded to put on, in op-'poſition to the Works of Darkneſs, which we are 'to caſt off. This may alſo be called our pure 'Fleſh, in oppoſition to that ſinful Fleſh ſpoken of '*Rom.* 7. 18. And as in the laſt there dwells no 'good Thing, ſo in the firſt nothing but Good, 'being it is the immediate Tabernacle of the Ho-'ly Ghoſt, *Joel* 2. 28. *I will pour out my Spirit upon 'all Fleſh.*'

And this Deponent further ſaith, The Doctor did deliver, That by that Text (*Gen.* 18. 19. *I know him, that he will command his Children and his Houſhold after him*, &c.) was not meant the out-ward Houſhold of *Abraham*, but his inward Houſ-hold, his Will and Affections, which he was Lord paramount over; and he quoted that Text in the laſt of *Joſhua*, (*As for me and my Houſe, we will ſerve the Lord*) which he likewiſe ſaid was the inward Houſe, and not the outward. This was about two Years ſince, as far as this Deponent can remember. And the Deponent ſaith, He judged the ſame con-trary to the Mind of the Holy Ghoſt.

'*Note*, Had the Commiſſioners allowed me ſo 'much Time as to have brought in what Evidence 'I could againſt this Man's Depoſition, I ſhould 'have proved, that in the Tenor of my Miniſtry I 'never denied or rejected the hiſtorical or literal 'Senſe of the Scriptures, for which there can be 'no juſt Ground; but that I have uſually joined 'the literal and allegorical Interpretation toge-'ther, even as *Paul* doth, *Gal.* 4. 24, 25, 26. which 'ſweetly united, cannot but make an amiable Har-'mony. And the Deponent miſtakes, in ſaying I 'excluded the Hiſtory; for I had before opened it 'in the plain hiſtorical Senſe, and afterwards came 'to open it myſtically, in making a ſpiritually mo-'ral Uſe of thoſe Scriptures, in applying them to 'the Work of God upon the inward Man.

'Let the Reader further know, That the Com-'miſſioners could not in Juſtice take this as Evi-'dence againſt me, becauſe it was all brought the 'very Day of my Sentence, I having no Time al-'lowed me to make my Defence by the Teſtimo-'nies of ſome other that conſtantly hear me, who 'might have certified this Deponent's Miſtakes, in 'miſrepreſenting both my Words and Meaning, 'by ſhewing I excluded not the literal Meaning 'of the Texts produced. 2. In regard I objected 'againſt him as a Drunkard, and ſo an inſufficient 'Witneſs. 3. In that there was no concurrent 'Teſtimony. 4. In that he wrote not this down, 'and ſo could not exactly deliver ſo much Word for 'Word, as I ſpake it, eſpecially ſo long after ſome 'part of it was delivered, and ſo by a little Miſ-'take might prevaricate my Senſe and Meaning.

This

This Deponent further ſaith, That Goodwife *Knap* told him about a Month ſince, that ſhe being at the Doctor's Houſe, Mrs. *Flavel* was very angry with her, and threatned to have her whipt, for ſaying the Child *Hannah* was Mrs. *Flavel*'s Child; and that ſhe then denied ſhe had any other Child except *Stephen* her Son. And that when the ſaid Goodwife *Knap* denied ſhe had ſaid any ſuch thing, and began to be outrageous, both old and young Mrs. *Pordage* deſired her to be pacified, ſaying, Happily it might be another Woman might ſpeak ſo.

'*Note*, The Woman here mentioned hath under 'her Hand, before Witneſs, denied what the De-'ponent here relates of her; ſo that either the 'Deponent is perjured, or this Woman aſhamed 'to ſtand to ſo groſs an Untruth, as the Deponent 'pretends ſhe related to him. But the Sentence 'being given the day in which this Depoſition was 'taken, I had not time to bring this Woman face 'to face to the Deponent, ſo to ſee where the 'Guilt of Perjury, or a lying Slander lay. Tho 'as to the Strength of this Teſtimony, there was no 'ſuch thing neceſſary, it being a mere Hear-ſay.'

Art. 34. *The Teſtimony of* Richard Sawood, *who was neither ſworn nor examined in publick Court.*

I came into *Bradfield*-Parſonage in the Evening, *Septemb.* 9. 1650. and there I heard a very mournful Cry, as if it had been one in extreme Pains; but who it was, I knew not, for it continued all the time I was at the door, which was well near a quarter of an hour; and ſo it continued when I went away. And then on the tenth day in the Morning I came to Mr. *Francis Pordage*, at the Parſonage of *Stanford-Dingley*, and he inquired of me, what I did think of the noiſe that I heard? I told him, I could not tell. Then he related to me, that the Lord was about a great Work in this Kingdom, and to this Nation. And the Cauſe of this Cry was one in Travail, and the Pains were ſo extreme, that had I ſtaid there but a little longer, I might have heard it as far as the Town; but now ſhe was delivered of a Man-Child, and the Travail was at an end, and that he and others were Witneſſes of it.

Mr. *Pordage*, Miniſter of *Stanford-Dingley*, ſworn and examined to the former Depoſition of *Richard Sawood.*

This Deponent being asked, Who it was that was in Travail of the Child in the ſaid Depoſition mentioned, and what became of it? To this Queſtion he anſwereth, That it was one Mrs. *Flavel*. And he further ſaith, That above four Years ſince, Mrs. *Flavel* was very earneſt in Prayer, on a day when they were faſting; which was at the time when one *Sawood* came to the door: the ſaid *Sawood* knocking, the Deponent went to the door to him. And he ſaith, he doth acknowledge that *Richard Sawood* did come to him (about the time mention'd in the Examination of the ſaid *Sawood*) to the Parſonage of *Stanford*; and he ſaith, it is probable he did ask the ſaid *Sawood*, what he did think of the Noiſe he heard in the Doctor's Houſe the day before? And that when the ſaid *Sawood* anſwered to this foregoing Queſtion, He could not tell, it is very probable the Deponent did relate to him, that the Lord was doing a great Work in this Kingdom, and to this Nation; and doth confeſs, that unadviſedly he told the ſaid *Sawood*, that the Cauſe of the foreſaid Cry was one in Travail; but doth not remember he ſpake any ſuch thing, as that the Pains were ſo extreme, as that, had he ſtaid longer, he might have heard it as far as the Town: but doth confeſs, that he ſaid ſhe was in Travail of a Man-Child, and that he and many others were Eye-witneſſes of it.

And being asked who it was that was in Travail? he anſwered, Mrs. *Flavel*. And being further asked, what became of this Man-Child? he anſwereth, It was the Birth, Death, and Reſurrection of Chriſt in her Nature. And being asked, How the Birth, Death, and Reſurrection of Chriſt, in the Nature of Mrs. *Flavel*, was ſo great a Work, that God was doing to this Nation? he anſwereth, He never ſaid any ſuch thing. And being further asked, Whether himſelf (being demanded what this Man-Child was) did not anſwer, The Child of Reformation? to this he anſwereth negatively.

He further ſaith, That this Travail of a Man-Child was not any natural Birth of a Child out of the Womb; but the Cry that was then made, was nothing elſe but the Groanings and Interceſſions of the Spirit in her Prayer.

'*Note*, This laſt part is the real Truth of the 'Buſineſs, which I could have proved by many Wit-'neſſes more, who were preſent in my Houſe at 'the time, and whom I had ready before the Court, 'to atteſt upon Oath, that there was no natural 'Travail, nor any natural Birth, nor any ſuch 'Child born; but only the Gentlewoman was 'then very earneſt in Prayer. But this was thought 'ſuperfluous, being that the Deponent Mr. *Por-'dage*, from the miſtake of whoſe Diſcourſe this 'came to be made an Article againſt me, cleared 'the Buſineſs himſelf by Oath. But how my 'Name hath ſuffered from this groundleſs Buſineſs, 'is known very well, both to my Friends and 'Enemies; ſome of which, as the Accuſer Mr. '*Fowler* for one, in open Court, ſcoffed at me, 'threatning to prove great things againſt me from 'this Depoſition of *Sawood*'s.'

To the 35th and 37th Articles;

Mr. *John Tickle* of *Abingdon*, ſworn again, and further examined, depoſeth, That a Summons being iſſued for the Appearance of *Suſanna Day*, the Meſſenger went for her, and met with her on Tueſday Night laſt, being the fifth Inſtant, at the Deponent's Houſe, and that ſhe was willing to come, and could not in regard of her Diſtemper at preſent: but the ſaid *Suſanna* having reported to ſeveral People in *Abingdon*, and particularly to the Deponent's Wife, that ſhe was at Dr. *Pordage*'s Houſe, and that the People there told her her Eyes were opened, and ſhe ſaid ſhe ſaw at that time the *New Jeruſalem* to come down from Heaven all of precious Stones, and ſo on, according as in the Article.

The ſaid *Suſanna* told the Deponent on the ſaid Tueſday Night, That the laſt time ſhe was at the Doctor's Houſe, ſhe ſaw the *New Jeruſalem* to come down from Heaven, a City four-ſquare, with Borders and precious Stones. And being asked, whether it was not her Fancy only? ſhe anſwered, ſhe ſaw it really.

The Deponent ſaith, That he asked the ſaid *Suſanna*, whether ſhe ſaw any Angels in the Doctor's Houſe? to which ſhe anſwered, No. But ſhe ſaid the Doctor's Daughter did ſee two Angels holding a golden Crown over her head.

Thus have I finiſhed this laſt Charge of Articles, being in number 37. Of theſe, 21 were paſſed

paſſed by without any Depoſitions brought to prove them; and of thoſe Articles to which ſomewhat was ſaid to prove them, moſt part was atteſted but by Hear-ſays and Reports from others; as the Depoſitions of Mr. *Fowler* the Accuſer, of Mr. *Woodbridge*, Mr. *Tickle*, and *John Grip*, clearly ſhew; which cannot be accounted ſo much as concurrent Teſtimonies, being they are not any way Teſtimonies in Law. The reſt were atteſted but by a ſingle Witneſs, (except thoſe of Viſions and Apparitions, which I acknowledged myſelf, and which are no way criminous, nor under the cognizance of thoſe Commiſſioners) *viz.* Mrs. *Grip*, who in her Teſtimony is not wholly poſitive, tho ſhe did ſwear very deſperately to two or three of the Articles; the Particulars of which are no way included in the Act of ſcandalous Opinions, as to their Nature or Time: for as to the laſt, I was ſo far from being accuſed within ſix Months after the pretended ſpeaking thoſe words, as it was four Years before they were alledged againſt me. Beſides, this Woman ſpeaking an Untruth upon Oath, was really perjured, and had been ſo proved, had I had juſt dealings from the Commiſſioners; whence in equity her Teſtimony is to be accounted invalid, as in Law it might have been, had my Witneſſes been but examined, who were ready to prove it.

Now as to that Article of Ignorance and Inſufficiency, I have before ſhewed, That the Depoſitions of *George Haſtlet*, brought to prove it, cannot in Juſtice and Equity weigh any thing to condemn me, for the Reaſons before expreſſed.

And now let the Reader conſider, whether Mr. *Fowler* was not very raſh, to proclaim in the open Court at *Newbury*, That if he did not prove the greateſt part of theſe Articles, he would be accounted a Slanderer. Which Title, whether he deſerves or not, I leave to the Judgment of the judicious Reader.

But to proceed; The Depoſitions on both ſides being ended, I preſented into the hands of Mr. *Dunch* the Chairman, this following Proteſtation, to be read publickly before the Court and the People; but they privately conſulting of it, would not ſuffer it openly to be read, but ſuppreſſed it, as before they did Mr. *Blagrave*'s Letter.

My Proteſtation was this:

I John Pordage *do ſolemnly avow and proteſt, before the all-ſeeing Eye of Almighty God, That I do maintain, hold, and embrace theſe following Principles of Divine Truth, as my real and avowed Judgment.*

1. That there is a Trinity of Perſons in the Unity of the Divine Eſſence, *viz.* The Father, Son, and Holy Ghoſt, diſtinct from each other.

2. That Chriſt is God, coeternal, coeſſential, and coequal with the Father, and therefore *Jehovah.*

3. That Chriſt is a perfect Saviour and Redeemer of his Church, and ſo more than a Type.

4. That Chriſt's Righteouſneſs is a moſt holy, pure, ſpotleſs, compleat, and perfect Righteouſneſs for the Satisfaction of loſt Sinners.

5. That the Blood of Chriſt is not only redeeming and ranſoming, in reference to Hell and Damnation, but alſo purchaſing in reference to Salvation, as having purchaſed an open Gate and Way to Glorification and Life eternal for purified Saints.

6. That all Arts of Necromancy, and black Magick, all Compacts with evil Spirits, whether explicit or implicit, direct or indirect, are unlawful, being againſt the Holy Scriptures, and never looked into or practiſed by me; but, on the contrary, abominated, even as they are to be deteſted and abhorred, not only by all Chriſtians, but by all Mankind.

7. That Polygamy, and all ſuch Practices that tend to the indulging of the Fleſh, are contrary to the Mind of God, and not to be owned by Chriſtians.

I do moreover diſown and reject theſe ſubſequent Poſitions, which are contrary to the former Principles.

1. As to maintain that there is no ſuch thing as Perſons in the Holy Trinity.

2. That Chriſt is not God; That Chriſt is not *Jehovah.*

3. That Chriſt was not perfect, and that he is no more than a Type.

4. That Chriſt's Righteouſneſs is a poor, vain, empty, and ſapleſs Righteouſneſs.

5. That the Blood of Chriſt is not meriting and redeeming Blood, or that it is a poor thing to live upon the Blood of Chriſt.

6. That it is lawful to have Communion with evil Spirits, or any Compact with them, explicit or implicit.

7. That it is lawful for a Man to keep company with more Women than one.

Now this moſt ſolemn Proteſtation I make in all Humility and Reverence before the Divine Majeſty, the Omnipreſent God, the Searcher of all Hearts, and from a true Intention, without any Veil or Covering, as I ſhall anſwer it at the great Day, when the Secrets of all Hearts ſhall be revealed. And now if you my Judges have not ſo much as a Grain of Faith, to believe this my cordial and ſolemn Proteſtation; let God, Angels, Saints, and all here preſent, bear witneſs that I have left every one of you inexcuſable.

And now having performed what I could, and what I thought myſelf obliged to do in reference to the Vindication of that pure Truth I own and live to; I am as ready to receive any Sentence from you, whether of Acquitment or Ejectment, as you are to deliver it.

'Now altho the Commiſſioners would take no 'notice of this ſolemn declaring of my Judgment, 'yet it is of great moment, as you may ſee by 'that Paſſage in the Ordinance, by which the 'Commiſſioners are to act, *pag.* 613. where it runs 'thus; *Such Miniſters ſhall be deemed and accounted 'ſcandalous in their Lives and Converſations, as ſhall be 'proved guilty of holding and maintaining ſuch blaſ-'phemous and atheiſtical Opinions*, &c. In which you 'ſee the time preſent is only reſpected: what 'then have the Commiſſioners to do to judge 'any for things many Years paſt, tho then guilty, 'as I never was, if now they diſown them, and 'own the contrary as their Judgment?'

But to proceed in relating the Tranſactions of the laſt Day of Tryal: After the Particulars before recited, Mr. *Dunch* the Chairman ſaid to me, If Mr. *Starkey* (being of Counſel for me) had any thing to preſent on my behalf, he might have liberty to ſpeak. Whereupon Mr. *Starkey* being deſired by me, recited all the Evidence, with much Acuteneſs, Method, and Judgment; ſhewing, That if they ſquared their Proceedings by the Rules of Law they were to act by, they could have no ground to give Sentence againſt me: which he demonſtrated

ted ſo clearly, by enumerating both the Teſtimonies on both ſides, and alſo the particular Laws and Privileges which freed me from the Imputation of any legal Guilt, that many, tho prejudiced Perſons, were much ſtaggered, doubting of the Iſſue in reference to Sentence. But after this Speech, we were all commanded to withdraw; and about an hour and a half after, we were called in again, and the Regiſter was commanded to proceed to Publication. Whereupon all the Depoſitions on both ſides were read: which being done, Mr. *Ford* was ordered by the Commiſſioners to make a Speech in juſtification of their intended Sentence againſt me; which Office he performed as wretchedly, as he undertook it willingly, miſrepreſenting the Evidence with confuſed Paraphraſes and Miſtakes, labouring to refute the Law of my Counſel's Speech, with ſuch Aſſertions as theſe, *viz.* That altho many of the Proofs brought againſt the Doctor, were not Proofs according to Law; yet to the Commiſſioners, who are a Court of Equity, and of an Eccleſiaſtical Juriſdiction, and ſo not obliged to judge according to poſitive Laws and Statutes, they were, and might be eſteemed ſufficient Proofs.

'Many ſuch Speeches as theſe he uſed, contrary 'to the Liberty of the Subject, the Rule of Rea'ſon and Scripture, endeavouring to perſuade the 'People, I was as monſtrous, as he and ſome o'thers had repreſented me in their Pulpits and 'Diſcourſes: but I ſhall ſay no more of him and 'his Speech, leaving them both to the righteous 'Judge of all things, who one day will juſtify, 'whom he and others of his way have condemned.'

After this Speech of Mr. *Ford*'s was ended, I deſired liberty of Mr. *Dunch*, the Chairman, to ſpeak ſomething to the People, in reply to ſome things Mr. *Ford* had untruly ſaid againſt me: but it would not be permitted.

Then I deſired them to receive in this my laſt Requeſt, and to weigh it ſeriouſly, before they proceeded to Sentence; which tho it was returned into my hand again before it was read, I ſhall here preſent, for the Satisfaction of the judicious Reader.

Gentlemen,

BEfore you proceed to Judgment, and paſs Sentence, I deſire you ſeriouſly to conſider theſe ſubſequent Particulars.

1. That I was according to Law acquitted of that Charge atteſted by Mr. *Tickle*, whence I produced my Diſcharge before you, which according to the Judgment of judicious Lawyers is undoubtedly legal, and will hold good, notwithſtanding all Pretenſions to the contrary.

2. That the Matters of the ſame Charge are acknowledged by the Witneſs to have been ſpoken a Year before that Act was made, intitled, *An Act againſt ſeveral Blaſphemous Atheiſtical Opinions*; to which the Commiſſion refers, as the Rule to judge of ſcandalous Opinions, which make a diſtinct Head from Matters of Ignorance and Inſufficiency, according to the Tenour of the Commiſſion.

3. That the ſame Act cannot take into cognizance any Crime for which the Offender was not accuſed within ſix Months after the committing of it; therefore nothing in either the firſt or laſt Charge that hath been any way proved, can be judged as an Offence againſt that Act.

4. In reference to my third or laſt Charge, there hath been nothing directly proved againſt me; but ſome Words and Expreſſions dropt from me in a private Diſcourſe to one ſingle Witneſs: which Expreſſions, as you ſee, are capable of a harmleſs Interpretation, being never owned in that ſenſe the Witneſs took them, as my avow'd Judgment, but ſolemnly diſowned, as contrary to it, and therefore incapable legally to prejudice me; for the former Act doth not make one an Offender for a Word, but for avowedly maintaining or holding forth in Words or Writing, any thing there prohibited.

5. That in reference to thoſe Words in both my Charges, which have been any way proved to have fallen from me, I never owned them as my Judgment, in that ſenſe my Accuſer takes them; but have openly denied and diſowned them: which therefore cannot render me guilty, either by the Law of that former Act, or by the Law of Scripture, which denounceth Judgment againſt thoſe who make a Man an Offender for a word, *Iſa.* 29. 20, 21. which deſerves your ſerious Conſideration.

6. That the particular Articles both of my firſt and laſt Charge, that ſeem to be of worſt conſequence, cannot juſtly be brought within the cognizance of that Act, according to the literal and genuine Scope of it; being chiefly made againſt the Principles and Practices of thoſe call'd Ranters.

7. That nothing of Scandal in Life and Converſation being proved againſt me, my free owning and confeſſing the Appearance of evil Spirits for ſome time in my Family, permitted by God, oppoſed and overcome by the Chriſtian Weapons of Prayer and Faſting, ought not in Equity to prejudice any againſt me, ſo as to ſway them in their Sentence or Judgment; I having cordially, ſolemnly, and ſincerely proteſted my Innocency, as to any Communion or Compact with evil Spirits: and that you would conſider that things of this nature, tho criminous, are not under the cognizance of the Act, but to be try'd by the Common Law, according to the uſual Cuſtom of this Nation.

8. That the Act of general Pardon doth clearly take away all legal Guilt from things done or ſpoken before 1651, that are not excepted in the ſaid Pardon. Now the Particulars of my firſt Charge, and all thoſe of my third or laſt, which ſeem to be of moment, and to be any way proved, were ſpoken or done before the Year 1651. Now this being the poſitive Judgment of able Lawyers, who have ſeen it experienced in things of more dangerous conſequence, may give you the Commiſſioners ſufficient ground of ſerious Reflections upon it.

9. That (according to the Judgment of wiſe, judicious, and knowing Men, your Commiſſion having been long ſince, and being now again under Conſideration and Debate, whether to be confirmed or altered) you the Commiſſioners in the interim have not compleat Power to act, eſpecially in reference to Sentence, Judgment, and Execution: which I believe is the reaſon why ſo few of the Commiſſioners have ſate, and why others that were at firſt ſo earneſt in their Proceedings, have ſince withdrawn themſelves.

10. That in reference to Judgment and Sentence concerning me, Scandal ought to be preſerved as an abſolute diſtinct Head from Ignorance and Inſufficiency, according to the Letter of your Commiſſion,

miſſion, and the undoubted Judgment and Intent of the Authors.

11. That the Teſtimony of any one, tho by Oath, concerning what another related to him touching a third Perſon, (*i. e.* the Defendant) is no Proof at all according to Law, being not ſo much as concurrent Teſtimony, if the Defendant deny it, and do not own it himſelf: Moreover, That the Teſtimony Mr. *Fowler* gave, is not legally valid; becauſe, beſides the former Reaſon, he is the Accuſer, and incapable to be witneſs, according to Law.

12. That in the Day of Sentence, Mr. *Dunch* and Mr. *Trapham* cannot by Law ſit as Judges, becauſe they condemned me long before Proof; threatning me before Witneſs, to turn me out of my Living, at the ſitting of this Parliament; and the laſt was a Witneſs againſt me. That Mr. *Fowler*, Mr. *Woodbridge*, and Mr. *Tickle*, cannot by Law ſit as Aſſiſtants to the Judges, or give their Votes in the Day of Sentence; the one being my Accuſer, the other two Witneſſes againſt me.

After I had delivered this to be read, and had received it again, we all withdrew; and about two hours after were called in again: when the Room being full of People, one Mr. *Lee* a Miniſter, the graveſt Man amongſt them, began a very formal Speech to me, in which he very rhetorically expreſſed what a grief and trouble it was to them to paſs Sentence againſt me, and that he durſt not judge that I then was guilty of holding thoſe monſtrous Tenents I was accuſed of; yet they muſt proceed *ſecundum Allegata & Probata*. Afterward he proceeded to give me many Exhortations and ſecret Reproofs, in which he with much Artifice made me guilty of all I was accuſed of. Whereupon, after I had heard him for a pretty ſpace, being very ſenſible of his diſguiſed prejudicing Diſcourſe, and his Deſign in it, I was forced to ſtop him, by replying, That if he had any brotherly Exhortations to give me, he might come in private with me: but thus to pretend to admoniſh and exhort me, yet really to repreſent me as guilty of all I was accuſed of, and that before the People, was the Cuſtom of the *Scribes* and *Phariſees*, who were wont to hide foul Deſigns under fair Colours, witneſs their Dealings with Chriſt. Whence I deſired him to ſpare his Admonitions, and to leave off twiſting ſuch ſilken Halters, ſaying, I was prepared for Sentence, and that I deſired him and the reſt to take heed of condemning and betraying the Innocent. Upon this, the Man being ſtruck ſomewhat ſilent, Mr. *Dunch* the Chairman commanded the Regiſter to do his Office; who preſently read the Sentence of my Ejectment in the open Court, which was then very brief, tho afterwards enlarged with many circumſtantial Aggravations, and great Untruths; as this following Copy ſent to me from the Clerk, on the next day after my Sentence, clearly ſhews.

Berks ſſ. *By the Commiſſioners appointed by Ordinance of his Highneſs the Lord Protector and his Council, for ejecting of Scandalous, Ignorant, and Inſufficient Miniſters and School-Maſters.* Reading, Dec. 8. 1654.

WHereas ſeveral Charges have been exhibited to us againſt Dr. *John Pordage*, Rector of *Bradfield* in this County, who hath given in ſeveral Anſwers in writing thereunto; and thereupon we have proceeded to Examination of ſeveral credible Witneſſes upon Oath, for proof of the ſaid Charges in open Court; which Witneſſes the ſaid Doctor hath been permitted fully and freely to croſs-examine: And the ſaid Doctor hath been required to produce his Witneſſes for his Juſtification, and to bring in his Interrogatories, upon which he would examine his ſaid Witneſſes, and hath had day after day aſſigned him for that purpoſe; but notwithſtanding hath peremptorily refuſed ſo to do, perſiſting in his own way, and refuſing to obſerve our Direction in his proceeding; and hath publickly, by his evil and contumacious Expreſſions, ſlighted and affronted the ſaid Commiſſioners, and inſtead of producing his Interrogatories in writing, according to our Order, he hath now verbally offer'd ſeveral Queſtions, which he deſires to have propounded to ſeveral of his ſaid Witneſſes, which the Commiſſioners (upon conſideration of) have judged impertinent to clear him from the Matters charged againſt him, but merely to delay and weary out the ſaid Commiſſioners; and therefore they have examined only to two of the ſaid Queſtions, which they conceived might ſomewhat tend to his Juſtification: And upon full hearing what the ſaid Doctor could ſay, and Mr. *Starkey*, of Counſel in his behalf, upon the whole matters; and upon due Conſideration, it appeareth that the ſaid Doctor is guilty of denying the Deity of Chriſt, and the Merit of his precious Blood and Paſſion; and hath aſſerted and maintained, That Chriſt was a Type, and but a Type, and not perfect, and that his imputative Righteouſneſs was ſapleſs, and ſeveral other helliſh Opinions; and is otherwiſe ſcandalous, as by the ſaid Depoſitions may more fully appear. And it is likewiſe declared, under the Hands of ſix of the ſaid Commiſſioners, and ſeveral Miniſters their Aſſiſtants, That upon the Matters proved againſt him, the ſaid Dr. *Pordage* is ignorant, and very inſufficient for the Work of the Miniſtry. It is therefore ordered, That the ſaid Dr. *Pordage* be, and he is hereby ejected out of the Rectory of *Bradfield* aforeſaid, and Profits thereof: But the ſaid Commiſſioners do grant him time to remove himſelf, Family, and Goods and Chattels out of the ſaid Parſonage-Houſe, till the ſecond of *February* next; and further time to remove his Corn out of the Parſonage-Barns, till the 25th of *March* next.

A True Copy, Mat. Langley *Regiſt.*

The

The Tryal of the Honourable Colonel JOHN PENRUDDOCK, 19 April, 1655. 7 Car. II.

UPON Thurſday the 19th of *April* 1655, the Commiſſioners of Oyer and Terminer being ſat in the Caſtle of *Exon*, ſummoned before them myſelf, Mr. *Hugh Grove*, Mr. *Richard Reeves*, Mr. *Robert Duke*, Mr. *George Duke*, Mr. *Thomas Fitz-James*, Mr. *Francis Jones*, Mr. *Edward Davis*, Mr. *Thomas Poulton*, and Mr. *Francis Bennet*. Being all called to the Bar, we were commanded to hold up our Hands, and an Indictment of High Treaſon was read againſt us: and being asked whether we would plead Guilty or Not Guilty to the Indictment, in the behalf of myſelf and of the Gentlemen therein charged, I ſpake as followeth.

Col. *Penruddock*. My Lords, tho my Education hath been ſuch, as not to give me thoſe Advantages which the Knowledge of the Laws would have aſſiſted me with, for the defending myſelf; yet upon the hearing this very Indictment, my Reaſon tells me that it is illegal: and therefore I do demand Counſel, that may diſpute the Illegality thereof.

Serjeant *Glyn*. Sir, you deſire that which cannot be granted; therefore give your Anſwer, whether you are Guilty or Not Guilty of the Treaſon of which you ſtand charged.

Col. *Pen*. Sir, by your favour, it is that which hath been granted to my Inferiours, *viz*. to Mr. *Lilburne*, and to one *Rolf* a Shoemaker; and I have as great a Right to the Laws, as any Perſon that ſits here as my Judge: I do therefore challenge it as my Right. Judge *Nicholas*, whom I there ſee, will tell you he himſelf was Counſel for this *Rolf*: and it is a hard caſe, if a free-born Gentleman of *England* cannot have the ſame Privilege that his Inferiours have had before him.

Attorney-General. Sir, there is a great difference between Treaſon acting and acted; the latter is your Caſe: therefore flatter not yourſelf, and do not think your being mute ſhall ſave your Eſtate in caſe of Treaſon; for if you plead not to the Indictment, Sentence will be pronounced againſt you, as if you had been found guilty of the Fact you are charged with.

Col. *Pen*. Sir, I obſerve your Diſtinction: but all the Logick you have, ſhall not make me nor any rational Man acknowledge, that this was either acting or acted, before it be proved. Sir, it is but a bare Suſpicion, and I hope you will not condemn me before I am convicted: I ſay the Indictment is illegal, and I do demand Counſel.

At. Gen. Sir, the Court muſt not be dallied withal: I do peremptorily demand of you, Are you Guilty or Not Guilty? If you plead, you may have favour; otherwiſe we ſhall proceed to Sentence.

Col. *Pen*. Sir, put caſe I do plead, ſhall I then have Counſel allowed me?

At. Gen. Sir, the Court makes no Bargains; refer yourſelf to us.

[Hereupon my Fellow-Priſoners perſuaded me to plead Not Guilty: which being done, I demanded Counſel, as being partly promiſed it. Mr. Attorney told me, I could have none. Then I reply'd;]

Col. *Pen*. Sir, *Durus eſt hic Sermo*, it is no more than I expected from you; but rather than I will be taken off unheard, I will make my own Defence as well as I can.

[The Jurors being then called, I challenged about 24 of the 35 I might have challenged. The reſt of the Gentlemen were ſent from the Bar, I was left alone upon my Tryal; and the Jurors were ſo pack'd, that had I known them, the Iſſue had been the ſame that it was. The Jurors being ſworn, and the Indictment again read, Mr. Attorney demanded what Exception I could make to it.]

Col. *Pen*. Sir, I except againſt every part thereof; for I take it to be illegal *in toto Compoſito*.

Record. *Steel*. Sir, it is not uſual for any Court to admit of general Exceptions, therefore we expect that you ſhould make it to ſome Particular.

Col. *Pen*. Sir, I deſire a Copy of my Indictment, and time until to-morrow to make my Defence.

At. Gen. Sir, you cannot have it; the Court expects you ſhould do it now.

Col. *Pen*. Then if I cannot have time, if my general Exception might have been admitted, it would have told you, That there can be no High Treaſon in this Nation, but it muſt be grounded either upon the Common or Statute Law. But this is neither grounded upon the Common Law, or the Statute; *ergo*, no Treaſon, (againſt a Protector, who hath no Power according to Law:) neither is there any ſuch thing in Law as a Protector, for all Treaſons and ſuch Pleas are *propria Cauſa Regis*.

Serj. *Glyn*. Sir, you are peremptory, you ſtrike at the Government; you will fare never a whit the better for this Speech: ſpeak as to any particular Exception you have to the Indictment.

Col. *Pen*. Sir, if I ſpeak any thing which grates upon the preſent Government, I may confidently expect your Pardon: my Life is as dear to me, as this Government can be to any of you. The holy Prophet *David*, when he was in danger of his Life, feigned himſelf mad, and the Spittle hung upon his Beard: you may eaſily therefore excuſe my Imperfections. And ſince I am now forced to give you my particular Exception (more plainly) to the Indictment, I am bold to tell you, I obſerve in the latter part of the Indictment, you ſay I am guilty of High Treaſon, by virtue of a Statute in that caſe made and provided: If there be any ſuch

Statute, pray let it be read; I know none such. My Actions were for the King; and I well remember what *Bracton* saith, [5 *Tract. de Delatis cap.*] *Rex non habet superiorem nisi Deum; satis habet ad pœnam, quod Deum expectat ultorem.* And in another place he saith, [*Bract. Rem. H.* 3. *cap.* 3. *sect.* 24.] *Rex habet potestatem & jurisdictionem super omnes qui in Regno suo sunt: ea quæ sunt jurisdictionis & pacis, ad nullum pertinent, nisi ad regiam Dignitatem; habet etiam coercionem, ut Delinquentes puniat & coerceat.* Again he saith, *Omnes sub Rege, & ipse nullo nisi tantum Deo; non est inferior sibi subjectis; non parem habet in Regno suo.* This shews us where the true Power is: You shall find also,

That whoever shall refuse to aid the King when War is levied against him, or against any that keep the King from his just Rights, offends the Law, and is thereby guilty of Treason. [*Parl. Rol. num.* 7.] Again

All Men that adhere to the King in personal Service, are freed from Treason by Law: [*Rex & Consuetudo Parliament.* 11 *H.*7. *cap.* 1.] And yet you tell me of a Statute, which makes my adhering to my King according to Law, to be High Treason: Pray let it be read.

Attorn. Gen. Sir, you have not behaved your self so as to have such a Favour from the Court.

Col. *Pen.* I require it not as a Favour, but as my Right.

Attorn. Gen. Sir, you cannot have it.

Col. *Pen.* If I cannot have it, these Gentlemen that are the Jurors, have not offended you, their Verdict reaches to their Souls, as to my Life; pray let not them go blind-fold, but let that Statute be their Guide.

Attorn. Gen. Sir, The Jury ought to be satisfied with what hath been already said, and so might you too.

Col. *Pen.* Sir, I thank you; you now tell me what I must trust to.

Mr. Attorney then made a large Speech in the Face of the Court, wherein he aggravated the Offence with divers Circumstances; as saying, I had been four Years in *France*, and held a Correspondency with the King my Master, of whom I had learned the Popish Religion; That I endeavoured to bring in a debauch'd lewd young Man, and to engage this Nation in another bloody War; and that if I had not been timely prevented, I had destroyed them, (meaning the Jurors) and their whole Families. I interrupted him, and said,

Col. *Pen.* Mr. Attorney, you have been heretofore of Counsel for me; you then made my Case better than indeed it was: I see you have the Faculty to make Men believe Falshoods to be Truth too.

Attorn. Gen. Sir, you interrupt me; you said but now you were a Gentleman.

Col. *Pen.* Sir, I have been thought worthy heretofore to sit on the Bench, though now I am at the Bar. Mr. Attorney then proceeded in his Speech, and called the Witnesses. Then I said,

Sir, you have put me in a Bear's Skin, and now you will bait me with a witness. But I see the Face of a Gentleman here in Court, (I mean Captain *Crook*) whose Conscience can tell him, that I had Articles from him which ought to have kept me from hence. Captain *Crook* hereupon stood up, and his guilty Conscience (I suppose) advised him to sit down again, after he had made this Speech, (that is to say) he opened his Lips and spake nothing. The several Witnesses now come in, Mr. *Dove* the Sheriff of *Wilts*, and others; my Charity forbids me to tell you what many of them swore: I shall therefore omit that, and only tell you that one of our own Party (and indeed I think an honest Man) being forc'd to give his Evidence; I said, My Lords, it is a hard case, that when you find you cannot otherwise cleave me in pieces, that you must look after Wedges made of my own Timber. The vertuous Cryer of *Blanford* being asked what were the words I used in the proclaiming King *Charles* at the Market? he said, I declared for *Charles* the Second, and settling the true Protestant Religion; for the Liberty of the Subject, and Privilege of Parliaments.

Then I said to the Attorney-General and the whole Court, You said even now, that I had learn'd of the King my Master the Popish Religion, and endeavoured to bring him in: your own Witness tells you what, and whom I would bring in; and that it was the true Protestant, and not the Popish Religion, his Majesty is of, and intends to settle. I urged divers Cases to make the Business but a Riot (as my Lord of *Northumberland*'s) pretending it was for the taking of Taxes; and that the Power was not declared to be where they say it is. I required the Judges to be of Counsel for me, and told them it was their Duty. Commissioner *Lisle* told me I should have no Wrong, (but he meant Right) but Judge *Rolle* and *Nicholas* confessed themselves Parties, therefore would say nothing. Then I told the Court, if I had seen a Crown upon the Head of any Person, I had known what had been Treason; the Law of *England* would have taken hold of me, out of the Respect it has to Monarchy: There were no such Land-marks before me, therefore I conceive I cannot be guilty of what I am charged with. And my Lord, and Mr. Attorney, you here indict me for a Treason committed at *South-moulton* in *Devonshire*; and, Gentlemen, ye swear Witnesses against me for Facts done in other Countries; *Sarum*, *Blanford* and *South-moulton* are not in a Parish. You puzzle the Jurors with these Circumstances, pray go to the Kernel. And you, Gentlemen of the Jury, save your Labour of taking those Notes. Mr. Attorney then addressed himself to the Jury; and to be short, after the space of half an Hour long, gave them Directions to bring me in guilty. This being done, I craved the Favour from the Court, that I might speak to the Jury; which being allowed, I said to them as followeth, or to the same effect.

Gentlemen, You are called a Jury of Life and Death; and happy will it be for your Souls, if you prove to be a Jury of Life. You have heard what hath been said to make my Actions Treason; and with what Vigour many Untruths have been urged to you. I have made appear to you, that there can be no Treason but against the King; that the Law knows no such Person as a Protector. Mr. Attorney pretends a Statute for it, but refuseth the reading thereof either to me or you; vilifies me at pleasure, and tells you I am a Papist, and would bring in the Popish Religion; and that if I had not been timely prevented, I had destroyed you. I hope you are also satisfied of the contrary, from the Mouth of one of the bittrest Witnesses. You are now Judges between me and these Judges. Let not the Majesty of their Looks, or the Glory of their Habits, betray you to a Sin which is of a deeper Dye than their Scarlet: I mean that Sin, Blood; which calls to Heaven for Vengeance. Gentlemen, you do not see a Hair of my Head but is numbered, neither can you make any one of them, much less can you put Breath into my Nostrils when it is taken out: A Sparrow doth not fall to the Ground

Ground without the Providence of God, much leſs ſhall Man, to whom he hath given Dominion and Rule over all the Creatures of the Earth. Gentlemen, look upon me, I am the Image of my Creator, and that Stamp of his which is in my Viſage, is not to be defaced, without an Account given wherefore it was. I have here challenged, as I am a Gentleman, and free-born Man of *England*, the Right which the Law allows me; I demanded a Copy of my Indictment and Counſel, but it is denied me. The Law which I would have been tryed by, is the known Law of the Land, which was drawn by the wiſe Conſultation of our Princes, and by the ready Pens of our Progenitors. The Law which I am now tryed by, is no Law, but what is cut out by the Point of a rebellious Sword; and the Sheets in which they are recorded, being varniſhed with the Moiſture of an eloquent Tongue, if you look not well to it, may chance to ſerve for ſome of your Shrouds. If the Fear of diſpleaſing others, ſhall betray you to find me guilty of any thing, you can at the moſt but make a Riot of this. Pray, by the way, take notice, that the laſt Parliament would not allow the Legiſlative Power to be out of themſelves; ſeventeen of twenty in this very County were of that Opinion, and deſerted the Houſe; they were your Repreſentative: if you ſhould find me guilty, you bring them in danger, and in them your ſelves. Have a care of being drawn into a Snare. Gentlemen, your Blood may run in the ſame Channel with mine: If what I have ſaid do not ſatisfy you, ſo as to acquit me; if you bring a ſpecial Verdict, you do in ſome meaſure acquit your ſelves, and throw the Blood that will be ſpilt upon the Judges. Conſider of it, and the Lord direct you for the beſt.

The Jury, after a quarter of an Hour's Retirement, brought me in guilty: The Lord forgive them, for they knew not what they did.

Upon Monday the 23d of *April*, we were again called to the Bar, being then in number twenty-ſix. Serjeant *Glyn* asked of me firſt, what I could ſay for my ſelf, that I ſhould not have Sentence according to Law? Then I ſaid,

My Lords and Gentlemen, you ask what I can ſay for my ſelf, that I ſhould not have Sentence paſſed upon me. The Jury found me guilty: if I ſhould go about to make a Defence now, it would ſignify no more than as if my Friends ſhould petition for my Pardon after I am executed. I could have offered you Articles here, but I thought them inconſiſtent with this Court. When I look upon my Offence (as to the Protector) I conclude my ſelf a dead Man; but when I reflect upon the Favour he hath ſhewed to others of my Condition, and the Hopes I have of your Interceſſion, methinks I feel my Spirits renewed again. My Lords, Death is a Debt due from me to Nature; the Protector has now the keeping the Bond, and has put it in ſuit by his Attorney; if he pleaſe to forbear the ſerving me with an Execution, and let me keep it a little longer, I will pay him the Intereſt of Thanks for it as long as I live, and engage my Poſterity and a numerous Alliance to be bound for me. So the Lord direct you all for the beſt. If I have found Favour, I ſhall thank you; if not, I ſhall forgive you.

This being done, Serjeant *Glyn*, after a moſt bitter and nonſenſical Speech, gave Sentence againſt us; *viz.* to be drawn, hanged and quartered. A pretty Exchange for unworthy *Crook*'s Articles for Life, Liberty and Eſtate; which I can prove, and will die upon. My Tryal held at leaſt five Hours. This is as much as at preſent I can remember of it; excuſe the Errors.

One of the Jury being asked by a Gentleman, why he found me guilty? anſwered, He was reſolved to hang me, before he did ſee me.

I obſerve Treaſon in this Age to be an *individuum vagum*, like the Wind in the Goſpel, which bloweth where it liſteth; for that ſhall be Treaſon in me to day, which ſhall be none in another tomorrow, as it pleaſeth Mr. Attorney.

The Judges are ſworn to do Juſtice according to the Law of the Land [*3 Part Inſt. pag.* 22. *2 Part Inſt. pag.* 47, 48. Prince's *Caſe.* 8 *Report.*] and therefore have miſerably perjured themſelves in condemning me contrary to Law: And (not ſo contented) muſt cauſe the Jury (ſo wiſe they were) through their falſe and unjuſt Directions, to deſtroy their own Rights and Properties, and ſet up a new Arbitrary and Tyrannical Government.

The Judges would not give me their Advice in point of Law, (as was their Duty) becauſe they ſaid they were Parties; yet could ſit ſtill on the Bench in their Robes, to countenance, and approve of my Sentence.

No Man can be a Judge where he is a Party in the ſame Cauſe; [*Hobart fol.* 120. Doct. *Bonam*'s Caſe, 8 *Part* of *Coke*'s *Reports.*] therefore my Tryal was contrary to Law.

The Judges being Parties, ought not to ſit upon the Bench, but ſtand by; therefore my Tryal was illegal: the reſt being no Judges, but the Protector's immediate Servants, ſo could not be my Judges in caſe of High Treaſon; for none but the ſworn Judges of the Land are capable of it by Law.

One thing of Colonel *Dove*, the reverend Sheriff of *Wilts*, who, that the Jury might be ſufficiently incenſed, complaining of the many Incivilities (he pretended) were offered him by our Party, being upon his Oath, ſaid, That one of our Men did run him through the Side with a Carabine. Surely it was a very ſmall one, for the Wound is not diſcernable.

A great deal of pains every Man in his place took for the carrying on his Maſter's Work.

Be merciful unto me, O Lord, be merciful unto me: under the Shadow of thy Wings will I hide my ſelf, till this Tyranny be overpaſt.

Glory to God on high, in Earth Peace, Good-Will towards Men; and ſo have Mercy on me, O Lord.

JOHN PENRUDDOCK.

A Report from the Committee, to whom the Tryal of James Nayler *for Blaſphemy, and other Miſdemeanours, were referr'd.* 8 Car. II. 1656.

Reſolved,

THAT the Matter of Fact, together with the particular Reſolutions of this Committee thereupon, be reported to the Houſe.

First, I ſhall give you the ſhort Hiſtory of his Life, as the Committee had it from his own Mouth. He ſaith he was born in the Pariſh of *Ardiſloe*, near *Wakefield* in *Yorkſhire*, where he lived 22 or 23 Years, till he was married (according to the World) as he expreſſed it. Then he removed into the Pariſh of *Wakefield*, where he continued till the laſt Wars began; during which time he was under ſeveral Commands, and at laſt was Quartermaſter in Major-General *Lambert*'s Troop; in which Service he continued till diſabled by Sickneſs in *Scotland*, and ſo retired to his own Home: about which time he was a Member of an Independant Church at *Horbery* in *Yorkſhire*, of which Church Mr. *Chriſtopher Marſhal* was Paſtor; and by the ſame Church ſince caſt out (as himſelf confeſſeth he hath heard:) by which Church he was charged as guilty of Blaſphemy, and uncivil and wanton Cariage with one Mrs. *Roper* a married Woman, as that ſhe ſhould ſit on his Knee, and kiſs him before divers other Perſons; and that it was his Opinion, he might lie with any Woman that was of his Judgment. And then after ſome time went to viſit the Quakers in *Cornwall*, and by his way was by Major *Saunders* committed to the common Goal in *Exon*, as a Vagrant; And thence he and his Company being delivered by an Order from the Council, they travelling to *Briſtol*, in the way *Nayler* took upon him, as was alledged againſt him. And as he paſſed through *Chewſtoke* in the County of *Somerſet*, towards *Briſtol*, it is informed upon Oath, certified by three Juſtices to the Committee, That ſtaying in that Town one Night, he was there in a Chamber with three Women of his Company, leaning upon the Bed with one of them at Night when the Servant of the Houſe left them: And in the Morning the Servant found *Nayler* on the Bed with one of the Women, and the Curtains drawn; and ſome of the Company wiſhed the Servant to make no noiſe to awake them.

The way taken in this Report, will be,

First, To give you the Articles charged againſt him.

Secondly, The Evidence, wherein there will be a little mention of the Examinations and Informations upon Oath taken at *Briſtol*; againſt which, becauſe there lies a ſeeming Objection, I ſhall firſt clear that upon the Matter of Fact.

The Objection was, That they were not read again to the Parties, as is uſual in ſuch Caſes.

Anſwer. That two Witneſſes, both of more than ordinary good Repute, in that place were both put, and took Characters of the Queſtions and Anſwers there; and comparing their Notes, did both of them publickly avow to the Committee, as that which they were ready to depoſe, That every material Paſſage was read unto the Parties once or twice after they writ it down; and that they were the ſame which were offered to the Committee, atteſted under the Mayor of *Briſtol*'s Hand to every of the ſaid Examinations and Informations, and the City Seal annexed to the whole. And beſides, there is nothing in the ſaid Examinations and Informations taken there, but what is generally more clearly made out upon their Examinations before the Committee.

Other Evidence will be from *Nayler*'s Examination, wherein is moſt of this whole Matter, which was taken in Characters by five of the Committee, who were appointed to, and did compare their Notes.

Thirdly, The Opinion of the Committee.

The whole Fact will fall under one of theſe two Articles.

First, *James Nayler* did aſſume the Geſture, Words, Honour, Worſhip and Miracles of our bleſſed Saviour.

Secondly, The Names and incommunicable Attributes and Titles of our bleſſed Saviour.

As to part of the firſt Article, That *James Nayler* riding through a Town in *Somerſet*, his Company ſpread their Garments, and ſang, Holy, Holy, before him; and alſo ſang the like at his Entrance into *Briſtol*, one going bare-headed before his Horſe:

The Evidence was, That *Dorcas Erbury*, in her Examination before the Committee in the Painted Chamber, confeſſed, That ſhe did ſpread Garments before him. And *Martha Simmons* in her Examination at the ſame time ſaith, That thoſe Garments that ſhe did ſpread, ſhe ſpread in obedience to the Lord. And *Hannah Stranger* being then alſo examined, ſaid, ſhe threw two Handkerchiefs before him, which ſhe did, becauſe he that is Lord of all commanded her ſo to do. And

John Stranger confeſſeth, that he ſaw others ſpread Garments before him in the way from *Exon* to *Briſtol*. And

James Nayler himſelf confeſſeth (upon the Queſtion, Whether Garments were ſpread before him?) That ſome Clothes were caſt down, and afterwards, that ſome Gloves and other things.

The Evidence for ſinging Holy, Holy, was thus: *Dorcas Erbury*, in her Examination at *Briſtol*, being then asked, Why ſhe paſſed along ſinging? ſaid, She did not do it; but they that did it, were commanded to do it: and the Lord hath made it manifeſt, that they were moved of the Lord to do it. And being asked, To whom they ſang? and whom they called the *Holy One of* Iſrael? ſhe ſaid, Him that rode upon the Horſe; and ſhe would maintain it with her Blood. And being examined by the

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Committee as to this part of the Examination, and adviſed to deny, if it were falſe; yet did not deny it, though ſhe did ſome other part of that Examination.

Martha Simmons being examined in the Painted Chamber, Whether ſhe did ſing the words, Holy, Holy, before the ſaid *James Nayler?* anſwered, It is my Life to praiſe the Lord, whether he be before me, or from me, it is my Life to praiſe the Lord. And being asked, Whether ſhe heard any Perſons ſing Holy, Holy, before the ſaid *James Nayler?* ſhe anſwered, It is our Life to praiſe the Lord.

Hannah Stranger being examined in the Painted Chamber, Whether ſhe ſang the words, Holy, Holy? anſwered, She could not well remember the words; but if ſhe did not ſing Holy, Holy, ſhe witneſſeth the Holy of Holies was riſen, which moved her ſo to do: but ſaid further, ſhe did not ſtand there to accuſe her ſelf.

James Nayler being examined by the Committee, whether any ſang Holy, Holy, before him as he rode? anſwered, There were Praiſes ſung to the Lord. And being asked, whether thoſe words, Holy, Holy, were ſung? anſwered, That he heard thoſe words. And being asked as to the ſinging before him when he rode into *Briſtol*, anſwered, That there was a Pſalm ſung, ſuch a one as the Lord was pleaſed to give into the Hearts of them that ſang. And being asked as to the words of the Pſalm, whether they were not Holy, Holy? ſaid, It may be it was; very like it might be ſo.

And in his Examination at *Briſtol*, being asked why he came in there in ſuch an unuſual manner, two Women leading his Horſe, and ſinging, with one bare before him? ſaid, It was for the Praiſes of his Father; and that he may not refuſe any thing that is moved of the Lord: and that he did think the Father did command them to do it. And being there asked, Whom they meant by the word *Holy* that they ſang? he anſwered, That they that ſang were all of Age to anſwer for themſelves.

And this ſpeaks ſomething for the proving of another part of the firſt Article, vindicating one going bare-headed before him, and Women leading his Horſe; which is more fully proved by the Informations upon Oath of *George Witherley* and *Richard Hart*, taken at *Briſtol*, before the Mayor there, and certified as aforeſaid; and upon the Confeſſion of one *Thomas Woodcock* before the ſaid Mayor, who went bare-headed before *James Nayler*, and ſaid he was moved by the Spirit ſo to do. And *James Nayler* himſelf, upon his Examination by the Committee, when he was asked, Whether any went bare-headed before him as he went into *Briſtol?* anſwered, He did not know, he took little notice of it, but heard ſome ſay it was ſo. And being asked whether any Women led his Horſe? anſwered, There was a Woman took hold of the Bridle of the Horſe.

Reſolution of the Committee upon this whole Evidence.

The Committee were of Opinion, that the firſt Article was proved.

One thing alſo, being part of the Matter of Fact, we think worthy your Knowledge, though much Streſs will not be laid on it; and that is, That the Deſcription of our Saviour by *Publius Lentulus* to the Senate of *Rome* in Writing, (which is alſo imprinted) was taken upon one of *James Nayler*'s Attendants, which is alſo certified by the ſaid Mayor. And for *Nayler*'s Hair, both Colour and Manner of wearing it, as alſo the Faſhion of his Beard, and Feature and Perſon, did much agree with that Deſcription; which alſo was taken notice of by many of the Committee, how much he reſembled (as they apprehended with ſome Affectation) the Picture uſually drawn for our Saviour.

That in divers Anſwers he imitated our Saviour Jeſus Chriſt, uſing the ſame Expreſſions that he did; in one place he ſaith, That he lived ſome Weeks, fifteen or ſixteen Days, without any Food or other Suſtenance; and being asked, wherewithal God fed him, if not with Food? anſwered, *Man liveth not by Bread alone, but by every Word which proceedeth out of the Mouth of the Lord:*

I ſhall here mention one remarkable one in his Examination at *Briſtol*: his Expreſſion was, If they had known the Father, they ſhould know him alſo. And *Nayler* being examined by the Committee to this, Whether that were his Anſwer at *Briſtol?* he anſwered in theſe Words; Truly I can ſay little of that, whether I did ſay it or no; but if I did ſay it there, it is true: for if any one do know the Father, they ſhall know what I am, and where I live; and none can know my Life further than they know the Father; for the Father is my Life: none can know my Life, but they that know my Father; for he is my Life. This I particularly mention, being commanded by the Committee, who reſolved, That this whole Anſwer of *James Nayler* be reported to the Houſe.

Another part of this Article was, That he received the outward Worſhip of being kneeled unto, and having his Feet kiſſed. And for this the Evidence was

Martha Simmons, in her Examination at *Briſtol*, ſaid, She ought to worſhip him, but here denied.

And further the Evidence went, That after his Impriſonment at *Briſtol*, it appeared by the Information upon Oath at *Briſtol*, to wit, of *Thomas Perkins* and *Thomas Cole*:

Thomas Perkins informeth, That *Dorcas Erbury* fell down at *Nayler*'s Feet, and kiſſed his Feet; and the ſame Evening one *Alice Brock* fell on her Knees before the ſaid *Nayler*, and *Nayler* put his Hands upon her Head, and ſaid, Stand faſt, *&c.*

Thomas Cole informeth, That the 25th of *October Martha Simmons* and *Hannah Stranger* being called out of *Nayler*'s Room into their own Lodging, they one after another kneeled before *Nayler*, and laid their Heads on his Knees; and he laid his Hands on their Heads, making a groaning Noiſe within himſelf; and before they roſe from their Knees, he croſſed his Hands over their Heads. And *Hannah Stranger* at her Examination before the Committee, confeſſed, That ſhe kneeled at *James Nayler*'s Feet and kiſſed them. And others being demanded concerning theſe Actions, would give no Anſwer. And

James Nayler being examined, whether any kneeled and kiſſed his Feet, anſwered, That there might be ſuch things, though he did not mind it, being things that he did not glory in.

As for his doing of Miracles particularly, *Dorcas Erbury* ſaith, That ſhe was dead in *Exeter* Goal two Days, and that *Nayler* laid his Hands upon her, and raiſed her; which ſhe affirmed in her Examination at *Briſtol*, and did not deny when examined as to this by the Committee.

To which *Nayler* being examined whether *Dorcas Erbury* was dead in *Exon* Goal, as in her Examination, anſwered, If you ſpeak of ſuch a Death as you may underſtand, ſhe was dead. Being further asked, How ſhe was dead, in his Underſtanding? anſwered, I ſhall ſay little of my ſelf in that thing.

thing. And being further asked, whether he raiſed her from the dead? anſwered, I can do nothing of my ſelf. Being asked, whether any other did raiſe her by his Hands, and if he laid his Hands upon her? anſwered, There is a Power in me from above. And being demanded, whether he had ſuch a Power as to raiſe from the dead? anſwered, I have ſaid before, I cannot bear witneſs of my ſelf in the thing. And being asked, who bore witneſs of him? anſwered, The Scriptures do bear witneſs to the Power which is in me, which is everlaſting. And being demanded, whether he raiſed from the dead by virtue of that Power? anſwered, I can do nothing but what the Power doth in me: and it is the ſame Power whereof you read in the Scriptures, that hath raiſed the Dead, according to the Meaſure of the Power manifeſt.

And being asked, whether that Power were manifeſt in ſuch a manner in him as to raiſe *Dorcas Erbury* from the dead? anſwered, I have ſaid; I ſhall not ſatisfy in words concerning the thing further than only this, that you may clearly underſtand that wherein *Dorcas Erbury*, or any elſe do attribute unto me, as to a Creature that hath Beginning and Ending, that I utterly deny; but that that any ſee of God in me, by the ſame Spirit that revealed any thing to them, that I do not deny. This may ſerve at one word; for there cannot be a more abominable thing than to take from the Creator, and give to the Creature: the ſame Power which did raiſe from the dead, which you read in the Scripture, the ſame Chriſt, the ſame Anointing according to the Meaſure of him, is manifeſt in me, and no other. And being asked, if any prayed to Chriſt in him, whether he did diſown it? anſwered, As a Creature I do diſown it.

Theſe things and divers others we have reported as part of the Matter of Fact.

Second Article: That the ſaid *James Nayler* aſſumed the Name, and the incommunicable Attributes and Titles of our bleſſed Saviour: as firſt,

The Faireſt of Ten Thouſand.

As for this, the Evidence was in a Letter of *Hannah Stranger*, found about him at *Briſtol*, ſhe giving him the Title of *the Faireſt of ten thouſand*: which upon her Examination at *Briſtol* and before the Committee, ſhe confeſſed ſhe wrote to him in her Letter. And *James Nayler* being asked by the Committee, whether any ſuch Title as *the Faireſt of ten thouſand*, had been given to him in any Writing or Letter? he anſwered, To what they did in the Letter, if they gave it to me as to the viſible, then I do deny it; but if they ſpeak it to that begotten of the Father in me, then I dare not deny it. And being willed to repeat that Anſwer again, he ſaid, If they ſpeak it as to the viſible, as to that which is earthly, then I deny any ſuch thing belonging to me in that Senſe: but if they ſpeak it to that which the Father hath begotten in me, then I dare not deny it; becauſe that (as he ſaid) is beautiful, wherever it is begotten. And in his ſecond Examination before the Committee, his Anſwer was to the ſame effect.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion, That *James Nayler* had aſſumed the Title of *the Faireſt of Ten Thouſand.*

The Only-begotten Son of God.

And for that the Evidence was, That *Hannah Stranger* in the ſaid Letter gave him that Title: And being demanded whether he did aſſume that Title, anſwered in theſe words; That there are many Sons beſides, yet the Son of God I muſt witneſs, and dare not deny: The Son of God I am, and dare not deny. And being often preſſed to give a direct Anſwer, whether he were the only-begotten Son of God? anſwered thus; I am the Son of God, but I have many Brethren; and again ſaid, I have many Brethren, though ſome of them do not yet know me. And being urged to confeſs or deny it, anſwered in theſe words; I have anſwered, that I have given of my Father to ſpeak for the preſent unto that thing. Being asked, whether he were the only-begotten Son of God? he anſwered, Thou haſt ſaid it. Which Queſtion and Anſwer being repeated to him as his Anſwer, he anſwered, Do not enſnare the Innocent. And upon his Examination taken, certified and atteſted, as aforeſaid, being asked, whether he be the only-begotten Son of God? anſwered, That he was the Son of God; and that the Son of God was but one.

But being examined by the Committee as to this part of his Examination at *Briſtol*, he affirmed, that this was not his Anſwer.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion, That the Title of *the only-begotten Son of God*, was given to *James Nayler*. And being demanded whether he aſſumed that Title, he did not deny it.

The Prophet of the Moſt High.

This Title we find given him in a Letter to *Nayler* from one *Jane Woodcock*, found about him at *Briſtol*. And being examined there upon that Clauſe in the Letter, he anſwered, That he was the Prophet of the moſt high God.

And *Martha Simmons*, upon her Examination at *Briſtol*, ſaid, There was a Time when *James Nayler* was a true Prophet of the moſt high God, but now he is gone beyond, and is in the Adminiſtration of Peace, and is the Beloved of the Lord.

James Nayler being examined by the Committee, whether he owned this Title of *the Prophet of the moſt high God?* he anſwered, Yea, I am a Prophet of the moſt high God. And being preſſed to anſwer whether he were the Prophet, he anſwered, There be other Prophets beſides me. And being preſſed again with the ſame Queſtion, anſwered, I have ſaid what I may, as to that thing in the Counſel of my Father.

Upon this his Confeſſion at *Briſtol*, and Anſwer as aforeſaid,

Reſolution of the Committee.

The Committee were of Opinion, That *James Nayler* had aſſumed the Title of *the Prophet of the moſt high God.*

The King of Iſrael.

And for this the Evidence was, We find in a Letter from one *Thomas Symmons* this Title given to

to *James Nayler*; and in the Examination of *Dorcas Erbury*, taken at *Briſtol* aforeſaid, we find ſomething to this purpoſe; who being asked why ſhe pulled off his Stockings, ſhe anſwered, Becauſe he is the Holy One of *Iſrael*, and deſerves and is worthy of it.

And *Martha Simmons*, upon her Examination at *Briſtol*, ſaith, That *James Nayler*'s Name is now buried, and that he is anointed King of *Iſrael*. To which being examined by the Committee, expreſly owned the Examination as to that to be true, and the thing itſelf: But becauſe this varies a little from the Charge, and faſtens it not altogether upon *James Nayler*, they had this further Proof: *James Nayler*, in his Examination at *Briſtol*, being asked whether he were the King of *Iſrael?* anſwered, Thou haſt ſaid. To this *James Nayler*, being examined by the Committee, whether this Queſtion were ſo demanded as aforeſaid? he anſwered, That it was not asked by way of a Queſtion, whether he were the King of *Iſrael*, but that the Examiner did poſitively affirm, Thou art the King of *Iſrael*; to which he anſwered, Thou haſt ſaid it. And being particularly examined by the Committee, whether he did own the Title of the King of *Iſrael?* he anſwered in theſe Words, I have no Kingdom in this World, yet a Kingdom I have; and he that hath redeemed me, hath redeemed me to be a King for ever. And being examined again to the ſame Queſtion, whether he owned the Title of the King of *Iſrael*? he anſwered, As a Creature, I deny any ſuch Thing, further than as God manifeſted in the Fleſh: And if they gave that Title to Chriſt in me, then I do own it.

Reſolution of the Committee.

Upon this Evidence the Committee were of opinion, That *James Nayler* aſſumed the Title of the King of *Iſrael*.

The Everlaſting Son of Righteouſneſs.

This we find given to him in a Letter by *Hannah Stranger* in theſe Words, Thou Everlaſting Son of Righteouſneſs. And *Martha Symmons*, in her Examination at *Briſtol*, calls him Lord of Righteouſneſs; which ſhe alſo affirmed before the Committee. And *James Nayler* himſelf being examined by the Committee, whether any Perſon had given him that Title of the Everlaſting Son of Righteouſneſs? he anſwered, Where God is manifeſted in the Fleſh, there is the Everlaſting Son of Righteouſneſs. And being asked twice, whether God was manifeſted in the Fleſh in him? anſwered both times, God manifeſt in the Fleſh I witneſs, and may not deny.

Prince of Peace.

This we find given him in a Letter by the ſaid *Hannah Stranger*; and in her Examination at *Briſtol* ſhe owned him to be the Prince of Peace. The ſame Title was alſo given him by *Martha Symmons*, as it appeared by her Examination at *Briſtol*, which was confeſſed by her before the Committee. And being particularly asked, what ſhe called the Man whom we call *James Nayler?* anſwered, I call him a perfect Man. And being further demanded, whether ſhe did not call him the Prince of Peace? anſwered, He that is a perfect Man, he is the Prince of Peace. And *Nayler* being examined by the Committee, whether he owned the Title of the Prince of Peace? anſwered, the Prince of Peace I own, the Everlaſting Peace is begotten in me.

Sent to judge and try the Cauſe of Iſrael.

The Evidence of this was in the ſame Letter of *Jane Woodcock*'s we find it given to him; and in his Examination at *Briſtol*, whether that Title was given to him, he would make no Anſwer. And being examined by the Committee, whether he aſſumed to judge and try the Cauſe of *Iſrael?* anſwered in theſe Words; The Judge of *Iſrael* is but one, and that Judge I witneſs in me, which is the Chriſt: And further anſwered, If thou ſpeak of him whom the Father hath ſent into the World and begotten in me, the Holy Ghoſt, the Spirit of the Father, and the Son in me, which is in me; if thou ſpeak of it, this I own. And being asked, in what reſpect he was ſent? he anſwered no otherwiſe, but as God manifeſt in the Fleſh, though not as mortal. And being asked, by whom he was ſent to try the Cauſe of *Iſrael?* anſwered, By him who hath made all Creatures, and hath ſent his Spirit into me, his Son into me, to try the Cauſe; though he ſaid he was no Judge in carnal Matters. And being asked, whether he were more ſent to judge and try the Cauſe of *Iſrael*, than another? anſwered in theſe Words; As to my ſaying I am ſent, mind that no otherwiſe than as the Father and the Son is in me: and to that I ſay further, That no other Man is ſent in that Senſe, but he that knoweth the indwelling of that God, and according to the Meaſure of his Knowledge of the living God, ſo far is Judgment committed to him, and no further.

And being urged to anſwer, whether any other had the ſame Meaſure of Judgment, to judge the Cauſe of *Iſrael*, as he had? he anſwered, That he had not at preſent any thing given him of his Father to anſwer unto that.

Reſolution of the Committee.

That *James Nayler* hath aſſumed to be ſent to judge and try the Cauſe of *Iſrael*.

JESUS.

And for this the Evidence was,

John Stranger in a Poſtſcript in his Wife's Letter directed to, and found upon *James Nayler*, uſed theſe Words; Thy Name is no more to be called *James*, but *Jeſus*. Which Poſtſcript being ſhewed to *Stranger* by the Committee, he owned it written by him: nd being asked, wherefore he called him *Jeſus?* anſwered in theſe Words; I was moved of the Lord, and afterwards by the Spirit of the Lord. And being asked, whether by Jeſus he meant the Saviour of the World? he would give no Anſwer. And *Martha Symmons* in her Examination at *Briſtol*, ſaith, That ſhe hath heard ſome call him *Jeſus*; which Examination being read unto her, ſhe denied not that, though ſhe denied another part of that Examination. And *James Nayler* being examinated, whether any Perſon had called him by the Name of *Jeſus?* anſwered in theſe Words; As I am viſible here before you, I believe they have not; but that the Name of the Lord is in me, that I dare not deny: And further ſaid, That they have given that Name to him who is the Jeſus. but if they have given it to any other than to the Son of God that is in me, I do deny what they have ſpoken. And being asked, whether he denied that

that they gave him the Name of *Jeſus*? anſwered, As I am a Creature, I believe they did not: And afterwards confeſſed that the Name of *Jeſus* was given him in a Letter; and if he had underſtood it of any other than the *Jeſus*, he ſhould have denied it. Being demanded, whether they gave the Name of *Jeſus* to him? he anſwered in theſe Words, No otherwiſe than as to the Son of God. Being demanded, whether any had given him the Name of *Jeſus*? anſwered, Not as to the Viſible. And being demanded, to what then they gave the Name of *Jeſus*? anſwered in theſe Words, I underſtand they gave that Name to the *Jeſus*, to the Chriſt that is in me.

Upon his ſecond Examination, being asked whether he owned the Name of *Jeſus*; and if that Title belonged to him, as to Chriſt within? he anſwered, That Name was never publiſhed to be called by me, neither do I call my ſelf by that Name; but what my Father hath publiſhed, is another thing.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion, That *James Nayler* aſſumed the Name of *Jeſus*.

He in whom the Hope of Iſrael *ſtandeth.*

And for this, the Evidence was in the Letter of *Martha Symmons*, found upon *James Nayler*, where were theſe Words, Thou well-beloved Lamb of God, in whom the Hope of *Iſrael* ſtands. And *James Nayler*, in his Examination at *Briſtol*, being asked, whether he were the Lamb of God, in whom the Hope of *Iſrael* ſtands? anſwered, That if I were not his Lamb, I ſhould not be ſo ſought to be devoured; and that the true Hope of *Iſrael* ſtands in the Righteouſneſs of the Father, in whomſoever it is. And being asked, whether *Iſrael's* Hope were in any meaſure in him? he anſwered, Yea. Which Examination of his at *Briſtol* being read to him by the Committee, he denied not this part of it. And being examinated by the Committee, whether their Hope of *Iſrael* did ſtand in him? anſwered in theſe Words, It ſtands only in Chriſt Jeſus, and as Chriſt Jeſus is known in me. And being asked again, whether he were he in whom the Hope of *Iſrael* ſtands? anſwered in theſe Words, No way but as Chriſt is me. And being then asked, whether as Chriſt is in you, ſo are you he in whom the Hope of *Iſrael* ſtands? anſwered, Nay, do not add to my Words; I ſpeak as plain as I can, that all the Glory may be given to God, and none to the Creature; that the whole Glory may be given to my Father, and none to me, as you look upon me as a Creature. And the next Queſtion was, Whether as Chriſt is in you, are you he in whom the Hope of *Iſrael* ſtands? To which he anſwered, Chriſt in me, the Hope of Glory. And being examined, what Hopes *Iſrael* had in him beyond any other Perſon? anſwered, None can know, but they that are of *Iſrael*: They can give an account of their Hopes; *Iſrael* muſt give an account of their Hopes themſelves.

The Reſolution of the Committee.

That *James Nayler* aſſumed to beſeem him in whom the Hope of *Iſrael* ſtands.

The Committee being deſirous to inform themſelves how far the ſaid *Nayler* was conſenting unto that Worſhip, and thoſe Titles, before given unto him, beſides the former Evidence, they did find in his Examination at *Briſtol*, where being asked why he came in ſo unuſual a Manner, as the Woman leading his Horſe, and ſinging before him? he anſwered, That he might not refuſe any thing that's moved of the Lord: Which being read unto him at the Committee, he denied not. And for the better clearing of this, the Committee examined *Hannah Stranger*, whether *Nayler* reproved her for caſting her Garments before him, or for kneeling, or kiſſing his Feet? From whom they could get no other Anſwer than this, She would not accuſe or juſtify any. The Committee did alſo find in their Examination of *Nayler*, being asked by them, whether he reproved the Women for ſpreading their Garments, and ſinging before him, anſwered in theſe Words, Nay, only I ſaid unto them, take heed that they did nothing but what they were really moved of the Lord. And being alſo examined by the Committee, whether he reproved thoſe that gave him the Title before mentioned? anſwered, That he had not at all ſpoken unto them concerning that Thing, only the Letters he had, wherein the Titles were given; and did not think at all that any ſhould have ſeen them, becauſe he knew there was Things in them that many could not bear; but now he ſaw his Father purpoſed they ſhould not be hid.

Nayler, at his ſecond Examination before the Committee, being demanded, whether he had reproved the Perſons that gave him thoſe Titles and Attributes? he would not ſay he had reproved them. Being demanded, whether he owned them, or diſclaimed them? anſwered in theſe Words, If they had it from the Lord, what am I, that I ſhould judge it? And being preſſed again with the ſame Queſtion, anſwered thus, If the Father move them by his Spirit to give them to Chriſt, I may not deny; if they give that to any other but Chriſt, I diſown it. And being asked again, whether he reproved them, or not? anſwered, If attributed to the Creature, then it is reprovable; if they did it to the Lord, then I dare not reprove it. And being asked, whether he thought not Chriſt robbed of his Honour, by that Honour or Worſhip given unto him? anſwered, That he looked upon it to be really to the true Honour of Chriſt, or elſe he would utterly have denied it. And being asked, whether he had at any time whatſoever reproved thoſe Perſons? he anſwered, I never underſtood that they gave that Honour but to God.

Here we thought to have concluded this Report; but the Committee meeting with ſome further Evidence, they were willing you ſhould be Partakers of it. And it is this: *John Baynham*, Deputy to the Serjeant of the Houſe, to whoſe Cuſtody *Nayler* and his Company are committed, informed, That the uſual Poſture of *James Nayler* is ſitting in a Chair, and his Company, both Men and Women, do ſometimes kneel; and when they are weary of kneeling, they ſit upon the Ground before him, ſinging theſe and divers other Words to the like purpoſe, *viz.* Holy, holy, to the Almighty, to the true God, and great God; and Glory to the Almighty, *&c.* And thus they do uſually all the Day long: But the Informer never heard *Nayler* ſing as aforeſaid. And ſaith, There is great Reſort to the ſaid *Nayler* by divers Perſons, who, moſt of them, do kneel before him in the manner aforeſaid. And *Martha Symmons*, in the Poſture aforeſaid, ſung, This is the joyful Day; behold the King of Righteouſneſs is come. And further, the Informer

ſaith,

ſaith, That he never knew the ſaid *Nayler* ſhew any Diſlike, either by Reproof, or otherwiſe, of that Honour or Worſhip which *John Stranger* and his Wife, *Martha Simmons*, and *Dorcas Erbury*, and the reſt, gave him, as aforeſaid. And a Member of the Houſe, being lately at the Place where *Nayler* is now a Priſoner, informs the Committee, That he ſaw *Nayler* and his Company in the Poſture aforeſaid: and heard *John Stranger*, and one of the Women ſing, Holy, holy, holy Lord God; and, Holy, holy, holy to thee, thee, thee, Lord God. And whilſt *John Stranger* ſung theſe Words, he did ſometimes look upwards, and ſometimes upon *James Nayler*. Another Member informed us, as upon his own View, to the ſame purpoſe. And at *Nayler*'s laſt Examination before the Committee, being Wedneſday the 3d inſtant, one *William Piggot* did inform, That *Nayler* ſitting in a Chair where he is now a Priſoner, one *Sarah Blackbery* came to him, and took him by the Hand, and ſaid, Riſe up my Love, my Dove, my Fair-one, and come away: Why ſitteſt thou among the Pots? And preſently put her Mouth upon his Hand, and ſunk down upon the Ground before him.

To which *Nayler* himſelf, being examined by the Committee, confeſſed ſhe took him by the Hand, and ſpoke the Words aforeſaid; but denies the putting her Mouth upon his Hand, and ſuch Bowing-down: But ſaith, That he ſat low; and that he was not free to go with her. And *Nayler* being asked to whom ſhe directed that Speech? anſwered, To the Lord, and to him that raiſeth from the Duſt, and caſteth them down that are exalted. And being asked, whether he reproved her for that Expreſſion? he anſwered, He reproved her not. And further, *William Piggot* informed the Committee, That the laſt Week he was at the Place aforeſaid, where *Nayler* is now a Priſoner; and that one *Stranger* and *Martha Simmons* were, with others, ſitting upon their Heels before and about *Nayler*; and that *Stranger* roſe up, and ſtood and ſung juſt before *Nayler*, according to their uſual manner of ſinging, when and where a Man Quaker (being preſent) asked *Nayler*, Doſt thou own that Voice? *Nayler* anſwered, Yea, I do. And *Nayler* being asked by the Committee, if this were ſo, anſwered, If I tell you the Truth, you will not believe me. And *Nayler* being preſſed to anſwer, whether he owned the Voice aforeſaid? anſwered, That Voice I will not deny.

To ſum up all: The Committee asked *Nayler* what he had more to ſay? (that being likely to be the laſt Time of hearing him before the Committee reported the whole Fact to the Houſe) he thus anſwered:

I do abhor that any of that Honour which is due to God ſhould be given to me, as I am a Creature: But it pleaſed the Lord to ſet me up as a Sign of the coming of the Righteous One; and what hath been done in my paſſing through the Towns, I was commanded by the Power of the Lord to ſuffer ſuch Things to be done to the Outward as a Sign. I abhor any Honour as a Creature.

December 5.

THE Report concerning *James Nayler* received and read in the Houſe this Day from the Committee.

December 6.

The Houſe this Day reſumed the Debate upon the Report touching *James Nayler*.

Reſolved, That *James Nayler* be brought forthwith to the Bar; and that the Report of the Committee be read to him; and that it be then demanded of him what he ſaith hereunto by Confeſſion or Denial. He was ſent for accordingly: And being brought to the Bar, was ſpoken to to kneel, which he did not; and keeping his Hat on, the Serjeant by Command of the Speaker took off his Hat. And being asked, whether his Name were *James Nayler*? he anſwered, He is ſo called. Being asked, how long he hath been ſo called? he anſwered, Ever ſince he can remember.

The Report that the Committee had drawn up was read to him, and he was demanded to every Particular, whether that were his Anſwer to the Committee? To which he anſwered particularly, acknowledging them to be ſo, or to that effect, and ſo withdrew.

Reſolved, That *James Nayler* be called in to the Bar, and demanded ſeveral Queſtions. He was accordingly called in, and theſe * Queſtions demanded of him.

Reſolved, That the Houſe doth agree with the Committee in the Report of the Matter touching *James Nayler*.

Reſolved, That this Debate be adjourned till Monday Morning; and nothing to intervene.

Reſolved, That *James Nayler* be kept private.

Monday 8.

The Houſe, according to former Order, reſumed the Debate upon the Buſineſs of *James Nayler*.

Reſolved, That this Debate be adjourned till Three of the clock.

Reſolved, That Candles be brought in.

The Queſtion being propounded, That *James Nayler*, upon the whole Matter of Fact, is guilty of Blaſphemy: And the Queſtion being put, That the Word *Horrid* be inſerted in the Queſtion, next before the Word *Blaſphemy*, it paſſed in the Affirmative.

And the Queſtion being propounded, That *James Nayler*, upon the whole Matter in Fact, is guilty of horrid Blaſphemy.

And the Queſtion being put, That the Queſtion be now put, it paſſed in the Affirmative.

And the main Queſtion being put, it was

Reſolved, That *James Nayler*, upon the whole Matter of Fact, is guilty of horrid Blaſphemy.

Reſolved, That *James Nayler* is a grand Impoſtor, and Seducer of the People.

Reſolved, That the Debate upon this Report, touching *James Nayler*, be adjourned till to-morrow Morning.

Tueſday 9.

The Houſe according to former Order, did reſume the Debate upon the Report touching *James Nayler*.

Reſolved, That the Debate be adjourned two Hours.

The Houſe adjourned till Three of the clock.

* *What theſe Queſtions were, is not known, there being no Record kept of them.*

The Houſe reſumed the Debate upon the Report touching *James Nayler*.

Reſolved, That this Debate touching *James Nayler* be adjourned till to-morrow Morning.

Wedneſday 10.

Reſolved, That this Debate be adjourned till to-morrow Morning eight of the clock, and nothing to intervene.

Thurſday 11.

The Houſe reſolved, *&c.*

The Queſtion being put, That the Houſe adjourn two Hours, the Houſe was divided.

Yeas went forth	84
Noes	87

So it paſſed in the Negative.

Reſolved, That the Debate touching *James Nayler* be adjourned till to-morrow Morning, and nothing to intervene.

Friday 12.

The Houſe, according to former Order, reſumed the Debate upon the Buſineſs of *James Nayler*.

Reſolved, That this Debate, *&c.* till to-morrow Morning, and nothing to intervene.

Saturday 13.

The Houſe this Day, according to former Order, aſſumed, *&c.*

The Queſtion being propounded, That the Debate touching *James Nayler* be adjourned till Monday Morning, and nothing to intervene, the Houſe was divided.

Noes went out	65
Yeas	108

So it was reſolved, That the Debate touching *James Nayler* ſhould be adjourned till Monday Morning Eight of the clock, and nothing to intervene.

Monday 15.

The Houſe, according to former Order, reſumed the Debate about *James Nayler*, and adjourned till to-morrow Morning.

Tueſday 16.

The Houſe, according to former Order, reſumed, *&c.*

The Queſtion being propounded, That the Puniſhment of *James Nayler* for his Crimes ſhall be Death; and that a Bill be prepared, and brought in for that purpoſe: And the Queſtion being put, That the Queſtion be now put, the Houſe was divided.

The Noes went forth	96.
The Yeas	82.

So it paſſed in the Negative.

The Queſtion being put, That this be part of the Puniſhment of *James Nayler*, To have his Hair cut off, it paſſed in the Negative.

Reſolved, That this be part of the Puniſhment of *James Nayler*, That his Tongue be bored through with a hot Iron.

That the further Puniſhment of *James Nayler* ſhall be, That he ſhall be ſtigmatized in the Forehead with the Letter *B*.

The Queſtion being propounded, That *James Nayler* be ſet on the Pillory in the *New Palace-Yard*, *Weſtminſter*, the ſpace of two Hours, and then ſhall be whipped by the Hangman through the Streets, from *Weſtminſter* to *Cheapſide*; and there likewiſe be ſet upon the Pillory for the Space of two Hours in each of the ſaid Places, wearing a Paper, containing an Inſcription of his Crimes: That his Tongue ſhall be bored through with a hot Iron; and that he be ſtigmatized in the Forehead with the Letter *B*.

Reſolved, That inſtead of the Word *Cheapſide* in this Queſtion, *the Old Exchange* be inſerted.

Reſolved, That theſe Words be added in the Queſtion, *With his Head in the Pillory*.

Reſolved, That the Place for boring his Tongue, and ſtigmatizing, be near the *Old Exchange*.

The Queſtion being propounded, That the Priſon he ſhall be committed to, be *Bridewell* in *Briſtol*: And the Queſtion being put, it paſſed in the Negative.

Reſolved, He be committed to Priſon to *Bridewell*, *London*,

Reſolved, That inſtead of the Words, *From the Society of all Men*, theſe be inſerted, *From the Society of all People*.

Reſolved, That he have no Pen, Ink, or Paper.

Reſolved, That he ſhall have no Relief but what he earn by his daily Labour.

Wedneſday 17.

Reſolved, That *James Nayler* be ſet on the Pillory, with his Head in the Pillory, in the *Palace-Yard*, *Weſtminſter*, during the ſpace of two Hours, on Thurſday next; and ſhall be whipp'd by the Hangman through the Streets, from *Weſtminſter* to the *Old Exchange*, *London*; and there likewiſe be ſet on the Pillory, with his Head in the Pillory, for the ſpace of two Hours, between the Hours of Eleven and One, on Saturday next; in each Place wearing a Paper containing an Inſcription of his Crimes; and that at the *Old Exchange* his Tongue be bored through with a hot Iron; and that he be there alſo ſtigmatized in the Forehead with the Letter *B*; and that he be afterwards ſent to *Briſtol*, and be conveyed into and through the ſaid City on horſeback, bare ridged, with his Face backward, and there alſo publickly whipp'd the next Market-Day after he comes thither; and that from thence he be committed to Priſon in *Bridewell*, *London*, and there reſtrained from the Society of all People; and there to labour hard till he ſhall be releaſed by Parliament; and during that Time, to be debarred the uſe of Pen, Ink, and Paper, and ſhall have no Relief but what he earns by his daily Labours.

Reſolved, That the ſaid *James Nayler* be brought to the Bar to-morrow Morning by Ten of the clock, to receive this Judgment.

Reſolved, That the Speaker be authorized to iſſue his Warrants to the Sheriffs of *London* and *Middleſex*, the Sheriff of *Briſtol*, and Governor of *Bridewell*, to ſee this Judgment put in Execution reſpectively in the ſaid Places.

Reſolved, That the Speaker be authorized to make his Warrant to the Sheriffs of *London* and *Middleſex*, to convey the ſaid *Nayler* to *Briſtol*.

Reſolved, That the Speaker do iſſue the like Warrant to the Sheriff of *Briſtol*, to convey him up to *London* after the Execution of this Judgment there.

Reſolved,

Resolved, That to-morrow after the Sentence is pronounced against *James Nayler*, the several Petitions now offered be read.

Resolved, That then the House do likewise take into Consideration the Persons brought up with *James Nayler*.

The House being informed that *James Nayler* was brought to the Door, according to the former Order made yesterday, that he should be brought to the Bar to receive the Judgment and the Resolution made yesterday, touching the said *James Nayler*, for his Punishment:

Resolved, That these Words be added to the said Resolution, *viz. And the Parliament do declare and judge the same accordingly.*

The Question being propounded, That *James Nayler* be had in, and before Judgment pronounced be demanded, whether he have any thing to say why Judgment should not be pronounced upon him? And the Question being put, That the Question be now put, the House was divided.

The Noes went forth, 107
The Yeas, 87

So it past in the Negative.

The said *James Nayler* was by Order of the House brought in to the Bar; where the Speaker acquainted him of the Heinousness of the Crime of which the Parliament found him guilty; and accordingly did pronounce the Judgment against him; and upon which he withdrew.

The Tryal of Sir Henry Slingsby *Kt. for High Treason*, June 2. 10 Car. II. 1658.

THE High Court being set, and the Names of the Commissioners being called, the Serjeant at Arms was commanded to fetch the Prisoner to the Bar. Sir *Henry Slingsby* was brought accordingly to the Bar. Then Proclamation made for Silence, and the Commission for Tryal of the Prisoner read. Proclamation for Silence again was made. Then Mr. Attorney-General *Prideaux* exhibited a Charge of High Treason against Sir *Henry Slingsby* the Prisoner; which was read. The Substance of which Charge was as followeth, *viz.*

'That the Town of *Kingston* upon *Hull*, in the 'County of *Kingston* upon *Hull*, in *England*, on 'the 11th of *October*, 1656. and ever since, unto 'the Day of the exhibiting of this Charge, was 'and hath been, and is yet, a Town belonging 'to this Commonwealth; where there is a Garison, and a great part of the Army and Forces 'belonging to this Commonwealth: That Sir *Henry Slingsby*, late of *Redhouse*, in the County of *York*, 'Knight, minding and intending to imbroil this 'Commonwealth in intestine Wars, the 30th of 'April last, and divers Times since the 10th of *October* 1656. and before the said 30th of *April* last, 'as a false Traytor and Enemy then and yet to his 'Highness *Oliver*, Lord Protector of these Nations, 'together with one *Robert Gardiner* and *Edward Chapman*, and with one *William Smith*, of the 'said County of *York*, Gentlemen, and divers o'thers, did traitorously, advisedly, and malici'ously combine together, and plot and contrive to 'betray and yield up the said Garison of *Hull* un'to *Charles Stuart*, eldest Son of the late King 'Charles, now an Enemy to this Commonwealth.

'That the said Sir *Henry Slingsby*, by like traito'rous Combination, the said 30th of *April* last, 'and divers Times after the said 10th of *Oct.* 1656. 'did traitorously and maliciously plot, and con'trive, and endeavour to stir up Mutinies within 'the said Garison, to withdraw *Ralph Waterhouse*, '*John Overton*, *George Thompson*, *&c.* Officers of 'the same, from their Obedience to his Highness '*Oliver* Lord Protector.

'That then and there, and at divers other 'Times, as well before as after the said 30th of 'April last, and after the said 10th of *October*, '1656. he the said Sir *Henry Slingsby* did traitorous'ly, advisedly, and maliciously plot, contrive, and 'endeavour to stir and raise up Forces against 'Oliver Lord Protector, and against the Govern'ment of this Commonwealth, as the same is esta'blished, and to alter the same.

'That the said Sir *Henry Slingsby* did traitorous'ly, *&c.* then and there declare, publish, and pro'mote the said *Charles Stuart* to be King of *Eng'land*, *Scotland*, and *Ireland*, and the Dominions 'thereto belonging, and held Correspondence with 'him. All these Things the said Sir *Henry Slingsby*, 'at *Kingston* upon *Hull* aforesaid, did maliciously, '*&c.* carry on by conferring with the said Officers 'how to effect the aforesaid Treason, and encou'raging the said Officers thereto, by promising to 'them, and every of them, Rewards and Sums of 'Money to join with him in the Treason afore'said, and by delivering to the said *Ralph Water'house*, one of the Officers of the Garison, a 'certain Instrument under Seal, which the said Sir 'Henry Slingsby said was from *Charles Stuart*, and 'did purport to be a Commission from the said 'Charles Stuart, to him the said *Ralph Waterhouse*, 'to be Governor of the Castle. All which said 'Treasons are contrary to the Statute in that Case 'made and provided. With which Treasons the 'said Attorney-General, on behalf of the Lord 'Protector, *&c.* doth charge the said Sir *Henry* 'Slingsby, and prays that the said Sir *Henry Slingsby* 'may be put to answer thereto; averring that the 'said Sir *Henry Slingsby* is the Person by Name ap'pointed by his Highness the Lord Protector to be 'tried and proceeded against. Signed *May* 25. '1658.'

Edm. Prideaux.

* *Lord President.* Thou here stand- * *John Lisle.*
est charged for High Treason: This Court requires that thou give a positive Answer, whether guilty, or not guilty.

Sir *Henry Slingsby*. I desire to have Counsel assigned me.

Ld President. There is Matter of Fact laid to your Charge, which amounts to Treason; and there is no Law allowed in Matters of Fact.

Sir *H. Slingsby*. There is also Matter of Law: And I desire to be tried by a Jury, which is according to the Law of the Land.

Ld President. We are all here your Jury, as well as your Judges: We are the Number of two or three Juries. And your Jury is well known; for they are chosen by the Parliament. You are to plead to your Indictment.

Sir *H. Slingsby*. I desire to know whether there can be any Conviction, unless it be by Confession?

Ld President. If you had looked upon the Act of Parliament, that would have told you: It speaks of Examination of Witnesses; it speaks of your Confession and Answer, and of your Default; and if you do not plead to it, it will be very penal to you.

Sir *H. Slingsby*. If it be by the Laws of the Land, that the Tryal should be by a Jury, I desire I may have that Privilege.

Ld President. Acts of Parliament make Justice and Law: They are both. They think fit to change the Custom of Tryals that have been in former Times, and all Persons must submit to it. And the Parliament hath thought fit to make this Court both Jury and Judges: And therefore I require that you answer, whether guilty or not guilty.

Sir *H. Slingsby*. I desire that the Act of Parliament may be read.

Ld President. You are before your Jury and Judges. Parliaments have great Care of the Rights of the People, and have appointed this Court; and his Highness hath appointed you to be tried by us; you ought therefore to plead to your Indictment.

Sir *H. Slingsby*. The Law gives Liberty in case of Juries to the Party accused, to make his Exceptions against the Jury; which he cannot do here, where you are both Judge and Jury.

Ld President. If you have any particular Exception to any Man, you may make it: You were, Sir, of the Parliament when this Act was made.

Sir *H. Slingsby*. I was a Prisoner at the same time.

Ld President. Although a Prisoner, yet you are bound by Act of Parliament.

Mr. Phelps, *Clerk*. You have heard your Charge read, and Plea demanded: The Court again requires of you that you give a positive Answer, whether guilty, or not.

Sir *H. Slingsby*. I am, my Lord, of an Opinion (though you account it a Paradox) that I cannot trespass against your Laws, because I did not submit to them.

Ld President. All the People of *England* must submit to the Laws of *England*, to the Authorities of *England*; all must submit to my Lord Protector and Acts of Parliament. We sit here by Authority of his Highness, by a Commission under the Great Seal of *England*, and by Authority of Parliament; and you must submit to our Authority.

Sir *H. Slingsby*. The Laws have been so uncertain with me, that I could not well know them; and when I was a Prisoner, I could not take notice of them; I could have no Benefit by your Laws, because that is no Law to me which doth not give me Interest and Property to what I have. It is the Benefit of Laws, that they do distinguish between *meum* and *tuum*: But when you take all from me, in my Case it is not so.

Mr. Attorn. Gen. *Prideaux*. He may enjoy as much Benefit by the Laws as any, if he have not forfeited it; and I desire he may be put to answer.

Ld President. The Court again require you to plead to your Indictment.

Sir *H. Slingsby*. Not guilty.

Mr. *Phelps*. Your Plea then is, That you are not guilty. To which Sir *Henry Slingsby* answered, Yes.

Mr. *Lechmere*. Mr. Attorney-General having exhibited a Charge of High Treason against this Gentleman, Sir *H. Slingsby*, the Prisoner at the Bar, the Charge doth set forth, That the Town of *Kingston* upon *Hull*, *October* 11. 1656. and ever since, to the Time of exhibiting the Charge, was a Town of this Commonwealth's; and that within that Town, in all that Time, there is and hath been a Garison, and part of the Army of this Commonwealth; and during that Time *Ralph Waterhouse*, *John Overton*, *George Thompson*, &c. were Officers of the Forces of that Garison. That Sir *H. Slingsby*, minding to imbroil the Commonwealth in War, *April* 30. last, and divers other Times since *October* 10. 1656. as a false Traytor and Enemy to his Highness the Lord Protector, did plot, contrive, and endeavour to betray the said Town and Garison to *Charles Stuart*, an Enemy to this Commonwealth. It sets forth further, That Sir *H. Slingsby*, the Time and Place aforesaid, did contrive and endeavour to stir up Mutinies among the Soldiery of that Garison, and to raise Forces against this Commonwealth; and that he did publish and declare the said *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*, &c. and hath held Correspondence with him; and that he delivered to the said *Ralph Waterhouse* a certain Instrument, which he said was a Commission from *Charles Stuart*: All which Treasons are contrary to the Form and Effect of the Act of Parliament. And the Prisoner having pleaded Not guilty, which Plea is recorded, we are ready to prove him guilty, and ready to call our Witnesses.

Mr. At. Gen. You have heard the Charge, and Plea Not guilty; it rests upon us to prove it to you. This Gentleman himself, I believe, when he hath heard them particularly opened, will be convinced that of these Acts he hath been guilty. It would not have been expected from him to have tasted of the Mercy of this Court: For had he had Justice done formerly, he had not been to have answered this here. I do believe it was expected from those that did govern, to have got him off by Mercy, not to take him off by Justice. But he ceased not to interpose on the behalf of *Charles Stuart*, and endeavoured to bring him in again, and had like to have withdrawn the faithful Officers of that Garison to betray their Trust: If Money would have done it, that was not wanting to be offered; if Preferment would have wrought upon them, that was proffered; if Hopes of higher Preferment under *Charles Stuart* would have wrought upon them, it would have been done. But to our Witnesses.

Ralph Waterhouse *sworn*.

Mr. At. Gen. What Discourse had you with Sir *Henry Slingsby*, touching the delivering up of *Hull*?

Mr. *Waterhouse*. I had several Discourses with him; particularly about the latter end of *December* last, being a hunting, Sir *Henry Slingsby's* Son came to me in the Field, and told me his Father presented his Service to me, and gave me a Book; which I looked on about an Hour after, and found it was a printed Book. At the beginning was a Paper thus written,

written, *Put this out with your Finger, and then tell me whether* Rob. Gardiner *had not ſpoke to me to ſerve the King*, &c. Preſently after I acquainted Col. *Smith*, who adviſed me to diſcover if I could, whether Sir *H. Slingsby* was carrying on any Plot. I went to Sir *H. Slingsby*, and Sir *H. S.* took me to the Window-ſide, and hugged and embraced me; and asked me if *Robert Gardiner* had not ſpoke to me to ſerve the King: And then began with a great many good words, and ſaid that one (meaning his Highneſs) had put a Diſreſpect upon me, and if I would I might right myſelf, with many other words; and promiſed me a Sum of Money, to ſecure the South-houſe for the Service of the King. About a Week after, he ſent the Book again, and in the ſame Leaf wrote a few Lines more, which I alſo ſhew'd to Col. *Smith*; he promiſed me 5000 *l.* in Land or Money here or elſewhere. I made many Queries, and told him I thought it was to no purpoſe: he told me, that if that Houſe were ſecured, in a little time he would bring an Army to beſiege *Hull*, and then half our Work would be done. He after ſent me another Paper, which was to this purpoſe, That if the Governour ſought for him, he would give Security for his peaceable living; and ſaid, if I would give him a Piece, he would make it twenty if he did not procure me a Commiſſion from *C. Stuart* within fourteen days. He ſaid further, That a great Party were engaged in *Scotland*. Upon the ſecond of *April* he delivered to me a Commiſſion, which he ſaid was from the King; and the Commiſſion being read in Court, the ſaid Mr. *Waterhouſe* averred it to be the ſame he received of Sir *Henry Slingsby*, and which ran thus:

C. R.

CHARLES *by the Grace of God* (with the old uſual Title, *&c.) To our Right Truſty and Well-beloved Major* Ralph Waterhouſe: *We do by theſe Preſents conſtitute and appoint you to be Governour of the Caſtle and two Block-Houſes near* Hull, *and to put ſuch a Gariſon of Horſe and Foot therein, as you ſhall judge neceſſary for the Defence of the ſame; and to command the ſaid Gariſon as Governour thereof, and to do all things neceſſary for the Preſervation of the ſaid Place. Given at* Bruges, *March* 12. 1657.

Sir *H. Slingsby* alſo ſaid to me, That he had ſpoken with Capt. *Overton*, and promiſed to furniſh him with Money to lay in Proviſion, and engaged by a Bond to repay ſuch Money, as I ſhould lay out for the victualling of the South-Houſe: and alſo read a Letter from *C. Stuart* running thus, *I can never be enough ſenſible of your Favours*, &c. I demanded how the Army ſhould come; he anſwered, that the Duke of *York* had 7 or 8000 Men, that the King of *Spain* would furniſh them, if there was a Place of Security. And asking him what way of Correſpondence he had with *C. Stuart*, he ſaid he had a way of having Commiſſions from *C. Stuart*, which he would not diſcover. [Here Sir *H. Slingsby* ſtood up, and diſowned any ſuch Expreſſion.]

Mr. At. Gen. What Officer were you, Mr. *Waterhouſe*?

Mr. *Waterhouſe*. I have the Command of a Company, and of the South Block-houſe.

Mr. At. Gen. Mr. *Waterhouſe*, what Letter was that Sir *H. Slingsby* ſent to his Son?

Mr. *Wat.* The Contents were thus; *That* Harry *would ſpeak to the two Men to be very importunate with the twelve.* Sir *H. Slingsby* promiſed ſo many Men that he offered Capt. *Overton* 20 *l.* to raiſe forty Men.

Mr. At. Gen. How many Men did he tell you ſhould be at *Paul* near *Hull*?

Mr. *Wat.* 600 to march into *Hull*.

Mr. At. Gen. What Men did he tell you *Andrew* would raiſe?

Mr. *Wat.* He ſaid *Andrew* would raiſe fifty or ſixty Men when he pleaſed, and that Capt. *Overton* ſhould have a Deputation to command the Caſtle under me: he ſaid he had good hopes of Col. *Smith*, and that he had a Commiſſion for him, if he would accept of it.

Sir *H. Slingsby*. This which is here ſpoken in Seriouſneſs, was then ſpoke in Mirth, a mere Diſcourſe, as thoſe that are in good Fellowſhip may have, and what I ſaid or did was but in jeſt.

Ld Preſident. There ought to be no good Fellowſhip in Treaſon.

Mr. *Wat.* I never viſited him but by Col. *Smith*'s Commiſſion. Sir *H. Slingsby* according to his Engagement, upon receipt of a Piece, gave me another Commiſſion running thus; Oliver, *Lord Protector*, &c. took it again, and burned it.

Mr. At. Gen. Sir *Henry*, was it you that filled up that blank Commiſſion?

Sir *H. Sliagsby*. It is more than any Man knows: but it is not the Commiſſion I gave *Waterhouſe*, which is dated 12 *March* 1657.

Capt. *John Overton* ſworn.

Mr. *Phelps* ſhew'd him the Commiſſion dated 12 *March* 1657.

Mr. At. Gen. Did you ſee that Commiſſion delivered to *Waterhouſe* by Sir *H. Slingsby*?

Capt. *Overton*. Yes, I did; he delivered it to him in the Caſtle, about the ſecond of *April* laſt.

Sir *H. Slingsby*. Mr. *Overton*, what Date did that Commiſſion which I then delivered, bear?

Capt. *Overton*. This is the ſame Commiſſion, and (having it in his hand) I here ſee it is dated 12 *March* 1657.

Sir *H. Slingsby*. I deny that the Commiſſion I then delivered did bear that Date.

Waterh. & *Overton*. My Lord, we are upon our Oaths.

Capt. *Overton*. I ſaw Sir *H.* give it to Major *Waterhouſe* in his own Chamber in the Caſtle of *Hull*, and Major *W.* bid me read it, which I did.

Sir *H. Slingsby*. Was that Commiſſion, which you read, dated 12 *March*?

[Capt. *Overton* reads the Copy of it, which he then wrote from the Original, which agreed with this.]

Sir *H. Slingsby*. I deny that the Commiſſion then delivered was of that date.

Waterh. & *Overton*. Both deny the altering of the Date.

Sir *H. Slingsby*. Major *Waterhouſe* deſired me to alter the Date of the Commiſſion, and I ſcraped out *April* and the Day, and put in *March*.

Capt. *Overton* examined.

Mr. At. Gen. What Treaty was between Sir *H.* and you at *Hull*? Are you an Officer there?

Capt. *Overton*. Yes.

Mr. At. Gen. How long have you been an Officer there?

Capt. *Overton*. About ten Years.

Mr.

Mr. At. Gen. What Proceedings was there between Sir *H.* and you? What Meetings had you, *&c?* Was he your Priſoner?

Capt. *Overton.* He was my Priſoner. The firſt time he ſpake any thing to me, was on *Febr.* 18. laſt, when he told me, he thought me the ſtricteſt Man alive with Priſoners, but now would believe the contrary: ſaid, that I ſearched a Man of his for a Letter; but afterwards, to prevent me, he gave his Letter in a Purſe with ſome Money to his Landreſs, who carried it into the Town, and ſent it away; and after that (he told me) I never found any Letter. I told him, if he wanted any thing neceſſary, I would go to the Governour about it: he told me, it was not much for that, but that I might very much befriend him. He wrote to me, that a Colonel (naming him) was engaged to bring ſix Regiments from the King; asking whether I knew my Men were right for me, and particularized one *Clark*: I told him he was right. He asked me what I thought of 100 *l.* to give them: I told him they did not uſe to have ſuch great Gratuities. This was 18 *Febr.* 1657.

28 *Febr.* He asked me where the Sally-port was: I told him it was twenty yards from the Caſtle. He told me, ſome Priſoners not long ago intended to make an Eſcape that way, but were prevented; and asked me which way it enter'd into the Caſtle, which way I could let in any Men into the Caſtle, that I ſhould not want Money; whether I could tell how to victual the Caſtle, he would be glad if I could do it. He told me, that the King kept his Deſigns ſo cloſe, that none knew of them, and that it was not known whether he would land at *Hull* or *Scarborough.*

3 *March.* He asked me whether I continued my Command: I told him I knew nothing to the contrary; to which he ſhew'd much gladneſs. He told me, Duke *Daſſy* was to bring a conſiderable Party, but ſtaid ſo long that the reſt were gone.

6 *March.* He asked me what News, and ſaid that *Chapman* had aſſured his Son the Town was too ſtrong for the Gariſon; and asked me who I knew in the Town to be right: I told him, *Edw. Chapman* was not for the Soldiery.

14 *March.* I told him, that his old Maſter *C. Stuart* was about to ſet ſail with 7 or 8000 Men. He ſaid, that the King was more private than to let any Man know his Deſign; but asked me, whether I was ready to receive him?

23 *March.* Sir *H. Slingsby* being below in our Chamber, told me that I had a fit opportunity to receive ſuch Men as might be right for me. I told him, I thought I could not have half my number. He told me, he was glad I would ſerve the King; and ſaid, that if he had any Favour from the King, I ſhould not want any thing. He told me he had aſſurance, that any that aſſiſted the King when he firſt came to kiſs his Mother Earth, he would give them 4 or 5000 *l.* That he would furniſh me with Money; and deſired that I would not ſhoot any great Bullets at King *Charles's* Men when they were landing. And further told me, That if I would take a Deputation to command under Major *Waterhouſe*, he would procure it.

On *April* 2. Sir *H. S.* told Major *Waterhouſe*, That he had a Commiſſion for him to be Governour of *Hull*, and I ſaw him deliver a Parchment Commiſſion to Major *Waterhouſe.*

Mr. At. Gen. If Sir *H.* hath any thing to object, he may.

Sir. *H. Slingsby.* I ſee that I am trepan'd by theſe two Fellows; they have ſaid that ſeriouſly againſt me, which was ſpoken in mirth between us: I never ſought to them, but they to me; the Commiſſion was procured by no Intercourſe with any Perſons beyond the Seas, but a Blank which I had for four Years together. Nor had I any Correſpondence beyond Sea, to carry on any Deſign here.

Lieutenant *George Thompſon* ſworn.

Being asked what Officer he was, he anſwered, I am a Lieutenant to Major *Waterhouſe*, I was deſired to go and ſee Sir *H. Slingsby*, *April* 16. who told me, That he had great Confidence in me. I ſaid to him, Why? He told me, he thought I had good Thoughts of the King. His Son told me, he heard the King was to come in, and to bring in a conſiderable Army, but knew not when. Next day I went again to Sir *H.* and asked him if he would walk on the Leads, which he did; and there I told him, I had been pondering on the words he laſt ſpoke to me: who then hugging me, ſaid, I have a great deal of Confidence in you, there is a Deſign in agitation to bring in the King with a conſiderable Army, but he did not know how ſoon it would be; but told me, I ſhould have notice of it: and ſaid that the King had promiſed Pardon to all Officers but the Lord Protector and Lord *Bradſhaw.*

Sir *H. Slingsby.* I confeſs ſuch like Diſcourſes; but——*Waterhouſe* ſpoke to me, that I would ſpeak to *Thompſon* to try whether he would be aſſiſtant; but I told him I would not, leſt he ſhould not accept it, and then turn him out of his Place. *Waterhouſe* preſſed me to go to *Thompſon*, and Major *Waterhouſe* invited us to his Houſe to Dinner: After Dinner he ſpoke to *Thompſon* to go with me on the Leads, to ſhew me the Guns; we walked about, and came down again. Then ſaid *Waterhouſe* to me, Did not you ſpeak to *Thompſon?* I ſaid not. You had a good opportunity, ſaid he. At laſt *Thompſon* came to me, and I had ſome Diſcourſe with him about it.

Ld Preſident. Sir *H. S.* have you any thing elſe to ſay?

Sir *H. Slingsby.* No, my Lord.

[Then Mr. Serjeant *Maynard* ſummed up the Charge, Plea, and Evidence, and eloquently ſet forth the Fulneſs and Clearneſs of the Evidence, with the Heinouſneſs of the Offence, and demanded the Judgment of the Court.]

Mr. At. Gen. I ſhall not trouble you with Repetition, the Matter being clearly laid open. The Place where this Acting was, and where the Deſign was laid, was, I may ſafely ſay, the moſt conſiderable Place in *England* for *Charles Stuart's* Deſign; a Place ſtrongly ſeated and ſituated, and remote from this City: and had he prevailed there, as he endeavoured, it had not been Peace with us that now are here. And truly, my Lord, I cannot but pity thoſe Gentlemen that are thus drawn into Deſigns which I am confident will never take; and I am ſorry that People ſhould be ſo ſeduced as they are, for their Seducers bring them to the Gallows, and then laugh at them. And, my Lord, I pity this Gentleman (pointing at Sir *H.*) that thoſe grey Hairs ſhould thus go to the Grave. I have no more to ſay, but crave the Juſtice of this Court.

The

The Serjeant at Arms was commanded to take away the Priſoner.

Proclamation for Adjournment of the Court into the Painted Chamber: after a little private Debate in the Painted Chamber, they adjourned till Thurſday next, Nine in the Morning.

Thurſday, *May* 27. being appointed for the Meeting of the ſame Court, about Ten of the clock they accordingly met in the Painted Chamber *Weſtminſter*; where after about two Hours private Debate, they adjourned till Tueſday next, the firſt Day of *June*.

The Tryal of Dr. John Hewet, *on Tueſday the firſt Day of* June 1658. 10 Car. II.

THE Serjeant at Arms being commanded by the Court to fetch the Priſoners to the Bar; Dr. *Hewet* was brought to the Bar accordingly.

After Proclamation was made for Silence, the Lord Preſident asked Mr. Attorney-General what he had to ſay againſt the Priſoner at the Bar. Mr. Attorney-General thereupon exhibited an Impeachment of High Treaſon againſt the Priſoner, and deſired it might be read, and pray'd that the Court would pleaſe to receive his Anſwer thereunto. The Charge was read by Mr. *Phelps* the Clerk; the Effect of which was as followeth, *viz.*

'THAT *John Hewet*, late of the Pariſh of *Gregory's* in the City of *London*, Doctor of Divinity, minding and intending to embroil this Commonwealth in new and inteſtine Wars, the 30th of *April* now laſt paſt, and at divers times ſince the 10th of *October*, which was in the Year of our Lord 1656, and before the ſaid 30th of *April* laſt paſt, as a falſe Traytor and Enemy to *Oliver* then and yet Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, and the Dominions and Territories thereunto belonging, and to the ſaid Commonwealth; together with one *Trelawney* late of *London* Gent. *Henry Biſhop* of *Lewes* in *Suſſex* Gent. and other their Complices, at the Pariſh of *Gregory's* aforeſaid, and at *Lewes* in *Suſſex*, did traitorouſly, adviſedly, and maliciouſly plot, contrive, and endeavour to ſtir up Force, and levy War againſt the ſaid *Oliver* Lord Protector, and againſt the Government of this Commonwealth, as the ſame is now eſtabliſhed, and to ſubvert and alter the ſame: And did alſo then and there, and at divers other times and places, as well before as after the ſaid 30th Day of *April* now laſt paſt, and after the ſaid 10th of *October* 1656. traitorouſly, adviſedly, and maliciouſly declare, publiſh, and promote *Charles Stuart*, eldeſt Son to the late King *Charles*, to be King of *England*, *Scotland*, and *Ireland*, and the Dominions thereunto belonging: And did then and there traitorouſly, adviſedly, and maliciouſly hold Intelligence and Correſpondence with the ſaid *Charles Stuart*. All which ſaid Treaſons he the ſaid *John Hewet*, at the Pariſh of *Gregory's* in the ſaid City of *London*, and alſo at *Lewes* and elſewhere, did traitorouſly, adviſedly, and maliciouſly declare, at the times and places aforeſaid, by conferring with *John Stapely* and *Henry Mallory* how to effect the ſame; and by encouraging the ſaid *John Stapely* and *Henry Mallory* thereunto, and by delivering Commiſſions to them from the ſaid *Charles Stuart*, concerning the levying War againſt the ſaid *Oliver* Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, &c.——— All which ſaid Treaſons are contrary to the Statute in that caſe made and provided. With which ſaid Treaſons committed and done, the ſaid Attorney-General for and on the behalf of his Highneſs the Lord Protector and the Commonwealth, doth charge and impeach the ſaid *John Hewet*; and for and on the behalf of the ſaid *Oliver* Lord Protector, and the Commonwealth, prayeth that the ſaid *John Hewet* may be put to anſwer; that ſuch Tryal, Judgment, and Proceedings may be had againſt him, as to Juſtice doth appertain. And the ſaid Attorney-General doth aver that the ſaid *John Hewet* is the Perſon by Name appointed by his Highneſs the Lord Protector to be try'd and proceeded againſt according to the Act.'

[Dr. *Hewet* the Priſoner ſitting covered whilſt his Impeachment was reading, the Lord Preſident commanded his Hat to be taken off; which the Doctor obſerving, took it off himſelf. Then Mr. *Phelps*, Clerk to the High Court, addreſs'd to the Priſoner to this effect:]

Mr. *Phelps*. *John Hewet* D.D. thou ſtandeſt here charged of High Treaſon; this Court requires you to give a poſitive Anſwer, whether Guilty or Not Guilty.

Dr. *Hewet*. My Lord, if I have already miſbehaved myſelf here, my Error is the more pardonable, becauſe I have not had any Counſel; and I dare not preſume to have any Knowledge in any Faculty, eſpecially in the Law. I never did change my Caſſock into a Jump; I am better acquainted with a Pulpit than a Bar; better read in St. *Auſtin* than my Lord *Coke*; and in the *Fathers*, than *Raſtal's Reports*, or *Plowden's Commentaries*. In all my Life I never ſtudied any Law-Caſe till now; that Neceſſity that hath no Law hath made me thus far to become a Lawyer, as to think to plead (not for my Livelihood, but) for my Life. God forgive them that have occaſioned this unuſual and unaccuſtomed

accuſtomed Study, that hath put me into ſuch a Pulpit as I never ſaw before. And therefore, my Lord, in as much as I have often heard that there are ſuch Niceties in the Law, that a Man may be loſt in the Severity of it for a word ſpoken in mere Simplicity; I ſhall crave that there may be nothing taken, in prejudice to my Innocency, from words ſpoken in Simplicity: and I hope you will pleaſe to grant me that.

Ld. Preſident. Dr. *Hewet*, I am ſorry, truly very ſorry, to ſee ſuch a one as you in that place; but you are impeached of High Treaſon: All Favour will be ſhewn you according to the Rules of Juſtice. I think you deſire Counſel.

Dr. *Hewet.* No, my Lord, it is firſt, that I knowing nothing of the Law, may have nothing (ſimply ſpoken) prejudice me; and that you will allow me Counſel.

Ld Preſident. The Court is Counſel for you, your Buſineſs is to plead to the Indictment; you are required by the Court to anſwer whether guilty or not guilty.

Dr. *Hewet.* My Lord, you ſit there as Judge, I beſeech you let me know by what Commiſſion you ſit there.

Ld Preſident. Dr. *Hewet*, we ſit here by a Commiſſion under the Great Seal of *England*, in purſuance of an Act of Parliament; that's our Commiſſion.

Dr. *Hewet.* Pray give me the favour to have the Commiſſion read, my Lord.

Ld Preſident. Dr. *Hewet*, we know our own Authority, it is not uſual to read Commiſſions to Priſoners; the Laws of *England* and Acts of Parliament are to be ſubmitted to.

Dr. *Hewet.* I am not to own every Perſon that will ſit to judge me, therefore I deſire to know by what Commiſſion you ſit, and who are the Judges, and then I ſhall ſay more.

Ld Preſident. Thoſe that are to judge you, are very well known; you conſented your ſelf to the Judges, we are all choſen by Act of Parliament, the Parliament hath conſented to it; we are choſen Judges, and are your Judges by Act of Parliament.

Dr. *Hewet.* My Lord, I muſt know the Perſons, whether they be all here; I ſee but very few.

Ld Preſident. Here be very many, and we have been all called this Morning, as the Courſe is, and we ſit now as your Judges.

Dr. *Hewet.* Under favour, my Lord, as I remember, the Commiſſion by the Act is directed to 150, and there are the Lords Commiſſioners of the Great Seal, with the Lords of his Highneſs's Treaſury, and all the Judges, and divers other Perſons, are named in the Act of Parliament: I do not ſee ſo many Faces as are mentioned in that Act.

Ld Preſident. Dr. *Hewet*, I muſt tell you the *Quorum* is any Seventeen or more of them: if we are here Seventeen or more, we are a *Quorum* by that Commiſſion: we are here I believe forty or fifty.

Dr. *Hewet.* My Lord, with Submiſſion, the Caſe is true, in caſe the Commiſſioners were but ſeventeen, and they all preſent, then they might hear and determine; but if one were abſent, they cannot, my Lord, as I conceive.

Ld Preſident. You are a Perſon of Parts, and therefore we may delight to hear you; but we muſt keep our ſelves to the Buſineſs of the Court: You are required by the Court to anſwer the Impeachment.

Dr. *Hewet.* My Lord, if you ſit by the Act, ſit according to the Act, and then I ſhall ſubmit. It was reſolved by all the Judges of the *King's-Bench* in the 13th of *Eliz.* in the Earl of *Leiceſter's* Caſe. See *Plowden*, fol. *&c.*

Mr. At. Gen. The Doctor did profeſs his Ignorance in the Laws, yet pretends more Knowledge than the Court: The Court are here, and know themſelves lawfully authorized to try you. Dr. *Hewet*, if you pleaſe to proceed to give your Anſwer, whether guilty or not, you will find the Juſtice of the Court to be according to the Laws of *England*.

Dr. *Hewet.* This learned Gentleman, I know his Face, though not his Name; he ſpeaks according to Worth, but I cannot anſwer him according to Law, and therefore ſtill plead Ignorance of the Law, but deſire to be tryed according to Law; and I have given you a Law-Precedent, if you will go againſt it, I ſhall ſay no more.

Mr. At. Gen. This Gentleman hath it by Tradition, not by his own Knowledge; but the Caſe he mentions cannot parallel this. The Act of Parliament ſaith, an Hundred and Fifty, or any Seventeen; here are three Seventeens.

Mr. Sol. *Ellis.* I think the Commiſſion is directed to your Lordſhips, or any Seventeen: [*Which Commiſſioners, or any Seventeen*, &c.] The Meaning whereof is, That thoſe Seventeen, or more reſpectively, ſhould hear, *&c.* There were ſeveral *Quorums* for *England*, *Scotland* and *Ireland*; Seventeen for *England*, Thirteen for *Scotland*, &c. That Caſe out of *Plowden* differs clearly from this: for if a Commiſſion be directed, and there be no *Quorum*, then the Commiſſioners muſt all certify. We humbly conceive, that if your Lordſhips be here Seventeen, or more, you are fully authorized to proceed.

Mr. At. Gen. In many Caſes you have a *Quorum* of Perſons, ſuch and ſuch Men: it's true, here is no *Quorum* of Perſons, but a *Quorum* of the Number; and if there be a *Quorum* of Seventeen, it is warrantable.

Dr. *Hewet.* This learned Gentleman, he is better able to ſpeak what is Law than I; but under favour, and with ſubmiſſion, I do not think he may judge of the Laws, or the other (that ſpoke his private Conception) to interpret the Meaning of the Parliament. And, my Lord, if your Lordſhip pleaſe, I ſhall make this my humble Appeal to the learned Judges of the Law, That if they will ſay in this reſpect, that this is a lawful Judicature, I ſhall proceed.

Ld Preſident. You have heard the words of the Act of Parliament read, Authority is given to the Commiſſioners, or any Seventeen or more of them; [*Which ſaid Commiſſioners reſpectively*] that is, for *England* Seventeen, or more of them: and you have heard the Judgment of the Court upon that. That which you ſpeak of in relation to my Lord *Leiceſter's* Caſe is true; if a Commiſſion be directed to Commiſſioners, and no *Quorum* appointed, then all muſt certify; but by the Act of Parliament, and the Commiſſion made in purſuance of it, the *Quorum* is Seventeen: but here are three *Quorums*.

Dr. *Hewet.* My Lord, in as much as all the Commiſſioners are named in that Act, and that Commiſſion is according to the Act, they are all commiſſionated to ſit; and unleſs all ſit, the reſt cannot try and examine, *&c.* And I ſhall refer it to the Judges of the Laws.

Ld Preſident. We did not call our ſelves to be your Judges; by being named your Judges by Act of Parliament, we have power to declare to you what

what the Law is by that Act of Parliament, I have declared it.

Dr. *Hewet.* My Lord, if the *Quorum* had been named, then it were somewhat; but it being directed to seventeen, or more, when more or seventeen are commissionated, all must sit: I refer it again to the Judges of the Laws.

Ld President. Dr. *Hewet*, what you say now, or what you say hereafter, besides this, you have time to speak to, as to Matter of Law, after Matter of Fact hath been tryed; if you plead to Matter of Fact, what you say to the Court as to Matter of Law, we shall be ready to hear it; apply your self to the Court in Matter of Fact. The Court asks you, whether guilty or not?

Dr. *Hewet.* My Lord, I must first know whether the Court be a lawful Judicature before I give in my Defence.

Ld President. Dr. *Hewet*, you have offered very much touching the Jurisdiction of the Court, in Conclusion you must acquiesce; I must put you up to plead; you know the Danger, if you do not plead, being required: if you stand mute and do not plead, it is equally as dangerous to you, as if you had confessed the Crimes.

Dr. *Hewet.* I am so highly sensible of the Privileges of an *Englishman*, that both for the Satisfaction of my own Conscience, and all Persons, I would not willingly give up the Liberties and Privileges of any *English* Freeman to any body that demands it; I am very loth that there should be any just Imputation laid upon me, that I should seek a Disturbance in point of Self-interest, to divide my self from the Communion of those that are my Fellow-Freemen; and I should (as I have always) abhorr'd to be both a Schismatick from the Church, and singular from the State. My Lord, I am so concerned for the Privileges of an *English* Freeman, and publick Interest, that I should be loth to do any thing towards the giving them up, that might make my Heart ake. I shall desire it may be determined by the Judges.

Ld President. You speak of common Friendship; what is common Friendship, but to be a Friend to the publick Government? If you have been a Friend to the Government and Peace of this Nation, you need not fear to plead to the Indictment: And therefore I require you to plead to it.

Dr. *Hewet.* Whenever you shall come to a particular Examination of the Business, it will not appear that I have been an Enemy; I desire, that whereas there are many Niceties in the Laws, I humbly crave the Engagement of your Honours, that there may not be any Advantage taken.

Mr. At. Gen. God forbid.

Dr. *Hewet.* My Lord, I think I have not spoken any thing unreasonably, or against Law, and therefore humbly crave my former Request.

Mr. At. Gen. If you please, the Doctor knows that there must be a Judgment in which we must acquiesce: This is that Judicature that calls you before them; you sit by the highest Authority of *England*; an Act of Parliament in the first place, a Commission under the Great Seal in the second place, and a Commission of his Highness, against whom, of which the Doctor is one; I desire he may give an Answer to the Impeachment; that being done, we shall have Liberty on both sides to speak to what is Justice, and Law, and Fact: if you are not guilty, be you assured that this Court will not take your Blood upon them, you have a very fair Court.

Dr. *Hewet.* This learned Person speaks very fairly; it shall be far from me to question any Act of a lawful Parliament; but under favour, as yet it doth not appear to me, that you have by that Act by which you sit, Power to hear and determine concerning the Matters of which I am charged: I refer it, and appeal again and again to the learned Judges of the Laws, even his Highness's Judges.

Ld President. Dr. *Hewet*, the Court has had much Patience in hearing of you thus long, you having not so much as owned their Authority; if you will not own us, we will own you: therefore I require the Clerk to enter it, that we have required you to plead.

Mr. *Phelps* Clerk. *John Hewet*, you here stand charged of High Treason against his Highness the Lord Protector and the Commonwealth; the Charge hath been read to you, the Court have demanded whether guilty or not guilty; they again demand of you whether guilty or not guilty.

Dr. *Hewet.* My Lord, I shall be very loth to do any thing to save my Life, and forfeit a good Conscience; and I shall not, for my private Interest, give up the Privileges of those that are equal Freemen with my self: I am look'd upon in a double Capacity, as a Clergyman, and as a Commonwealth's Man; I should be very loth to be scandalous in either: And pray be pleased to do that Justice to your selves, as to vindicate the Legality of your Judicature, and then I'll proceed.

Mr. At. Gen. My Lord, you was pleased to tell the Doctor, That you will own him when he doth not own you; but, my Lord, his flying in your Face, and taxing you thus, is not to be endured: I wish he would have that Consideration of himself, that if he doth not own your Authority, you expect to be owned, otherwise he will be supposed to be guilty of all those Crimes that are laid to his Charge; and by not pleading, he doth confess them; that will be an high Scandal, Mr. Doctor: therefore to vindicate your self, I desire you to answer.

Dr. *Hewet.* This learned Gentleman hath urged it with a great deal of Civility and Respect to me, which I must own, and thankfully acknowledge: but, my Lord, withal, I dare not, for the saving of my self, give up others; so many thousands of others, by my Precedent, that might likewise be involved in the same Condition that I am in: therefore, my Lord, let it appear that it is a lawful Judicature, and I have done.

Mr. At. Gen. I beseech Mr. Doctor to consider his Case; he is not brought as a Champion for the People of *England*; as he stands charged, he appears to you to be contrary affected: I humbly beg that he may be put to plead, that so his Innocency may be clear'd.

Dr. *Hewet.* My Lord, I said before that I am no Lawyer, I understand nothing of it, neither desire to be Judge in my own Cause; but I do not desire likewise to be judged by every Person that would sit to judge me; neither would I give up that Right that belongs to an *Englishman*, to every one that demands it: Therefore I desire you to grant this Petition, That you will make appear that you are a lawful Judicature. I would rather die ten thousand times than I will be guilty of giving up my Fellow-Freemen's Liberties and Privileges.

Mr. At. Gen. My Lord, some of his own Coat have acknowledged the like Authority before him; but if Mr. Doctor be peremptory in this, that he will not own your Authority, and plead to his Charge, I must do my Duty; that is, humbly to

pray the Court, that if he refuſe to anſwer, I muſt pray their Judgment, and acquaint him with the words of the Act; [which accordingly were read.] So that, my Lord, in default of Anſwer, if Mr. Doctor will not plead to this, my Lord, I muſt thereupon pray that you will proceed according to the Act, as in Caſes of High Treaſon, which is very penal. I have no more to ſay.

Dr. *Hewet.* My Lord, I ſuppoſe theſe learned Gentlemen, who are ſo learned in the Laws, will be cautious what they do againſt Law; and I hope they will remember what Condemnation and Execution befel *Treſilian* in the 11th of *Richard* the Second, that did there miſadviſe the King to do ſuch and ſuch things; that is much like to this Caſe of mine: And withal, I hope they will remember what befel the Judges in the Caſe of *Ship-money*, in the time of the late King; and therefore I hope they will be cautious themſelves in doing any thing that is contrary to Law.

Ld Preſident. Dr. *Hewet*, you have heard the Clauſe of the Act of Parliament read to you, whereby you may underſtand, that either we muſt proceed upon your Anſwer, or elſe to Judgment upon your Refuſal; if upon your Anſwer you clear your Innocency, then thoſe Freemen you ſpeak of, may faithfully embrace you: but if you will not anſwer, we muſt proceed to Judgment. I am ſorry for your Robe-ſake, but if you will not anſwer, you cannot acquit your ſelf; you thereby confeſs it: Therefore let me adviſe you, for your Robe-ſake, to follow the beſt Counſel; that is, to put your ſelf upon that which Priſoners muſt do. Anſwer to it, guilty, or not guilty?

Dr. *Hewet.* My Lord, I hope it is not the Senſe of the whole Court, that they ſhould proceed againſt me, either to Sentence, or any other way, till firſt they clear themſelves to me.

Mr. At. Gen. Pray, who is the Judge? You muſt clear your ſelf to him.

Ld Preſident. If there be any here that are of another Opinion, let him declare himſelf. Dr. *Hewet*, you loſe your ſelf mightily in ſaying this one thing ſo often, and we loſe our time: I require you again to plead.

Dr. *Hewet.* My Lord, I cannot ſpeak of that too often, that is ſo dear and precious to me and every Perſon.

Mr. At. Gen. I can ſay no more, but pray your Juſtice.

Ld Preſident. Dr. *Hewet*, I am called upon by the Court, becauſe of your Refuſal to anſwer; but I pity you very much, and therefore deſire once more the Patience and Favour of the Court, that they would give you leave to anſwer: Therefore Mr. Doctor, that we may not record your ſtanding mute, and refuſing to anſwer, I ſhall once more, in favour to you, require you to anſwer. Clerk, ſtay your hand a while.

Dr. *Hewet.* My Lord, both the Court and all theſe Perſons will thus clear me to the whole World, that I have referred my ſelf, and appealed to his Highneſs's Judges of the Law, to reſolve whether this be a lawful Judicature: this Appeal is denied, therefore I muſt proceed to ſome other thing, ſeeing you all deny me that.

Mr. *Phelps*, Clerk. *John Hewet*, D. D. you ſtand here charged on behalf of his Highneſs the Lord Protector, of Treaſon againſt him and his Commonwealth; you have heard the Charge, the Court hath ſeveral times demanded your Anſwer, and you refuſe; they the third time require your Anſwer, whether guilty, or not guilty.

Dr. *Hewet.* Pray, my Lord, is there any Indictment found againſt me by a Grand Jury, by which I am to be tried? For by the fifth and ſixth of *Edward* the Sixth, all Treaſons are to be inquired into, and preſented by twelve Men: the Commiſſion by which you ſit, doth not declare any other way: I beſeech you, is there any other Indictment?

Ld Preſident. You have a very great Grand Jury, forty Perſons, and we have Power upon a ſpecial Act of Parliament, to give order for a Charge to be brought in againſt you; and we have, according to that Power and Authority, given order for this Charge to be brought in againſt you, and you are to anſwer to it.

Dr. *Hewet.* My Lord, with Submiſſion, you are not a competent Jury.

Mr. At. Gen. My Lord, now it is the ſecond Part to the ſame Tune; I know there are many others upon the ſame String when this is reſolved. Sir, this is the Grand Jury, the Petty Jury, and your Judge; they require you to give your Anſwer, whether guilty, or not guilty.

Dr. *Hewet.* My Lord, this is likewiſe denied me, I now humbly crave a Copy of my Charge, Time to anſwer to it, and Counſel aſſigned me.

Ld Preſident. For the Copy of your Charge, it was never granted to any Priſoner indicted for High Treaſon. For Counſel, you are now upon Matter of Fact, whether guilty or not guilty.

Mr. At. Gen. I have a word to inform him, I would not preſs any thing againſt him, which in my Judgment I thought not legal; you have given him your Reſolution as to the Juriſdiction, there is nothing now to ſay, but guilty or not guilty: he muſt bring himſelf to be a Party, or elſe nothing can be asked.

Dr. *Hewet.* I think the Priſoner cannot be charged and tryed on one and the ſame Day, no more than a Man can be indicted and tried the ſame Day, as in *Calway*'s Report's; and this was declared to be Law in the Caſe of the *Portugal* Ambaſſador's Brother.

Mr. At. Gen. You are not upon your Tryal, you muſt plead and join Iſſue, and then we will conſider whether we will try you now or no; yet there is many a Man hath been brought to Priſon the ſame day, found the ſame day, and tryed the ſame day.

Dr. *Hewet.* I deſire a Copy of my Charge, if not that, I deſire time to ſpeak, and Counſel aſſigned me, which hath been the Courſe of former times; for Counſel it hath been uſually allowed, as in the Caſe of *Humphry Stafford* in the time of *Henry* the Seventh, and in the Caſe of *Lilburn*. Baron *Nicholas* and Serjeant *Maynard* were of Counſel for Major *Rolph*, who endeavoured to poiſon the late King: And for Matter of Law, it ought to be allowed, as in my Lord *Coke*—— and *Dyer*'s ſixth Book of his *Reports*, 14 *fol.* is of the ſame Opinion. *Arundel* had Counſel aſſigned him for Murder, in Matter of Law.

Sol. *Ellis.* For Matter of Fact, it was never allowed; but if he plead, and any Matter of Law do ariſe that's doubtful to the Court, then the Court, if they doubt of it, aſſign Counſel; but the Priſoner muſt plead firſt to the Matter of Fact. For a Man to be accuſed the ſame day, and tryed the ſame day, is no new thing. For Counſel, if any thing

thing arise in Matter of Law, then it may be considered. The *Portugal* Embassador's Brother came, and was accused and tryed the same day. We shall humbly pray that he may plead guilty or not guilty; if any Matter of Law arise, your Lordships may do him Justice.

Dr. *Hewet.* My Lord, with Submission, this learned Gentleman hath understood me but in part; my Request was for Counsel for Matter of Law in general, as well as particular for Matter of Fact. I humbly conceive that there are several Acts of Parliament that do free me from this Charge, and particularly the great Charter of *England*; for which I humbly crave I may have Counsel assigned me.

Ld President. You are now in Generals; you speak of several Acts of Parliament, and you would have Counsel to plead; Counsel was never allowed in this Case upon such a general Desire: many that stand about you may have a Prejudice to you, and think you are loth to plead; I have called upon you often: if we should once record the Refusal, it would be very penal. I would advise you to plead to the Indictment.

Dr. *Hewet.* My Lord, since you have denied me Counsel, I shall desire to speak something in my own behalf.

Mr. At. Gen. This is a very ill Precedent to the Justice of *England*; I suppose that you will allow him all Favour, but the Justice of *England* must be preferred against all Persons whatsoever. The Jurisdiction is settled to the Satisfaction of the Doctor himself; if he will bring himself a Party, and ask any thing of you, that must be by pleading: till then he can ask nothing.

Dr. *Hewet.* My Lord, the Judicature is not yet cleared to me, for the Legality of it; and if you please to give a little Patience, I shall give you the Reasons why.

Mr. At. Gen. I shall desire it may be no more thus.

Ld President. I shall say no more to you, we must make our Authority appear to you either by trying of you, or judging of you: will you be try'd?

Dr. *Hewet.* My Lord, the Charge depends upon an Act of Parliament which was made about two Years since; the Members of which Parliament were chosen by the People, yet notwithstanding one hundred and fifty of them were not permitted to sit—— 17 *Septemb.* 1656.

Mr. At. Gen. My Lord, we must not suffer this; pray, if he will not be otherwise satisfied, I must require your strict Justice. Your words they are seditious; this shews the Spirit of the Man.

Dr. *Hewet.* I hope you will have Patience to hear me for Vindication of my self, and Satisfaction of my own Conscience and all Persons whatever; and withal, for the clearing of your selves, that you do not bring Blood upon your selves by taking that Power that is not justifiable——

Mr. At. Gen. Truly, my Lord, this is insufferable; Mr. Doctor hath had as much Respect as ever any had. I have attended many, I never saw the like in my time; you have had the Patience to hear him oppose your selves, your Authority, your Persons, and to strike at the Root of all. Mr. Doctor, I would have you to carry your self with more Respect. This shews that much of what is charged against him, is true: if you will scorn the Court, say it positively.

Dr. *Hewet.* My Lord, I humbly submit my self to the Laws of the Land; I shall not dispute Acts of Parliament, but I conceive (if you will please to give me a little Patience) an House of Commons is not Authority enough——

Ld President. Mr. Doctor, pray remember that Text, *He that seemeth to be religious, and bridleth not his Tongue, his Religion is vain.* Will you plead or not?

Dr. *Hewet.* My Lord, whilst I speak for the Laws of the Land, this is not an evil Speech.

Mr. At. Gen. My Lord, if you please, I did receive your Commands to prepare this Charge against this Doctor; in obedience to you I have done it, not willingly against your Person, Mr. Doctor; I have some others to proceed against, if you will please that Mr. Doctor may dispatch one way or other. I must pray your final Sentence, if he do not plead immediately.

Dr. *Hewet.* My Lord, what I petitioned for before, I do again, That seeing you will not please to give me leave to speak either as to the Privileges of *Englishmen*, nor as to the Act, I desire time to speak to the Charge, and Counsel.

Ld President. You have heard that I must require your Answer; you must plead guilty, or not guilty.

Dr. *Hewet.* Hath your Lordship assigned me Counsel in Matter of Fact, when Matters of Law arise?

Ld President. We shall then take the Consideration of it, now is not a time.

Dr. *Hewet.* My Lord, I am in a great straight, I pray God assist me; and I here appeal to Almighty God, and to all the World, that I do against my Soul and Conscience nothing that shall be to the Prejudice of the Privileges of the Laws of *England*; if there shall be any thing in these Proceedings that shall be to the Disadvantage of others, my Soul be clear of it, the Guilt be upon others; seeing I am necessitated upon this, and cannot have Counsel assigned me for the Judicature, for the Legality of it, I referring my self to the Judges of the Land: I durst refer my self to his Highness's own Counsel, that if they will say that this Particular that I have urged, that this is a lawful Judicature, I will go on.

Ld President. I am required by the Court, before I enter your Refusal, I require your Answer.

Dr. *Hewet.* I am in a great Dispute, and I pray God direct me what to do in this Case; though I do not at all dispute my own Innocency, which I

hope I ſhall clear; yet I could petition again (though I am tedious to you, yet I can never importune enough) to take into your Thoughts your ſelves and Poſterity, and all the People of *England*.

Ld Preſident. I ſhall deſire, becauſe you may ſee what I ſay comes from the Act of Parliament, I ſhall deſire the words may be read to him, what is to be done, if he refuſe to anſwer.

Clerk, read the Clauſe.

[' And for Examination of Witneſſes upon Oath ' (which the ſaid reſpective Commiſſioners are ' hereby authorized to adminiſter) and thereupon, ' or upon Confeſſion of the Party, or in Default of ' ſuch Anſwer, to proceed to Conviction and final ' Sentence, as in Caſes of High Treaſon, and Miſ- ' priſion of Treaſon, according to Juſtice and the ' Merits of the Cauſe; and ſuch final Sentence to ' execute, or cauſe to be executed ſpeedily and im- ' partially.']

Dr. *Hewet.* My Lord, this is a printed Paper which is called an Act of Parliament——

Ld Preſident. I muſt take you off, you have been required to anſwer, often required; and having refuſed, in the name of the Court I require the Clerk to record it; and pray take away your Priſoner.

Dr. *Hewet.* My Lord——

Court. Take him away, take him away.

The

The Tryal of JOHN MORDANT *Esq; on Tuesday the First of* June, 1658. 10 Car. II.

THE Serjeant at Arms was commanded to bring *John Mordant* Esq; to the Bar; who was brought accordingly.

Lord President. Mr. Atttorney, what have you to say against the Prisoner at the Bar?

Mr. Attorney-General. My Lord, I have prepared a Charge of High Treason against the Gentleman at the Bar, which I desire may be read.

The Substance of the Impeachment.

Mr. *Phelps. John Mordant* Esq; stand at the Bar, and hear your Charge.

A Charge of High Treason against John Mordant *of* Clement Danes, *in the County of* Middlesex, *Esq; as followeth,* viz.

'THAT *John Mordant*, late of the Parish of *Clement Danes*, in the said County of *Middlesex*, Esq; minding and intending to embroil this Commonwealth in new and intestine Wars and Seditions, on the 30th of *April* now last past, and at divers other Days and Times since the 10th of *October*, 1656. and before the said 30th of *April* last, as a false Traytor and Enemy to *Oliver*, then and yet Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, and the Dominions thereto belonging, and to this Commonwealth; together with *Henry Bishop*, late of *Parham*, in the County of *Sussex*, Gent. *Hartgil Baron*, and *Francis Mansel*, and divers others, their Complices, at the Parish of *Clement Danes* aforesaid, and at divers other Places, did traitorously, advisedly, and maliciously plot, contrive, and endeavour to stir up and raise War against the said *Oliver*, then and yet Lord Protector of this Commonwealth, and against the Government thereof, as the same was established, and to alter and subvert the same; and did also then and there, as well before as after the said 30th of *April* last past, and after the 10th of *October*, 1656. traitorously, advisedly, and maliciously declare, publish, and promote *Charles Stuart*, eldest Son of the late King *Charles*, to be King of *England*, *Scotland*, and *Ireland*, &c. and did then and there traitorously, advisedly, and maliciously hold Intelligence and Correspondence with the said *Charles Stuart*. All which said Treason and Treasons he the said *John Mordant*, the said 30th of *April* last, and other the Times and Places aforesaid, and after the said 10th of *October*, 1656. at *Clement Danes*, and other Places, did traitorously declare by Overt-Act, that is to say, by conferring with *J. Stapely* Esq; and *Henry Mallory*, and others, how to effect the same; and did then and there encourage the said *John Stapely* and *Henry Mallory*, and others, thereunto; and did deliver Commissions to several Persons in the Name of, and as from the said *Charles Stuart*, concerning the raising of Forces, and levying War against the said *Oliver*, then and yet Lord Protector, and against this Commonwealth: All which said Treason and Treasons are contrary to the Statute in that Case made and provided. With which said Treason and Treasons, he the said Attorney-General, for and on the behalf of the said *Oliver*, then and yet Lord Protector, and on the behalf of the said Commonwealth, as aforesaid, doth charge and impeach the said *John Mordant*. And the said Attorney General prayeth, That he the said *John Mordant* may be put to answer; and that such Proceedings, Tryal, and Judgment may be had against the said *Mordant*, as is agreeable to Law. And the said Attorney-General doth aver that the said *John Mordant* is a Person by Name appointed by his Highness and Council to be proceeded against.'

Mr. *Phelps. John Mordant* Esq; thou standest here charged with High Treason against his Highness the Lord Protector and the Commonwealth. You have heard the Charge read: The Court demands your positive Answer thereto, whether guilty, or not guilty.

Mr. *Mordant.* My Lord, I desire I may hear the Commission read, by which you sit.

Ld President. You are impeached of High Treason: We require your Answer.

Mr. *Mordant.* I desire the Commission may be read, and the Commissioners Names.

Ld President. You are to be tried by the Laws of *England*, Act of Parliament, and Commission under the Great Seal of *England*, in pursuance of that Act.

Mr. *Mordant.* I claim it as my Right; I am ignorant in Law: I desire it may be read.

Ld President. It is not granted to any.

Mr. *Mordant.* My Lord, will you take away that Liberty, that we shall not know by what Commission we are tried, and who are our Judges? I desire I may not be made the first Precedent.

Ld President. It is visible who are your Judges; they are named by Act of Parliament: We are your Judges.

Mr. *Mordant.* My Lord, if the Act specify any such Thing that it may not be read, I have done.

I desire it may be read, that I may have a legal and just Proceeding.

Ld President. The Act of Parliament doth not require it.

Mr. *Mordant.* The Act doth not deny it.

Ld President. You shall have all the Privileges that may be: But you must first plead.

Mr. *Mordant*, My Lord, I demand this, to hear the Commission read.

Mr. At. Gen. My Lord, pray let him know what is done, to warn him, lest he fall into the same Condemnation. There was one but a little before you that demanded the same Thing, and the Court hath ruled it otherwise; and he hath received his Sentence. I tell you of it, that you may beware, and know how to carry your self. If Mr. *Mordant* will be pleased to answer whether or no guilty of those Crimes, then he shall have a fair Tryal, and full Examination: If otherwise, the same Sentence must be required as before; that is, upon Refusal, the Judgment pronounc'd for High Treason.

Mr. *Mordant.* My Lord, I humbly crave the Act may be read.

Mr. At. Gen. The Act is publick: The Court are not to give you an account of their Authority, or the Way of their Proceedings. They require your Answer.

Mr. *Mordant.* My Lord, shall I not know by what Law I am tried, nor by what Act, nor by what Commission?

Ld President. You seem to be a young Gentleman: I wish rather you would plead Not guilty, or make an ingenuous Confession.

Mr. *Mordant.* My Lord, this is the first Time that I have been before any Court in my Life: I desire that my Reason may be convinced. Either assign me Counsel to argue it with this learned Counsel; and if they convince my Counsel, I shall submit: Or, if this Counsel will say the Law doth debar me the hearing of the Commission and the Act read to me, I shall refer it to the Judges of the Law, and by their Opinions I will stand or fall.

Mr. At. Gen. My Lord President, you have offered that Gentleman very seasonable Advice: I wish he may be capable of it. And in these Debates, I wish he doth not lose those Advantages that are really intended for him. For the Court, it is by Act of Parliament; and no Judicature in *England* can require an Account of their Proceedings.

Mr. *Mordant.* My Lord, pray give me leave to ask this Question, Whether there is any Precedent for this?

Mr. At. Gen. By way of Advice, I do acquaint you that there is no Judicature in *England* superior to this, but the Parliament immediately. You are here impeached of a very high Crime, High Treason; it may be a Strain of Youth: the first Step to Mercy is Confession.

Mr. *Mordant.* My Lord, I have heard that the Judges of the Land are the best and proper Expositors of the Law: And if they declare that this is the Sense of the Act, I'll submit to the Court. If the Court will allow me Counsel, I shall submit if my Counsel be convinced. I desire to hear the Commission read.

Mr. At. Gen. My Lord, this Gentleman was a Fellow-Prisoner with one that went before him; he walks after the same Steps: I wish he may not run into the same Error. These Things were urged by Dr. *Hewet*, and the Court hath ruled that their Authority is sufficient; and therefore, my Lord, be pleased that this Gentleman may plead.

Mr. *Mordant.* I am over-borne both for Jury and Counsel: I desire that my Reason may be convinced. If this Counsel will give it under their Hands that this is Law by the Act of 1656. if you will say under your Hands that this is Law, that I must be excluded of Jury and Counsel, and that I must not know the Commission by which I am tried, I will proceed.

Ld President. I am afraid you have received ill Advice from others: Possibly you know what is become of that Prisoner that spake of Counsel. We cannot assign you Counsel as to Matter of Fact: The Law and Act of Parliament have made us your Judges, and therefore you are to plead.

Mr. *Mordant.* My Lord, I desire that that Act may be read, to know whether I am to be excluded of Jury and Counsel: I refer it to this Counsel.

Mr. At. Gen. I doubt the Gentleman is in Jest: We are here to attend by Command of his Highness the Lord Protector; these Gentlemen are all sworn by Act of Parliament. It is a little slighting of the Court, to appeal from the Court to the Counsel: But, my Lord, I beseech you he may forbear to say he is over-borne. You shall have Justice done, if you will plead; if not, there was a Precedent but now. If you please to put your self upon the Tryal, you shall have a fair Tryal.

Mr. *Mordant.* My Lord, convince me by this Act that I am to lose the Right of Jury; I have not heard any Reason why I must lose it.

Mr. At. Gen. I do tell you the Court hath given Judgment just now in the like Case.

Mr. *Mordant.* I ask a Precedent for this.

Mr. At. Gen. I tell you a Precedent, Sir *Henry Slingsby* and Dr. *Hewet.*

Mr. *Mordant.* Is it a good Precedent? If any give an ill Precedent, it is reason I should debate it my self.

Mr. At. Gen. I humbly conceive that this Court is your Court, and you ought to plead it.

Mr. *Mordant.* My Lord, I desire I may be heard: The Words are, That the respective Commissioners, or the major part of them, are to meet, *&c.* I humbly conceive, without the whole I cannot be tried.

Ld President. All this that you ask of us now, we have declared this Morning already to one who was before you at the Bar: The *Quorum* of this Commission is seventeen, or any of them. We must require you again to plead.

Mr. *Mordant.* My Lord, I desire a little Patience: The Number of the Commissioners is seventeen: I conceive that must be very much strained in Reason, that they must try, because it relates to the respective Commissioners. Several Persons were allowed Counsel; I humbly desire Counsel.

Ld President. That is when there is Matter of Law. You have alledged nothing: You are now upon Matter of Fact.

Mr. *Mordant.* My Lord, my Indictment is Matter of Law, and upon that I may safely demand Counsel: I desire to have Counsel as to my Indictment.

Ld President. Your Reason, and my Reason, and all Reason, must submit to the Law. You are now upon Matter of Fact: The single Question is, Guilty, or Not guilty?

Mr.

Mr. At. Gen. My Advice to you is, That you would put your ſelf upon your Tryal.

Mr. *Mordant.* I am not convinced at all, but forced upon it; and it is a hard Thing: It is reaſon that my Reaſon ſhould be convinced. If this Act doth ſay in any place that I muſt loſe theſe Privileges, or if the Judges will declare it to be ſo, I will ſubmit to it. If the Judges will declare that I muſt be tried thus, God's Will be done; I deſire to ſtand and fall by the Laws.

Mr. Sol. *Ellis.* I will tell you where his Miſtake is: He ſpeaks of former Tryals, which we do not deny. But this Gentleman will agree that it is in the power of Parliaments, by Acts of Parliament, to alter thoſe Tryals. We conceive that this Act of Parliament hath determined this very Queſtion: For, my Lord, it is, That you ſhall examine upon Oath, and thereupon proceed to Conviction and final Sentence, not by Jury: And this Act of Parliament hath entruſted you to be both Judge and Jury. All *Engliſhmen* muſt ſubmit to what the Parliament hath done: And the Parliament hath determined this Queſtion, that you have power to examine upon Oath, and thereupon to proceed to Conviction, *&c.* If a Jury was to do it, you were not to proceed to Conviction. This Gentleman ſays there is no Precedent for it; but we ſay it was the ſame in Queen *Elizabeth*'s Time: They proceeded to Conviction and final Sentence, when they proceeded againſt Duke *Hamilton*, Lord *Capel*, and *Holland*. Did not the Parliament approve of what they did in that Caſe as juſt, honourable, and lawful? Did not Duke *Hamilton*, did they not all petition to the Houſe? Did not the Parliament order Execution upon ſome, and cleared others? To ſay this is without Precedent, when Precedents are ſo frequent, I wonder that ſhould be ſaid. To that Point of a Jury: I muſt tell this Gentleman he ſpeaks of a Jury, but hath not put himſelf upon a Tryal. After he hath pleaded Not guilty, then it muſt be conſidered the Manner of the proceeding; but to come before he plead Guilty, or Not guilty, to deſire a Jury, this is a little to anticipate your Judgment.

Mr. *Mordant.* I do not ſhun to be tried by the Act of Parliament, but refer my ſelf to the Judges, that thoſe Privileges of the Act may not be taken from me.

Mr. At. Gen. The Parliament hath thought fit to go this way, and it is not to be diſputed: They that live in this Nation are not to diſpute it. If that Gentleman will pleaſe to recollect himſelf, and not, my Lord, thus expoſtulate and diſpute with the Court of Juſtice, if he pleaſe to put himſelf upon a Tryal, if he thinks himſelf innocent, I think it is beſt; and if he refuſe it, his Sentence is from himſelf.

Mr. *Mordant.* I do not, my Lord, diſpute the Power of the Court; but I deſire my Reaſon may be convinced, and that I may have Counſel.

Ld Preſident. We are clearly of Opinion, we have not Power in this Caſe to appoint any other Jury, not to ſummon a Jury; we our ſelves have taken an Oath. You would do well to plead.

Mr. *Mordant.* My Lord, I have but little to ſay; and that is, That, as that Gentleman ſaid, it was referred to the Court what Jury I ſhall have, I deſire, my Lord, to know whether the Court doth intend to try me by a Jury.

Mr. Sol. *Ellis.* They do not.

Mr. *Mordant.* Is the Court Judge and Jury?

Mr. At. Gen. If you will deal ingenuouſly with the Court, I think that is beſt.

Mr. *Mordant.* Seeing I am here over-ruled, tho not convinced in my Reaſon, I ſhall demur to the Court, and plead Not guilty. I deſire a Copy of my Indictment, and Time to plead.

Ld Preſident. It was never done: For any Indictment of High Treaſon was never delivered to any Priſoner.

Mr. *Mordant.* I urge my Lord *Coke* for Authority, for a Copy of my Indictment.

Mr. *Phelps.* *John Mordant* Eſq; you ſtand here charged of High Treaſon; to this Charge you plead Not guilty: Is this your Plea?

Mr. *Mordant.* Yes. I beg, my Lord, that my Ignorance of the Laws may not prejudice me, not underſtanding or knowing any thing of the Laws: And this granted me, I ſhall addreſs to my Juſtification.

Mr. At. Gen. Do you ſtand to your Plea, Not guilty?

Mr. *Mordant.* Yes.

Mr. *Lechmere.* My Lord, I ſhall ſhortly open the Impeachment: The Attorney-General hath exhibited a Charge of High Treaſon againſt *John Mordant* Eſq; *viz.* That he the ſaid *John Mordant* intending to imbroil this Nation in new and inteſtine Wars, the 30th of *April* laſt paſt, and at divers Times ſince the 10th of *October* 1656. together with *Henry Biſhop*, *Hartgil Baron*, &c. at the Pariſh of *Clement Danes*, in the County of *Middleſex*, did traitorouſly, adviſedly, and maliciouſly plot, contrive, and endeavour, Firſt, To ſtir and raiſe Force, and levy War againſt his Highneſs the Lord Protector and the Commonwealth, to ſubvert and alter the Government of the ſame. Secondly, That he did traitorouſly, adviſedly, and maliciouſly declare, publiſh, and promote *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*. Thirdly, That he did traitorouſly, adviſedly, and maliciouſly hold Intelligence and Correſpondence with *Charles Stuart*; and that he did declare theſe Treaſons by Overt-Act, that is to ſay, by conferring with *John Stapely* and *Henry Mallory* how to effect the ſame, and did deliver ſeveral Commiſſions from *Charles Stuart* to ſeveral Perſons; and this contrary to the Statute. To this Charge of High Treaſon the Priſoner pleads Not guilty: We are ready, my Lord, to call our Witneſſes to prove him guilty of theſe ſeveral Crimes, and with the leave of the Court, we ſhall call our Witneſſes.

Mr. At. Gen. I wiſh Mr. *Mordant* had done this before, and made himſelf capable of more Favour.

[Mr. *Mordant* then deſired to have Pen, Ink, and Paper, which was granted him.]

[*John Stapely* and *Anthony Stapely* were then called.]

John Stapely *ſworn.*

Mr. At. Gen. We produce this Gentleman (I ſuppoſe he is well known to the Priſoner) to prove the Charge: I deſire he may declare what he knows. What do you know concerning the Diſcourſes of Mr. *Mordant* with you, touching the bringing in of *Charles Stuart?*

John

John Stapely. I have been in Mr. *Mordant's* Company ſeveral Times; and what I can ſay will not be much. Mr. *Mordant* did once tell me there was ſuch a Deſign as the bringing in of the King; and he did ask me if I did not know of ſuch a Thing. I told him no. He was pleaſed to tell me ſomewhat of it. I asked him if he was engaged in it: He told me he was not.

Mr. At. Gen. What did he tell you concerning his being entruſted by the King therein?

John Stapely. He told me the King wrote to him, to ſpeak to his Friends that they would be ready to aſſiſt him when he ſhould come into *England* with Force; which he told me was with 7000 Men. This was the chief of all.

Mr. At. Gen. Did he not ſay that he had Commiſſions from the King?

John Stapely. He did not tell me ſo; but I have heard him ſay others had had Commiſſions, two other Gentlemen in *Surrey*.

Mr. At. Gen. Did not he encourage you thereto? What Arguments did he uſe?

John Stapely. He ſpoke to me of it ſeveral times.

Mr. At. Gen. After what manner?

John Stapely. Only in Commendation of the Thing: I heard him ſay that if there were a Neceſſity, *Surrey* Folks would come into *Suſſex*, to aſſiſt them.

Mr. At. Gen. Who was preſent at any of theſe Diſcourſes.

John Stapely. There was none but him and my ſelf.

Mr. At. Gen. At what Place, and at what Time?

John Stapely. Near his own Houſe, at ſeveral Times. I have told you the main of the Diſcourſes.

Mr. *Mordant.* Mr. *Stapely*, about what Time was this?

John Stapely. Above a Year ſince.

Mr. *Mordant.* Mr. *Stapely*, at what Place was the Encouragement made?

John Stapely. I do not know what he means by Encouragement: He only told me of it.

Mr. *Mordant.* I deſire to know when I told you that I had received a Letter to encourage my Friends from beyond-Sea, and who was by?

Mr. *Stapely.* There was no body by.

Ld Preſident. About what Time did he tell you of this Letter?

John Stapely. About half a Year ſince.

Ld Preſident. Who was by?

John Stapely. No body, my Lord.

Mr. Sol. *Ellis.* Did he tell you it was the King that wrote to him; and therefore it was juſt to aſſiſt him?

John Stapely. I think I heard him ſay ſo; I cannot take my Oath of it.

Ld Preſident. Did he tell you what conſiderable Perſons were concerned?

John Stapely. I have heard him ſpeak of ſome Perſons that were engaged in this Deſign; Sir *Francis Vincent*, and one *Brown*: He ſaid that Sir *William Waller* ſpake to him to ſpeak to me.

Ld Preſident. When?

John Stapely. Above a Year ſince: It was ſince the Parliament.

Mr. *Mordant.* My Lord, I do not know Sir *William Waller*.

Anthony Stapely *Sworn.*

Mr. At. Gen. What Diſcourſe have you had with Mr. *Mordant* touching *Charles Stuart?*

Anthony Stapely. We were about a quarter of a Year ago at the *Half-Moon* Tavern in *Alderſgate-Street:* At that time there was no Diſcourſe about the Buſineſs at all. After that he was ſpeaking to me about the Times, Loſſes of Privileges, great Taxations, *&c.* wherein I agreed with him, and wiſhed they might be better. I asked him if there was any way to help it. He ſaid, Yea; and ſaid that *Charles Stuart* was intending for *England*; and that would be a fair Opportunity to redreſs all Grievances. At *Berkſhire*-Houſe, there he was pleaſed to enquire concerning the Affairs of *Suſſex*, and in what Preparation they were, in caſe the King of *Scots* ſhould land. I told him I did not know; I had not been in the Country lately; I did believe that there would not be an Appearance ſuitable to his Expectation. He told me ſomething concerning *Surrey*; that there was a conſiderable Strength there, ready to aſſiſt us in *Suſſex*, and join with us when any ſuch Thing ſhould happen. He did ſay that he had delivered out four Commiſſions, three for Horſe, and one for Foot; but to whom I know not: I dare not ſwear it; but it is to the beſt of my Remembrance.

Mr. At. Gen. What Diſcourſe paſt between you at the *Half-Moon* Tavern in *Alderſgate-Street* about *March* laſt?

Anth. Stapely. It was the Day that the Cavalier Party were to depart the City: There was Captain *Mallory*, my ſelf, and this Gentleman, Mr. *Mordant*. And then he ſpoke again concerning *Suſſex*; that the King of *Scots* coming was ſuddenly expected; and deſire to know in what Readineſs we were. I told him I could not tell; but I did believe that Things would be in as great a Forwardneſs as the Times would permit. It was agreed upon that ſome of our Country ſhould meet Mr. *Mordant* at *Crawly*, in *Surrey*, upon the Tueſday following.

Mr. At. Gen. What was the End of your Meeting?

Anth. Stapely. It was to conſider further how Things might be carried on, as to the Buſineſs of *Surrey* and *Suſſex*: There was an Expectation of the landing of *Charles Stuart*; and he did ſay that he heard *Charles Stuart* was in a Readineſs. Mr. *Mallory*, my ſelf, and Mr. *Mordant*, were to meet, further to debate of Things. I underſtood it was for the Buſineſs of the King; but it was not poſitively ſo expreſſed. He asked me how Things went on in *Suſſex*. I told him I could not ſatisfy him: Therefore we told him there ſhould ſome of our Country meet him at *Crawly*, to give him an account. He ſaid there was a conſiderable Force; I but never heard him ſpeak of any Number of Horſe or Foot in *Surrey*.

Mr. *Mordant.* Mr. *Stapely*, I deſire to know when I ſpoke to you of this.

Anth. Stapely. My Lord, it was; I cannot tell the Days: But it was ſuddenly after the breaking-up of the Parliament; all the Diſcourſes were ſince the breaking up of the laſt Parliament.

Mr. *Mordant.* I deſire to know where I ſpoke this, and who was by?

Anth. Stapely. As I take it, the firſt Diſcourſe was at *Long-Acre*; but no body by.

Mr. *Mordant.* I desire to know the Time when I met him at the *Half-Moon* Tavern?

Anth. Stapely. It was the Day set for the departing of the Cavalier Party out of Town.

Mr. *Mordant.* I desire to know who was by?

Anth. Stapely. Captain *Mallory.*

Mr. *Mordant.* I desire to know whether I did meet at the Place appointed?

Anth. Stapely. My Brother and Mr. *Mallory* did not meet him, because my Brother was sent for to *Whitehall.*

Mr. *Mordant.* I desire to know the Witnesses to all he says?

Anth. Stapely. It was all private; only once at the *Half-Moon* Tavern with Captain *Mallory.*

Mr. At. Gen. My Lord, there was mention made of one Captain *Mallory,* whom we did intend to have as a Witness: He was committed upon this Design, being privy to it. It hath so fallen out that he is lately escaped. I desire that Mr. Serjeant at Arms, Major *Ellison, Thomas Tatlock,* and *William Capput,* may be sworn.

All Four sworn.

Mr. At. Gen. We do produce these Witnesses for this End: Captain *Mallory* was a Prisoner, and we did intend to make use of him here; but it hath so fallen out, that his guilty Conscience hath made him to fly. Ask these concerning his being in Custody, and Endeavour of Escape.

Major *Ellison.* My Lord, Captain *Mallory* was in Custody, and a Guard constantly set upon him, which Guard was relieved every twenty-four Hours. The Manner of his Escape I only had by relation. We have used all our Endeavours to have found him since he is escaped: We did that Night send presently to *Southwark,* to Inns there, and laid wait for him; and sent to Captain *Mallory*'s Brother-in-Law, where he formerly lay, examined him, but all in vain. Where we had any Intimation of any Relation of his, we did send to search for him.

Serj. *Dan.* My Lord, upon the twenty-eighth of of *May* last, since the Escape of Captain *Mallory,* I received a Warrant from the Counsel, commanding me to use all Diligence for apprehending Captain *Mallory*; I have accordingly endeavoured it: Not knowing his Relations, I did not speak to them. I have used all Means I could; but cannot find him.

Tho. Tatlock. My Lord, Captain *Mallory* went away about Nine a-clock at Night: He went away in a black Suit and Cloke.

Will. Capput. All that I know, my Lord, is, That Captain *Mallory* was a Prisoner, and changed his Habit and Hair, went away, and left Money in the Window to pay for his Lodging.

Mr. At. Gen. My Lord, the Intention is to shew you Captain *Mallory* was a Prisoner, is escaped, and what Means have been used for his Apprehension. Officer, pray swear Mr. *Scobell.*

Mr. Scobell *sworn.*

Mr. At. Gen. My Lord, Mr. *Scobell* was one of the Justices of the Peace that took Captain *Mallory*'s Examination upon Oath.

Mr. *Scobell.* My Lord, Captain *Mallory* gave in Information upon Oath, before my Lord *Goffe* and my self, upon the twenty-first of *April* last; and upon his Oath did inform us, That about the beginning of *March* last Captain *Anthony Stapely* and himself being at the *Half-Moon* Tavern, *John Mordant* Esq; being upon the *Exchange,* was sent for to Mr. *Stapely,* and that he came. Thereupon Mr. *Stapely* presented Captain *Mallory* to Mr. *Mordant* as a Gentleman that was interested in *Charles Stuart*'s Design, together with Mr. *Stapely,* that was his Brother: He said that by that Brother he meant *John Stapely* Esq; Thereupon he informed us, That Mr. *Mordant* did demand of Captain *Mallory* in what Readiness the Horse that were to be raised in *Sussex* were. Mr. *Mallory* informed us, That to that he returned an Answer, that they were not in so good a Posture as he did believe Mr. *John Stapely* had represented to Mr. *Mordant,* but doubted that it would fall much short. *Mallory* told us, That at that Answer Mr. *Mordant* did much wonder, because he said *Charles Stuart* the King was in a very good Posture; and that there was a daily Expectation of his coming over with Forces: and that thereupon Mr. *Mordant* did desire that there might be a Meeting in some convenient Place between him and Mr. *Stapely,* and some others of that County of *Sussex,* as should be thought fit. My Lord, it was (he said) to this End, That they might confer together, and understand how the Affairs stood in reference to the Counties of *Sussex* and *Surrey,* that they might the better assist each other in the intended Insurrection. He did inform us, my Lord, That accordingly it was agreed there should be a Meeting upon the Tuesday following at *Crawly*; and in order thereunto, he said that Mr. *Anthony Stapely* and himself did speak with Mr. *John Stapely* to have a Meeting accordingly at *Crawly* upon the Tuesday following, and they did agree to it. He said that they should meet with Mr. *Mordant* at *Crawly*; but in the mean time Mr. *John Stapely* being sent for to *Whitehall,* that Meeting was prevented. My Lord, this is all.

Ld President. Mr. *Mordant,* would you ask Mr. *Scobell* any Question?

Mr. *Scobell.* I suppose that Mr. *Mordant*'s asking me any Question will not advantage him, or that my Testimony is disadvantageous to him: For all that I have spoke was the same that *Mallory* declared unto me, and my Lord *Goffe,* as Justices of the Peace.

Mr. *Mordant.* My Lord, I neither know this Gentleman, nor Mr. *Mallory,* upon my Oath.

Mr. At. Gen. Mr. *Anthony Stapely,* were you with Captain *Mallory* and Mr. *Mordant* at Dinner together at the *Half-Moon?*

Mr. *Anth. Stapely.* My Lord Captain *Mallory* was once there; but not at Dinner.

Mr. Sol. *Ellis.* The Attorney-General hath exhibited a Charge of High-Treason against the Prisoner at the Bar, that was, to raise Force against the Government, and publish *Charles Stuart* to be King, and held Correspondence with him.

Mr. *Mordant.* My Lord, you have heard the Witnesses: The first Gentleman, Mr. *John Stapely,* he was pleased to urge against me, that I said *Charles Stuart* writ to me to engage my Friends, but said not that he saw the Letter, or that any one was by. He did not name the Time or Place but at random; but that I said so. Being asked about Commissions, he denies that I told him I either had Commissions, or delivered any. He says I gave him Encouragement to this Engagement, or what he calls it, I know not; but he doth not say what kind of Encouragement it was; he doth not say I promised him Money or Preferment. He says

ſays he heard I engaged two other Gentlemen, Sir *Francis Vincent* and Col. *Brown*. He was asked, if any was by at theſe Diſcourſes; he ſaid none was by. My Lord, this is a ſingle Evidence: he ſays it was a Year or more ſince; he ſays I ſaid I was intruſted by *Charles Stuart* about the latter end of the laſt Winter. For Mr. *Anthony Stapely*, he urges againſt me, that at his Lodging I diſcourſed with him, that the way to help us was to bring in *Charles Stuart*: he ſays, that I ſaid in *Surrey* was a conſiderable Strength to join with *Charles Stuart*, which if true might prove troubleſome to me; but I have not been in *Surrey* this Year and a half. He ſays, only to the beſt of his remembrance, I ſaid I had three or four Commiſſions, but he ſays it is to the beſt of his remembrance, but doth not ſay he ſaw the Commiſſions, and will not ſwear whether they were for Horſe or Foot. He ſays, at the *Half-Moon* I ſpake with him and *Mallory*; who that is, I have already ſpoke to. He ſays, I did not name the Number of any Forces that were ready: He ſays, that we agreed to meet on the Tueſday following at *Crawly* with Mr. *Mallory*, but ſays that I was not there. My Lord, I do not know that place; he ſays it is in our Country, but it is not: He ſays it was his Brother *John Stapely* that was to meet me. He ſays, it was not about any poſitive thing why I was to meet there, but in general to carry on things about the intended Deſign. He ſays not that I ſaid it, but that I ſaid I heard that *Charles Stuart* would land with a conſiderable Party. He ſays it was to debate things in general: he ſaid, it was not ſaid about *Charles Stuart*, that he was not mentioned, but he ſuppoſed it to be ſo. He ſays poſitively, that I never ſpake of any number of Horſe or Foot, or any thing of that kind. I asked him, when I firſt ſpoke of this; he returned no time, would not ſay any poſitive time, but ſaid all was ſince the breaking up of the Parliament. I asked him who was by; he ſaid no body, all was private. He ſays, the time when we were at the *Half-Moon* was near the time that thoſe that ſerved the late King were baniſhed. He ſays poſitively I did not meet at the place appointed, and he gives the reaſon, a very inſufficient one, becauſe his Brother was ſent for up; that could not hinder me. He waves his own Meeting: he ſays all was private. I ſubmit it all to this honourable Court.

Mr. Sol. *Ellis*. The Charge is for levying of War to alter the Government, and embroil us again in a new War: to which he pleads Not Guilty. For the proof of this, we have offered to you Witneſſes; I ſhall take them in order as the Gentleman did at the Bar. *John Stapely* ſaid, Mr. *Mordant* ſaid the King writ to him to encourage and engage his Friends to aſſiſt him at his coming; but ſays not the time when this was done. He ſays he did not ſee the Letter, but ſays Mr. *Mordant* told him he had a Letter, all the Diſcourſes (becauſe he ſays there was no time) it agrees that they were ſince the tenth of *October* 1656. and ſo it is clear within this Act, and within your Juriſdiction. Now ſee how it was carried on: After he had told him this, how doth he encourage him in his telling him the Juſtice of the Cauſe, the Perſons engaged therein, and of Sir *William Waller*? Then, my Lord, he told them if the Forces of *Suſſex* were not ſufficient, that the *Surrey* Forces would come to aſſiſt them for the coming in of *Charles Stuart*: this both *John* and *Anthony Stapely*. So that we conceive, under favour, that *John Stapely* and *Anthony Stapely* do agree in moſt of the Circumſtances. *Anthony Stapely* ſays, that Mr. *Mordant* came to him, tells him there were great Grievances; Ay, ſays he, but how ſhall it be remedy'd? Tells him that *Charles Stuart* intended to come to *England* with a great Force, which would redreſs them. He asked him how the Buſineſs was in *Suſſex*? He ſaid it was not in ſo good a poſture as he expected: he ſaid that *Surrey* Forces ſhould join with *Suſſex*. My Lord, I leave it nakedly to you, if you find this to be true, we ſubmit it to you, and Mr. Attorney-General will pray what his Place requires.

Mr. At. Gen. You have heard the Buſineſs, this Gentleman hath interpoſed himſelf where he was not called; it is a Happineſs this Buſineſs was diſcovered. Upon this Evidence, I leave it to your Juſtice; and as you ſhall judge, I ſhall ſay more.

Mr. *Mordant*. My Lord, I will ſpeak to you very ſhort, it is this: That to all this, though it be urged againſt me by the ableſt Men in the Land, yet there is but one Witneſs in a manner, and that differing in many Circumſtances——[Here he was interrupted.] My Lord, I leave it to you, I remit my Life into your hands, reſting and believing your Lordſhips will deal with me as one of this Nation, an *Engliſh* Freeman. I leave it to you, and do ſubmit.

Ld Preſident. Withdraw the Priſoner.

Proclamation to adjourn into the Painted Chamber.

After a little Debate in the Painted Chamber, they adjourned till the morrow, the ſecond of *June*.

June 2. 1658.

THE Lords Commiſſioners met in the Painted Chamber about Ten in the Morning, and there continued till about Four a clock in the Afternoon, and then adjourned into *Weſtminſter-Hall*; where Proclamation being made, the Names of the Lords Commiſſioners being read,

Mr. Serjeant was commanded to bring Dr. *Hewet*, Sir *Henry Slingsby*, and Mr. *Mordant* to the Bar.

Proclamation for Silence was made.

Mr. *Phelps*. Sir *H. Slingsby*, ſtand at the Bar, and hear what the Court hath to ſay to you.

Mr. At. Gen. My Lord, as for Sir *H. Slingsby* and Mr. *Mordant*, you have heard the Impeachment read, and their Pleas; I have given in the Evidence, I pray your Judgment as to them: as for the other, you have heard the Impeachment, and no Defence; I pray your Juſtice.

Ld Preſident. Sir *H. Slingsby* Kt. thou haſt been impeached, on the behalf of the Lord Protector and this Commonwealth, of High Treaſon: to which thou haſt pleaded Not Guilty, which the Court hath taken into conſideration: What haſt thou to ſay further, why this Court ſhould not proceed to Judgment?

Sir *H. Slingsby*. My Lord, I humbly deſire I may be try'd by a Jury, for I muſt ſay you are my Enemies, (pardon the Expreſſion;) if not ſo, why did you ſequeſter me, and ſell my whole Eſtate? And why did you deny me the Act of Oblivion? There is no Man would willingly appeal to his Adverſaries; there are ſome among you that have been inſtrumental in my Sequeſtration, and in the ſelling of my Eſtate, for which they gave me no reaſon but this, That I would not compound, when

I thought not fit ſo to do, when there was no Eſtabliſhment or ſettled Peace: if I had compounded, I had not been ſure whether I might not have compounded over again. My Eſtate hath been ſequeſtred and ſold. Now to be my Judge and Jury—— I humbly pray, being a Commoner, I may be try'd by Commoners.

Ld Preſident. Sir *H. Slingsby*, I am not to hear you as to any of theſe things, (you have pleaded already) this is not a Time of Pleading, but a Time of Judgment; therefore I muſt require your Silence, and hear me a few words.

The Lord Preſident's Speech.

'SIR *Henry Slingsby*, I am really and truly afflicted for your ſad Condition; but when I conſider the Nature of your Offence, with the Circumſtances and Aggravations of your Treaſon committed; when I conſider your Perſon, and that ſuch a Perſon as you are ſhould be inſtrumental in ſo deteſtable a Conſpiracy, and when I think of that Judgment that muſt be given againſt you; methinks you are one of the ſaddeſt Spectacles that ever I beheld in all my days: I beſeech God that you may ſeriouſly lay it to your heart, with Sorrow and Repentance, and that you may be more ſenſible of what you have done, than of what you are to ſuffer.

'Sir, was it not a great Aggravation of the Sins of the *Egyptians*, that when God had declared himſelf by ſo many Signs and Wonders on the behalf of the *Iſraelites*, that yet notwithſtanding they would ſtill purſue *Moſes* and *Iſrael*? Was not this a great Aggravation of their Sin?

'Who is ſo great a Stranger in this Nation, as to be ignorant what God hath done amongſt us, by a Series of wonderful Providences ſo many Years together, againſt that very Party who are ſtill hatching of Treaſons and Rebellions amongſt us? It grieves my very Soul to think of it, that after ſo many ſignal Providences, wherein God ſeems to declare himſelf, (as it were by Signs and Wonders) that your Heart ſhould be ſtill harden'd, I may ſay, more harden'd than the very Hearts of the *Egyptians*: for they at length did not only ſee, but confeſſed that the Lord fought againſt them; but you, O that you would confeſs, and give glory to God. You cannot chuſe but ſee that the Lord fights againſt you, that the Stars in their Courſes fight againſt you; and yet you will not ſee, you will not confeſs, until Deſtruction overtakes you. This is a ſad Lamentation, and I beſeech God that you may ſeriouſly conſider it.

'Sir, if the ſignal and the wonderful Providences of God will not deter you, yet methinks national Conſiderations ſhould deter you from ſuch a Treaſon as this is. *Charles Stuart* is in Confederacy with *Spain* againſt *England*, he is in Confederacy with that great Popiſh Intereſt. Is it imaginable that an *Engliſhman*, that a Proteſtant ſhould aſſiſt ſuch a Confederacy as this is? Yet that which is not imaginable in itſelf, is here clearly and evidently proved before us.

'Sir *Henry Slingsby*, there are three Witneſſes, Major *Waterhouſe*, Captain *Overton*, and Lieutenant *Thompſon*; two of them full in Evidence as to every Charge againſt you, and three of them as to ſome of the Charges; and beſides your own Confeſſion at the Bar, full in proof againſt you. Did it not clearly appear in proof before us, that you promoted *Charles Stuart* to be King of *England*? Did it not clearly appear before us, that you endeavoured to betray the Gariſon of *Hull* to *Charles Stuart*? Did it not likewiſe clearly appear before us, that you endeavoured to withdraw the Officers, and ſome of the Soldiers of that Gariſon from their Obedience to his Highneſs, and to make a Mutiny in that Gariſon, and all the Circumſtances did clearly appear? Was it not proved before us, that you offered a Commiſſion to Major *Waterhouſe*, and promiſed him a Commiſſion in the firſt place, and a ſecond to Captain *Overton*, and a Deputation to the third? And what you promiſed, did you not make it good? Did you not with your own Hand offer a Commiſſion ſealed, and ſaid it was from *Charles Stuart*? And did you not only encourage him, by telling him that he was coming into *England* with a conſiderable Force; but did you not promiſe alſo, that upon his landing, 5000 *l.* ſhould be paid to Major *Waterhouſe*? All theſe things were clearly proved before us.

'Sir, What ſaid you to this Proof? You confeſſed upon the matter all, in effect all; but only ſome things you ſaid by way of Excuſe, and I ſhall truly relate them all. All you did, you told us was but in jeſt. What, Sir, if thoſe diſcontented *Engliſh* that comply'd with *Spain* in Queen *Elizabeth*'s days in 88, had ſaid they had been in jeſt; what would you have thought of that, Sir? What if thoſe Jeſuited Papiſts that would have blown up the Parliament-Houſe upon the 5th of *Novemb.* with Barrels of Gunpowder, had ſaid that they had brought in thoſe Barrels in jeſt; what would you have thought of it? Sir, be not deceived: As a Man ſows, ſo ſhall he reap; you have ſow'd Treaſon and Rebellion, and you are now come to reap the Fruit of it.

'And, Sir, you told me you did not own the Government, you were a Priſoner, and therefore could not be bound by the Laws of that Government. Sir, doth not every *Engliſhman* owe a natural Allegiance to the Supreme Magiſtrate of *England*? Is not every *Engliſhman*, whether in Priſon, or out of Priſon, bound by the Laws of *England*? Sir, if you own not the Government of *England*, that is an Offence in itſelf, a great Offence; and would you make an Offence againſt the Government to be an Excuſe or Juſtification for Treaſon?

'The laſt thing you ſaid was this, You told us you were trepan'd into it. Sir, did not you yourſelf of yourſelf promiſe a Commiſſion to Major *Waterhouſe*? Did you not of yourſelf offer Five Thouſand Pound to be paid as ſoon as *Charles Stuart* landed upon *Engliſh* Ground? I ſhall name thoſe worthy Gentlemen, for Honour's ſake to them, that had a hand in this Diſcovery. It was that prudent and faithful Governour of *Hull*, Colonel *Smith*, that had a hand in it. There was thoſe worthy and faithful Commanders, who were here in Court, Major *Waterhouſe*, Captain *Overton*, and Lieutenant *Thompſon*: Sir, theſe faithful and worthy Gentlemen have carried themſelves in this Buſineſs, like the Man of Underſtanding, that *Solomon* ſpeaks of.

'I have done, only I would ſay one word to you, becauſe I hear you are a Proteſtant: I would only ask you this Queſtion, What think you would have become of the Proteſtant Intereſt, of the Proteſtants of *England*, *Scotland*, and *Ireland*; if you had had your Will, if *Charles Stuart* had

'come

'come in? If you had but time (but the Lord 'knows you have not time) to look over the Records of *England*, to look over the Declarations 'of Parliament since 1640; if you could remember it, Sir, it would tell you what Family it was 'that betray'd the Proteſtants of *France*, when '*Rochel* was taken; what Family it was that betray'd the Proteſtants in *Germany*, and in the *Palatinate*, when a Peace was made with *Spain* without Conſent of Parliament. What could you think of that Family that did tolerate Popery for 'a Match with *Spain*? What then would that 'Family have done, if it could have gained them '*England*, *Scotland*, and *Ireland*?

'And now, Sir, but one word more to you as 'you are an *Engliſhman*: I beſeech you conſider 'what would have become of this Nation, if you 'had had your will; you had brought a new Civil 'War upon *England* at the leaſt. I cannot think of 'a new Civil War upon *England*, but I think of 'Deſolation upon Deſolation to this poor Nation, *&c.*

'I have but one word to ſay to Dr. *Hewet*: And 'Sir, when I look upon you as a Miniſter, I muſt 'confeſs I do not know how to ſpeak to you, be'cauſe it has always been my way to ſpeak to Men 'of your Profeſſion, to Miniſters, I never ſpake 'to them but as a Child ſpeaks to his Father; ſuch 'Reverence and ſuch Regard I bear to their Of'fice. But to ſpeak ſo to a Miniſter as a Judge 'ſpeaks to a Traytor, I muſt confeſs I know not 'how to do it. But, Sir, there muſt be words 'ſpoken to you, though I do not ſpeak them; and 'not only to you as a Traytor, but a Traytor in 'the higheſt degree; not as a Traytor, (as you 'are intitled, for endeavouring to levy a new 'War, and to bring Deſolation and a War in this 'Nation) but ſuch an one as ſhould rather die a 'Traytor, than own the Authority of the Nation. 'But, Sir, I know not how to ſpeak to you, and 'therefore the Record muſt ſpeak to you; and I 'myſelf will not any further.

'I have now a word to ſpeak to you, Mr. *Mor'dant*: God hath appeared in Juſtice, and God 'doth appear in Mercy; as the Lord is juſt to 'them, ſo he is exceeding merciful to you: and I 'may ſay to you, That God appears to you at this 'time, as he ſpeaks to Sinners in Jeſus Chriſt; 'for, Sir, he doth clear Sinners in Chriſt Jeſus, 'even when they are guilty, and ſo God cleareth 'you: I will not ſay you are guilty, but ask your 'own Conſcience whether you are or no. Sir, 'bleſs God as long as you live, and bleſs my Lord 'Protector, by whoſe Authority you are cleared. 'Sir, I ſpeak no more, but I beſeech you to ſpeak 'to God.

'And now let me add this word to thoſe two 'Gentlemen: Sirs, when I have done ſpeaking, I 'ſhall never have done praying for you, as long as 'you are alive; that is the laſt thing I muſt ſay to 'you. And now let the Judgment of the Court 'be read.'

Thereupon the Clerk read the Judgment and Sentence of the Court againſt Sir *H. Slingsby* Kt. which was as follows:

"THAT the ſaid Sir *Henry Slingsby*, as a falſe "Traytor to his ſaid Highneſs the Lord Pro"tector and this Commonwealth, ſhall be con"vey'd back again to the Tower of *London*; and "from thence through the middle of the City of "*London*, directly ſhall be drawn unto the Gallows "of *Tyburn*, and upon the ſaid Gallows there ſhall "be hanged, and being alive, ſhall be cut down "to the ground, and his Entrails taken out of his "Belly, and, he living, be burnt before him; and "that his Head ſhall be cut off, and that his Body "ſhall be divided into four Quarters, *&c.*"

In the next place, the ſame Judgment and Sentence of the Court was read againſt Dr. *Hewet*, being ingroſs'd in like manner.

This being done, the Judgment of the Court was declared concerning Mr. *Mordant*, which (in ſhort) was, "That upon Conſideration of the "whole Matter, in reference to the Charge againſt "him, and his Plea thereunto, they did adjudge "him *Not Guilty*." And ſo the Priſoners were diſmiſs'd.

Proclamation being made, the Court adjourned back to the Painted Chamber, where they order'd the Execution of the Sentence upon Sir *Henry Slingſby* and Dr. *Hewet* to be on Saturday next. And Warrants were iſſued out to the Sheriffs of *London*, to ſee Execution done accordingly.

Then the Court adjourned itſelf till Thurſday the tenth inſtant.

Notwithſtanding the former Sentence paſſed by the High Court, yet his Highneſs being informed, that Dr. *Hewet*, Priſoner in the Tower of *London*, who ſtands attainted of High Treaſon, before the Commiſſioners appointed by Act of Parliament, for levying War againſt his Highneſs and the Commonwealth, had Judgment to be hanged, drawn and quartered at *Tyburn* this inſtant Saturday; his Highneſs was graciouſly pleaſed, upon humble Suit made, to reprieve him till Tueſday the eighth inſtant, at which time he is to be executed on *Tower-Hill*, by ſevering his Head from his Body: And his Highneſs's Pleaſure is, that the Judgment ſhall be remitted.

The like Favour alſo was extended to Sir *Henry Slingsby*, who is to ſuffer the ſame day, in the ſame place.

The Tryals of Twenty Nine Regicides, which begun the Ninth of October, 1660.

In the County of Middlesex. *The* Proceedings *at* Hick's Hall, *the 9th of* October 1660, *in Order to the Trial of the Pretended* Judges *of his late Sacred* Majesty.

THE Court being sate, the Commission of *Oyer* and *Terminer*, under the Great Seal of *England*, was first Read. It was directed to the Lords, and others hereafter named, *viz.*

Sir *Thomas Aleyn*, Knight and Baronet, Lord Mayor of the City of *London*.
The Lord Chancellor of *England*.
The Earl of *Southampton*, Lord *Treasurer* of *England*.
The Duke of *Somerset*.
The Duke of *Albemarle*.
The Marques of *Ormond*, Steward of His Majesties Houshold.
The Earl of *Lindsey*, Great *Chamberlain* of *England*.
The Earl of *Manchester*, *Chamberlain* of His Majesties Houshold.
The Earl of *Dorset*.
The Earl of *Berkshire*.
The Earl of *Sandwich*.
Viscount *Say* and *Seal*.
The Lord *Roberts*.
The Lord *Finch*.
Denzil Hollis, Esquire.
Sir *Frederick Cornwallis*, Knight and Baronet, *Treasurer* of His Majesties Houshold.
Sir *Charles Barkly*, Knight, Comptroller of His Majesties Houshold.
Mr. Secretary *Nichols*.
Mr. Secretary *Morris*.
Sir *Anthony Ashley Cooper*.
Arthur Annesly, Esq;
The Lord Chief *Baron*.
Mr. Justice *Foster*.
Mr. Justice *Mallet*.
Mr. Justice *Hide*.
Mr. Baron *Atkins*.
Mr. Justice *Twisden*.
Mr. Justice *Tyrrel*.
Mr. Baron *Turner*.
Sir *Harbottle Grimston*, Knight and Baronet.
Sir *William Wild*, Knight and Baronet, Recorder of *London*.
Mr. Serjeant *Brown*.
Mr. Serjeant *Hale*.
John Howel, Esq;

Sir *Geoffry Palmer*, His Majesties *Attorney-General*.
Sir *Heneage Finch*, His Majesties *Sollicitor-General*.
Sir *Edward Turner*, Attorney to His Highness the Duke of *York*.
Wadham Windham, Esq;

Edward Shelton, Esq; *Clerk of the Crown*.

The Grand Jury Sworn were,

Sir *William Darcy*, Baronet, *Foreman*.
Sir *Robert Bolles*, Baronet.
Sir *Edward Ford*, Knight.
Sir *Thomas Prestwick*.
Sir *William Coney*, Knight.
Sir *Charles Sidley*, Baronet.
Sir *Lewis Kirk*, Knight.
Sir *Henry Littleton*, Bart.
Sir *Ralph Bovey*, Baronet,
Edward Chard, Esquire.
Robert Giddon, Esquire.
John Fotherly, Esquire.
Charles Gibbons, Esquire.
Thomas Geree, Esquire.
Richard Cox, Esquire.
Robert Bladwell, Esquire.
Henry Mustian, Esquire.
John Markham, Esquire.
Edward Buckley, Gent.
Francis Bouchier, Gent.
Edward Lole.

Hart, Crier.

After Proclamation for Silence was made, it pleased Sir *Orlando Bridgman*, Lord *Chief Baron* of His Majesties High Court of *Exchequer*, to speak to the *Jury* as followeth.

The Lord Chief Baron's Speech.

Gentlemen,

YOU are the *Grand Inquest* for the Body of this County of *Middlesex*: You may perceive by this *Commission* that hath been read, that we are authoriz'd by the King's Majesty to hear and determine all Treasons, Felonies, and other Offences, within this County: But because this *Commission* is upon a special Occasion, the Execrable Murther of the Blessed King, that is now a Saint in Heaven, King *Charles the First*, we shall not trouble you with the Heads of a long *Charge*. The Ground of this *Commission* was, and is, from the *Act of Oblivion and Indempnity*. You shall find in that *Act* there is an Exception of several Persons, who (for their Execrable Treasons, in Sentencing to Death, and Signing the *Warrant* for the taking away the Life of our said Sovereign) are left to be proceeded against as Traytors, according to the Laws of *England*; and are out of that *Act* wholly excepted and fore-priz'd.

Gentlemen, You see these Persons are to be proceeded with according to the Laws of the Land; and I shall speak nothing to you but what are the Words of the Laws. By the Statute of the Twenty fifth of *Edward the Third*, (a *Statute* or *Declaration* of Treason) it is made High-Treason to compass and imagine the Death of the King. It was the Antient Laws of the Nation. In no Case else Imagination, or Compassing, without an Actual Effect of it, was Punishable by our Law. *Nihil efficit Conatus nisi sequatur Effectus*; that was the Old *Rule* of Law: But in the Case of the King, his Life was so Precious, that the Intent was Treason by the *Common Law*; and declar'd Treason by this *Statute*. The Reason of it is this; In the Case of the Death of the King, the Head of the Com-

monwealth that's cut off; and what a Trunk, and *inanimate* Lump, the Body is when the Head is gone, you all know. For the Life of a ſingle Man, there's the Life of the Offender; there's ſome Recompence, Life for Life: But for the Death of the King what Recompence can be made? This Compaſſing and Imagining the cutting off the Head of the King is known by ſome *Overt-Act*. Treaſon it is in the wicked Imagination, though not Treaſon apparent; but when this Poiſon ſwells out of the Heart, and breaks forth into Action, in that Caſe it's High-Treaſon.

Then what is an Imagination or Compaſſing of the King's Death? Truly it is any thing which ſhews what the Imagination is. Words, in many Caſes, are Evidences of this Imagination; they are Evidences of the Heart. Secondly, As Words; ſo if a Man, if Two Men do conſpire to levy War againſt the King, (and (by the Way) what I ſay of the King, is, as well of the King Dead, as Living; for, if a Treaſon be committed in the Life of One King, it is Treaſon, and Puniſhable in the Time of the Succeſſor,) then, I ſay, in Caſe, not only of Words, but if they conſpire to levy War againſt the King, there's another Branch of this *Statute*, the *Levying of War*, is Treaſon. But, if Men ſhall go and conſult together, and this is to kill the King, to put him to Death, this Conſultation is clearly an *Overt-Act* to prove this Imagination, or Compaſſing of the King's Death.

But what will you ſay then, if Men do not only go about to conſpire and conſult, but take upon them to judge, condemn, nay, put to Death, the King? Certainly, this is ſo much beyond the Imagination and Compaſſing, as 'tis not only laying the Cockatrice's Egg, but brooding upon it till it hath brought forth a Serpent. I muſt deliver to you for Plain and True Law, That *no Authority, no ſingle Perſon, no Community of Perſons, not the People Collectively, or Repreſentatively, have any coercive Power over the King of* England. And I do not ſpeak mine own Sence, but the Words of the Laws unto you. It was the Treaſon of the *Spencers* in King *Edward the Second*'s Time, in *Calvin*'s Caſe, Second *Report*. The *Spencers* had an Opinion, that all Homage and Allegiance was due to the King, by Reaſon of the Crown, as they call'd it. And thereupon (ſay the *Books* and *Records*) they drew out this execrable Inference, (among others,) That if the King did not demean himſelf according to Right, becauſe he could not be Reform'd by Law, he might *per aſpertee*, that is, *by ſharp Impriſonment*; but this was adjudg'd horrid Treaſon by Two *Acts* of *Parliament*.

Gentlemen, Let me tell you what our *Law-Books* ſay; for there's the Ground, out of which (and the *Statutes* together) we muſt draw all our Concluſions for Matter of Government.

How do they ſtile the *King*? They call him, *The Lieutenant of God*, and many other Expreſſions in the Book of *Primo Henrici Septimi*; ſays that Book there, *the King is immediate from God, and hath no Superior*. The *Statutes* ſay, That *the Crown of* England *is immediately ſubject to God, and to no other Power*. *The King* (ſays our Books) *He is not only* Caput Populi, *the Head of the People*; *but* Caput Reipublicæ, *the Head of the Commonwealth, The Three Eſtates*. And truly thus our *Statutes* ſpeak very fully. Common Experience tells you, when we ſpeak of the King, and ſo the *Statutes* of *Edward the Third*, we call the King, *Our Sovereign Lord the King: Sovereign*, that is, *Supreme*. And when the Lords and Commons in *Parliament* apply themſelves to the King, they uſe this Expreſſion, *Your Lords and Commons, your faithful Subjects humbly beſeech*. I do not ſpeak any Words of my own, but the Words of the Laws. Look upon the *Statute, primo Jacobi*, there's a Recognition, that the Crown of *England* was lawfully deſcended on the King and his Progeny.

(*The* Statute *itſelf was read, to which it is deſired the* Reader *will be referr'd.*)

Theſe are the Words of the *Act*. And this is not the Firſt Precedent; for you ſhall find it *primo* Eliz. *cap.* 3. They do aknowledge the Imperial Crown lawfully deſcended on the *Queen*, the ſame Recognition with this. Before that (becauſe we ſhall ſhew you we go upon Grounds of Law in what we ſay) *Stat.* 24 Hen. 8. *cap.* 12. *Whereas by ſundry Old Authentick Hiſtories and Chronicles it is manifeſtly declared and expreſſed, that this Realm of* England *is an Empire, and ſo hath been accepted in the World, govern'd by One Supreme Head and King, having the Dignity and Royal Eſtate of the Imperial Crown of the ſame*, &c.

25 Hen. 8. *c.* 21. There it is the People ſpeaking of themſelves, That they *do recognize no Superior under God, but only the King's Grace.*

Gentlemen, You ſee, if the King be immediate under God, he derives his Authority from no body elſe; if the King have an Imperial Power, if the King be Head of the Commonwealth, Head of the Body Politick, if the Body Politick owe him Obedience, truly I think it is an undenied Conſequence, he muſt needs be Superior over them.

Gentlemen, This is no New Thing to talk of an *Emperor*, or an *Imperial Crown*. Do not miſtake me all this while: It is one Thing to have an *Imperial Crown*, and another Thing to govern *Abſolutely*.

Gentlemen, The *Imperial Crown* is a Word that is ſignificative; you ſhall find in all *Statutes primo* Eliz. and the Firſt of King *James*, nay, even in the *Act* of Judicial Proceedings of this *Parliament* it is call'd an *Imperial Crown*. They that take the Oaths of Allegiance and Supremacy, they ſwear, that they will, to their Power, aſſiſt and defend all Juriſdictions, Priviledges, Preheminences, and Authorities, granted or belonging to the King, his Heirs, and Succeſſors, or annex'd to the *Imperial Crown* of this Realm. What is an *Imperial Crown*? It is that, which, as to the Coercive Part, is ſubject to no Man under God. The King of *Poland* has a Crown; but what is it? At his *Coronation* it is conditioned with the People, That if he ſhall not govern them according to ſuch *Rules* they ſhall be freed from their Homage and Allegiance; but the Crown of *England* is, and always was, an *Imperial Crown*, and ſo ſworn.

Gentlemen, As I told you, even now, the *Imperial Crown* is a Word ſignificative; that Crown, which, as to the Coercive Part, is not ſubject to any Human Tribunal, or Judicature, whatſoever. And truly that this is ſuch an *Imperial Crown*, though I have cited Authorities Ancient enough, you may find them much more Ancient. I remember in the Story of *William Rufus* (you ſhall find it in *Matthew Paris* and *Eadmerus*) ſome Queſtion was about *Inveſtiture* of Biſhops, and the like, the King writes his Letter, *That*, &c.

God forbid I ſhould intend any Abſolute Government by this. It is one thing to have an *Abſolute* Monarchy, another Thing to have that Government *Abſolutely* without Laws, as to any Coercive Power over the Perſon of the King; for as to *Things* or *Actions*,

Actions, they will fall under another Conſideration as I will tell you by and by.

Gentlemen, Since this is ſo, conſider the Oath of Supremacy, which moſt Men have taken, or ſhould take. All Men that enter into the *Parliament* Houſe, they are expreſly enjoined by *Statute* to take the Oath of Supremacy. What ſays that Oath? We ſwear that *the King is the only Supreme Governour within this Realm and Dominions.* He is *Supreme*, and the *only Supreme*; and truly if he be *Supreme*, there is neither *Major* nor *Superior*. I urge this the more, leſt any Perſon, by any Miſconſtruction or Inference which they might make from ſomething that hath been acted by the Higher Powers, they might draw ſome dangerous Inferences or Conſequences to colour or ſhadow over thoſe Murtherous and Traiterous Acts, which afterwards they committed. They had no Authority: But as I told you, tho' I do ſet forth this, and declare this to you, to let you know that the King was immediately ſubject to God, and ſo was not Puniſhable by any Perſon: yet let me tell you there is that excellent Temperament in our Laws, that for all this the King cannot rule but by his Laws. It preſerves the King, and his Perſon, and the Peoples Rights.

There are Three Things touching which the Law is Converſant, *Perſonæ*, *Res & Actiones*; Perſons, Things, and Actions. For the *Perſon* of the King, he is the Supreme Head, he is not Puniſhable by any Coercive Power; the Laws provide for that. *The King can do no Wrong*; it is a *Rule* of Law, it is in our *Law Books* very frequent; 22d of *Edward the Fourth*, Lord *Coke*, and many others. If he can do no Wrong, he cannot be puniſh'd for any Wrong. The King, he hath the Infirmities and Weakneſs of a Man; but he cannot do any Injury, at leaſt not conſiderable, in Perſon; he muſt do it by Miniſters, Agents, Inſtruments. Now the Law, though it provide for the King, yet if any of his Miniſters do Wrong, though by his Command, they are Puniſhable. The King cannot arreſt a Man, as he cannot be arreſted himſelf; but if he arreſt me by another Man, I have Remedy againſt this Man, though not againſt the King; and ſo he cannot take away my Eſtate. This as to the *Perſon* of the King: He is not to be touched, *Touch not mine Anointed.*

I come to *Things*. If the King claim a Right, the King muſt ſue according to his Laws; the King is ſubject to the Laws in that Caſe, his Poſſeſſions ſhall be tried by Juries. If he will Try a Man for his Father's Death, you ſee he will try them by the Laws. The Law is the Rule and Square of his Actions, and by which he himſelf is judg'd.

Then for *Actions*, that is, ſuch *Actions* whereby Rights and Titles are proſecuted or recovered, the King cannot judge in Perſon betwixt Man and Man, he does it by his Judges, and upon Oath; and ſo in all Caſes whatſoever, if the King will have his Right, it muſt be brought before his Judges. Though this is an *Abſolute* Monarchy, yet this is ſo far from infringing the Peoples Rights, that the People, as to their Properties, Liberties, and Lives, have as great a Privilege as the King. It is not the ſharing of Government that is for the Liberty and Benefit of the People; but it is how they may have their Lives, and Liberties, and Eſtates, ſafely ſecured under Government. And you know, when the Fatneſs of the *Olive* was laid aſide, and we were governed by *Brambles*, theſe Brambles, they did not only tear the *Skin*, but tore the *Fleſh* to the very Bone.

Gentlemen, I have done in this Particular, to let you ſee that the Supreme Power being in the King, the King is immediately under God, owing his Power to none but God. It is true (Bleſſed be God) we have as great Liberties as any People have in *Chriſtendom*, in the World; but let us own them where they are due; we have them by the Conceſſions of our Princes. Our Princes have granted them; and the King, now; he in them hath granted them likewiſe.

Gentlemen, I have been a little too long in this, and yet I cannot ſay it is too long, becauſe it may clear Miſunderſtanding, ſo many Poiſonous Opinions having gone Abroad. To come a little nearer: If we conſider; ſuppoſe there were the Higheſt Authority; but when we ſhall conſider this horrid Murther (truly I cannot almoſt ſpeak of it, but —— *Vox faucibus hæret.*) When we ſhall conſider, that a few Members of the *Houſe of Commons*, thoſe that had taken the Oath of *Supremacy*, and thoſe that had taken the Oath of *Allegiance*, that was to defend the King, and his Heirs, againſt all Conſpiracies, and Attempts, whatſoever, againſt his and their Perſon, their Crowns and Dignities; not only againſt the *Pope*'s Sentence, as ſome would pretend, but, as otherwiſe, againſt all Attempts and Conſpiracies, not only againſt his Perſon, Crown, and Royal Dignity, nor *Pope*'s Sentence, not only in Order to the Profeſſion of Religion; but Abſolutely or otherwiſe, that is, whatſoever Attempts, by any Power, Authority, or Pretence whatſoever. I ſay, when a few Members of the *Houſe of Commons*, not an Eighth Part of them, having taken theſe Oaths, ſhall aſſume upon themſelves an Authority; and Authority, what to do? Shall aſſume to themſelves an Authority to make Laws, which was never heard before; Authority to make Laws: What Laws? A Law for an *High Court of Juſtice*, a Law for Lives, to ſentence Mens Lives; and whoſe Life? The Life of their Sovereign: Upon ſuch a King, who, as to them, had not only redreſſed long before, at the beginning of the *Parliament*, all Grievances that were, and were imaginable, taken away, the *Star-Chamber*, *High Commiſſion-Court*, and about *Shipping*; ſuch a King, and after ſuch Conceſſions that he had made in the Iſle of *Wight*; when he had granted ſo much, that was more than the People would have deſired. When theſe few *Commons*, not only without, but excluding the reſt of the *Commons*; not only without, but excluding the reſt, but rejecting the *Lords* too, that then ſat: When theſe *few Commons* ſhall take upon them this Authority, and by colour of this, their King, Sovereign Liege Lord, ſhall be ſentenc'd, put to Death; and that put to Death, even as their King, and ſentenc'd as their King; put to Death as their King, and this before his own Door, even before that Place where he uſed in *Royal Majeſty* to hear Embaſſadors, to have his Honourable Entertainments; that this King ſhall be thus put to Death at Noon-day, it is ſuch an Aggravation of Villany, that truly I cannot tell what to ſay. No Story, that ever was, I do not think any *Romance*, any Fabulous *Tragedy*, can produce the like. *Gentlemen*, If any Perſon ſhall now come, and ſhroud himſelf under this pretended Authority, or ſuch a pretended Authority, you muſt know, that this is ſo far from an Excuſe, that it is an Height of Aggravation. The Court of *Common-Pleas* is the Common Shop for Juſtice; in that Court an Appeal is brought for Murther, which ought to have been in the *King's Bench*, the Court gives Judgment, the Party is condemn'd, and executed: In this Caſe it

is Murther in them that executed, becauſe they had no Lawful Authority. I ſpeak this to you, to ſhew you, that no Man can ſhroud himſelf by Colour of any ſuch falſe or pretended Authority. I have but One Thing more to add to you upon this Head, and that is (which I ſhould have ſaid at firſt) if Two or more do compaſs or imagine the Kings Death; if ſome of them go on ſo far as to Conſultation, if others of them go further, they ſentence, and execute, put to death: In this Caſe they are all Guilty; the firſt Conſultation was Treaſon. I have no more to add, but one Particular, a few Words.

As you will have Bills preſented againſt thoſe for Compaſſing, Imagining, Adjudging, the King, ſo poſſibly you may have Bills preſented againſt ſome of thoſe for Levying War againſt the King: Levying of War, which is another Branch of the *Statute* of 25th of *Edward the Third*. It was but Declarative of the Common Law; it was no New Law. By that Law it was Treaſon to *Levy War* againſt the King. But to Levy War againſt the King's Authority you muſt know is Treaſon too. If Men will take up Arms upon any Publick Pretence; if it be to expulſe Aliens; if but to pull out Privy-Councellors; if it be but againſt any Particular Laws, to reform Religion, to pull down Encloſures: In all theſe Caſes if Perſons have aſſembled themſelves in a Warlike Manner to do any of theſe Acts, this is Treaſon, and within that Branch of Levying War againſt the King. This was adjudg'd in the late King's Time in *Berſtead*'s Caſe, Queen *Elizabeth*'s, *Henry the Eighth*'s, former Times, King *James*'s Time; much more, if Men will go not only to Levy War againſt the King, but againſt the Laws, all the Laws, ſubvert all the Laws, to ſet up New Laws, Models of their own. If any of theſe Caſes come to be preſented to you, you know what the Laws are. To conclude, you are now to enquire of Blood, of Royal Blood, of Sacred Blood, Blood like that of the *Saints* under the *Altar*, crying *Quouſque, Domine? How long, Lord*, &c. This Blood cries for Vengeance, and it will not be appeas'd without a Bloody Sacrifice.

Remember but this, and I have done: I ſhall not preſs you upon your Oaths; you are Perſons of Honour; you all know the Obligation of an Oath. This I will ſay, that he that conceals or favours the Guilt of Blood, takes it upon himſelf, wilfully, knowingly, takes it upon himſelf; and we know that when the *Jews* ſaid, *Let his Blood be on us and our Seed*, it continued unto them and their Poſterity to this Day.

God ſave the King. Amen, Amen.

His Lordſhip's *Speech* being ended, *Thomas Lee* of the *Middle Temple*, *London*, Gentleman, was call'd to give in the Names of his *Witneſſes*. The Names of the *Witneſſes* then and there Sworn follow.

William Clark, Eſq;	*Ralph Hardwick.*
James Nutley, Eſq;	*Thomas Walkley*, Gent.
Mr. *George Maſterſon*, Clerk.	*Holland Simpſon.*
George Farringdon.	*Benjamin Francis.*
Hercules Huncks.	Col. *Matthew Thomlinſon.*
Dr. *William King.*	
Martin Foſter.	Mr. *Lee.*
John Baker.	*Robert Ewer.*
Stephen Kirk.	*John King.*
Richard Nunnelly.	*Griffith Bodurdo*, Eſq;
John Powel.	*Samuel Boardman.*
John Throckmorton.	*Robert Carr*, Eſq;
John Blackwel.	*Richard Young.*
Sir *Purbeck Temple.*	*Darnel*, Eſq;
John Ruſhworth, Eſq;	Mr. *Brown.*
John Gerrard.	*Thomas Tongue.*
John Hearn.	*John Bowler.*
Mr. *Coitmore.*	Mr. *Sharp.*
Mr. *Cunningham.*	*Edward Folley.*
Mr. *Cleneh.*	Mr. *Gouge.*
William Jeſſop, Eſq;	*Anthony Mildmay*, Eſq;
Edward Auſtin.	

The *Grand Jury* return'd the Indictment *Billa Vera*.

Court adjourn'd to the *Old-Bailey* 10th of *October*.

The 10th of *October*, 1660.

SIR *John Robinſon*, Knight, *Lieutenant* of his Majeſties *Tower of London*, according to his *Warrant* receiv'd, delivered to Mr. *Sheriff* the Priſoners hereafter named, who were (in ſeveral Coaches) with a ſtrong Guard of Horſe and Foot convey'd to *Newgate*, and about Nine of the Clock in the Morning delivered to the Keepers of that Priſon, and thence brought to the *Seſſions-Houſe* in the *Old-Baily*, *London*, where the Commiſſioners of *Oyer* and *Terminer* were in Court Aſſembled, and where their *Indictment* was publickly read by *Edward Shelton*, Eſq; *Clerk of the Crown*.

Seſſions-houſe in the *Old-Baily*, *October*, 10. 1660.

THE Court being Aſſembled, and Silence Commanded, the *Commiſſion* of *Oyer* and *Terminer* was again read. After which Sir *Hardreſs Waller*, Colonel *Thomas Harriſon*, and Mr. *William Heveningham*, were brought to the *Bar* and commanded to hold up their Hands; which Sir *Hardreſs Waller* and Mr. *Heveningham* did; but *Harriſon* being commanded to hold up his Hand, anſwered, *I am here*, and ſaid,

My Lord, If you pleaſe I will ſpeak a Word——

Court. Hold up your Hand, and you ſhall be heard in due Time. Mr. *Harriſon*, the Courſe is that you muſt hold up your Hand firſt. *And then he held up his Hand.*

The Indictment was read, purporting, That *he, together with others, not having the Fear of God before his Eyes, and being inſtigated by the Devil, did maliciouſly, treaſonably, and felonioufly, contrary to his due Allegiance, and bounden Duty, ſit upon and condemn our late Sovereign Lord, King* Charles the Firſt, *of Ever-Bleſſed Memory; and alſo did upon the Thirtieth of* January, 1648, *Sign and Seal a Warrant for the Execution of his late Sacred and Serene Majeſty, of Bleſſed Memory. Where alſo*, &c.

Clerk of the Crown. How ſayeſt thou Sir *Hardreſs Waller*? Art thou *Guilty* of that Treaſon whereof thou ſtandeſt *Indicted*, and for which thou haſt now been Arraigned? Or *Not Guilty?*

Sir Hardreſs Waller. *My Lords, I dare not ſay*, Not Guilty; *but ſince that in a Buſineſs of this Nature we have no Council or Advice, and being not able to ſpeak to Matter of Law*——

Lord Chief Baron. I am loth to interrupt you; but this is the Courſe: You have heard the *Indictment* read, and the Courſe is, you muſt plead *Guilty*, or *Not Guilty*. There is no *Medium*, *Guilty*, or *Not Guilty*. It is that which is the Law, and the Caſe of all Men. Are you *Guilty?* Or *Not Guilty?*

Sir Hard. Waller. *I may confeſs myſelf* Guilty *of ſome Particulars in that* Indictment, *but not of all; for ſo, inſtead of diſcharging, I ſhall wound, my Conſcience.*

Clerk. Are you *Guilty?* Or *Not Guilty?*

Sir

Sir Hard. Waller. *If I might have that Liberty to*——

Court. You ſhall have that Liberty that any Subject of the Nation can have or can challenge. No Man, ſtanding at the Bar in that Condition you are, muſt make any other Anſwer to the *Indictment* than *Guilty*, or *Not Guilty*. It's the Common Caſe of all Men. Your Confeſſion muſt be Plain and Direct, either *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *My Lord, I deſire ſome Time to conſider of it, for it is a great Surprizal.*

Court. You have had Time enough to conſider of it; you muſt follow the Directions of the *Court*, *Guilty*, or *not Guilty?* You muſt not thus diſcourſe of being ſurprized; for theſe Diſcourſes are contrary to all *Proceedings* of this Nature.

Clerk. How ſay you, Sir *H. Waller?* Are you *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *I dare not ſay*, Not Guilty.

Clerk. Will you confeſs then?

Sir Hard. Waller. *I would be glad to be underſtood* ——

Court. Your Plea muſt be direct, *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *Shall I be heard, my Lord?*

Court. Yes, upon your Trial. There is but Two Ways, Plead *Not Guilty*, or confeſs it. Sir *Hardreſs Waller*, we would not have you to be deceived. If you confeſs, and ſay, you are *Guilty*, there is nothing then but Judgment: If you ſay *Not Guilty*, then you ſhall be heard with your Evidence. Conſider with yourſelf. Plead *Not Guilty*, or confeſs, and ſay you are *Guilty*.

Sir Hard. Waller. *My Lord, it puts me upon a great Conteſt with myſelf. I ſhall be very free to open my Heart* ——

Court. Sir, you muſt plead *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *My Lord, my Condition differs from others, I am a Stranger; I have been Thirty Years tranſplanted into* Ireland, *which has made me unacquainted with the Affairs of the Law here.*

Court. You muſt keep to the Courſe of the Law, either *Guilty*, or *Not Guilty*. There is but one of theſe two Pleas to be made.

Sir Hard. Waller. *I dare not ſay* Not Guilty.

Court. There are but theſe Three Things to be conſidered. Either you muſt ſay *Guilty*, which is *Confeſſion*, and then there remains no more but *Judgment*; or *Not Guilty*, and then you ſhall be heard, or *Judgment* will paſs for your ſtanding *Mute*, which is all one as if you had confeſſed.

Sir Hard. Waller. *Inaſmuch as I have ſaid I dare not ſay* Not Guilty, *I muſt ſay* Guilty.

Clerk. You ſay you are *Guilty?* You confeſs the *Indictment*.

Sir Hardreſs Waller. *Yes.*

Clerk. *Thomas Harriſon*, How ſaveſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty*?

Tho. Harriſon. *My Lords, have I Liberty to ſpeak?*

Court. No more (at this Time) than *Guilty*, or *Not Guilty*. Mr. *Harriſon*, you have heard the Direction before. We can give you but the ſame *Rule*. If you plead *Not Guilty*, you ſhall be heard at large; if *Guilty*, you know what remains.

Tho. Harriſon. *Will you give me Leave to give you my Anſwer in my own Words.*

Lord Chief Bar. There is no Anſwer but what the Law directs; it is the ſame with you as with all others, or as I would deſire if I were in your Condition. You muſt plead *Not Guilty*: Or if you confeſs *Guilty*, there muſt be *Judgment* upon your Confeſſion. The ſame *Rule* for one muſt be for another.

Tho. Harriſon. *You expreſs your* Rule *very fair, as well to me as this Gentleman* (pointing at Sir *Hardreſs Waller*) *but I have ſomething to ſay to your Lordſhips, which concerns your Lordſhips as well as myſelf.*

Court. You muſt hold and plead *Guilty*, or *Not Guilty*. If you go otherwiſe (as I told you before) it will be as if you pleaded not at all, and then *Judgment* will paſs againſt you. The Law gives the Words, frames your Anſwer, it is none elſe but the Laws, *Guilty*, or *Not Guilty?*

Tho. Harriſon. *My Lord, I have been kept cloſe Priſoner near theſe Three Months, that no body might have Acceſs to me. Do you call me to give you a Legal Anſwer, not knowing of my Trial till Nine of the Clock laſt Night, and brought away from the* Tower, to this Place, *at Six of the Clock this Morning?*

Court. You muſt give your direct Anſwer, *Guilty*, or *Not Guilty*. You cannot ſay it is ſudden, or unprovided. You ſpend Time in vain. You trouble the Court. You muſt plead *Guilty*, or *Not Guilty*. We muſt not ſuffer you to make Diſcourſes here. You muſt plead either *Guilty*, or *Not Guilty*.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Thomas Harriſon. *I am ſpeaking. Shall I not ſpeak Two Words?*

Court. If you will not put yourſelf upon your Trial you muſt expect that Courſe that the Law directs.

Tho. Harriſon. *May it pleaſe your Lordſhips, I am now* ——

Clerk. Are you *Guilty?* Or *Not Guilty?*

Tho. Harriſon. *I deſire to be adviſed by the Law; this is a Special Caſe.*

Court. The Law allows nothing now, but to plead *Guilty*, or *Not Guilty*.

Court. You muſt plead to your *Indictment*. If it be Treaſon it cannot be juſtified; if it be juſtifiable, it is not Treaſon; therefore plead *Guilty*, or *Not Guilty*.

Tho. Harriſon. *Give me Advice in this* ——

Clerk. Tho. Harriſon. Are you *Guilty?* Or *Not Guilty?*

Thomas Harriſon. *I would willingly render an Account of all my Doings* ——

Clerk. Are you *Guilty?* Or *Not Guilty?*

Court. You have been acquainted with the Legal Proceedings. You never found in all your Experience that any Priſoner at the Bar, for Felony or Treaſon, was ſuffered thus to Diſcourſe, or to anſwer otherwiſe than *Guilty*, or *Not Guilty*.

Clerk. Are you *Guilty?* Or *Not Guilty*.

Mr. Sol. Gen. *I do beſeech your Lordſhips he may Plead; peradventure he knows his Caſe ſo well that he thinks it as cheap to defie the Court, as ſubmit to it.*

Court. We muſt enter your ſtanding *Mute*; that's *Judgment*.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Tho. Harriſon. *Will you refuſe to give me any Satisfaction?*

Court. Are you *Guilty?* Or *Not Guilty?*

Tho. Harriſon. *Will you give me your Advice?*

Court. We do give you Advice. The Advice is, there is no other Plea, but *Guilty*, or *Not Guilty*. You ſhall be heard when you have put your ſelf upon your Tryal.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Tho. Harriſon. *You do deny me Council, then I do plead* Not Guilty.

Clerk.

Clerk. You plead *Not Guilty.* Is this your Plea?

Tho. Harriſon. *Yes.*

Clerk. How will you be Tried?

Tho. Harriſon. *I will be tried according to the Laws of the Lord.*

Clerk. Whether by *God* and the *Countrey?*

Lord Chief Baron. *Now I muſt tell you, if you do not put your ſelf upon your Countrey you have ſaid nothing.*

Clerk. How will you be Tried?

Tho. Harriſon. *It is to put my ſelf upon what you pleaſe to put me upon.*

Court. If you underſtand (you are not every Man, you are verſed in Proceedings of Law,) you know you muſt put yourſelf upon the Trial of *God* and your *Countrey*, if you do not, it is as good as if you had ſaid nothing.

Tho. Harriſon. *You have been miſinformed of me.*

Court. You have pleaded *Not Guilty*, that which remains is, that you muſt be Tried by *God* and the *Countrey*, otherwiſe we muſt Record your ſtanding *Mute.*

Clerk. How will you be Tried?

Tho. Harriſon. *I will be tried according to the ordinary Courſe.*

Clerk. Whether by God and the Countrey? You muſt ſpeak the Words.

Tho. Harriſon. *They are vain Words* ——

Court. We have given you a great deal of Liberty and Scope, which is not uſual. It is the Courſe, and Proceedings of Law, if you will be Tried you muſt put yourſelf upon *God* and the *Countrey.*

Clerk. How will you be Tried?

Tho. Harriſon. *I do offer my ſelf to be tried in your own Way, by* God *and my* Countrey.

Clerk. God ſend you a good Deliverance.

Clerk. *William Heveningham*, hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Will. Heveningham. *Not Guilty.*

Clerk. How will you be tried?

Will Heveningham. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Sir Hard. Waller *then preſented his Petition to the Court, directed* to the King's Majeſty and the Parliament, *which was received, but not at this Court read, and then the Three Perſons aforeſaid were diſmiſſed.*

Clerk. Bring to the Bar *Iſaac Penington*, Eſq; *Henry Marten*, Eſq; *Gilbert Millington*, Gentleman, *Robert Tichbourn*, Eſq; *Owen Roe*, Eſq; and *Robert Lilburn*, Gentleman, who were called, and appeared at the Bar, and being commanded ſeverally, held up their Hands.

The Indictment was read again as to the former Perſons.

Clerk. *Iſaac Pennington*, hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now *Arraigned?* Or *Not Guilty?*

Iſaac Pennington. *Not Guilty*, my Lord.

Clerk. How will you be tried?

Iſaac Pennington. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Clerk. *Henry Marten*, How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Hen. Marten, *I deſire the Benefit of the Act of* Oblivion ——

Clerk. Are you *Guilty?* Or *Not Guilty?*

Court. You are to underſtand the Law is this, the ſame to you and every one; you are to plead *Guilty*, or *Not Guilty.* If you will demand the Benefit of the *Act of Oblivion*, it is a Confeſſion of being *Guilty.*

Hen. Marten. *I humbly conceive the Act of* Indempnity ——

Court. You muſt plead *Guilty*, or *Not Guilty.*

Hen. Marten. *If I plead I loſe the Benefit of that Act.*

Court. You are totally excepted out of the *Act.*

Hen. Marten. *If it were ſo I would plead. My Name is not in that* Act.

Court. *Henry Martin* is there.

Mr. Sollicitor-Gen. *Surely he hath been kept cloſe Priſoner indeed, if he hath not ſeen the* Act of Indemnity. *Shew it him.*

Mr. *Shelton* opening the *Act.*

Court. How is it written?

Clerk. It is *Henry Martin.*

And then the Act *was ſhewed to the ſaid* Mr. Marten.

Hen. Marten. Henry Martin. *My Name is not ſo, it is* Harry Marten.

Court. The Difference of the Sound is very little. You are known by that Name of *Martin.*

Hen. Marten. *I humbly conceive all* Penal Statutes *ought to be underſtood literally.*

Clerk. Are you *Guilty?* Or *Not Guilty?*

Hen. Marten. *I am not* Henry Martin.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Court. Be adviſed; the Effect of this Plea will be *Judgment.*

Here Mr. Sollicitor General cited ſomewhat Parallel to this in a *Caſe* formerly of *Baxter*, where the Name was *Bagſter*, with an *S.* and adjudged all one, being of the ſame Sound.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Hen. Marten. *My Lord, I deſire Council; there will ariſe Matter of Law, as well as Fact.*

Court. You are *Indicted* for *Treaſon*, for a Malicious, Trayterous Compaſſing and Imagining the King's Death; if you have any Thing of Juſtification plead *Not Guilty*, and you ſhall be heard; for if it be Juſtifiable, it is not *Treaſon.* The *Rule* is, either you muſt plead *Guilty*, and ſo confeſs, or *Not Guilty*, and put your ſelf upon your Trial; there is no *Medium.*

Hen. Marten. *May I give any thing in* Evidence *before* Verdict.

Court. Yes, upon your Trial you may give any Thing in *Evidence* that the Law warrants to be *lawful Evidence.*

Clerk. Are you *Guilty?* Or *Not Guilty?*

Court. Underſtand one Thing, becauſe I would not have you miſtaken; you cannot give in *Evidence* the *Miſnomer*, but any thing to the Matter of *Fact.*

Hen. Marten. *I ſubmit, and plead* Not Guilty.

Clerk. How will you be Tried.

Hen. Marten. *By God and the Countrey.*

Clerk. God ſend you a good Deliverance.

Clerk. *Gilbert Millington*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Gilb. Millington. *My Lord, I am an Ancient Man, and Deaf; I humbly crave your Lordſhip's Pardon*

to hear me a few Words, I will promiſe it ſhall be pertinent *enough.*

Mr. Sol. Gen. Impertinent enough *he means.*

Court. You muſt plead either *Guilty*, and ſo confeſs it, or *Not Guilty*, and then you ſhall be heard any Thing for your Juſtification.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Gilb. Millington. *I deſire I may*——

Court. There is nothing you can ſay but *Guilty*, or *Not Guilty*; all other Diſcourſes turn upon your ſelf.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Gilb. Millington. *You might enlighten me in ſome Scruples. Does my Pauſe trouble you much? I ſhould not be long.*

Court. Your particular Caſe cannot differ from others.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Gilb. Millington. *There are ſome Things in the Indictment that I can ſay* Not Guilty *to, there are others that I muſt deal ingenuouſly, and confeſs them.*

Clerk. Are you *Guilty* in Manner and Form as you are Indicted? Or *Not Guilty?*

Gilb. Millington. *Not Guilty.*

Clerk. How will you be Tried?

Gilb. Millington. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *Robert Tichbourn*, Hold up your Hand, How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt Indicted, and art now Arraigned? Or *Not Guilty?*

Tichbourn. *My Lord, I have been a very cloſe Priſoner, without any Advice; I am altogether unable in Law to ſpeak.*

Court. You know the Courſe hath been delivered to you by others, I will not trouble you with it. It is neither long nor ſhort; the Law requires your Anſwer, *Guilty?* Or *Not Guilty?*

Tichbourn. *Spare me but one Word. If upon the Trial there ſhall appear to be Matter of Law ſhall I have the Liberty* of Council *for it? If I ſhall be put in my own Caſe to plead Matter of Law againſt thoſe Noble Perſons who plead on the other Part, I ſhall but prejudice myſelf, and therefore I crave* Council.

Court. You muſt plead *Guilty*, or *Not Guilty.*

Tichbourn. *I have no Reaſon nor Deſign to diſpleaſe you. I am ſure I am no ways able to plead with Equalneſs in Point of* Law *with thoſe Noble Gentlemen. To the Matter of* Fact *this is my Plea*, in Manner and Form that I ſtand Indicted I am *Not Guilty.*

Clerk. How will you be tried?

Tichbourn. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. Owen Roe, Hold up your Hand. How ſayeſt thou? Art thou Guilty of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Owen Roe. *My Lord, there hath been ſo much ſaid already by others I think I need ſay no more.* In Manner and Form as I am now Indicted I plead *Not Guilty.*

Clerk. How will you be Tried?

Owen Roe. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *Robert Lilburn*, hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Robert Lilburn. *I deſire, in regard that being ſo cloſe a Priſoner for* Twenty *Days, that no body has been ſuffered to adviſe with me*——

Lord Chief Baron. I muſt interrupt you. You muſt not miſ-ſpend the Time. Underſtand the Law. You muſt Plead *Guilty*, or *Not Guilty.*

Rob. Lilburn. *Will you give me leave to deſire Council before I plead, to adviſe me touching my Plea.*

Clerk. Are you *Guilty?* or *Not Guilty?*

Robert Lilburn. *I deſire Council*——

Court. Take heed, if that be your Anſwer, *You deſire Council*, and do not Plead, and that be Recorded, *Judgment* will paſs againſt you. There is nothing to Plead, but *Guilty*, or *Not Guilty.* If *Not Guilty*, what you have to ſay will be heard.

Rob Lilburn. *If you over-rule me I muſt ſubmit.*

Court. Do not let ſuch Language fall from you; it is improper.

The *Law* gives us a *Rule. The Priſoner muſt plead* Guilty, *or* Not Guilty.

Rob. Lilburn. *I ſay then in* Manner *and* Form *as I am Indicted I am* Not Guilty.

Clerk. How will you be Tried?

Rob. Lilburn. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. Bring to the Bar *Adrian Scroop*, *John Carew*, *John Jones*, *Thomas Scot*, *Gregory Clement*, and *John Cook.*

Who were brought accordingly, and being commanded, ſeverally held up their Hands at the Bar. *The* Indictment *was read to the Perſons at the* Bar *as before.*

Clerk. *Adrian Scroop*, Hold up thy Hand. How ſayeſt thou; Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Adr. Scroop. *My Lord*, Not Guilty.

Clerk. How will you be Tried?

Adr. Scroop. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *John Carew.* Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou art *Indicted*, and art now Arraigned? Or *Not Guilty?*

John Carew. *There is ſome ſpecial Matter in that* Indictment, *that ought not to before*——

Clerk. Are you *Guilty*, or *Not Guilty?*

John Carew. *Saving to our Lord* Jeſus Chriſt *his Right to the Government of theſe Kingdoms*——

Court. Are you *Guilty*, or *Not Guilty?*

John Carew. *I ſay I am* Not Guilty.

Clerk. How will you be Tried?

John Carew. *How would you have me?*

Clerk. Will you be Tried by *God* and the *Country?*

John Carew. *I, if you will.*

Clerk. You muſt ſay the Words. How will you be Tried?

John Carew. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *John Jones*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

John Jones. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

John Jones. *By* God *and the* Country.

Clerk. God ſend you a Good Deliverance.

Clerk. *Thomas Scot*, Hold up thy Hand, How ſayeſt

ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Th. Scot. *Truly I cannot call it* Treaſon, *and therefore I Plead* Not Guilty.

Clerk. How will you be Tried?

Th. Scot. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Clrk. *Gregory Clement*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty.*

Greg. Clement. *My Lord, I cannot excuſe my ſelf in many Particulars; but as to my* Indictment, *as there it is, I plead* Not Guilty.

Clerk. How will you be Tried?

Greg. Clement. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Clerk. *John Cook*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

John Cook. *I humbly conceive that this is now Time to move for* Council *for Matter of* Law——

Court. You know too well the manner of the *Court.* Are you *Guilty?* Or *Not Guilty?*

John Cook. *Not Guilty.*

Clerk. How will you be Tried?

John Cook. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Clerk. Bring *Edmund Harvey, Henry Smith, John Downs, Vincent Potter*, and *Auguſtine Garland*, to the Bar.

Who were brought accordingly, and being commanded, ſeverally held up their Hands. The Indictment *was Read to them.*

Clerk. *Edmund Harvey*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Edmund Harvey. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

Edmund Harvey. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Clerk. *Henry Smith*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou art *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Henry Smith. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

Henry Smith. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

John Downs, Vincent Potter, Auguſtine Garland, *upon the Queſtion preſently pleaded* Not Guilty, *and put themſelves on* God *and the* Country *to be Tried.*

Clerk. Set to the Bar *George Fleetwood, Simon Meyn, James Temple, Peter Temple, Thomas Wait, Hugh Peters, Francis Hacker*, and *Daniel Axtel.*

Who being at the Bar, held up their Hands according to Order; afterward the Clerk read the Indictment *againſt the ſaid Perſons; which being ended, he proceeded in this Manner.*

Clerk. *George Fleetwood*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of this horrid Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

George Fleetwood. *My Lord, I came in upon His Majeſties* Proclamation.

Clerk. Art thou *Guilty?* Or *Not Guilty?*

George Fleetwood. *I muſt confeſs I am* Guilty, *(and thereupon he delivered a* Petition *in to the* Court, *which he ſaid was directed* to his Majeſty and the Parliament, *and the* Court *did receive it accordingly.*)

Clerk. Set him aſide.

Clerk. *Simon Meyn*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of this horrid Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Simon Meyn. Not Guilty. *I came in upon His Majeſties* Proclamation, *my Lord.*

Clerk. How wilt thou be Tried?

Sim. Meyn. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *James Temple*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of this horrid Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty.*

James Temple. *Not Guilty.*

Clerk. How wilt thou be Tried?

James Temple. *By* God *and the* Countrey.

Clerk. God ſend thee a good Deliverance.

Clerk. *Peter Temple*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Peter Temple. *Not Guilty.*

Clerk. How wilt thou be Tried?

Peter Temple. *By* God, *and the* Countrey.

Clerk. God ſend thee a good Deliverance.

Clerk. *Thomas Wait*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Th. Wait. *I deſire to be heard a Word or Two* ——

Court. There is a *Rule* of *Law* which is ſet to us, and you, that in all theſe *Caſes* you are to plead *Guilty*, or *Not Guilty.* When you have pleaded, if *Not Guilty*, you may ſpeak what you will in its proper Time.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Th. Wait. *I pray let me be heard a Word. I am very unwilling to ſpend Time, knowing you have a great deal of Buſineſs. I am very unwilling to deprive myſelf of my Native Right. I ſhall ſpeak nothing but that which is Truth.*

Court. Do not *Preface* then, but ſpeak what you would ſay.

Th. Wait. *My Lord, my Caſe is different from the reſt.*

Court. Whatſoever the Caſe be, you have no *Plea* to us, but *Guilty*, or *Not Guilty.* We can go no other Way. The *Law* ſets out your *Plea.*

Th. Wait. *My Lord, I would ſpeak one Word. There was a Great* Peer *of this Nation Indicted at* Northampton, *within theſe Two Years, for killing a Man. The* Judges *there* —

Court. You muſt plead *Guilty*, or *Not Guilty.* Pray who are you that ſhould take this upon you more than all the reſt? You muſt go the ordinary Way; *Guilty*, or *Not Guilty*: Are you *Guilty?* or *Not Guilty?* We do not intend to prevent any Thing you have to ſay, but it muſt be proper.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Th. Wait. *I cannot ſay I am* Guilty.

Court.

Court. How then?
Th. Wait. *I am* Not Guilty.
Clerk. How wilt thou be Tried?
Th. Wait. *By* God *and the* Countrey.
Clerk. God ſend thee a good Deliverance.

Clerk. *Hugh Peters*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Hugh Peters. I would not for Ten Thouſand Worlds ſay I am Guilty. *I am* Not Guilty.

Clerk. How will you be Tried?

Hugh Peters. *By the Word of God. (Here the People laughed.)*

Court. You muſt ſay, *By God and the Countrey.* Tell him you that ſtand by him what he ſhould ſay, if he doth not know.

Clerk. How will you be Tried?

Hugh Peters. *By* God *and the* Countrey.

Clerk. God ſend thee a good Deliverance.

Clerk. *Dan. Axtel*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty.*

Dan. Axtel. *May it pleaſe your Lordſhips, I deſire to have the Freedom of an* Engliſhman; *that which is my Right by Law and Inheritance: I have ſomething to offer in Point of* Law.

Clerk. Art thou *Guilty?* Or *Not Guilty?*

Dan. Axtel. *My* Lords, *give me Leave to ſpeak. For the Matter of the* Indictment *I conceive is upon the King's Death; that there is a* Commiſſion *of* Oyer *and* Terminer *for you to Sit: But in regard it was in Purſuance of an* Act *of* Parliament, *I conceive no* Inferior Court *ought to judge of it. I deſire* Council, *it being of great and eminent Concernment in Law, That ever any* Judges, *or any* Inferior Court, *ſhould judge of the Powers and Priviledges of a* Parliament; *and I pray that* Council *may be aſſigned me.*

Clerk. Are you *Guilty?* Or *Not Guilty?*

Dan. Axtel. *If the* Court *over-rule me, and I ſhall not have my Liberty, as an* Engliſhman ——

Court. The Courſe of *Law* is this; *No Man can juſtifie Treaſon.* If the Matter which you have to ſay be Juſtifiable, it is not Treaſon; if Treaſon, it is not Juſtifiable; therefore you muſt go to the ordinary Courſe of the *Law.* You muſt Plead *Guilty*, or *Not Guilty.*

Dan. Axtel. *I can produce many* Precedents ——

Court. Are you *Guilty?* Or *Not Guilty?* The Language is put into your Mouth. You have no other Words to expreſs yourſelf by at this Time, but *Guilty*, or *Not Guilty.*

Dan. Axtel. Judge Heath *had* Council *aſſign'd him upon the ſame* Caſe.

Court. That is very ſtrange; the *ſame Caſe?* What, was it for killing a King?

Dan. Axtel. *If the* Court *will over-rule me I cannot help it.*

Mr. *Solicitor Gen.* It may be this *Gentleman* may be deceived by a Miſtake. It may be he knows not the *Law*, which your Lordſhips may be pleas'd to acquaint him with: That to ſtand *Mute* in High-Treaſon is all one as to *Confeſs* the Fact, and will have the ſame *Sentence* and Condemnation upon them, as if they had confeſſed it.

Lord Chief Baron. *Then I'll tell you the Law*, He that doth refuſe to put himſelf upon his Legal Trial of *God* and the *Country*, is a *Mute* in Law; *and therefore you muſt Plead* Guilty, *or* Not Guilty. *Let his Language be what it will, he is a* Mute *in Law.*

Dan. Axtel. *I do not refuſe it.*

Court. Then ſay.

Dan. Axtel. *I am* Not Guilty.

Clerk. How will you be Tried?

Dan. Axtel. *By Twelve Lawful Men, according to the Conſtitutions of the Law.*

Court. That is by *God* and the *Country.*

Dan. Axtel. *That is not Lawful. God is not locally here.*

Clerk. How wilt thou be Tried? You muſt ſay, *By God and the Countrey.*

Dan. Axtel. *By* God *and the* Countrey.

Clerk. God ſend you a good Deliverance.

Lord Chief Baron. *Mr.* Axtel, *have you your Papers again?*

Dan. Axtel. Yes, *my Lord.*

Lord Chief Baron. *When your* Indictment *is read the Second Time, when you come to your Trial, you may take what Notes you pleaſe.*

The Court *then adjourned to the ſame Place till the next Morning Seven of the Clock.*

October 11*th.* 1660.

The *Court* being Aſſembled, the *Keeper* was commanded to ſet the *Priſoners* to the *Bar.*

Thomas Harriſon, Adrian Scroop, John Carew, John Jones, Gregory Clement, Thomas Scot, were brought to the *Bar* accordingly. After which Silence was Commanded.

Court. You that are the *Priſoners* at the *Bar*, if you, or any of you, deſire *Pen, Ink*, and *Paper*, you ſhall have it; and if you, or any of you, will Challenge any of the *Jury*, you may when they come to be Sworn, and that before they are Sworn.

Sir Thomas Allen *being call'd, was deſired to look on the Priſoner, and lay his Hand on the Book: His* Oath *was then read to him*, viz. You ſhall well and truly Try, and true Deliverance make, between our Sovereign Lord the King, and the Priſoners at the Bar, whom you ſhall have in Charge, according to your Evidence. So help you God.

Sir Joſhua Aſh *being next call'd, Mr.* Scroop *excepted againſt him.*

Sir Jeremy Whichcot, *Baronet, being next to be Sworn, Mr.* Harriſon *excepted againſt him.*

James Halley, *Eſquire, being next to be Sworn, Mr.* Scot *excepted againſt him.*

Court. If you will not agree *(ſpeaking to the Priſoners)* in your Challenges, we muſt be forc'd to Try you ſeverally.

Henry Mildmay, *Eſq; being called next, Mr* Scroop *excepted againſt him.*

Court. We muſt needs Try them ſeverally, therefore ſet them all aſide but *Harriſon.*

Court. Gentlemen, you that are excepted muſt not depart the *Court.*

Sir Joſhua Aſh *being again call'd, was excepted againſt by Mr.* Harriſon.

Sir Jeremy Whichcot, *Bart.*
James Halley, *Eſq;*
Henry Mildmay, *Eſq;*
Chriſtopher Abdy, *Eſq;*
} *Being called again, were ſeverally excepted againſt by the Priſoner.*

Court. Mr. *Harriſon*, You know the Law. You muſt ſay, *I Challenge him.*

Mr. Harriſon. *I ſhall, Sir.*

Ralph Hartley being next called, and being very ſick, humbly prayed to be excus'd by the *Court*, which was granted.

Arthur Newman was called next.

Mr. Harriſon. *May I not ask of what Quality he is?*

Court. No, Sir, you are to Challenge him, or not to Challenge him.

Mr. Harriſon. *I Challenge him.*

Thomas Blith was next called, and alſo Challenged.

(Here the People ſeemed to Laugh.)

Mr. Harriſon. *My Lord, I muſt make uſe of my Liberty in this Caſe.*

Court. God forbid.

Then *Grover*, *Robert Clark*, and *Richard Whalley*, were called, and by Mr. *Harriſon* Challenged.

Court. Mr. *Harriſon*, you know how many to Challenge; if you go beyond the *Number* at your own Peril be it.

Mr. Harriſon. *My Lord, pray tell me what it is.*

Court. You ſay very well; God forbid but you ſhould know. You may Challenge Five and Thirty *Peremptorily*, if you go beyond you know the Danger.

Mr. Harriſon. *My Lord, I do not this to keep you off from the Buſineſs.*

William Vincent, and *Henry Twiford*, were then called, and Challenged.

John Liſle was next called.

Mr. Harriſon. *I do not know him.*

Mr. Liſle. Nor I you Mr. *Harriſon*. *He was Sworn.*

Thomas Franklin Sworn.

Thomas Winter Challenged.

Richard Nichol Sworn.

Moyce *being Sick, prayed Excuſe, which was granted accordingly.*

Richard Cheyney Challenged.

Allen Parſons Challenged.

Henry Edlin Called.

Mr. Harriſon *I challenge him.*

Mr. Harriſon. *Let him be Sworn.*

Court. No, no, *(Whereupon he was ſet aſide.)*

Mr. Harriſon. *If I have any Apprehenſion or Knowledge of them, that's the Thing that leads me to it, as touching* this *Man, he may be Sworn.*

Court. When he is *Challenged* he cannot be recalled.

Mr. Harriſon. *I am content.*

Samuel Greenhill Sworn.

Thomas Bede Challenged.

John Page Challenged.

Richard Rider Challenged.

Mr. Harriſon. *Leſt I may run into an Hazard, in making uſe of that Liberty which the Law gives me in this Caſe, and having not taken Notice of any Perſons Challenged, I mean as to the number, I deſire your Officer that takes Notice may acquaint me with the number.*

Court. You ſhall know it; God forbid the contrary.

Edward Rolph was called next.

Mr. Harriſon. *Mr.* Rolph *is his Name? Let him be Sworn.*

Francis Beal Challenged.

John Kirk Challenged.

Charles Pitfield Challenged.

John Smith Challenged.

Bell Sworn.

Edward Franklin Challenged.

William Whitcomb Challenged.

Samuel Harris Sworn.

John Collins Challenged.

Thomas Snow Sworn.

William Blunt Challenged.

George Rigth Challenged.

John Nichol of *Finchley* Sworn.

Timothy Taylor Challenged.

Thomas Fruin Challenged.

Richard Abel Challenged.

Thomas Morris Sworn.

Ambroſe Scudamore Challenged.

Ralph Halſel Challenged.

George Tirry Challenged.

Court. You have *Challenged* Thirty Three already.

Mr. Harriſon. *I pray the* Names *may be read to me, to ſee if it be ſo.*

Court. When you come to Thirty Five you ſhall have the *Names* Read.

John Galliard Challenged.

Thomas Swallow Challenged.

Court. Now read their *Names* to him.

Which were read accordingly. In all Thirty-five Challenged.

George Pickering was next called, and *Sworn.*

Then they were called over who were admitted, *viz.*

Sir *Thomas Allen*, *John Liſle*, *Thomas Franklin*, *Richard Nichol*, *Samuel Greenhil*, *Edward Rolph*, *Bell*, *Samuel Harris*, *Thomas Snow*, *John Nichol*, *Thomas Morris*, *George Pickering*; and ſworn.

Proclamation was then made.

If any Man can inform my Lords, the King's Juſtices, *the King's* Serjeant, *or the King's* Attorney, *before this Inqueſt be taken, let them come forth, and they ſhall be heard, for now the* Priſoner *ſtands at the* Bar *upon his Deliverance. And all thoſe bound by* Recognizance *to appear, let them come forth, and give their* Evidence, *or elſe to Forfeit their* Recognizance.

George Maſterſon, *James Nutley*, *Robert Coytmore*, *Holland Simpſon*, and *William Feſſop*, Witneſſes, were called.

Court. Gentleman, that are not of the *Jury*, pray clear the Paſſage. The *Priſoner* is here for *Life* and *Death*, let him have Liberty to ſee the *Jury.*

Clerk. Thomas Harriſon, *Hold up thy Hand.*

Clerk. Look upon the Priſoner; *you that are Sworn. You ſhall underſtand that the* Priſoner *at the Bar ſtands Indicted by the Name of* Thomas Harriſon, *late of* Weſtminſter, *in the County of* Middleſex, *Gentleman*, *for that he, together with* John Liſle, *&c.* here the *Indictment* was read) *upon which* Indictment *he hath been Arraigned, and thereunto hath pleaded* Not Guilty, *and for his Trial hath put himſelf upon* God *and the* Countrey, *which* Countrey *you are. Now your Charge is to enquire, whether he be* Guilty *of the High-Treaſon in* Manner *and* Form *as he ſtands Indicted, or* Not Guilty. *If you find that he is* Guilty, *you ſhall enquire what Goods and Chattels he had at the Time of committing the ſaid Treaſon, or at any Time ſithence. If you find that he is* Not Guilty, *you ſhall enquire whether he did fly for it; and if you find that he fled for it, you ſhall enquire of his Goods and Chattels; as if you had found him* Guilty: *If you find that he is* Not Guilty, *nor that he did fly, you ſhall ſay ſo, and no more. And take heed to your Evidence.*

Mr. *Keeling* enforced the *Charge* at large: After whom Sir *Heneage Finch*, his Majeſties *Solicitor General*, in theſe Words.

MAY it pleaſe your Lordſhips, We bring before your Lordſhips into Judgment this Day the *Murtherers of a King.* A Man would think the Laws of *God* and *Men* had ſo fully ſecured theſe *Sacred* Perſons, that the *Sons of Violence* ſhould never approach to hurt them: For *(my Lord)* the very *Thoughts* of ſuch an Attempt hath ever been preſented by all *Laws*, in *all Ages*, in *all Nations* of the World, as a moſt unpardonable Treaſon.

ſon. *My Lord*, This is that that brought the Two *Eunuchs* in the *Perſian* Court to their Juſt Deſtruction; *Voluerunt inſurgere*, ſays the *Text*, and yet that was enough to *Attaint* them. And ſo (*my Lords*) it was by the *Roman* Laws too, as *Tacitus* obſerves; *Qui deliberant, deſciverunt.* To *Doubt* or *Heſitate* in a Point of *Allegiance*, is direct *Treaſon* and *Apoſtaſie.* And upon this Ground it is, that the *Statute* upon which your *Lordſhips* are now to proceed hath theſe expreſs Words; *If a Man doth Compaſs or Imagine the Death of the King*, &c. Kings, who are *God's Vice-gerents upon Earth*, have thus far a kind of Reſemblance of the *Divine* Majeſty, that their Subjects ſtand accountable to them for the *very Thoughts* of their Hearts. Not that any Man can know the *Heart*, ſave God alone; but becauſe when the *Wicked* Heart breaks out into any *open* Expreſſions, by which it may be judged, 'tis the *Thoughts* of the Heart which makes the Treaſon; the *Overt-Act* is but the *Evidence* of it.

My Lords, This Care and Caution is not ſo to be underſtood, as if it were the *Single* Intereſt of *One* Royal Perſon only. The Law doth wiſely judge and foreſee, that upon the *Life* of the King depends the *Laws* and *Liberties*, the *Eſtates* and *Properties*, the *Wealth* and *Peace*, the *Religion*, and in Sum, the *Glory* of the Nation.

My Lords, This Judgment of the Law has been verified *by a ſad* Experience; for when that *Bleſſed King* (whoſe *Blood* we are now making *Inquiſition* for) was *untimely* taken away, *Religion* and *Juſtice* both lay buried in the *ſame* Grave with him; and there they had ſlept ſtill, if the *Miraculous* Return of our Gracious *Sovereign* had not given them a New *Reſurrection.*

My Lords, My Lord *Coke* in his *Comment* upon this *Statute* has one Conceit, which is ſomewhat *Strange*; I am ſure it is very *New*; he ſeems to think that it would have added to the *Perfection* of this *Law* if there had been a Time limited for the *Party* to be accuſed. But certainly the Work of this Day has quite confuted that *Imagination.* For here is a *Treaſon* that has ſo long *out-fac'd* the *Law*, and the *Juſtice* of this Kingdom, that if there had been any Time of *Limitation* in the *Statute*, there would have been no *Time* nor *Place* left for *Puniſhment.* And if this Treaſon had but once grown up to an *Impunity*, it might perhaps have drawn the *Guilt* of that *Innocent* Blood, and with it the *Vengeance* due to it, upon the whole Nation.

The *Scope* of this *Indictment* is *for the compaſſing the Death of the King*, the reſt of the *Indictment*, as the *Uſurping Authority over the King's Perſon*, the *Aſſembling*, *Sitting*, *Judging*, and *Killing* of the King, are but ſo many ſeveral *Overt-Acts* to prove the *Intention* of the Heart. We are not bound (under Favour) to prove every one of theſe againſt *every* particular Perſon who is *Indicted*; for he that is in at *one*, is Guilty in *Law* of *all* the reſt, as much as if he had ſtruck the *Fatal Stroke* itſelf: Nay (under Favour) if we can prove any other *Overt-Act* beſides what is laid in the *Indictment*, as the *encouraging* of the *Soldiers* to cry out, *Juſtice*, *Juſtice*; or *Preaching* to them to go on in *this Work*, as *Godly* and *Religious*; or any other Act of all that *Catalogue* of *Villanies*, for which the *Story* will be for ever *Infamous*; this may be given in *Evidence* to prove the *Compaſſing* and *Imagining* the King's Death. The Concluſion of this *Indictment* alledges the *Fact* done to be *to the great Diſpleaſure of Almighty God*, and *to the great Diſgrace of the People of* England. A *Truth* ſo clear and known, that it can neither be *heightened* by any *Aggravation*, or *leſſened* by any *Excuſe.*

As for the *Fact* itſelf, with the *Manner* of it, I ſhall not need to open it at large, for theſe Things were not done in a *Corner*; every *true Engliſh* Heart ſtill keeps within itſelf a bleeding *Regiſter* of this *Story*; only (*my Lords*) in the Way to our *Evidence*, with your *Lordſhips* Favour, this I think may be fit to be ſaid.

Firſt, for the Year 1648, (for that was the *Fatal* Year of this King, and beyond that Year we ſhall not now enquire,) I ſay whatſoever in the *Year* 1648 could have been done by a *Parliament* to ſave the *Life* of a King, was done in this *Caſe.*

They opened the Way to the *Treaty* in ſpight of the *Army*; and while theſe Sons of *Zerviah*, who were too hard for them, were engaged in *Service* in the *Remoter* Parts, they haſtened the *Treaty* as much as was poſſible; the *Debates* upon his Majeſties *Conceſſions* were Voted a *good Ground for Peace*; notwithſtanding the *Remonſtrances* of the *Army* ſtill flew about their *Ears*, and notwithſtanding the *Oppoſitions* of a fearful and unbelieving Party of the *Houſe of Commons*, whom the *Army* had frighted into an *Awful* and a *Slaviſh* Dependance upon them. And when nothing elſe could be done *for* him, they were ſo true to the *Obligations* they lay under, that they reſolved to fall *with* him, and did ſo. For the *Army*, who ſaw the *Treaty proceed* ſo faſt, made as great haſte to *break* it. They ſeize upon the Bleſſed *Perſon* of our Sacred King by *Force*, and bring him to *London*; and here they force the *Parliament*, *ſhut out* ſome *Members*, *impriſon* others, and then called this wretched little Company which was left a *Parliament.* By this, and before they had taken upon them the Boldneſs to diſſolve the Houſe of *Peers*, they paſs a *Law*, and erect, forſooth! an *High Court of Juſtice*, as they call it, a *Shambles* of Juſtice, appoint *Judges*, *Advocates*, *Officers*, and *Miniſters*, ſit upon the *Life* of the King. Now they *Speak out* and *Expound* their own *Declarations*, and tell us what that was which before they had demanded in obſcure Terms, when they called for *Juſtice* againſt *all Delinquents.* Now they ſpeak plainly what they mean, and call this Bleſſed King, this Glorious *Saint*, the *Grand Delinquent:*

—— *Hæc Acies victum factura Nocentem eſt.*

My Lords, When they had thus proceeded to appoint their *Judges*, *Officers*, and *Court*, then they call *this* Perſon, their only *Liege* Lord and Sovereign to the *Bar*, and by a *Formal Pageantry* of Juſtice, proceed to *Sit* upon him, *Arraign*, *Try*, *Sentence*, *Condemn*, and *Kill*, (I had almoſt ſaid *Crucifie*,) him, whom they could not but know to be their *King*; and all this againſt the *cleareſt* Light, the *ſharpeſt* Checks, and moſt *through* Convictions of *Conſcience*, that ever Men reſiſted. And yet in this *Moment* of *Time*, ſuch was the *Majeſty* and *Innocence* of our Gracious Sovereign, that the *People* followed him with *Tears* in their *Eyes*, and *Acclamations* in their *Mouths*, *God Save the King*; even then, when the *Soldiers* were ready to *Fire* upon them who did either *look* ſadly, or *ſpeak* affectionately. And yet it will appear upon our *Evidence* too, that ſo few of the very *Common Soldiers* could be brought to approve theſe *Proceedings*, or to cry out *Juſtice*, that their *Officers* were fain by *Money*, or *Blows*, or both, to bring a great many to it.

My Lords, The *Actors* in this *Tragedy* were *many*, *very many*, *ſo many*, that ſure their Name is *Legion*, or rather many *Legions.* And certainly (*my Lords*) when we ſhall conſider the *Thing* that they have done, we cannot but look upon it as a *Villany* which had in it all the *Ingredients* to make it dete-

ſtable, that it was poſſible for the *Counſel* of *Men*, or *Devils* either, to put together. But yet, if any Thing can be of a deeper Dye than the *Guilt* of that *Sacred Blood*, wherewith they ſtand *Polluted*, methinks their *Impudence* ſhould make them more odious than their *Treaſon*. It was the Deſtruction of *God's Anointed*, in the Name of the *Lord*. It was the Murther of a moſt Bleſſed and Beloved *Prince*, in the Name of his *People*. Him whom they had taken the tranſcendent Boldneſs to *impriſon*, as the Author of the *War*, they put to *death*, becauſe he would have been the Author of our *Peace*; and that with ſo much *Scorn* and *Indignity*, that ſome of them were not aſham'd to ſpit in the *Face* of our Lord and Sovereign. And when they had thus *quenched the Light of* Iſrael, *Darkneſs* and *Confuſion* did overſpread the Face of the *Land*; many Poor *Subjects* at *Home*, and ſome *Proteſtants* in *Foreign* Nations, at the very News of it fell down *Dead*; as if this Excellent King had been in a *Natural* as well as a *Religious* Sence, *the Breath of our Noſtrils*, the *Anointed of the Lord*, who was *taken in their Pits*. The *Judges*, *Officers*, and other immediate *Actors* in this pretended *Court*, were in Number about Fourſcore, of theſe ſome Four or Five and Twenty are Dead, *and gone to their own Place*. The *God of Recompences* hath taken the Matter ſo far into his own Hands; and who knows but that it might be one dreadful Part of his *Vengeance* that they died in *Peace?* Some Six or Seven of them, who are thought to have ſinned with leſs *Malice*, have their *Lives* ſpared indeed, but are like to be brought to a ſevere *Repentance* by future *Penalties*. Some Eighteen or Nineteen have *fled* from Juſtice, and *wander* to and fro about the World with the Mark of *Cain* upon them, and *perpetual Trembling*, leſt every *Eye* that ſees them, and ev'ry *Hand* that meets them, ſhould fall upon them. Twenty nine Perſons do now expect your *Juſtice*. Amongſt them the Firſt that is brought is the *Priſoner* at the *Bar*, and he deſerves to be the Firſt; for if any Perſon now left alive ought to be ſtil'd the *Conductor*, *Leader*, and *Captain* of all this Work, that's the *Man*. He (*my Lord*) brought the King up a *Priſoner* from *Windſor*, but *how*, and in *what Manner*, with how *little Duty*, nay, with how *little Civility*, to a Common Perſon, you will hear in Time. He *Sat* upon him, *Sentenced* him, he *Sign'd the Warrant* firſt to *call that Court* together, then the *Bloody Warrant* to cut off his Sacred Head. Againſt him, as againſt all the reſt, our *Evidence* will be of Two *Sorts*; Witneſſes *Viva voce*, that ſhall firſt prove to your *Lordſhips* that every Perſon now in *Queſtion* did *ſit* in that *Court*, when their King *ſtood* as a *Priſoner* at the Bar. We ſhall prove that the *Precept* by which this pretended *Court* was ſummon'd, was not obeyed and executed, till it had had the *Hands* and *Seals* of moſt of the pretended *Judges*; among the reſt the *Hand* of the Priſoner at the *Bar* will be found there. We ſhall prove his *Hand* to the *Bloody Warrant* for ſevering the Sacred Head of our Bleſſed Sovereign from the Body, and then ſome *Circumſtances* of his Malice, and of his Demeanour. And after we have done with our Witneſſes *Viva voce*, if we have Occaſion to uſe *Records* of *Parliament*, we ſhall ſhew them too; for we have the *Originals*, or Authentick *Copies*. But now we ſhall proceed to our *Evidence*.

Proclamation was made for Silence.

Sir *Edward Turner*. My Lords, *The Service of this Day doth call to my Memory the* Story *of good King* Amaziah. *We read in* Holy Writ, *that his Father, King* Joaſh, *was murthered, and murthered by his own Subjects; but we read further, that when* Amaziah *had regain'd the Crown, was ſettled in the Government, he ſlew thoſe that ſlew his Father. He did go down into* Edom, *the* Valley of Salt, *and there he did ſlay Ten Thouſand. The Work of this Day doth very much reſemble that Action. Our Good and Gracious King, his Father of Bleſſed Memory, and our Father, his Natural, and our Politick, Father, to whom our Natural Allegiance was due, was* murthered, *and by his own Subjects. But,* my Lords, *this was not a* National *Crime; and our Good and Gracious Sovereign hath done us that Honour and Right to vindicate us in* Foreign *Nations; and now he is come* Home *in Power and Glory, he does continue in the ſame Mind: That's the Reaſon we are not now ſlain by Thouſands, but that thoſe* Miſcreants *are gathered up here and there that did commit the Offence, and would have involved the Nation in a common Infamy.*

Gentlemen *of the* Jury, *Your Time to enquire of this Matter is precious, more precious than my Words, elſe I would repeat to you the* Hiſtory *of that* Tragedy, *at leaſt that* Summary *that was entred in the* Black Book, *or the* Journals *of that they then called a* Parliament. *It ſhall ſuffice to tell you, and that moſt truly, that it was but an handful of Men in reſpect of the whole* Nation, *that did contrive and deſign this damnable and traiterous Plot, to ſubvert the* Laws, *and change the* Government, *of this well govern'd* Nation. *In Proſecution of which they did caſt abroad, and ſpread forth,* Jeſuitical Maxims, *Damnable and Diabolical* Principles, *to intoxicate the People; and when their Heads were troubled, they were eaſily led into Arms, where after ſome Time they grew drunk with Succeſſes; and when they had drunk too much of the Loyal Blood of the People, then they thirſted for the Royal Blood alſo. I do confeſs we read in* Stories *that Kings have before this Time been murthered; ſome in our Nation, as King* Richard *the Second, and* Edward *the Third; and in other Nations. But the Actors of thoſe Murthers were modeſt to theſe. They did it in Private, theſe in the Face of the* Sun, *and the* People; *but it was thoſe People,* Gentlemen, *they had corrupted with Shares in their Robberies and Villanies. They pretended it was in a Way of* Juſtice; *but you muſt know no* Juſtice *can be excuted upon the Perſon of the King.* Touch not mine Anointed, *ſaith God himſelf.*

My Lords, *I do read in the* Roman *Story, that both amongſt them, and other Nations, there was no* Law *againſt* Parricide. *It was not thought that any Man was ſo Unnatural and Deviliſh to deſtroy his Father. But we do find among the* Romans *ſuch a Fact was committed, and then they were at a Loſs to puniſh it. The Way was this that was found out; the* Offender *they ſewed into a Mail of* Leather, *ſo cloſe that no Water could get in; when they had done, they threw him into the* Sea; *by this denoting, the* Offender *was not worthy to tread upon the* Ground, *nor to breathe in the* Air, *nor to have the Benefit of any of the Four* Elements, *nor the Uſe of any of God's* Creatures, *and ſo be ſtarved.*

Gentlemen, Parricide *and* Regicide *differ not in* Nature, *but in* Degree. Parricide *is the killing of the Father of* one, *or a* few, *Perſons;* Regicide *the killing the Father of a* Countrey. *What Puniſhment then is ſuitable to this Offence? Gentlemen*

the'

The Prisoner at the Bar *is accus'd of this Offence, and now to be Tried by you: But before we enter upon the Evidence, I must, with the Leave of the* Court *inform you, that though the* Indictment *contains many* Circumstances *and* Gradations *in the Treason, yet the* Imagining *and* Compassing *the Death of our late Sovereign, is the Treason to which we shall apply our* Evidence; *this being, both by the* Common-Law, *and by the* Statute *of the 25th of* Edward *the 3d, the Principal Treason to be enquired of. And the other Circumstances in the* Indictment *are but so many Matters to prove the* Overt-Act, *the* Consultations, *the Assuming Power to Try and Condemn the King, the Assault upon him, and the Fatal Blow that was given him, are but so many Demonstrations, and open Acts, proving the first Treasonable Design of the Heart.*

It will be enough for you, and so my Lords will tell you, if we prove the Treason itself, which is the Compassing *and* Imagining *the Death of the King, though we fail in some of the* Circumstances *laid in the* Indictment. *I do not speak this as if we should fail in any; but it is not necessary to prove them all, if we prove any you are to find the Prisoner* Guilty. *I am not willing to hold your Lordships too long in the* Porch, *but desire to descend into the* Body *of the Business; and so we shall call our* Witnesses, *and doubt not but to prove, that this Man at the* Bar *was the first, and not the least, of these* Offenders.

Mr. *George Masterson* was called.

Mr. Harrison. *When I was before your Lordships Yesterday, I offered something very material, in reference to the Jurisdiction of the* Court; *but you told me according to the* Rule, *I must plead* Guilty, *or* Not Guilty; *and what I had to offer should be heard in its proper Place. I now desire to know, whether it be proper now to deliver my self, before you proceed to the calling of Witnesses, for I would go the best Way, and would not willingly displease you.*

Lord Chief Baron. What was promised you Yesterday God forbid but you should have it. But I think it will be best for you to hear the *Evidence*, and then what you have to say you shall be fully heard.

Mr. Harrison. *I am content.*

Whereupon *George Masterson*, *Stephen Kirk*, *Francis Hearn*, *William Clark*, *Robert Coytmore* and *James Nutley*, were called, and sworn.

Council. Mr. *Masterson*, whether did the Prisoner at the Bar sit in that which they called the *High Court of Justice*, to Sentence the King, or no? Pray tell my Lords, and the Jury thereof, and what else you know of the Matter.

Mr. *Masterson.* Upon the Oath I have taken, (my Lords, and Gentlemen of the Jury,) I saw the Prisoner, *Th. Harrison*, sit in that which they called *the High Court of Justice*, upon the 27th Day of *January*, in the Year 1648, to Sentence the King.

Council. Was it the Day the Sentence was passed against the King?

Mr. *Masterson.* It was the Day of the Sentence, the 27th of *Jan.* 1648.

Council. Can you say any Thing else?

Mr. *Masterson.* I do (Sir) further remember, that when the Clerk of the Court (as he was called) read the Sentence against the King, and said, it was the Sentence of the whole Court, I saw the Prisoner at the Bar, together with others, stand up, to my Apprehension, as assenting to it.

Council. Was there not Direction that all should stand up as Assenting?

Mr. *Masterson.* I do not know that; but when the Sentence was read several of them did stand up, and he among the rest, as Assenting to the Sentence, as the Spectators understood.

Council. Mr. *Clark*, What do you say to the same Question?

Mr. *Clark.* My Lords, and Gentlemen of the Jury, I remember I saw the Prisoner at the Bar sit several times in the *Court of Justice*, as they called it; particularly on the 23d and 27th of *January*, 1648, as I took Notice of it in a Book.

Council. Was that the Day of the Sentence?

Mr. *Clark.* Yes, my Lord.

Council. What say you to that of the rising of those Persons in the Court?

Mr. *Clark.* I remember they all rose, but I did not take particular Notice then of the Prisoner.

Council. Mr. *Kirk*, You hear the Question. Did you see the Prisoner at the Bar in *Westminster-Hall*, sitting upon the Bench in that which they called the *High Court of Justice*, when the King stood Prisoner at the Bar there?

Mr. *Kirk.* My Lord, I did see the Prisoner at the Bar sit several Days in that which they called the *High Court of Justice*; I was there every Day of their Sitting.

Council. Do you remember he was there on the 27th of *Jan.* 1648.

Mr. *Kirk.* I do, Sir.

Council. Tell the Jury what was the Work there.

Mr. *Kirk.* It was Sentence. I did take the Names of all those Gentlemen that did appear in the Court on that Day, the 27th of *Jan.* 1648, and amongst the rest I took a Note of that Gentleman's Name, as being present.

Council. Whereas these Gentlemen (Mr. *Masterson* and Mr. *Clark*) have declared, that, as Assenting to the Sentence, they all stood up; did you see them stand? And whether by Direction, or no?

Mr. *Kirk.* As for the Direction I know nothing of it; but the Members then present in the Court, (after Sentence was read,) as far as my Eyes could perceive, stood up unanimously, I suppose, as Assenting to the Sentence.

Court. Mr. *Nutley*, Did you know the Prisoner at the Bar? Have you seen him sit in *Westminster-Hall* at any Time upon the Bench when the King was brought as a Prisoner to the Bar?

Mr. *Nutley.* My *Lords*, and Gentlemen of the *Jury*, I saw the *Prisoner* at the *Bar* several Days sit there, amongst the rest of the *Judges*, as a *Judge*, I suppose. To the best of my Remembrance he sat there Four Days together.

Court. Was he there upon the Day of the Sentence?

Mr. *Nutley.* I did take Notes, *My Lord*, that Day in the *Court*, and I find he did sit that Day.

Court. Do you know any Thing more of the *Prisoner* at the *Bar*.

Mr. *Nutley.* Thus much I know concerning the *Prisoner* at the *Bar*, my *Lord*, the first Day they sat in Publick was (as I remember) the 20th of *Jan.* 1648. some few Days afore that, there was a Committee that sat in the *Exchequer-Chamber*, and of that Committee the Prisoner at the Bar was one of the Members. I do remember well it was in the Evening; they were Lighting of Candles, they were somewhat private. This Gentleman was there; I saw him; for through the Kindness of Mr. *Phelps*; who was then Clerk to that Committee, I was admitted, pretending first to speak with the said Mr.

Phelps;

Phelps, and that I had ſome Buſineſs with him, and ſo (as I ſaid before) I was admitted into the Committee-Chamber: Being there, I did obſerve ſome Paſſages fall from the Priſoner at the Bar; the Words were to this Purpoſe: He was making a Narrative of ſome Diſcourſes that paſſed between his late Majeſty and himſelf in coming between *Windſor* and *London*, or *Hurſt Caſtle*, I know not well whether. *My Lord*, that Paſſage that I obſerved to fall from him in that Diſcourſe was this: He ſaid, That the King as he ſat in the Coach with him, was importunate to know what they intended to do with him.

Mr. Harriſon. *In the Coach was it?*

Mr. *Nutley*. Yea, Sir, it was in the *Coach*. He told the reſt of the Company (as I ſaid before) that the King asked, *What do they intend to do with me? Whether to murther me, or no?* And I ſaid to him, *There was no ſuch Intention, as to kill him, we have no ſuch thoughts. But* (ſaith he) *the Lord hath reſerved you for a Publick Example of Juſtice.* There is one Word more, *my Lords*, and that is this, which I heard from this *Priſoner* at the *Bar*, The Reaſon and End of their Meeting together at that *Committee* was *concerning the Charge.* So much I obſerv'd. It was concerning the Contracting of the *Impeachment*. I obſerv'd that ſome found fault with the Length of that, as it was drawn. They were offering ſome Reaſons to Contract it, and I heard this Priſoner at the *Bar* vent this Expreſſion, *Gentlemen, it will be good for us to* Blacken *him what we can; pray let us* Blacken *him*: Or Words to that purpoſe. I am ſure *Blacken* was his Word.

Mr. *Windham*. Mr. *Nutley*, you ſpeak of an *Impeachment*. Againſt whom was that *Impeachment?*

Mr. *Nutley*. It was againſt his late Majeſty the King.

Council. And it was to draw up that *Impeachment* ſo as to *Blacken* him. Was it ſo?

Mr. *Nutley*. Yes, Sir.

Mr. Coytmore *Sworn*.

Mr. *Windham*. Did you ſee the *Priſoner* at the *Bar* ſitting in that which they call'd the *High-Court of Juſtice* on the Day when the King was Sentenced, or at any other Time? Pray tell my *Lords* and the *Jury*.

Mr. *Coytmore*. My *Lords*, and Gentlemen of the *Jury*, I was in that which they called the *High-Court of Juſtice* Three or Four Times. I ſaw this Gentleman either once or twice ſitting there.

Council. Do you know any Thing more.

Coytmore. No really: I came only to hear and ſee what they were doing, and I did there ſee him, I think, ſeveral Days; I am ſure once.

Council. Did you ſee him on the Seven and Twentieth of *January* 1648. ſitting there, which was the Day of the *Sentence?*

Coytmore. I cannot call that to Memory.

Council. Do you know of any *Expreſſions* that the King ſhould be an *Example* of Judgment?

Coytmore. No, *my Lords*.

Mr. *Windham*. My *Lords*, in the next Place we ſhall ſhew that *Inſtrument* that was made under the *Hand* and *Seal* of the *Priſoner* at the *Bar*, as well as others, for Execution of the King, that *Bloody Warrant*. But firſt we will ask *this* Witneſs another *Queſtion*.

Council. Did you ſee the *Priſoner* at the *Bar* ſit on the *Bench* as an ordinary *Spectator*, or as one of the *Judges?*

Coytmore. He was in the *Court*, ſitting among the reſt of the *Judges*, as one of them.

Mr. *Solicitor*. My *Lords* we will prove that this *Priſoner* at the *Bar* was one of them that took upon him the conducting of the King, and that the King was in is Cuſtody; and to the *High Court of Juſtice* alſo.

The Lord Newburgh *Sworn*.

Council. Pray, my *Lord*, give your ſelf the Trouble to raiſe your Voice, and to tell my *Lords* and the *Jury* what you know of the *Priſoner* at the *Bar*; the part that he acted in bringing up the King.

Lord Newburgh. *I was then living at his Majeſties Lodge at* Bagſhot, *when the Priſoner at the Bar brought the King from* Hurſt-Caſtle *to* London *He was the Perſon that commanded the whole Party; and when the King by the Way went to Dinner, by his Orders there were* Centries *ſet at every Door where he was. When the King had dined he carried him to* Windſor, *and appointed ſeveral of his Officers to ride cloſe to the King, as he was riding, leſt he ſhould make his Eſcape from them.*

Council. That was an Impriſonment itſelf, and ſo a Treaſon.

Mr. *Windham*. My Lords, we ſhall now produce to you Two *Inſtruments* which were made, the one for Convening and Summoning the Aſſembling of that which they called the *High-Court of Juſtice*, and ſhew this Priſoner's *Hand* and *Seal* to that, and then ſhew you likewiſe that which was the Conſummating of all, that *Bloody Warrant* for *Execution* of his late Majeſty of Bleſſed Memory, with the *Hand* and *Seal* of the Priſoner at the Bar unto it amongſt others.

Mr. *Solicitor*. My Lords, it will be fit before this to give you an account how we came by theſe *Inſtruments*.

Mr. Jeſſop *Sworn*.

Council. Shew to Mr. *Jeſſop* the *Warrant* for ſummoning that Court.

Mr. *Solicitor*. Mr. *Jeſſop*, pray tell my *Lords* and the *Jury* how you came by that *Inſtrument* you have in your Hand.

M. *Jeſſop*. May it pleaſe your *Lordſhips*, I having the Honour to attend the *Houſe of Commons*, the *Houſe* was pleaſed to make an *Order* that Mr. *Scobel* ſhould deliver into my Hands all ſuch *Books* and *Records*, *Papers*, and other Things, as did belong to the *Houſe of Commons*; and in Purſuance to that *Order* I did receive amongſt other Things this *Inſtrument*, as a Thing that had been formerly in his Hands, as *Clerk* of the *Houſe of Commons*.

Mr. *Solicitor*. We deſire it may be read, my *Lords*.

Court. Pray firſt prove his Hand.

Mr. Harriſon. *I deſire to know what is offered to be read.*

Court. It is a *Warrant* that you Sealed amongſt other pretended Judges of your *High Court of Juſtice* (as you call'd it) for Trial of the King for ſummoning that Court.

Council. Mr. *Kirk*, have you ſeen the Hand-writing of the *Priſoner* at any Time?

Mr. *Kirk*. I have very often ſeen it, and am well acquainted with it; and ſo far as it is poſſible a Man can teſtifie touching the Hand of another Perſon, I do verily believe this to be his *Hand*.

Council. How came you to be acquainted with his *Hand?*

Mr. *Kirk*. As he was a *Member* of the *Houſe of Commons*, and my Employment having relation thereto, I have ſeen him ſet his *Hand* ſeveral Times.

Mr. Farrington *Sworn*.

Council. Do you believe that this is the Hand-writing

writing of the *Prisoner* at the *Bar*? (*The* Instrument *being shewed him.*)

Mr. *Farrington.* I did not see him write it, *my Lords*, but I believe it to be his, for I have often seen his *Hand-writing*. It is his *Hand* so far as possibly a Man can know any Person's *Hand* that did not see him write.

Mr. Harrison. *I desire to see the Instrument.* Which being shew'd to him, he said, *I believe it is my own Hand.*

Council. That's the Warrant for Summoning that *Court* that he owns his *Hand* to.

Court. Shew him the other *Instrument.*

That being for Execution *of the* Sentence; *it being shew'd him,*

Mr. Harrison. *I do think this is my* Hand *too.*

Council. If you think it the *Jury* will not doubt it. That's the *Bloody Warrant* for Execution; and we desire they may be both read.

Mr. Harrison. *My* Lords, *do these Learned Gentlemen offer these as being any* Records?

Council. No, but as your own *Hand-writing.*

Mr. Harrison. *If you do not read it as a* Record, *I hope your* Lordships *will not admit of any thing of that kind against me.*

Council. He knows that a *Letter* under his *Hand* and *Seal* may be read in a *Court.* We do not offer it as a *Record*, but prove it by Witnesses that it is your *Hand-writing.*

Court. You have confessed these to be your *Hands.* Whether they are *Records*, or no; whether *Papers*, or *Letters*, they may be read against you. You Sign'd the *Warrant* for Convening together those which you call'd the *High Court of Justice*, and you Sign'd the other *Warrant* for putting the King to Death. You do confess these Two Things. We do not see what further Use may be made of them.

Court. You might observe how the *Inndictment* was for the *Imagining*, *Compassing*, and *Contriving*, the King's Death. To prove that there must be some *Overt-Act*, and a *Letter* under the Party's Hand is a sufficient *Overt-Act* to prove such *Imagination*; to that End these are used.

Mr. Harrison. *I do not come to be denying any Thing that in my own Judgment and Conscience I have done or committed, but rather to be bringing it forth to the Light.*

Court. Sir, you must understand this by the way, this you must take along with you, that these are read, not as any Thing of Authority in themselves, or as us'd to any other Purpose, but as an Evidence of the *Fact* against you: Take that along with you.

(*The Two Bloody* Warrants *for* Trial, *and for* Execution *of his Majesty, were here read, the latter of which is as followeth.*)

At the High-Court of Justice *for the Trying and Judging of* Charles Stuart, *King of* England, *Jan.* 29. 1648.

WHereas *Charles Stuart*, King of *England*, is and standeth Convicted, Attainted, and Condemned, of High-Treason, and other High Crimes; and *Sentence* upon *Saturday* last was pronounced against him by this Court, to be put to Death, by the Severing his Head from his Body, of which *Sentence* Execution yet remaineth to be done. These are therefore to will and require you to see the said *Sentence* executed in the open Street before *White-hall* upon the Morrow, being the 30th Day of this Instant Month of *January*, between the Hours of Ten in the Morning and Five in the Afternoon of the same Day, with full Effect; and for so doing this shall be your sufficient *Warrant.* And these are to require all Officers and Soldiers, and other the good People of this Nation of *England*, to be assistant unto you in this Service. Given under our Hands and Seals.

To Colonel *Francis Hacker*, Colonel *Huncks*, and Lieutenant-Colonel *Phayre*, and every of them.

Sealed and Subscribed by

John Bradshaw, Lord President.	*Hum. Edwards.*
Jo. Hewson.	*Dan. Blagrave.*
Per. Pelham.	*Owen Roe.*
John Danvers.	*Will. Puefroy.*
Mich. Livesay.	*Thomas Maleverer.*
Fo. Bourchier.	*Jo. Blakestone.*
Hen. Ireton.	*Jo. Hutchinson.*
Thomas Grey.	*Will. Goff.*
Oliver Cromwel.	*Adrian Scroop.*
Edward Whalley.	*James Temple.*
John Okey.	*Aug. Garland.*
Thomas Pride.	*Edmund Ludlow.*
Hen. Smith.	*Hen Marten.*
Peter Temple.	*Vincent Potter.*
Tho. Harrison.	*Will. Constable.*
Isaac Ewer.	*Rich. Ingoldsby.*
Val. Wauton.	*Will. Cawley.*
Simon Meyn.	*Joh. Barkstead.*
Tho. Horton.	*Anth. Stapeley.*
Jo. Jones.	*Greg. Norton.*
Jo. Moor.	*Tho. Challoner.*
Hardress Waller.	*Tho. Wogan.*
Gilbert Millington.	*Jo. Ven.*
Geo. Fleetwood.	*Greg. Clement.*
Jo. Alured.	*Jo. Downs.*
Rob. Lilburn.	*Tho. Wayt.*
Wil. Say.	*Tho. Scot.*
Rich. Dean.	*Jo. Carew.*
Rob. Tichbourn.	*Miles Corbet.*

Mr. Windham. *Gentlemen* of the *Jury*, We have done our *Evidence*; and you must know, *Gentlemen*, that the Principal Point of the *Indictment* is for *Compassing*, *Imagining*, and *Contriving* the Death of his late Majesty of Glorious Memory. There lyes the Treason; so says the *Statute* of the 25th *Ed.* III. It hath nothing of *Killing* the King there, but of *Imagining* and *Compassing* the Death of the King. The going about it, that's the Treason, as hath been learnedly opened to you; the rest are but *Overt-Acts*: If there be such an *Imagination* or *Compassing* the Death of the King once declared, though no Fruit at all follow, it is Treason. Here certainly you have a very full Evidence given. We shew you a *Consultation*; this is one *Overt-Act* which would do the Work if there were nothing else. I must tell you (and that with Submission to my Lords, the *Justices*) if they had *advised*, and gone no further, that had been Treason in the *Letter* of the Law. They conven'd and met together, and suppose then they had absolved and acquitted him, do you think they had absolved themselves from Treason? With Reverence be it spoken, if they had *acquitted* him, they had been Guilty of Treason. *Assuming a Power* to put the King to Death is an *Overt-Act* declaring

ring ſuch an Imagination. You ſee this Priſoner was no ordinary Actor in it; his Hand is in at all Games. Taking of him, Impriſoning of him, bringing him to *London*, and Setting Guards on him. You ſee alſo his Malice, *let us* Blacken *him*; for they knew his *Innocency* would ſhine forth, unleſs it was *Blackened* by their Imputations. He Sate many Times, as you hear, and *Sentenced him*, and aſſented to that *Sentence* by ſtanding up, and likewiſe by concluding the *Cataſtrophe* of that ſad beginning of Sufferings, his making a Warrant for his *Execution*; and accordingly you know what did follow: I think a clearer *Evidence* of a *Fact* can never be given than is for theſe Things.

(Here the Spectators *Humm'd.*)

Lord Chief Baron. Gentlemen, this *Humming* is not at all becoming the Gravity of this *Court*. Let there be Free Speaking by the *Priſoner* and *Council*. It is more fitting for a *Stage-Play* than for a *Court of Juſtice*.

Mr. Harriſon. *It is now Time*, my Lords, *to offer what I have to ſay. Have theſe Learned Gentlemen offered what they will ſay?*

Council. We have no more till he hath given us Occaſion; not for *Evidence* of the *Fact*.

Mr. Harriſon. *My Lords*, the Matter that hath been offer'd to you, as it was touch'd, was not a Thing done in a Corner. I believe the Sound of it hath been in moſt Nations. I believe the Hearts of ſome have felt the Terrors of that Preſence of God that was with his Servants in thoſe Days, (however it ſeemeth good to him to ſuffer this *Turn* to come on us,) and are Witneſſes that the Things were not done in a Corner. I have deſired, as in the Sight of him that ſearcheth all Hearts, whilſt this hath been done, to wait, and receive from him Convictions upon my own Conſcience, tho' I have ſought it with Tears many a Time, and Prayers over and over, to that God to whom you and all Nations are leſs than a Drop of Water of the Bucket; and to this Moment I have receiv'd rather Aſſurance of it, and that the Things that have been done, as aſtoniſhing on one Hand, I do believe e'er it be long it will be made known from Heaven, there was more from God than Men are aware of. I do profeſs that I would not offer of myſelf the leaſt Injury to the pooreſt Man or Woman that goes upon the Earth. That I have humbly to offer is this to your Lordſhips; you know what a Conteſt hath been in theſe Nations for many Years. Divers of thoſe that ſit upon the *Bench* were formerly as Active ——

Court. *Pray Mr.* Harriſon *do not thus reflect on the* Court. *This is not the Buſineſs.*

Mr. *Harriſon.* I followed not my own Judgment; I did what I did as out of Conſcience to the Lord; for when I found thoſe that were as the Apple of mine Eye to turn aſide, I did loath them, and ſuffer'd Impriſonment many Years. Rather than to turn as many did, that did put their Hands to this Plough, I choſe rather to be ſeparated from Wife and Family than to have Compliance with them, tho' it was ſaid, *Sit at my Right-hand*, and ſuch kind of Expreſſions. Thus I have given a little poor Teſtimony that I have not been doing Things in a Corner, or from myſelf. May be I might be a little miſtaken, but I did it all according to the beſt of my Underſtanding, deſiring to make the Revealed Will of God in his *Holy Scriptures* as a Guide to me. I humbly conceive that what was done, was done in the Name of the *Parliament* of *England*, that what was done was done by their Power and Authority; and I do humbly conceive it is my Duty to offer unto you in the Beginning, that this *Court*, or any *Court* below the *High-Court of Parliament*, hath no Juriſdiction of their Actions. Here are many Learned in the Law, and to ſhorten the Work, I deſire I may have the Help of *Council* Learned in the Laws, that may in this Matter give me a little Aſſiſtance, to offer thoſe Grounds that the Law of the Land doth offer. I ſay what was done was done by the Authority of the *Parliament*, which was then the *Supreme* Authority, and that thoſe that have acted under them are not to be queſtioned by any Power leſs than them. And for that I conceive there is much out of the Laws to be ſhewed to you, and many *Precedents* alſo in the *Caſe*. Much is to be offered to you in that; according to the Laws of the Nations that was a due *Parliament*. Thoſe *Commiſſions* were iſſued forth, and what was done was done by their Power; and whereas it hath been ſaid we did aſſume and uſurp an Authority, I ſay this was done rather in the Fear of the Lord.

Court. Away with him. Know where you are, Sir; you are in the Aſſembly of *Chriſtians*; will you make God the Author of your Treaſons and Murthers? Take heed where you are, *Chriſtians* muſt not hear this; we will allow you to ſay for your own *Defence* what you can; and we have with a great deal of Patience ſuffer'd you to ſally out, wherein you have not gone about ſo much for Extenuation of your Crimes, as to juſtifie them, to fall upon others, and to Blaſpheme God, and commit a New Treaſon: For your having of *Council*, this is the Reaſon for allowing of *Council*, when a Man would Plead any Thing, becauſe he would Plead it in *Formality*, *Council* is allowed. But you muſt firſt ſay in what the Matter ſhall be, and then you ſhall have the *Court*'s Anſwer.

Lord *Finch.* Tho' my *Lords* here have been pleaſed to give you a great Latitude, this muſt not be ſuffered, that you ſhould run into theſe damnable Excurſions, to make God the Author of this damnable Treaſon committed.

Mr. *Harriſon.* I have Two Things to offer to you, to ſay for my Defence in Matter of *Law*. One is, That this that hath been done was done by a *Parliament* of *England*, by the *Commons* of *England* Aſſembled in *Parliament*; and that being ſo, whatever was done by their Commands or their Authority, is not queſtionable by your *Lordſhips*, as being (as I humbly conceive) a Power Inferior to that of an *High-Court* of *Parliament*; that's One. A Second is this, That what therefore any did in Obedience to that Power and Authority, they are not to be queſtioned for it, otherwiſe we are in a moſt miſerable Condition, bound to obey them that are in Authority, and yet to be puniſhed if obeyed. We are not to judge what is Lawful, or what is unlawful. *My Lords*, upon theſe Two Points I do deſire that thoſe that are Learned in the Laws ſpeak too on my Behalf. It concerns all my Countreymen. There are *Caſes* alike to this, you know, in King *Richard the Second* s Time, wherein ſome Queſtion had been of what had been done by a *Parliament*; and what followed upon it I need not urge in it. I hope it will ſeem good to you that *Council* may be aſſigned, for it concerns all my Countreymen.

Council. You are miſtaken if you appeal to your Countreymen; they will cry you out, and ſhame you.

Mr. Harriſon. *May be ſo*, my Lords, *ſome will, but I am ſure others will not.*

Mr.

Mr. *Solicitor Gen.* Theſe Two Points, *my Lords*, are but One, and they are a New Treaſon at the Bar, for which he deſerves to Die if there were no other *Indictment*. It is the Malice of his Heart to the Dignity and Crown of *England*. I ſay this is not Matter for which *Council* can be aſſigned. *Council* cannot put into Form that which is not Matter Pleadable itſelf. It is ſo far from being true, that this was the Act of the Supreme *Parliament* of the People of *England*, that there was nothing receiv'd with more Heart-bleeding than this Bloody Buſineſs. But that the World may not be abuſed by the Inſinuations of a Man, who acts as if he had a Spirit, and in truth is poſſeſs'd, I will ſay, that the *Lords* and *Commons* are not a *Parliament*; that the *King* and *Lords* cannot do any Thing without the *Commons*; nor the *King* and *Commons* without the *Lords*; nor the *Lords* and *Commons* without the *King*, eſpecially *againſt* the King. If they do, they muſt anſwer it with their Head; for the King is not accountable to any Coercive Power. And for the Priſoner to juſtifie his Act, as if it were the Act of the *Commons* of *England*, he is very much to be reproved: Shall he pretend that One Houſe, nay, the Eighth part of a *Houſe*, (for ſo it was,) can condemn a King, when both *Houſes* cannot condemn One Man in Spight of the King? I deſire, *my Lords*, it may paſs with a due Reproach, and a Sentence upon it.

Lord *Chief Baron*. It is true, your Queſtions are but One Point. You pretend the *Parliaments* Authority, and when you come to ſpeak of it, you ſay the *Commons* of *England*. They were but One *Houſe of Parliament*. The *Parliament*, what is that? It is the *King*, the *Lords*, and the *Commons*. I would fain know of you where ever you read, by the Light you ſay you have in your Conſcience, that the *Commons* of *England* were a *Parliament* of *England*, that the *Commons* in *Parliament* us'd a Legiſlative Power alone. Do you call that a *Parliament* that ſat when the Houſe was *Purged*, as they call it, and was ſo much under the Awe of the *Army*, who were then but Forty, or Forty-five at moſt? Then you ſay it was done by Authority of them. You muſt know where there is ſuch an Authority, (which indeed is no Authority,) he that confirms ſuch an Authority, he commits a double Offence; therefore conſider what your *Plea* is. If your *Plea* were doubtful, we ſhould, and ought, and would, ourſelves be of *Council* for you. That which you ſpeak concerning *Conviction of your own Conſcience*, remember that it is ſaid in *Scripture*, that *they ſhall think they did God good Service when they ſlay you*, as it is in St. *John*. He hath a great deal of Charity that thinks that what you did was out of a Conſcientious *Principle*; it was againſt the Light of Noonday and common Practice. You make yourſelf a *Solicitor* in the Buſineſs. *Let us* Blacken *him as much as we can*. I have not touched at all upon the *Evidence*, I will not urge it now. I ſay you juſtifie it upon *Convictions of Conſcience*, and pretend it upon Authority; a Thing never known or ſeen under the Sun, that the *Commons*, nay a few *Commons* alone, ſhould take upon them, and call themſelves the *Parliament* of *England*. We have been cheated enough by Names and Words; there is no Colour for what you ſay. I do think and hope my Brethren will ſpeak to this *Caſe*, that none of us do own that Convention, whatſoever it be, to be the *Parliament* of *England*. There was another Aggravation; at this Time that this pretended Authority uſurped that Power, the *Lords* were then ſitting. You had not taken this uſurp'd Power to diſſolve thoſe *Lords*. No; you did this Act in Deſpight of the *Lords*; you had ſent up an *Ordinance* to the *Lords*, and they rejected it, and thereupon theſe *Members* took it upon themſelves: Amongſt thoſe there were ſome *Negatives*, and thoſe *Members* were under the Awe and Power of your Forces at that Time. What you plead, the *Court* are of Opinion tends to the Subverſion of the Laws; for you to uſurp Power over the People without their Conſents, to call this the People, we never knew the like before; but the *Parliament* of *England* was the *King*, *Lords* and *Commons*. For you to ſpeak of this Power, and juſtifie this Power, is an Aggravation, adding one Sin and Treaſon to another. We ſhall tell you, that neither *both Houſes* of *Parliament*, if they had been there, not any *ſingle Perſon*, *Community*, not the *People*, either *collectively*, or *repreſentatively*, had any Colour to have any Coercive Power over their King. And this *Plea* which you have ſpoken of, it ought to be over-ruled, and not to ſtand good.

Mr. *Anneſley*. I do the more willingly ſpeak to this Buſineſs, becauſe I was one of thoſe that ſhould have made up that *Parliament* that this Priſoner pretends to. I was one of that *Corrupt Majority* (as they call'd it) that were put out of the *Houſe*. He cannot forget that at that Time there were *Guards* upon both *Houſes of Parliament* to attend them that were of their own Appointment; and that thoſe *Guards* were forcibly removed by the Priſoner at the Bar, and his Fellows, and other *Guards* put there, who inſtead of being a Defence unto them when thoſe *Commons* ſtood at the Door, were by them threatned. Yet the *Lords* and *Commons* of *England* in *Parliament* Aſſembled, a full Houſe of *Commons*, did reſolve, notwithſtanding what was aforeſaid, that the Treaty in the *Iſle of Wight* was a *Ground for Peace*. Afterwards the major part of the *Houſe of Commons* having reſolved on this, ſent it up to the *Lords*; that very Day when they were Adjourned there were *Forces* drawn down to the *Houſe of Commons* Door, and none ſuffered to come into the *Houſe* but thoſe that they pleaſed. All thoſe that had a Mind for Peace, that minded their Duty, and Truſt, and Allegiance, to their King, were ſeized on by this Gentleman and his Fellows. When this was done, what did he and thoſe Fellows do? They ſat and put a Check upon all thoſe that ſhould come in. None muſt come in but thoſe that would renounce their Allegiance and Duty to their King and the People, for whom they ſerved, and then declar'd againſt that Vote which had been paſſed upon *Debate* of Twelve or Fourteen Hours, and then to call this an *Houſe* of *Commons*, nay, the *Supreme Authority of the Nation*, he knows is againſt the Laws of the Land. For the *Houſe* of *Commons* alone cannot ſo much as give an *Oath*. It hath not Power of *Judicature* of Life and Death: This he knows well to be according to the Laws of *England*. He knows that no Authority leſs than an *Act of Parliament* can make a Law; and he knows an *Act of Parliament* muſt be paſſed by the *King*, *Lords*, and *Commons*. I wonder much to hear a Juſtification in this kind by one that knows the Laws of *England* ſo well. There will none of the *Court* allow that that was a *Parliament*: The Majority of the Houſe did all diſavow it. Theſe Things have been already diſcourſed of; I ſhall only ſay, that he knowing the Laws ſo well, I hope he ſhall ſuffer for Tranſgreſſion thereof.

Mr. *Hollis.* You do very well know that this that you did, this horrid, deteſtable Act which you committed, could never be perfected by you till you had broken the *Parliament.* That *Houſe* of *Commons*, which you ſay gave you Authority, you know what yourſelf made of it when you pulled out the *Speaker*; therefore do not make the *Parliament* to be the Author of your Black Crimes. It was innocent of it. You know yourſelf what Eſteem you had of it, when you broke and tore it in ſunder, when you ſcattered, and made them hide themſelves, to preſerve them from your Fury and Violence: Do not make the *Parliament* to be the Author of your Crimes. The *Parliament* are the Three *Eſtates:* It muſt not be admitted that one *Houſe*, Part of the *Parliament*, ſhould be called the *Supreme Authority.* You know what that *Rump* that you left did, what Laws they made. Did you go home to adviſe with your Countrey that choſe you for that Place? You know that no *Act* of *Parliament* is binding but what is Acted by *King*, *Lords*, and *Commons:* And now as you would make *God* the Author of your *Offence*, ſo likewiſe you would make the *People* Guilty of your *Opinion*; but your *Plea* is over-ruled.

To which the Court *aſſented.*

Mr. Harriſon. *I was miſtaken a little. Whereas it was ſaid the Points were one, I do humbly conceive they were not ſo. I ſay what was done, was done in Obedience to the Authority. If it were but an* Order *of the* Houſe *of* Commons, *thus under a Force, yet* this Court *is not Judge of that Force. I ſay if it was done by One* Eſtate *of* Parliament, *it is not to be queſtioned.*

Court. It was not done by One *Eſtate*, they were but a Part, nay, but an Eighth Part.

Denz. Hollis. It was not an *Houſe* of *Commons*; they kept up a Company by the Power of the Sword: Do not abuſe the People, in ſaying it was done by the *Supreme Power.*

Council. My Lord, if it were an *Houſe* of *Commons*, neither *Houſe* of *Commons*, nor *Houſe* of *Lords*, nor *Houſe* of *Lords* and *Commons* together; no Authority upon Earth can give Authority for murthering the King; this that he alledgeth is Treaſon; my Lord, this that is ſaid is a clear *Evidence* of that which is charged; there is only this more in it, he hath done it, and if he were to do it again he would do it.

Lord Chief Baron. It is clear as the Noon-day that this was not the *Houſe* of *Commons.* Suppoſe it had been an *Houſe* of *Commons* and full, and ſuppoſe (which far be it from me to ſuppoſe) they ſhould have agreed upon ſuch a Murtherous *Act*; for the *Houſe* of *Commons* to do ſuch an *Act*, it was void in itſelf; nay, any Authority without the *Houſe* of *Lords* and *King* is void. You plead to the *Juriſdiction* of the Court whether we ſhould judge it, or no. Yes, I tell you, and proper too: We ſhall not ſpeak what Power we have; the *Judges* have Power after *Laws* are made to go upon the *Interpretation* of them. We are not to judge of thoſe Things that the *Parliament* do. But when the *Parliament* is *purged*, (as you call it,) for the *Commons* alone to act, for you to ſay that this is the *Authority of Parliament*, it is that which every Man will ſay *intrenches highly upon his Liberty and Priviledge:* And what you have ſaid to your Juſtification, what doth it tend to but as much as this, *I did it, juſtifie it, and would do it again*; which is a New Treaſon. The greateſt Right that ever the *Houſe* of *Commons* did claim is but over the *Commons*. Do they claim a particular Right over the *Lords*? Nay, over the *King*? Make it out if you can, but it cannot poſſibly be made out. What you have ſaid doth aggravate your Crimes: It is ſuch an Approvement of your Treaſon that all *Evidences* come ſhort of it: *King*, *Lords*, and *Commons*, is the Ground of the *Engliſh Law*, without that no *Act of Parliament* binds.

Juſtice *Mallet.* I have been a *Parliament-Man* as long as any Man here preſent, and I did never know or hear that the *Houſe of Commons* had *Juriſdiction* over any, ſaving their own *Members*, which is as much as I will ſay concerning the *Parliament.* I have heard a *Story* of a *Mute*, that was born *Mute*, whoſe Father was ſlain by a Stranger, a Man unknown. After Twenty Years, or thereabouts, this *Mute Man* fortuned to ſee the Murtherer of his Father, and theſe were his Words, *Oh! here is he that ſlew my Father.* Sir, the *King is the Father of the Countrey*, *Pater Patriæ*, ſo ſaith Sir *Edward Coke.* He is *Caput Reipublicæ*, the *Head of the Commonwealth.* Sir, what have you done? Here you have cut off the *Head* of the whole *Commmonwealth*, and taken away him that was our *Father*, the Governour of the whole Countrey. This you ſhall find *Printed* and *Publiſhed* in a Book of the greateſt *Lawyer*, Sir *Edward Coke.* I ſhall not need, *my Lord*, to ſay more of this Buſineſs. I do hold the Priſoner's *Plea* vain and unreaſonable, and to be rejected.

Juſtice *Hide.* I ſhall not trouble you with many Words. I am ſorry that any Man ſhould have the Face and Boldneſs to deliver ſuch Words as you have. You, and all, muſt know, that the *King* is above the *Two Houſes.* They muſt propoſe their Laws to him: The *Laws* are made by him, and not by them; by their Conſenting, but they are his Laws. That which you ſpeak as to the *Juriſdiction*, you are here *Indicted* for High-Treaſon, for you to come to talk of *Juſtification* of this by Pretence of Authority, your *Plea* is naught, illegal, and wicked, and ought not to be allowed. As to having of *Council*, the *Court* underſtand what you are upon; *Council* is not to be allowed in that *Caſe*, and therefore your *Plea* muſt be over-ruled.

Mr. Juſtice *Twiſden.* I ſhall agree with that which many have already ſaid; only this, you have eas'd the *Jury*, you have confeſſed the Fact. I am of the ſame Opinion, that you can have no *Council*, therefore I over-rule your *Plea*, if it had been put in never ſo good *Form* and *Manner.*

Earl of *Manchester.* I beſeech you, *my Lords*, let us go ſome other Way to work——

Sir *William Wild.* That which is before us is, whether it be a Matter of *Law* or *Fact:* For the Matter of *Law*, your Lordſhips have declar'd what it is, his Juſtification is as high a Treaſon as the former. For Matter of *Fact*, he hath confeſs'd it. I beſeech you, *my Lord*, direct the *Jury* for their *Verdict.* This Gentleman hath forgot their Barbarouſneſs; they would not hear their King.

Court. No *Council* can be allowed to Juſtifie a Treaſon; that this is a Treaſon, you are *Indicted* by an Act of the 25th of *Edw.* III. That which you ſpeak of the *Houſe of Commons*, is but part of the *Houſe of Commons*; they never did, nor had any Power, to make a *Law*, but by *King*, *Lords*, and *Commons*; and therefore your *Plea* is naught, and all the *Court* here

here is of the ſame Opinion; if they were not they would ſay ſo, therefore what you have ſaid is over-rul'd by the *Court*. Have you any Thing elſe to offer?

Mr. Harriſon. *Notwithſtanding the Judgment of ſo many Learned ones, that the Kings of* England *are no ways accountable to the* Parliament, *the* Lords *and* Commons *in the Beginning of this War having declared the Kings beginning War upon them; the* God of Gods——

Court. Do you render yourſelf ſo deſperate that you care not what Language you let fall? It muſt not be ſuffered.

Mr. Harriſon. *I would not willingly ſpeak to offend any Man; but I know God is* no Reſpecter of Perſons. *His ſetting up his* Standard *againſt the People* ——

Court. Truly, Mr. *Harriſon*, this muſt not be ſuffered: This doth not at all belong to you.

Mr. Harriſon. *Under Favour this doth belong to me. I would have adhorr'd to have brought him to* Account, *had not the Blood of* Engliſhmen, *that had been ſhed*——

Council. Methinks he ſhould be ſent to *Bedlam* till he comes to the *Gallows* to render an *Account* of this. This muſt not be ſuffered. It is in a a Manner a New *Impeachment* of *this* King, to juſtifie their Treaſons againſt his late Majeſty.

Mr. *Solicitor-General.* My *Lords*, I pray that the *Jury* may go together upon the *Evidence*.

Sir *Edw. Turner.* My *Lords*, this Man hath the *Plague* all over him; it is Pity any ſhould ſtand near him, for he will infect them. Let us ſay to him as they uſed to write over an Houſe infected, *The Lord have Mercy upon him*, and ſo let the *Officer* take him away.

Lord Chief Baron. Mr. *Harriſon*, we are ready to hear you again; but to hear ſuch Stuff, it cannot be ſuffered. You have ſpoken that which is as high a Degree of Blaſphemy, next to that againſt God, as I have heard. You have made very ill uſe of theſe Favours that have been allowed you to ſpeak; your own Conſcience cannot but tell you the Contradiction of your Actions againſt this that you have heard as the Opinion of the *Court*. To extenuate your Crimes you may go on, but you muſt not go as before.

Mr. Harriſon. *I muſt not ſpeak ſo as to be pleaſing to Men; but if I muſt not have Liberty as an* Engliſhman ——

Court. Pray do not reflect thus; you have had Liberty, and more than any *Priſoner* in your Condition can expect; and I wiſh you had made a good uſe of it. Keep to the Buſineſs, ſay what you will.

Mr. Harriſon. *My* Lords, *thus*; *There was a Diſcourſe by one of the Witneſſes that I was at the* Committee *preparing the* Charge, *and that I ſhould ſay*, Let us *Blacken* him. *The Thing is utterly untrue; I abhorred the doing of any Thing touching the* Blackening *of the King. There was a little Diſcourſe between the King and myſelf. The King had told me that he had heard that I ſhould come privately to the* Iſle of Wight *to offer ſome Injury to him; but I told him I abhorred the Thoughts of it. And whereas it is ſaid that my Carriage was hard to him when I brought him to* London, *it was not I that brought him to* London, *I was commanded by the* General *to fetch him from* Hurſt-Caſtle. *I do not remember any hard Carriage towards him.*

Court. Mr. *Harriſon*, You have ſaid that you deny that of *Blackening*, which the *Witneſs* hath Sworn; and ſomewhat elſe touching the King in his Way to *London*, that the *Witneſs* hath Sworn to alſo. The *Jury* muſt conſider of it, both of their *Oaths* and your *Contradictions*. If you have nothing more to ſay, which tends to your Juſtification. We muſt direct the *Jury*. The end of your Speech is nothing but to infect the People.

Mr. Harriſon. *You are uncharitable in that.*

Juſtice *Foſter*. *My Lords*, This ought not to come from the *Bar* to the *Bench*; if you *ſalley out* thus about your Conſcience; if your Conſcience ſhould be a darkened Conſcience, that muſt not be the Rule of other Mens Actions. What you ſpeak of that Nature is nothing to the Buſineſs. If you have any thing to ſay, by Way of Excuſe for yourſelf for Matter of *Fact*, you may ſpeak: But if you will go on as before, it muſt not be ſuffered.

Mr. Harriſon. *The Things that have been done, have been done upon the Stage, in the Sight of the Sun* ——

Court. All this is a Continuance of the Juſtification and Confeſſion of the *Fact*. We need no other *Evidence*.

Council. He hath confeſſed his *Fact*, *my Lords*. The Matter itſelf is Treaſon upon Treaſon; therefore we pray Direction to the *Jury*.

Lord Chief Baron. Mr. *Harriſon*, I muſt give Direction to the *Jury* if you will not go further touching the *Fact*.

Mr. Harriſon. *My* Lords, *I ſay what I did was by the* Supreme Authority. *I have ſaid it before, and appeal to your own Conſciences, that this* Court *cannot call me to Queſtion.*

Lord Chief Baron. Mr. *Harriſon*, you have appealed to our Conſciences. We ſhall do that, which, by the Bleſſing of God, ſhall be juſt; for which we ſhall anſwer before the *Tribunal* of God. Pray take heed of an *Obdurate*, *Hard* Heart, and a *Seared* Conſcience.

Mr. Harriſon. *My* Lords, *I have been kept ſix Months a Cloſe Priſoner, and could not prepare myſelf for this Trial by* Council. *I have got here ſome* Acts *of* Parliament *of that* Houſe *of* Commons, *which your Lordſhips will not own; and the* Proceedings *of that* Houſe, *whoſe Authority I did own.*

Lord Chief Baron. This you have ſaid already. If you ſhew never ſo many of that Nature they will not help you: You have heard the Opinion of the *Court* touching *that* Authority. They all unanimouſly concur in it.

Gentlemen of the Jury, You ſee that this *Priſoner* at the *Bar* is Indicted for *Compaſſing*, *Imagining*, and *Contriving* the Death of our late Sovereign Lord, King *Charles* the Firſt, of Bleſſed Memory. In this *Indictment* there are ſeveral Things given but as Evidences of it; they are but the *Overt-Acts* of it. The one is, firſt, that they did meet and conſult together about the putting the King to Death; and that alone, if nothing elſe had been proved in the *Caſe*, was enough for you to find the *Indictment*; for the *Imagination* alone is Treaſon by the Law. But becauſe the *Compaſſing* and *Imagining* the Death of the King is ſecret in the Heart, and no Man knows it but God Almighty, I ſay, That the Imagination is Treaſon; yet it is not ſuch as the Law can lay hold of, unleſs it appears by ſome *Overt-Act*. Then the firſt *Overt-Act* is their *Meeting*, *Conſulting*, and *Propoſing* to put the King to Death. The Second is more open; namely, their *Sitting* together, and *Aſſuming an Authority* to put the King to Death. The Third is *Sentencing* the King. And I muſt tell you that any one of theſe Acts prove the *Indictment*. If you

find him Guilty but of any one of them, either *Conſulting*, *Propoſing*, *Sitting*, or *Sentencing* (though there is full Proof for all,) yet notwithſtanding you ought to find the *Indictment*. You have heard what the *Witneſſes* have ſaid, and the *Priſoner*'s own Confeſſion. Witneſſes have Sworn their Sitting together; and that he was one: One ſwears he ſat *Four* times, another *Twice*; ſome *ſeveral Times*. There are ſeveral Witneſſes for this, as Mr. *Maſterſon*, Mr. *Clark*, Mr. *Kirk*, and Mr. *Nutley*. And then you have another Thing too, which truly the *Priſoner* did not ſpeak of. Witneſs was given againſt him, that he was the Perſon that Conducted the King; this was before that, which he would have to be done by a *Legiſlative Power*, and that is another *Overt-Act*. If a Man will go about to *Impriſon* the King, the *Law* knows what is the ſad Effect of ſuch Impriſonment. That hath often been adjudged to be an Evidence of *Imagining* and *Compaſſing* the Death of the King. That Man, the *Priſoner* at the *Bar*, it hath been proved to you did *Impriſon* the King; and it appears by his own Hand to the *Warrant* for ſummoning of that Traiterous Aſſembly, *The High-Court of Juſtice*, as they called it. And alſo it appears by his Hand to the *Warrant* for Execution; that *Bloody Warrant*. He hath been ſo far from denying, that he hath juſtified theſe Actions. The *Evidence* is ſo clear and pregnant as nothing more. I think you need not go out.

The Jury *went together at the* Bar, *and preſently unanimouſly agreed on their* Verdict, *whereupon they were demanded by the* Clerk.

Clerk. Are you agreed upon your *Verdict*.

Jury. *Yes.*

Clerk. Who ſhall ſay for you?

Jury. *Our Foreman.* (Which was Sir *Tho. Allen.*)

Clerk. *Thomas Harriſon*, Hold up thy Hand. Gentlemen of the *Jury*, look upon the *Priſoner*. How ſay ye? Is he *Guilty* of the Treaſon whereof he ſtands *Indicted*, and hath been Arraigned? Or *Not Guilty*?

Fore-man. Guilty.

Then the Keeper was charged to look to the Priſoner.

Clerk. What *Goods* and *Chattels* had he at the Time of Committing this Treaſon, or at any Time ſithence?

Fore-man. None to our Knowledge.

Which Verdict *being repeated to the* Jury *by Mr.* Clerk of the Crown, *the* Jury *owned it unanimouſly.*

Mr. *Solicitor-Gen.* My *Lords*, upon this *Verdict* that hath been given againſt the *Priſoner* at the *Bar* I humbly move that we may have *Judgment* given.

Your *Seſſions* will be long, and your Work will be great; his Demeanour hath been ſuch that he doth not deſerve a *Reprieve* for ſo many Days that you are like to ſpend in this *Seſſion*.

Court. Mr. *Harriſon*, they deſire *Judgment* upon the *Verdict*. What do you ſay for yourſelf why *Judgment* ſhould not paſs againſt you?

Clerk. *Thomas Harriſon*, hold up thy Hand. What haſt thou to ſay for thy ſelf why *Judgment* ſhould not paſs againſt thee, to Die according to *Law?*

Mr. Harriſon. *I have nothing further to ſay, becauſe the* Court *have not ſeen meet to hear what was in my Heart to ſpeak, I ſubmit to it.*

The *Crier* made *Proclamation* for *Silence* whilſt *Judgment* was in giving.

Lord Chief Baron. You that are the *Priſoner* at the *Bar*, you are to paſs the *Sentence* of Death, which *Sentence* is this. The *Judgment* of this *Court* is, and the *Court* doth award, *That you be led back to the Place from whence you came, and from thence to be drawn upon an Hurdle to the Place of Execution, and there you ſhall be Hanged by the Neck, and being Alive ſhall be cut down, and your Privy Members to be cut off, your Entrails to be taken out of your Body, and (you living) the ſame to be Burnt before your Eyes, and your Head to be cut off, your Body to be divided into Four Quarters, and Head and Quarters to be diſpoſed of at the Pleaſure of the King's* Majeſty, *and the Lord have Mercy upon your Soul.*

And then *Proclamation* was made for *Adjournment* of the *Court* to this Place till Seven of the Clock to morrow Morning; and all *Jury-Men* and *Witneſſes* were Commanded to be at the ſaid *Place* and *Time* upon Forfeiture of an Hundred Pounds apiece.

October 12. 1660.

The Proclamation for Silence.

The Jury called.

Priſoners brought to the Bar, *viz.*

John Jones, Adrian Scroop, Thomas Scot, Gregory Clement, John Carew.

Crier. Sir *Thomas Allen.*

Clerk. Sir *Tho. Allen*, lay your Hand on the Book, look upon the Priſoner at the Bar.

Scroop. *I challenge him, my Lord.*

Lord Chief Baron. That you may not miſtake, if you challenge in this manner, and do not join in your Challenges, we muſt Try you ſeverally one after another; I muſt tell you the Courſe of the Law, if one challenge one, and another challenge another, we muſt ſever, and go to Trial one by one. Call the next.

Clerk. Sir *Henry Wroth.*

Scroop. *I challenge him.*

Lord Chief Baron. Then we muſt go on ſeverally, ſet all aſide but Mr. *Scroop*; Mr. *Scroop*, you may challenge particularly whom you will till you come to Thirty-five, if you go beyond that Number you will loſe the Benefit of the Law.

Scroop. *I deſire, my Lord, that whoſoever was challenged yeſterday may not be called again.*

Court. No, that cannot be, that is nothing to you. The Court thereupon proceeded, and called —

Challenged, *John Liſle, Nich. Raynton, Thomas Wynter, Thomas Frankelyn, Randal Nichol, Jo. Kirke, Ambroſe Scudamore, George Tirrey*, who were all challenged.

Jury, *Thomas Willet, Hen. Marſh, Charles Pitfield, Chriſtopher Abdy, Richard Cheny, Tho. Bid, Jo. Smith, Richard Abel, Ralph Halſal, Jo. Gallyard, Tho. Swallow, Sam. Starnel*, were admitted and ſworn on the Jury.

Clerk. Cryer make Proclamation. *If any Man can inform my Lords, the King's* Juſtices, *the King's* Serjeant, *or the King's* Attorney, *before this Inqueſt be taken between our Sovereign Lord the King, and the Priſoner at the Bar, let them come forth and they ſhall be heard, for now the Priſoner ſtands at the Bar upon his Delivery, and all others bound by Recognizance to give Evidence againſt the Priſoner*

at

at the Bar, let them come forth and give their Evidence, or else they shall forfeit their Recognizance.

Clerk. *Adrian Scroop*, Hold up thy Hand; you Gentlemen that are Sworn, look upon the Prisoner, and hearken to his Charge; you shall understand, *&c.* upon this Indictment he hath pleaded Not Guilty.

Mr. *Sol. Gen.* May it please your Lordships, and you Gentlemen of the Jury, this Prisoner at the Bar stands Instricted for Compassing and Imagining the Death of the late King of Blessed Memory. The Indictment sets out, that to that End and Purpose the Prisoner at the Bar did, with others, assemble and sit together at *Westminster-Hall*, consulting upon him, and Usurped an Authority to proceed against the Life of our said late Sovereign, and in Pursuance of that our late Sovereign was brought to his Death. These Things are alledged in the Indictment as several *Overt-Acts*, to shew the Treason of his Heart, which was the Compassing and Imagining the Death of the King; Compassing and Imagining are the Words of the Statute, the rest of the Indictment is but as so many Overt-Acts, Evidences and Manifestations of that corrupt and wicked Heart of his, by which he first thought such a Thought against his Sovereign. The Manner of our Evidence shall be this: Before they could come to accomplish this damnable Design, it was necessary to meet in a Traiterous Assembly, which they called the *High-Court of Justice*, that under the Pageantry and Mockery of that, they might pretend to Murder him by a Sentence; and before that Assembly could come to sit, there was a Precept set forth very formally to summon them to sit. This Prisoner at the Bar is one of those Persons, who under his Hand and Seal did summon that Court to sit upon the Life of our late Sovereign. When the Court, in Obedience to that Summons (as they called it) did meet, they sate several times, and he among them; they did proceed with a wonderful Impudence (as they had begun) to pronounce Sentence of Death upon our late Sovereign; my Lords, this Prisoner at the Bar was amongst them, and was at that Court, and gave the Sentence. When they had done, that they might compleat their Villany, they made a Bloody Warrant for Severing the Head of his late Majesty from his Body, and the Hand of the Prisoner is to that Warrant also; and this is the Scope of our Indictment.

Scroop. *My Lords, may I have Liberty to speak?*

Court. If you do confess that which is opened in Evidence against you, we shall not need to examine any Witnesses.

Scroop. *Examine what you think fit, if I understand that worthy Gentleman that spake last, he said that my Hand was to the Warrant for Execution; my Lord, if I can see my Hand I can tell, and I will not deny my Hand.*

Court. Shew it him: Which was done accordingly.

Scroop. *My Lords, I will not deny but that it is my Hand, but it is not my Seal.*

Council. Crier, call Mr. *Masterson*, Mr. *Kirke*, Mr. *Clark*, Mr. *Carr*, who were all Sworn.

Mr. *Masterson*, pray tell my Lords and the Jury whether you did see the Prisoner at the Bar in that which they called the *High-Court of Justice*, sitting as a Judge upon the late King.

Mr. *Masterson.* My Lords, and Gentlemen of the Jury, I saw upon the 22d or 23d of *Jan.* in the Year 1648, the Prisoner at the Bar sitting upon the Bench as one of the Judges in that which they called the *High-Court of Justice*, the King standing a Prisoner at the Bar; I say either the 22d or 23d. But I say particularly upon the 27th of *Jan.* 1648, in which the Sentence was passed upon the late King, I saw the Prisoner at the Bar sitting upon the Bench, in that which they called the *High-Court of Justice.*

Council. How did he demean himself when the Sentence was read?

Mr. *Masterson.* When the Sentence was read it was by the President (as he was called) of that Court, said to be the Sentence and Judgment of the whole Court, upon which the Prisoner at the Bar rose up, as to my Apprehension, testifying his Assent. All their Assents were taken so, and no otherwise, to us that were as Spectators.

Scroop. *I beseech your Lordships that I may speak without Offence, and answer to this.*

Court. Mr. *Scroop*, you may please to have Paper, and Pens, and Ink, to take Notes, or to ask any Questions.

Scroop. *My Lords, give me Leave to ask him this Question; Whereabouts did he see me sit in the Court?*

Court. Mr. *Masterson*, you hear the Question, pray answer to it.

Mr. *Masterson.* My Lords, I cannot particularly say where he sat, but I saw him in the Court, and to the best of my Remembrance it was on the Second Seat on the Left-hand of *Bradshaw.*

Scroop. *I would not give Offence to the Court in any Kind; I am now pleading for my Life, I desire to take a little Liberty to ask this Gentleman if ever he and I were in Company together, that he knows me so well.*

Mr. *Masterson.* For my part I do not remember I saw his Face before the sitting of that Court: If this Gentleman ask me if I were ever in his Company, I know not how I may construe the Word Company; but I am sure I never eat nor drank with him; I have seen him very many Times at Committees, more than Twenty Times since that Business.

Mr. *Clark* called.

Council. Mr. *Clark*, you have heard the Question, did you ever see the Prisoner at the Bar in that which they called the High Court of Justice?

Mr. *Clark.* I do remember in the Year 1648 I saw the Prisoner sitting in that which they call the High-Court of Justice upon the Trial of the King.

Scroop. *My Lords, you may desist in examining Witnesses touching my Sitting.*

Court. Do you acknowledge you did sit in that which they call the High-Court of Justice.

Scroop. *Yes, I see it proved, and I see a Gentleman here in my Eyes that I know very well, I will not deny it.*

Court. Did you sit upon the Sentence Day, that is the Evidence, which was the 27th of *January?* You are not bound to answer me, but if you will not we must prove it. Do you confess that?

Scroop. *I do not confess that I stood up as assenting to the Sentence.*

Mr. *Clark* called.

Council. Mr. *Clark*, what say you to that?

Clark. I did not take particular Notice of him that Day, that he stood up; but the Whole Court stood up to my Apprehension, but I took Notice that he was there then present.

Council. Mr. *Clark*, do you remember that you saw any of them sit?

Clark. I did not take Notice of any that sate then, but all stood up to my Thoughts.

Mr.

Mr. *Carr* called.

Council. Mr. *Carr*, tell my Lords and the Jury whether you did ſee the Priſoner at the Bar ſitting in that which they called the High-Court of Juſtice.

Carr. My Lords and Gentlemen of the Jury, the 22d, 23d, and 27th of *January* 1648, I was preſent when the Names of that they called the High-Court of Juſtice were called, and amongſt others that were Judges of that Court, as was Printed in a Paper which I then had in my Hand, I found the Name of Mr. *A. Scroop*, who I ſaw did there ſit and appear.

Mr. Carr looked in that Paper when he gave his Evidence.

Scroop. *I hope you will not take any Evidence from a Printed Liſt.*

Council. The Manner of his Evidence is, he ſaith this, That he had this Printed Paper in his Hand when the Names of that Court were called, and marking the Perſons in that Paper who were preſent, and that you were One of them who did appear.

Scroop. *My Lord, I ſhall not diſpute in Regard of my Want of Skill in the Law the Lawfulneſs of bringing in any Paper in Evidence into the Court, I ſhall not diſpute againſt your Lordſhips; but by your Favour I do ſuppoſe there is no Witneſs ought to uſe any Paper, or look upon any Paper when he gives Evidence, but I ſhall ſubmit it to your Lordſhips.*

Mr. *Sol. Gen.* Ask him the Queſtion without his Paper, but yet nothing is more uſual than for a Witneſs to make Uſe of a Paper to help his Memory.

Scroop. *The Gentleman that ſpake laſt I cannot hear him.*

Mr. *Sol. Gen.* We do not need his Paper in this Caſe, he will tell it without a Paper. Mr. *Carr.* ſpeak without a Paper.

Carr. My Lords, upon the calling of thoſe that were Judges in that Court which they called the *High-Court of Juſtice* then ſitting, this Gentleman the Priſoner at the Bar did anſwer to his Names then called.

Scroop. *Did you ſee me?*

Carr. I heard you anſwer, and ſaw you.

Scroop. *I pray he may be ask'd whereabout I ſate in that Court.*

Council. Mr. *Carr*, you hear the Queſtion, anſwer to it.

Carr. I am not able particularly to tell now, it being many Years ſince.

Scroop. *My Lord, obſerve of what Value this Evidence is; I am ſure I never was in his Company, I do not know that ever he ſaw me in his Life: I beſeech you give me Leave to plead for myſelf in all Humbleneſs and Modeſty, my Lord.*

Lord Chief Baron. Notice is taken of it Mr. *Scroop*, God forbid you ſhould be debarr'd of it.

Scroop. *I ſay he comes with Evidence of a Paper, he hear'd my Name call'd, and marked it; It is ſtrange that a Gentlemen whom I never ſaw, I know not his Name, nor I do not think he knew my Name if he had met me.*

Lord Chief Baron. I told you that was laid aſide, and you heard him ſpeak *Viva voce* without a Paper.

Council. Mr. *Kirk*, did you ſee the Priſoner at the Bar in that Court which they called the *High-Court of Juſtice* for Trial of the late King.

Kirk. My Lords and Gentlemen of the Jury, I did ſee the Priſoner there, and I did wonder to ſee him there, which was the Reaſon I took the more ſpecial Notice of his being there.

Scroop. *Pray, my Lord, let me intreat one Thing before he ſpeaks, That your Lordſhips will be pleas'd to ſpeak to him to give in his Evidence without any Speech.*

Council. How can that be? Can he give Evidence without ſpeaking?

Scroop. *I beſeech you, my Lords, give me Leave to ſay this, Let him give in his Evidence in plain Words without any Speech.*

Lord Chief Baron. Mr. *Scroop*, he muſt be excuſed, there are Circumſtances inducing which are as much as the Principal; this that he hath ſaid is very material; ſaith he, *I did ſee the Priſoner at the Bar there; I did not expect it, and wondered at it, and therefore took the more Notice* —— Let him go on, ask him what Queſtion you will.

Scroop. *My Lord, I ſubmit.*

Lord Chief Baron. Mr. *Kirk*, you muſt ſpeak the Truth, and the whole Truth; go on.

Kirk. I ſay as I ſaid before, I ſaw this Gentlemean ſitting in that which they called the *High-Court of Juſtice*, and I did therefore wonder at it, becauſe I did not expect him there, I came to know him formerly as he was called Captain *Scroop.*

Council. Go on.

Kirk. And as I ſaid before, I ſaw this Perſon, this Priſoner at the Bar, ſit amongſt the reſt of thoſe Perſons, Judges, as they called themſelves, of the *High-Court of Juſtice for the Trial of the King*; I did more particularly take Notice of this Perſon, becauſe I did not expect him there: I knew him formerly upon this Report, being an Eminent Man, by the Name of Captain *Scroop*, and at that Time was an Aſſociate of one Captain *Vivers*, and Captain *Wingham*; I had not ſeen him ſome Years before this Buſineſs, and ſeeing of him there, I did the more particularly take Notice of him.

Scroop. *Have you done, Sir? I beſeech your Lordſhip ask him what Employment he had there himſelf when he ſaw me there.*

Kirk. My Lord, I was there to hear the Trial.

Lord Chief Baron. Mr. *Scroop*, I am not willing you ſhould have any Thing of Interruption, unleſs you reflect upon any Perſon that concerns not you, Mr. *Scroop*, do not think it will be for your Advantage, nor is it proper for you to ask.

Scroop. *In all Humbleneſs I do ſpeak it to your Lordſhips, that your Lordſhip will pleaſe to conſider, that if he had any Employment in that Buſineſs himſelf how unfit a Witneſs he is againſt me.*

Court. Much fitter.

Scroop. *If it be ſo I have done.*

Kirk. My Lord, I was there only as a Spectator, I went only there to ſee and hear what was there to be ſeen and heard; I ſtood there and took Notes in Characters of the Proceedings, and ſeveral others with myſelf did the like, and we compared them together; that was all my Buſineſs at that Time, nd I ſaw him ſit there the 27th Day of *Jan.* 1648, which was the Day of Sentence againſt the King.

Scroop. *Whereabouts did you ſee me ſit there?*

Kirk. It is not, I think, imaginable that any Perſon ſhould be able after ſo many Years poſſibly to ſay where any Perſon ſate; but to the beſt of my Remembrance you ſate upon the Second Bench next the Preſident. But I dare not be poſitive in that, I dare not juſtifie it upon my Oath, it is but my Remembrance.

Here Mr. *Scroop* talked to one that ſtood near him.

Lord Chief Baron. We muſt deſire that of you, Mr.

Mr. *Scroop*; that you will not ſpeak to any here but what the Court may hear.

Scroop. *I ſhall obſerve your commands.*

Mr. *Coytmore* Sworn.

Council. Did you ſee the *Priſoner* at the *Bar* ſitting in that which they called the *High-Court of Juſtice* as a Judge upon the King?

Coyt. I did ſee him.

Council. When? What Day?

Coyt. I cannot name the Day; I was there Three Days of their Sitting, there I ſaw him once or twice; once I am ſure.

Scroop. *What Day?*

Coyt. I cannot remember.

Council. Did he ſit there as a Judge upon the King?

Coyt. He ſate among the reſt as a Judge.

Scroop. *Give me Leave to ask him whereabouts he ſaw me ſit?*

Council. Where did you ſee him ſit?

Coyt. I cannot remember the Place, he was among them; I ſaw him either One or Two Days; there was a great Company of them together.

Council. Mr. *Nutley*, did you ſee the Priſoner at the *Bar* ſitting in that which they called the *High-Court of Juſtice?*

Nut. If it pleaſe your Lordſhips, I was there in the Court thoſe Four ſeveral Days that they ſate in Judgment, I heard the *Priſoner* at the *Bar* called by his Name. I did take Notice he was there, truly I think he was there twice or thrice to my Remembrance.

Council. Can you tell what Day, whether the 27th of *Jan.* 1648.

Nut. I cannot ſay poſitively, but to the beſt of my Remembrance he was there, that was the laſt day when Judgment was given.

Mr. *Baker* Sworn.

Council. Mr. *Baker*, what ſay you? Did you ſee the Priſoner at the Bar ſitting in that which they called the High Court of Juſtice?

Baker. Yes I did ſee Col. *Scroop* on *Tueſday* the 23d of *Jan.* 1648 very particularly ſtand up and anſwer to his Name.

Council. Mr. *Coytmore*, are you acquainted with Col. *Scroop*'s Hand.

Coyt. I have had ſeveral Letters from him.

Council. Mr. *Scroop*. have you a Mind to ſee the Warrant for ſummoning the Court?

Scroop. *I deſire to ſee it; I do not remember I ſet my Hand to it.*

Court. Shew it him. It being ſhewed him,

Scroop. *I cannot ſay it is my Hand.*

Council. It is too true, we ſhall prove it to you.

Court. Shew it to Mr. *Coytmore.*

Scroop. *Be pleas'd to let me ſee it once more:* Which was again ſhewed him: *Truly, my Lord, I will ſave him the Labour.*

Council. You do acknowledge it was your Hand.

Scroop. *I'll ſave him the Labour; for I confeſs I do not love Men ſhould be put to their Oaths more than needs.*

Here likewiſe the Warrant for Execution was read.

Council. My Lords, we ſhall conclude our Evidence with Major-General *Brown*, the Lord Mayor Elect.

The Lord Elect Sworn.

Council. My Lord, be pleaſed to tell my Lords what Diſcourſe hath lately paſſed between the Priſoner at Bar and you concerning the Death of the King.

Lord Elect. My Lords, upon ſome Occaſion I was accidentally at the Chamber of the Speaker, there I met this Gentleman, whom indeed I knew not; he told me who he was; and when I underſtood who he was I ſaid to him (or Words to this Purpoſe, I cannot tell the Words) becauſe I would not diſtaſte him, and ſay *You* have done this, therefore I put it thus, *We* have done this, What a ſad Caſe have *we*, ſaid I, brought this Kingdom unto? Why, ſaith he? You ſee, ſaid I, how it is ruined now the King is murthered, *&c.* Saith he, *ſome are of one Opinion, and ſome of another.* Sir, ſaid I, do you think it was well done to murther the King? Saith he, *I will not make you my Confeſſor*, Sir; it was much to this Purpoſe.

Council. When was this ſpoken?

Lord Elect. Truly I do not know the Day, but it was that Day that Sir *H. M.* rendered himſelf to the Speaker, it was ſince the Coming in of the King.

Mr. *Sol. Gen.* Neither Time nor the Hand of God appearing in this Buſineſs, nor the Condition he was in, was ever able to bring this Gentleman to be ſorry for his Offence; but we do not give it as any Evidence of his Crimes: You have heard the Priſoner confeſs the Two Warrants: You have heard by ſeveral Witneſſes produced that he did ſit in that which they called the High-Court of Juſtice, by Three that he ſat particularly on that Day they called the Day of their Judgment; you have heard how little Penitence he hath had by his Declaration to the Lord Mayor Elect.

Scroop. *I hope now that you have heard the Evidence againſt me that you will give me Leave to make ſome Defence for my ſelf.*

Lord Chief Baron. God forbid otherwiſe but that you ſhould have free Liberty.

Scroop. *Truly my Lords, though my Breeding hath not been in the Way of the Laws, and therefore I have a great Diſadvantage when there be ſuch Learned Gentlemen as theſe are to plead againſt me. I muſt confeſs to you I have ſomething for Matter of Law to plead for the Juſtification of the Fact, tho' I would not undertake to juſtifie the Perſon, this I humbly intreat, if it may be granted, that I may have ſome Time given me, and ſome Council, that I may anſwer Matter of Law.*

Lord Chief Baron. Mr. *Scroop*, if you have any Thing of matter of Law for which you would have Council, you muſt alledge that matter firſt; the Uſe of Council is only to put in Certainty what you have of Matter of Law, and then the Court and Judges muſt judge of it. If you have Matter of Law, you muſt tell what it is; if it be Matter that there is Cauſe to over-rule it, there is no Cauſe of making further Uſe of Council. If One be Indicted for Murther, when he comes to Tryal he will ſay, I have Matter of Law to plead; What is that? That Murther is no Felony: Do you think Council will be admitted in this? If you do alledge what this Matter is wherein you deſire Council, you ſhall have your Anſwer.

Scroop. My Lords, as well as I am able to do it I ſhall do it; my Lord, I was not in the Parliament; take Notice of that; and that which was done in the High Court of Juſtice, it was done by a Commiſſion from the Parliament. My Lord, it was that Authority, which was then, I will not ſay it was ſo, becauſe I would not give Offence; it was that Authority then which was accounted the Supreme Authority of the Nation; and that Authority, My Lord, that a great many of the Generality of the Nation ſubmitted to. My Lord, I having received a Command from that Authority, what I did was in Obedience to that Authority: My Lord, I have not had Time

to

to conſider of theſe Things, becauſe I have been for theſe Six Weeks Time ſhut up a cloſe Priſoner, and that I could neither come at Council nor any Thing elſe, nor to get any Thing to prepare for it; therefore I deſire your Lordſhips to do me the Favour, if you ſee any Weight in it, to let me have Time and Council aſſigned me.

Lord Chief Baron. Have you done, Sir?

Scroop. *Yes.*

Lord Chief Baron. Then I take it this is the Effect of what you have ſaid; if I have not taken it aright tell me ſo: You ſay you juſtifie the Fact, though not your Perſon; that you were not of the Parliament; that what was done was by Commiſſion from the Parliament: Be pleaſed not to miſtake me, for I ſay you ſaid this: That that which I have to plead in Juſtification of it, I do not ſay that I juſtifie myſelf, but that which I have to ſay is for Juſtification of the Fact: I was firſt no Contriver of the Buſineſs; and then, ſecondly, I did it by Virtue of the Command, and in Obedience to the Authority, of the Parliament: That that Authority was then accounted the Supream Authority of the Nations, and that the Generality of the Nations did ſubmit to their Authority; I think I have repeated all you have ſaid. Then, Mr. *Scroop*, you muſt know this, that there is no Cauſe at all why Council ſhould be given for what you ſpeak; I profeſs it rather tends to the Aggravation than Extenuation of what you did. Firſt, you ſay you did it by Authority of Parliament, I am afraid you have been miſtaken as well as others; by the Word Parliament, what doth that mean? I am ſure you, and every one, knows, that there was not one Precedent ever heard of till this, that the Houſe of Commons ſhould take upon them the Legiſlative Power, and make ſuch an Act as this was; there was no Colour for it. Then for Men upon their own Heads, never heard of before, and againſt the Liberty and Freedom of the People, that they ſhould call it the Parliament when there was but 46 ſate, whereas there was above 240 excluded; and how you can call this a Houſe of Commons is a great wonder to me; but I tell you this, take it for granted, that if they were the moſt perfect Houſe of Commons that could be, did ever the Houſe of Commons, before this ſingle Act, take upon them the Legiſlative Power without the Lords? The Acts are begun in the Commons Houſe; when you have done, if the Lords not paſs it, it is Abortive; if it be done by both Houſes there ought to be a Royal Aſſent: But the Lords had rejected this Act; then they muſt take upon them theſe 46 Men, whereof I do believe there was not above 25 or 26 Men that did Vote this, and this muſt be called the Parliament, the Commons of *England*. I would fain know whether any Man hath heard that the Houſe of Commons took upon them the Legiſlative Power before this Act; but this hath been over-rul'd in the like Caſe, and I ſhall ſay no more to it. What is the Oath of Allegiance? Is it not that you would defend the King, his Crown, Rights, and Liberties, againſt all Perſons whatſoever? It was not only againſt the Pope (as ſome would have it) but the Word is, *or otherwiſe:* They broke the Oath of Supremacy, which was, *That the King was Supreme Governour of theſe Nations.* They ſwore that they would maintain and keep all Priviledges, Immunities, Preheminences, annexed to the Imperial Crown of this Realm; there is Difference between ſome Crowns and Imperial Crowns: An Imperial Crown, it was that which was not to be touched in the Perſon: We do not ſpeak any Thing of the Abſolute Power of the King, for you ſee he cannot judge concerning the Death of his Father, but by *Laws*. When you ſwore this Allegiance, all thoſe Members to break all this at once, this would be ſo far from having any Colour of Authority, that he that juſtifies it, juſtifies it againſt the Light of Conſcience and Laws. You ſay you did it by Commandment from them; he that doth a Command by ſuch an Authority, it is his Guilt: Our *Law-Books* ſay, That if a Court at Common-Law exceed their Juriſdiction, in that Caſe he that obeys that Command is puniſhable. In the Court of Common-Pleas, if there be an Appeal there for Murther, it is only proper to the Upper Bench; and therefore if the Party be Condemned, Sentenced, and Executed thereupon, the Executioner in that Caſe is Guilty of Murther, for obeying that Authority, which was indeed no Authority: And therefore whereas you would go about to juſtifie the Fact, becauſe you did it by Command of that Authority, that is an Aggravation: That when Men ſhall aſſume an Authority which is a Devil at the Noon-day, appearing without Vizors; I ſay ſhall aſſume an Authority never heard of before; if Men will countenance their Acts by obeying of them, it is an Aggravation: We have already declared this in the Caſe of the Priſoner Yeſterday; we are all ſatisfied in the Law in that Caſe: It is ſo clear a Point in *Law*, that my Brethren here and we did over-rule it Yeſterday in the like Caſe, and ſo we muſt now; and I hope that all do concur in this Opinion that hath been delivered.

Lord *Finch*. I hope all do concur in this Opinion delivered by my Lord Chief Baron: you ſhelter yourſelf under a Command of the Houſe of Commons; but let me tell you, and all the World, That if the Houſe of Commons (let it have been never ſo compleat) had given a Command, it had been a Thing no Ways juſtifiable; the Juſtification is an Aggravation.

Scroop. *My Lord, I do ſee that every Thing I ſpeak, though it be for clearing of myſelf from your Ill Opinion, I ſee it is taken in an Ill Sence (I humbly beſeech Pardon for the Expreſſion) if I err I will crave your Lordſhip's Pardon; but, my Lord, I ſay this, If I have been miſled, I am not a ſingle Perſon that have been miſled. My Lord, I could ſay, (but I think it doth not become me to ſay ſo,) That I ſee a great many Faces at this Time that were miſled as well as myſelf, but that I will not inſiſt upon: I ſay this, That I hope an Error in Judgment ſhall not be accounted Malice or an Error of the Will: Truly (my Lord) I never went to the Work with a Malicious Heart; I humbly deſire your Lordſhips to take Notice of it, That I never bore any Malice at all againſt his late Majeſty.*

Lord Chief Baron. Mr. *Scroop*, have you done?

Scroop. *My Lord, I do beſeech your Lordſhips to take Notice, That an Error in Judgment is not an Error in the Will.*

Lord Chief Baron. Mr. *Scroop*, I am very glad to hear you ſay ſo; but let me tell you what the Law ſaith; the Law in this Caſe creates the Malice. If a Man do an Act of this Nature, that may be ſome Kind of Excuſe to God, but towards Man you are to look to the Fact, the Law implies the Malice. If there be any Thing you will ſay in the Extenuation of your Offence, we will be very glad to hear that may tend to your Help.

Scroop. *My Lord, there is one Evidence comes in againſt*

againſt me that I muſt confeſs I am very ſorry to ſee; and, my Lord, there was a ſaying, and it is by my Lord Mayor Elect: *Truly he is a Worthy Gentleman, but I deſire the Lord may forgive that which he hath ſpoken: Truly, my Lord, I did never intend any Thing in this, neither can I directly remember that I ſpake thoſe Words directly, as my* Lord Mayor Elect *doth ſpeak: I do believe my* Lord Mayor *cannot very well remember them himſelf; for he ſaith, ſo far as he can remember; I muſt confeſs that when I was there, and had appeared according to the Proclamation, that ſuch Diſcourſe ſomewhat like it was raiſed, not of my procuring; I did not procure the Diſcourſe; I never intended the Juſtification of the Fact; but it was my ill Succeſs that I ſhould meet with that worthy Gentleman to have ſo much Diſcourſe with him.*

Lord Chief Baron. Mr. *Scroop*, my Lord Mayor Elect ſaith no further than this, *ſo far as he remembers*, and the Words that you ſhould ſay were theſe, *That ſome are of one Opinion, and ſome are of another.*

Scroop. *Upon the Death of the King*, (my Lord,) *I muſt confeſs to you, that ſomewhat I ſaid to him, but I cannot own that I ſaid thoſe Words.* My Lords, *He is a worthy Perſon, I do not deſire to ſpeak any Thing to degenerate in the leaſt kind from him; it is but his yea, and my no; there was no Body there.*

Lord Chief Baron. Have you any Thing more to ſay for yourſelf?

Scroop. *My Lord, if your Lordſhip do over-rule it ſo that I may not have Council, I have little more to ſay.*

Lord Chief Baron. You have heard the Senſe of the Court in that particular, you cannot have Council allowed you as to the Matter you have pleaded.

Scroop. *I have done, but only this, my Lords, I know not whether it be ſeaſonable to mention it; I came in upon the Proclamation; and, my Lords, by Means of theſe unhappy Words that have been reported of me in the Houſe of Commons, whereas before I was no excepted Perſon, I came to be excepted, and upon the very laſt Day of paſſing that Act, never was excepted before the very laſt Day: I beſeech you take Notice of this.*

Lord Chief Baron. Mr. *Scroop*, That is a Thing that is not before us, but there will be a proper Time to conſider of it in another Place; that is nothing to the Trial; have you any more to ſay, Sir?

Scroop. *No, my Lord; Will your Lordſhip pleaſe to let me ſpeak a Word to the Jury.*

Lord Chief Baron. If you ſpeak to the Court the Jury will hear it.

Scroop. *Truly, my Lord, this I do perceive, that I am under a very great Prejudice as to this Fact. It hath been the Caſe of many Gentlemen beſides myſelf; I deſire that theſe Gentlemen would take my Caſe into Conſideration, as they would their own, and I deſire that the Lord would give them Direction that they may do that which is according to Juſtice and Mercy; that is all that I have to ſay my Lords.*

Lord Chief Baron. You Gentlemen that are ſworn of this Jury, you ſee the Priſoner Mr. *Scroop* hath been Indicted for Imagining and Contriving the Death of his late Majeſty, of Bleſſed Memory, King *Charles* the Firſt. You ſee there are ſeveral Things in this Indictment; the Charge is the Imagining and Compaſſing the Death of the King. In the Indictment there are ſeveral Matters of Fact to prove this Imagination. The Imagination is the Treaſon, the Matters of Fact to prove it are but the Evidences of that Imagination; if any one of them be proved to you it is ſufficient, the one is Conſulting and Meeting together how to put him to Death, the other Sitting and Aſſuming Authority to bring him to Trial. Then you have a Sentence by the Court to put the King to Death thereupon; afterwards he was put to Death: Any one of theſe Matters are Evidence enough for you to prove the *Indictment*; for though the *Indictment* concludes that ſo they did *Imagine* and *Compaſs* the Death of the King, and that the King was put to Death in Manner and Form as aforeſaid; the Manner and Form aforeſaid goes to this, to the Imagination of the Heart; for the *Law* did not think any one would put the King to Death, they thought it ſo a Crime, they thought it not convenient to bring it into the Statute. But the *Compaſſing* and *Imagining* the Death of the King is made Treaſon: Then to apply it, this Fact, to the Gentleman, it appears to you here by the Proofs againſt him. Here is Mr. *Maſterſon*, he ſwears he ſaw him ſit in that pretended Court, there was your Evidence of the firſt, the firſt was their *Meeting together*; and of the Second too, they did *aſſume Authority* upon them; and he ſwears further to the *Sentencing*, That the Priſoner was there. Here were the Three *Overt-Acts* all proved. He confeſſes he did Sign the *Warrant* for putting the King to Death: This, without any Witneſs at all, was a ſufficient Proof, a Proof of Proofs. The other Witneſſes, you hear what they ſay; you hear Mr. *Kirke*, Mr. *Clark*, Mr. *Nutley*, ſwear all to his Sitting there. It is true, when this comes to the Particulars where he ſate, you muſt remember it was Twelve Years ago; when a Man ſees a mixt Number of about Eighty Perſons, it is impoſſible a Man ſhould be able to anſwer this Particular after Twelve Years where ſuch a one ſate; but you may ſee by his Sentencing what he did. They all witneſs they ſaw him poſitively; and one tells you, *He wondered he ſaw him there*; and indeed it might be a Wonder; for Mr. *Scroop* (to give him his Right) was not a Perſon as ſome of the reſt, but he was unhappily engaged in that Bloody Buſineſs, I hope miſtakenly; but when it comes to ſo High a Crime as this, Men muſt not excuſe themſelves by Ignorance or miſguided Conſcience. As to God, for this *Horrid Murther of the King* ſomewhat may be, but there is no Excuſe or Extenuation before Man; there may be, I ſay, before the Lord. You ſee the Proof is full againſt this Gentleman, as full as may be; Witneſſes ſaw him Sit, and he himſelf confeſſed he Signed the *Warrants*. I have no more to ſay to you, but, *Gentlemen*, you ſee what it is; I think for Matter of *Fact* you need not go from the *Bar*; but I leave it to you.

Scroop. *My Lord* ——

Lord Chief Baron. Mr. *Scroop*, If you have any Thing to ſay when the *Jury* have brought in their Verdict, if you will ſay any Thing for Matter of *Mercy*, the Court will hear you.

Scroop. *I thank your Lordſhip.*

The Jury *went together, and preſently ſettled themſelves in their Places.*

Clerk. Adrian Scroop, Hold up thy Hand. Look upon the Priſoner. How ſay you? Is he Guilty of the Treaſon whereof he ſtands Indicted, and hath been Arraigned, or Not Guilty?

Jury. Guilty.

Clerk. What Goods and Chattels, *&c.*

Jury. None that we know.

Lord Chief Baron. If you will ſay any Thing the Court will hear you.

Scroop. *I have no more, my Lord, but refer myſelf to this Honourable Court.*

Clerk. Set *John Carew*, *Tho. Scot*, *John Jones*, and *Gregory Clement* to the *Bar*, who were ſet accordingly; and being Commanded, they ſeverally held up their Hands.

Clerk. Theſe Men that were laſt called, *&c.*

Sir *Thomas Allen*, Lay your Hand on the Book: Look, *&c.*

Carew. *I Challenge him.*

Lord Chief Baron. Are you all agreed as to your Challenges?

Priſoner. *No, my Lord.*

Lord Chief Baron. Then we muſt do as before, ſever you, and go to Trial ſeverally: Take the Three away, and let Mr. *Carew* ſtand at the *Bar.*

Challenged, *Charles Pitfeld*, [illegible] *Wille*, *Will. Smiths*, *Rich. Rider*, *Edward Rolph*, *James Shercroft*, *Thomas Uffman*, *Francis Beal*, *Will. Whitcombe*, *Samuel Harris*, *Jo. Nicol* of *Finchley*, *George Rigth*, *Thomas Fruen*, *Ab. Newman*, *Thomas Blithe*, *Will. Vincent*, *James Hawley*, *Chr. Abdy*, *Tho. Bide*, *John Smith*, *Abr. Scudamore*, *Ralph Halſel*, *John Galliard.* In all 23.

Jury Sworn, *Robert Clarke*, *Thomas Grover*, *Richard Whaley*, *Samuel Greenhil*, *Nicholas Raynton*, *Thomas Winter*, *Richard Cheney*, *John Kerk*, *Rich. Abel*, *Tho. Morris*, *George Tirrey*, *Tho. Swallow*; in all 12.

If any Man can inform my Lords the King's Juſtices, *&c.*

Clerk. John Carew, Hold up thy Hand.

You that are Sworn look upon the Priſoner: You ſhall underſtand, *&c.*

Sir *Edward Turner.* May it pleaſe your Lordſhips, our Hue and Cry ſtill proceeds againſt the Murtherers of our late Sovereign Lord King *Charles* the Firſt of Bleſſed Memory, and this Gentleman the Priſoner at the Bar is apprehended as one among others for ſhedding that Precious Blood. Gentlemen of the Jury, he ſtands Indicted before you; for that he (I cannot expreſs it better) not having the Fear of God before his Eyes, but being ſeduced by the Inſtigation of the Devil, he did Imagine and Compaſs the Death of his ſaid late Majeſty. In Proſecution of this, Gentlemen, there be ſeveral Things that are mentioned in the Indictment, which are the open Acts to diſcover to you theſe Secret and Private Imaginations. He did meet and conſult with divers Perſons touching the Death of the King, that did Uſurp and take upon them to exerciſe a Power and Juriſdiction to Try the King; and finally, moſt horribly put him to Death. The Treaſon by the Statute of 25 *Edw.* 3. and which you are to enquire of, is, the Imagination and Compaſſing the Death of the King, the reſt of the Indictment are but Particulars to prove that he did ſo Imagine and Compaſs the Death of the King. If we ſhall prove theſe, or any of theſe Facts, you have then ſufficient to convict them. There was a Thing they called a High Court of Juſtice, that was ſet up, wherein they did intend to Try our late Sovereign Lord, and a Precept made, and that under the Hand and Seal of the Priſoner at the Bar, amongſt others, for ſummoning and convening that Bloody Court, where (among the reſt of the Miſcreants) the Priſoner at the Bar did ſit, and had Confidence, nay, Impudence, to pronounce Judgment againſt his Sovereign. In this he reſted not, but he, among them, ſet his Hand and Seal to that Bloody Roll or Warrant for putting him to Death, which accordingly was done, and to theſe ſeveral open Acts we ſhall call our Witneſſes, and ſo proceed.

M. *Maſterſon*, M. *Clark*, and M. *Kirk*, ſworn.

Council. Mr. *Maſterſon*, look upon the Priſoner, did you ſee him ſit in that they called the High Court of Juſtice?

Lord Chief Baron. Mr. *Carew*, if you will have Pen, Ink, and Paper, you may have it, pray call for it.

Carew. *I have no need of it.*

Council. Mr. *Maſterſon*, did you ſee, *&c.*

Maſterſon. My Lords, and Gentlemen of the Jury, I was preſent at that Aſſembly, which they called the High Court of Juſtice for Trial of the King, upon the 22d, 23d, and 27th, Days of *January* 1648, and there I ſaw the King ſtand a Priſoner at the Bar. I ſaw this Gentleman, the Priſoner at the Bar, ſit upon the Bench in that Court, as one of his Majeſties Judges; particularly upon the 27th Day of *January*, which was the Day of Sentence, I ſaw him ſitting there.

Council. Mr. *Clark*, You hear the Queſtion; Do you remember that you ſaw the Priſoner at the Bar ſitting in that which they called the High Court of Juſtice?

Mr. *Clark.* I remember I ſaw the Priſoner at the Bar ſitting in that which they called the High Court of Juſtice for the Trial of the late King, and particularly I took Notice upon the 23d and 27th of *January* 1648, that he was preſent.

Council. What was done upon that 27th Day?

Mr. *Clark.* The 27th Day the late King was Sentenced to Death.

Jury. What is your Name, Sir?

Council. His Name is *William Clark.*

Council. Mr. *Kirk*, What ſay you to the former Queſtion touching the Priſoner, his being at that which they called the High Court of Juſtice?

Mr. *Kirk.* My Lords, and Gentlemen of the Jury, I was preſent at the Trial of his late Majeſty of Bleſſed Memory, I ſaw that Gentleman, the Priſoner at the Bar, ſeveral Days there, particularly the Day of the Sentence, which was the 27th Day of *January* 1648, when the Sentence was paſſed he roſe up, aſſenting to it. Then the Warrant for ſummoning that pretended Court was ſhewed to Mr. *Kirk.*

Council. Do you believe that Hand to be the Hand of Mr. *Jo. Carew*, Priſoner at the Bar?

Kirk. My Lords, I do believe it to be his Hand; I have ſeen his Hand to ſeveral Orders, and being very well acquainted with his Hand-writing, I believe it to be his Hand as much as any Man can poſſibly know another Man's Hand. Then the Warrant for Execution of the King was likewiſe ſhewn him.

Council. Is that the Hand alſo of the Priſoner at the Bar?

Kirk. It is the ſame Hand, my Lord.

Court. Was Mr. *Carew* a Member of the Long Parliament?

Kirk. Yes, my Lord.

Council. Had you Occaſion to be acquainted with his Hand.

Kirk. My Lord, I have ſeen him ſet his Hand ſeveral times to Orders and other Papers.

Mr. *Farrington* Sworn.

Council. Do you know (the Warrants being ſhewn him,) thoſe Hands to be the Writing of the Priſoner at the Bar?

Far. My Lords, really I believe theſe are his Hands.

Court. Are you acquainted with his Hand?

Far-

Farrington. Yes, my Lord, and I do believe theſe to be his Hand-writing; I did not ſee him write them, but ſo far as poſſibly a Man can know anothers Writing I do believe theſe to be his.

Court. If you will ask to ſee them you may ſee them Mr. *Carew.*

Carew. *Pleaſe you to go on.* Here they were both read.

Council. May it pleaſe your Lordſhips, we ſhall not need to trouble the Jury any farther, we have proved that the Priſoner did Sign that Warrant for ſummoning that Court of Injuſtice, that he ſate there and ſentenced the King to Death among other, and that he ſigned the Warrant for Execution,

Lord Chief Baron. Mr. *Carew*, you have heard the Evidence, you may pleaſe to ſpeak what you think fit for your ſelf.

Carew. *My Lords, the Crimes that are here laid to my Charge in this Indictment are Treaſon and Murther.*

Lord Chief Baron. I would not have you to be miſ-informed, it is Treaſon only, but it carries the other in with it, Murther.

Carew. *Becauſe you ſay it carries the other incluſively.*

Lord Chief Baron. It doth, the Charge is the Compaſſing and Imagining the Death of the King, the other is but Evidence.

Carew. *Then the Thing that I ſtand upon before the Lord, and before you all, I ſay before the Lord, before whom we muſt all ſtand, and give an Account of this Action, which is a very great and weighty one: And whereas it is charged there, for I ſhall not trouble you with many Words as to the Particulars, or as to the Proofs, but I ſhall ingenuouſly acknowledge what the Truth is, and how far I can believe it; and therefore I ſay as to the Beginning of what was charged by the Council, and according to the Courſe of the Indictment, that what was done in thoſe Things, that it was not having the Fear of God before mine Eyes, but being moved by the Devil, and that it was done with a Traiterous, Malicious, and Deviliſh Heart, and all thoſe Things mentioned in the Indictment: As for that I can ſay in the Preſence of the Lord, who is the Searcher of all Hearts, that what I did was in his Fear, and I did it in Obedience to his Holy and Righteous Laws.*

Here the People humm'd——

Lord Chief Bar. Go on, he ſtands for his Life, let him have Liberty.

Carew. *It is Part of my Charge not to have the Fear of God,* &c. *I did ſuch and ſuch Things. I hope I may have Liberty*

Lord Chief Baron. Go on, you ſhall not be interrupted.

Carew. *I ſay that I did it in the Fear of the Lord, and I will begin with that and confeſs ingenuouſly the Truth of it. When this came into Queſtion, there was an Ordinance brought in to Try the King, where my Name was not as one of the Judges. There was another afterwards, an Act which I ſhall mention upon what Ground by and by, what that was, and that Act was brought in and committed, and Names brought in, and my Name was not brought in, and ſo afterwards my Name was put in, and ſeeing it I did ſtrike it out: After the Committee was up, I told them I did deſire to be excuſed in ſuch a Buſineſs. I have told you, how, wherein, and the Ground that I did it, which I ſhall leave with the Lord, in whoſe Hand your and my Breath, and all our Breaths, are; and therefore when it was ſo, I did, becauſe of the Weight of it, as being a very great and ſpecial Thing, and ſo I was very unwilling, becauſe of there being enow, which I thought had more Experience every Way for ſo great a Concernment as that was to be imployed rather than I; yet being ſatisfied with that Authority that did it, this is to ſhew you how that I had the Fear of the Lord, and did weigh the Things: After that, when the Bill was brought into the Houſe, my Name was put in there with ſeveral others, ſo I came to be in; and what I did was upon theſe Two Accounts: Firſt in Obedience (as I told you) to the Lord, which was the chief Thing, and in Obedience to that which was then the Supreme Authority of this Nation; and therefore I ſhall mention theſe Grounds very briefly, becauſe indeed the Things that are controverted here at this Time, they have been controverted in the Face of the whole World in ſeveral Nations; and the Lord hath given an Anſwer upon ſolemn Appeals to theſe Things; I ſhall therefore mention them very briefly; becauſe they have been ſo publick. The* Declarations *and* Remonſtrances *that have paſſed between the King and Parliament concerning the beginning of the Wars ——*

Lord Chief Baron. Mr. *Carew.* I would be very loth to interrupt you, but I ſee what Courſe is taken, and the Peoples Eyes are upon you: You ſeek Delays, and againſt the Courſe of Priſoners you ſay you will confeſs, but you do confeſs the Fact after you have ſpent the Time; and all the Witneſſes are heard for this that you ſpeak of now; you go about to juſtifie as in the Fear of the Lord, or any Thing of that Nature, that we cannot allow of; but we do allow you to ſpeak and give the Heads of what you will ſay as to the Matter of Fact; but to hear you make Diſcourſes and Debates which are a Juſtification of a horrid and notorious Treaſon, we cannot hear it; we ought not to hear the maintaining of open Treaſon; cannot hear you to ſpeak that upon your opening, which is Treaſon: We are willing that you open the Heads what you have to ſay; we are upon our Conſciences, and to appear before God for what we do, and ſo are you too; but remember the Devil ſometimes appears in the Habit of an Angel of Light. If you will couch your Matter in a few Words, the Court affords you Liberty, which is indeed beyond the ſtrict Rules of Law.

Carew. *You ſay you ſit here by the Laws of the Land, and are ſworn to maintain the Laws. We ought not that we ſhould plead to this Indictment, for what we did was by an Act of Parliament.*

Court. Pray Sir, this muſt not be let fall without Reproof, or rather Puniſhment.

Carew. *I believe there is no Precedent for it.*

Court. Sir, we know the Act of Parliament as well as you, and moſt of the ſtanders-by: You go upon a falſe Ground, there was no ſuch Act of the Supreme Authority as you pretend to; theſe are but Phantaſms of your own Brain, and muſt not be ſuffered; theſe Things have been controverted and decided many a time again and again.

Carew. *I deſire to have Time to ſpeak how it was begun and carried on, or elſe how ſhall I be*

able to make my Defence, or to tell you what are the Heads I will inſiſt upon? I ſhall declare the Grounds upon which the Parliament did proceed.

Lord Chief Baron. Mr. *Carew*, If that be your Ground, the Parliament did it, the Houſe of *Commons* did it, I have ſomething to offer (not to interrupt you) to the then *Commons*——

Carew. *In my humble Opinion for the maintaining of this, it was by Authority, the Supreme Authority by which it was done.*

L. Chief Baron. Did you Sign this Warrant for the Summoning and Warning of that Court? And did you Sign the Warrant for Executing the late King.

Carew. *I deſire I may go on with my Defence.*

Lord Chief Baron. We would not have you be miſtaken: You ſeem to confeſs the Act, and now you juſtifie it; you cannot ſpeak any Thing for your Juſtification till you confeſs the Fact.

Carew. *I ſhall ſpeak to that in its Time.*

Lord Chief Baron. You muſt ſpeak to that firſt, that is Matter of Fact, whereupon the Jury are to go.

Carew. *There is Matter of Law.*

Court. You muſt ſpeak to Matter of Fact firſt.

Carew. *I ſay this is that I was about to ſay, That the Supreme Authority* ——

Court. You muſt ſpeak to the Fact firſt, Whether you did Compaſs, *&c.* the King's Death, or not? That is the firſt Ground; if you did not there's an End of the Buſineſs: It is proved againſt you that you did it; if you come to juſtifie it, it muſt be when you have firſt agreed the Matter of Fact.

Carew. *I deſire I may have Liberty to proceed, either for Matter of Fact, or Law, as I liſt.*

Court. No, no, you muſt firſt ſpeak to the Fact, you may be after heard. You know in all Caſes they muſt begin with the Fact, either denying or extenuating; for Matter of Law in this Caſe muſt ariſe from the Fact.

Carew. *But I humbly conceive there is a Matter of Law in this Caſe, and it is Matter of Law that is above the Juriſdiction of this Inferior Court.*

Mr. Sol. *Finch.* I pray that he may be held to the Iſſue, *Guilty*, or, *Not Guilty*: If he deny the Fact let us rely upon our Evidence, and he upon his; he cannot come to Law till he hath confeſſed the Fact. The Queſtion is, whether you did, or not? There is the Fact; if you have any Thing to juſtifie, that follows.

Carew. *I was upon that, and going on to ſhew the Reaſons and Grounds of it.*

Court. Firſt you muſt confeſs it, if you will ſhew the Reaſons why you did it.

Carew. *I told you there was ſome Things I did.*

Court. What are thoſe ſome?

Carew. *I do acknowledge that I was there at the Court.*

Council. Did you Sign the Warrants for Summoning that Court, and for Execution of the King?

Carew. *Yes, I did Sign them both.*

Council. Then ſay what you will.

Lord Chief Baron. Now go on.

Carew. *In the Year* 1640 *there was a Parliament called according to the Laws and Conſtitutions of this Nation, and after that there was ſome Difference between the King and the Parliament, the Two Houſes of Parliament, Lords and Commons, and thereupon the King did withdraw from the Two Houſes of Parliament, as appears by their own Declaration,* The Great Remonſtrance, *Printed in* 1642, *and thereupon the Lords and Commons did declare*——

Lord Chief Baron. Mr. *Carew*, the Court are of Opinion not to ſuffer you to go on in this; they ſay it tends not only to juſtifie your Act, but you caſt in Bones here to make ſome Difference. You talk of the Lords and Commons, you have nothing to do with that Buſineſs; your Authority that you pretend to was an Act of Parliament (as they called themſelves) and that where there was but 46 Commons in the Houſe, and but 26 Voted it.

Carew. *I ſay, that the Lords and Commons by their Declaration*——

Mr. *Juſtice Foſter.* Hold your Hand a while, Sir, not ſo faſt; you go to raiſe up thoſe Differences which I hope are aſleep; New Troubles, to revive thoſe Things which by the Grace of God are extinct, you are not to be ſuffered in this; it is not the ſingling out of a few Perſons that makes a Parliament. We ſee as before, ſo ſtill, it is your Courſe to Blow the Trumpet of Sedition. Did you ever hear, or can you produce, Inſtances of an Act of Parliament made by the Houſe of Commons alone, though this was not the Houſe of Commons, as you heard before?

Carew. *Neither was there ever ſuch a War, or ſuch a Precedent.*

Court. Nor we hope never will be: Pray remember, you were returned to ſerve in the Houſe; what was that Writ that Summoned your Appearance? You had no Manner of Ground in the World to go that Way that you did.

Council. We pray that the Priſoner at the Bar give us Patience a little to repeat that to him which your Lordſhips have been ſo often troubled with declaring; this is not the Firſt or Second Time that in this Publick Aſſembly it hath been ſaid, That neither the Lords nor the Commons, jointly nor ſeverally, have any Power at all to proceed upon the Perſon of the King; that it is not in their Power to condemn any Man in *England* without the good Pleaſure of the King, much leſs the King himſelf; and that this is the great Liberty of the People of *England* that it ſhould be ſo; and it was the Firſt Breach and Invaſion of our Liberty that that Firſt Parliament made, and which you juſtifie in the Name the Lord. In this Caſe to throw us upon Debates of the War, and to talk here of the Cauſes and Reaſons of that Quarrel which ended in ſuch a Tragedy. For this Perſon to come here with this Confidence, and to juſtifie it, but that he knows he cannot be in a worſe Condition, one would wonder it ſhould fall from any Man that hath any regard of himſelf; it is all one to them that Periſh whether they fall by one Sin, or Multitudes. He makes no Scruple to multiply Treaſons; I do beſeech your Lordſhip he may not offer as he hath begun, but that the Jury may proceed.

Court. All the Court are of the ſame Opinion, not to hear any thing like the former Diſcourſes.

Carew. *I deſire I may be heard; I have not Compaſſed the Death of the late King, Contrived the Death of the King; what I did I did by Authority.*

Court. This is not to be heard; you have heard what hath been ſaid to you, there could be no ſuch Authority, neither was, nor could be; but you would by a Wire-lace bring it in by this; you have confeſſed the Fact, which muſt be left to the Jury.

L. Anſley. I think you were preſent in the Houſe of Commons when that Vote paſſed for Agreement with the King in the Treaty at the *Iſle of Wight.* You know the King having condeſcended to moſt of the Deſires of his Parliament, there was a Debate in the Houſe, and a Concluſion that they were Grounds for Peace. You know the Lords and Commons

mons did reſolve to agree with their King; when that was done, that would not ſatisfie you, and other Members of the Houſe; then you go and contrive New Ways; you contrive a New-faſhioned Parliament, the driving away many Members by Power, which you could not do by the Law of the Land: Nay, the Parliament had declared againſt that which you pretend is by Authority, is no Authority; for a few of you ſet up an Arbitrary Parliament of a few of yourſelves, when you had driven away the reſt: This Kind of Parliament gives you the Authority you pretend to. You were ſaying that the Parliament was called at firſt, the Lords and Commons by the King, according to the Antient Conſtitutions of the Laws: Did ſuch a Parliament give you ſuch Authority as you pretend to, an Act of Parliament, as you call it, which was but an Order of ſome of the Commons, and but a few of them; you can have no Manner of Juſtification, and therefore your Plea muſt be over-ruled as Yeſterday it was in the like Caſe. You are Indicted upon a clear Act of Parliament of 25 *Edward* III. and you defend your ſelf upon Pretence of an Act of Parliament which hath been over-ruled as no Act.

Carew. *I am a Stranger to many of theſe Things which you have offered, and this is ſtrange, you give Evidence ſitting as a Judge.*

Lord Chief Baron. You are miſtaken, it is not Evidence; he ſhews you what Authority that was, an Authority of 26 Members: How is this Evidence? Mr. *Carew*, if you have any Thing more of Fact go on: If you have nothing, but according to this kind of Diſcourſe, I am commanded to direct the Jury.

Carew. *I am very willing to leave it with the Lord, if you will ſtop me that I cannot open the true Nature of thoſe Things that did give me ground of Satisfaction in my Conſcience that I did it from the Lord.*

Mr. *Sol. Gen.* I do pray for the Honour of God, and our King, that he may not be ſuffered to go on in this manner. You have been ſuffered to ſpeak, you have ſaid but little, only Sedition; you pretend a Conſcience, and the Fear of the Lord, when all the World knows you did it againſt the Law of the Lord, your own Conſcience, the Light of Nature, and the Laws of the Land, againſt the Oaths you have taken of Allegiance and Supremacy.

Carew. *Gentlemen of the Jury, I ſay I ſhall leave it with you. This Authority I ſpeak of is right, which was the Supream Power; it is well known what they were.*

Council. It is ſo indeed, many have known what they were.

Lord Chief Baron. Mr. *Carew*, You have been heard what, and beyond what, was fit to ſay in your own Defence; that which you have ſaid, the Heads of it you ſee the whole Court hath over-ruled. To ſuffer you to expatiate againſt God, and the King, by Blaſphemy, is not to be endured; it is ſuffering Poiſon to go about to infect People; but they know now too well the Old Saying, *In Nomine Domini, in the Name of the Lord*, all Miſchiefs have been done, that hath been an Old Rule. I muſt now give Directions to the Jury.

Lord Chief Baron. Gentlemen of the Jury ——

Carew. *I have deſired to ſpeak the Words of Truth and Soberneſs, but have been hindered.*

Lord Chief Baron. Gentlemen of the Jury you ſee the Priſoner here at the Bar hath been Indicted of Treaſon, and this was for Compaſſing and Imagining the Death of our Sovereign Lord, King *Charles* the Firſt, of Bleſſed Memory. This Indictment ſets forth ſeveral *Overt-Acts* to prove this Imagination, for otherwiſe it is Secret in the Heart; the Fact itſelf, the Treaſon itſelf, is the Imagination of the Heart: The *Overt-Acts* that are laid down in the Indictment to prove this, *That they did conſult and meet together how to put the King to Death, That they did ſit upon him*: And Thirdly, *That they did Sentence him to Death, and afterwards he Died.* You heard what is proved againſt the Gentleman, the Priſoner at the Bar, by ſeveral Witneſſes, his own Confeſſion, That he ſigned the Warrant for Summoning and Convening that Court together, whereby the King was to be brought to his Trial; and that he ſate at his Sentence, and iſſued the Warrant for his Execution: You ſaw that this Gentleman did the Fact, did Compaſs and Imagine the King's Death. That which you are to try is this Iſſue, being Indicted for *High Treaſon*, and pleading *Not Guilty*; whether this Gentlemen that went ſo far, Sate upon him, Condemned him, Signed the Warrant for his Execution, did not *Compaſs* and *Imagine* the King's Death? I think you need not ſtir from the Bar where you are, but I leave that to you.

After a very ſmall Time of Conſultation by the Jury amongſt themſelves at the Bar, they agreed in a Verdict.

Silence was Commanded.

Clerk. *John Carew*, Hold up thy Hand; Gentlemen of the Jury, look upon the Priſoner: How ſay you? Is he Guilty of the horrid Treaſon whereof he ſtands Indicted, or not Guilty?

Foreman. Guilty.

Clerk. What Goods and Chattels, *&c.*

Jury. None that we know of.

Mr. *Scot*'s Trial, on *Friday October* 12. 1660. at the *Seſſions-Houſe* aforenamed.

Clerk. Set *Thomas Scot* to the Bar, (which was accordingly done) *Thomas Scot, Hold up thy Hand.* Theſe Men that have been of the laſt Jury are to try, *&c.* If you will Challenge all, or any of them, you muſt Challenge them before they are Sworn.

Scot. *I deſire that thoſe Men who have been of the former Jury may not be named. I know my Liberty of excepting againſt my Number.*

Lord Chief Baron. Mr. *Scot*, That which you do deſire is a Thing not right; the Offence with one is not the ſame with others: I ſpeak not but that the Court will do you all Right; the Court will grant it if you will wave your Challenges; but if you mean thoſe that have been by others Challenged, it is againſt Law.

Scot. *I am willing to bring my ſelf upon my Trial, and I will take the ordinary Way of Excepting and Challenging.*

Sir *Hen. Worth*, Sir *Jer. Whitchcote*, *James Hawley*, *Rich. Rider*, *Fra. Beale*, *Chr. Abdy*, *Nicho. Rayton*, *Tho. Winter*, *John Kirke*, *Rich. Abel*, Sir *Tho. Aleyn*, *Abr. Scudamore*, *Ralph Halſall*, *George Tirrey*, *Tho. Swallowe*, *Charles Pickerne*, *Arthur Newman*, *Tho. Blithe*, *William Vincent*, *Rich. Whaley*, were called and challenged.

Thomas Grover, *Edw. Rolfe*, *Tho. Uſman*, *William*

William Whitcombe, *Rich. Cheney*, *Tho. Bide*, *Charles Pitfield*, *John Smith*, *Tho. Morris*, *Tho. Fruen*, *Henry Twyford*, *Samuel Starnel*, were the Jury ſworn.

Clerk. Crier make Proclamation.

Cryer. O Yes, if any Man can inform my Lords the King's Juſtices, *&c.*

Clerk. *Tho. Scot*, Hold up thy Hand. You that are ſworn of this Jury you ſhall underſtand that the Priſoner at the Bar ſtands Indicted by the Name of *Tho. Scot*, late of *Weſtminſter*, in the County of *Middleſex*, Gent. *For that he, together with* John Liſle, *&c.*

[Here the Indictment was read.] Unto which Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his Tryal hath put himſelf upon God and the Countrey, which Countrey you are. Now your Charge is to enquire whether, *&c.*

Mr. *Sol. Gen.* You that are ſworn of this Jury, this Inquiſition for Blood, Royal Blood goes on againſt the Priſoner at the Bar; he ſtands Indicted for Compaſſing, Imagining, and Contriving the Death of the late King, of Bleſſed Memory: It is laid to his Charge in the Indictment, that he did Aſſemble at *Weſtminſter*, and that he, with other Perſons, uſurped the Authority of Sitting and Sentencing to Death his ſaid late Majeſty, and that in Conſequence and Purſuance of that the King came to his Death: The Treaſon he ſtands charged with is the Compaſſing and Imagining the King's Death; the other Parts of the Indictment are but Overt-Acts, that do but Evidence and Prove the Corruption of his Heart. If we prove but ſome of theſe Overt-Acts, then you muſt find him Guilty. Our Evidence againſt this Gentleman will be thus: We ſhall call Witneſſes to prove his Sitting in the Court, Sentencing his King, while his King ſtood a Priſoner at the Bar; the Warrant for Execution of the King, directed to certain Perſons to ſee Execution done accordingly, was under Hands and Seals, and among thoſe Hands and Seals the Hand and Seal of the Priſoner at the Bar is one: And then we ſhall produce to your Lordſhips Witneſſes to ſhew you with what a hard and impenitent Heart this hath been Committed; for he ſo gloried in the Act, that he deſired it might be writ upon his Tomb——

Mr. *Nutley*, Mr. *Kirke*, Mr. *Maſterſon*, and Mr. *Clark*, ſworn.

Council. Mr. *Maſterſon*, be pleaſed to tell my Lords and the Jury if you have ſeen the Priſoner at the Bar ſit in that which they called the *High-Court of Juſtice.*

Mr. *Maſterſon.* My Lords, and Gentlemen of the Jury. I ſaw the Priſoner at the Bar preſent at the High-Court of Juſtice (as they call'd it) for the Trial of the late King ſome Days; that is to ſay, either upon the 22d or 23d Day of *January* 1648, but particularly upon the 27th Day of that Month in the ſaid Year, when the Sentence of Death was pronounced againſt his late Majeſty, I ſaw the Priſoner at the Bar preſent.

Council. As one of the Judges do you mean?

Mr. *Maſterſon.* As one of the Judges ſitting upon the Bench.

Scot. *Do you know whereabouts I ſate?*

Mr. *Maſterſon.* I cannot ſatisfie you in that, but I ſaw you ſitting upon one of the Benches.

Council. Mr. *Clark*, you hear the Queſtion, pray anſwer what you know touching it.

Mr. *Clark.* My Lords, and you Gentlemen of the Jury, I was preſent in the Year 1648, when his late Majeſty ſtood a Priſoner at the Bar in that which they called the *High-Court of Juſtice*, and among other Perſons there preſent in that Buſineſs, I obſerved Mr. *Scot*, the Priſoner at the Bar, to ſit as one of the Judges, and particularly upon the 23d and 27th Days of *January* in the ſaid Year, upon which laſt Day the Court pronounced Judgment upon the late King.

Council. Did he ſtand up as aſſenting to the Sentence?

Mr. *Clark.* They all ſtood up to my Apprehenſion, I know not particularly whether the Priſoner at the Bar did.

Council. Mr. *Kirke*, tell my Lords and the Jury your Knowledge in this Buſineſs touching the Priſoner at the Bar.

Mr. *Kirk.* I was preſent at the Trial of his late Majeſty ſeveral Days; among the reſt of the Perſons that ſate in the Court as Judges, I ſaw the Priſoner at the Bar, and particularly upon the Day of the Sentence, the 27th of *January* 1648, the Court ſtood up unanimouſly as aſſenting.

Council. Shew him the Warrant for Execution.

Kirk. This is his Hand.

Council. Have you ſeen his Hand often?

Kirk. Yes, Sir, and am well acquainted with it.

George Farrington Sworn.

Council. Shew Mr. *Farrington* the Warrant; do you know that to be Mr. *Scot*'s Hand-writing?

Mr. *Farrington.* I did not ſee him write it, but I do verily believe it to be his; I have often ſeen his Hand-writing.

Council. Mr. *Nutley*, do you know Mr. *Scot*'s Hand-writing? Is that Mr. *Scot*'s Writing? [The Warrant ſhewn him.]

Mr. *Nutley.* I do verily believe it is.

Council. Have you been acquainted with the Writing of his Name?

Mr. *Nutley.* I have ſeen him write his Name, and do verily believe it to be his Hand.

Council. Clerk, read the Warrant: He read it accordingly.

Council. That which remains of our Evidence is to prove his boaſting of this Villany; we ſhall deſire you to hear Sir *Theophilus Biddolph.*

Sir *Theophilus Biddolph* Sworn.

Council. Pray tell my Lords and the Jury what you have heard the Priſoner ſay touching this Buſineſs of putting the King to Death.

Sir *Theophilus Biddolph.* I did hear him confeſs that he did Sit as one of the Judges of the late King; and that he was ſo far from repenting of the Act, that he did deſire when he died that a Tomb-ſtone might be laid over him with this Inſcription, *Here lies* Thomas Scot, *who adjudged to Death the late King.*

Council. Where did he ſay this?

Sir *Theo. Biddolph.* In the Parliament Houſe.

Colonel *Copley*, Eſq; Sworn.

Council. Pray Mr. *Copley* tell my Lords what you know of this Buſineſs.

Mr. *Copley.* My Lord, I was one of the Secluded Members; when we were called to ſit in the Houſe again, the Priſoner at the Bar, Mr. *Thomas Scot*, (I think it was the laſt Day we ſate,) there being ſome ſpeaking of the horridneſs of the Fact, he made a long Harangue about that horrid Act; and he ſaid, *He hoped he ſhould never repent of it*, and deſired that when he died it might be written upon his Tomb-ſtone, *Here lies* Thomas Scot, *who adjudged to Death the late King.*

Council. We have done with our Evidence.

Court. Sir *Theophilus Biddolph*, When was it you heard him ſpeak thoſe Words?

Sir

Sir *Theo. Biddolph.* To my beſt Remembrance it was in *Richard*'s Parliament; it was about *January* or *February* was Twelve Months.

Council. Were not you a Member for the City of *London* in that Parliament.

Sir T. *Biddolph.* Yes.

Council. Mr. *Copley*, When was it that you heard it?

Mr. *Copley.* It was in *April* laſt.

Mr. *Sol. Gen.* It was a ſettled Perſuaſion of his Heart, and he thought it fit to be gloried in.

The Lord Mayor Elect ſworn.

Council. Pray my Lord tell my Lords what you know concerning the Priſoner at the Bar.

Lord Mayor Elect. My Lords, I was one of thoſe Secluded Members that were returned again a little before the coming in of his Majeſty: Upon the laſt Day of our Sitting, Mr. *Scot* ſeeing the Houſe muſt break, ſaid, *Their Heads muſt be laid to the Block if there was a new Parliament*, for ſaid you, (looking on Mr. *Scot*,) *I confeſs I had a Hand in putting the King to Death, and I deſire all the World may take Notice of it, and I deſire when I die it may be written on my Tomb, I do not repent of any Thing I have done; if it were to do I could do it again.*

Mr. *Sol. Gen.* Do it again! He follows his Blows Home.

William Lenthall, Eſq; ſworn.

Council. Mr. *Lenthall*, pray be pleaſed to tell my Lords, and the Jury, what you do remember of any Diſcourſe of Mr. *Tho. Scot*, (the Priſoner at the Bar,) tending to the glorying in this Act, or any Thing in Juſtification of that Act.

Mr. *Lenth.* My Lords, the laſt Day it was, the laſt Inſtant of Time, we were reſolving of breaking the Houſe, there was ſome Oppoſition in it, not very much: The general Conſent of the Houſe was to diſſolve it; I muſt confeſs at that Time I did hear Mr. *Scot* much juſtifie that Act of the Death of the King, (which truly I was much offended at,) I confeſs to you upon my Oath touching his Speech of the Inſcription upon his Tomb I did not hear that: Juſtifying the Death of the King he made a long Harangue about, and he ſate at the upper end of the Gallery; but theſe Words, *Of having it written upon his Tomb, and to have all the World take Notice of it*, I do not remember.

Council. My Lords, my *Lord Mayor Elect* omitted ſomething; pray let him ſpeak to it.

Lord Mayor Elect. My Lords, the Concluſion of his Speech ended thus; *Being it is your Pleaſure to have it ſo*, (the Houſe Diſſolved,) *I know not how to hinder it; but when that is done, I know not where to* hide *this* hated HEAD *of mine.*

Council. We deſire to hear what the Priſoner will ſay for himſelf.

Scot. *I have no Certainty from the Witneſſes that I was there, but in a Wandring Way, they know not where I ſate, nor my Poſture.*

Mr. *Baker* ſworn.

Council. We do not call this Witneſs as Material, for we muſt inſiſt upon it quite through, that after 12 Years Time it is not poſſible a Witneſs ſhould remember where every particular Perſon ſate. Pray hear this Witneſs.

Mr. *Baker.* I do perfectly remember that Mr. *Scot* ſate Two Rows above Mr. *Bradſhaw* on his Left Hand in that which they called the *High Court of Juſtice.*

Scot. *As to the Warrant you ſpeak of, I know not what it ſignifies, I deſire to know what the Nature of it is.*

Council. The Warrant hath been read, it is not produced againſt him as a Record, for then it needed not be proved: But it is produced againſt him as an Evidence in Writing under his own Hand, that he was conſenting to the Death of the King.

Scot. *They may very much miſtake my Hand; you ſpeak of Words that I ſhould utter in Parliament, I do humbly inſiſt upon it that I am not to anſwer, nor they alledge, any Thing of that Nature: It is a high Breach of Priviledge.*

Council. There is no Priviledge of Parliament for Treaſon. Firſt, ſome of the Words were ſpoken in *Richard*'s Parliament, and that you do not own to be a Parliament, then another Thing (a known Rule in Law) there is no Priviledge of Parliament for Treaſon.

Scot. *I have heard the Rule, but do not ſo well underſtand it, of that ſpoken in* Richard's *Parliament; it will be a Nice Thing for me to diſtinguiſh between that and another Parliament; but this I think, that Convention of the People ought to have the Priviledge of the Parliament, as well as any other. I humbly conceive it was Teſtimony ought not to be given to you; whatever I ſay in Parliament, the Priviledge extends to no more than this, that I may be lawfully ſecured till the Parliament hath been acquainted with it, but not finally concluded till the Parliament have heard it.*

Lord Chief Baron. You are Indicted for *Compaſſing* and *Imagining* the Death of the King: I would have you underſtand, that in caſe a Man ſhould commit an Act of Treaſon, be it in what Place ſoever, there is no Place of Sanctuary for Treaſon; in caſe of Felony, if a Man be Indicted for Felony in the Parliament-Houſe, during the Time of Parliament, this is not to be tried in Parliament, but according to the Rule of Common Law; ſo in caſe of Treaſon, the Houſe of Commons in Parliament doth not try Treaſons: That Diſtinction which you make is nothing.

Scot. *I humbly conceive there is ſuch a Priviledge, that no Man ſhall ever be called to Account for any thing ſpoken in Parliament, if he be not called to Account by the Houſe before any other Member be ſuffered to ſpeak.*

Lord Chief Baron. That is, the Houſe will not determine; but that doth not extend to your Caſe, you are not charged here criminally for ſpeaking thoſe Words that have been teſtified againſt you, but for Compaſſing and Imagining the King's Death, of which there are other Evidences, and this but an Evidence to prove that.

Scot. *My Lord, I never did ſay theſe Words with that Aggravation which is put upon them, I have a great deal of hard Meaſure; as to ſay,* I hope I ſhall never repent, *I take God to Witneſs I have often, becauſe it was ſpoken well of by ſome, and ill by others, I have by Prayers and Tears often ſought the Lord, that if there were Iniquity in it he would ſhew it me; I do affirm I did not ſay ſo.*

Mr. *Baker.* My Lord, I omitted ſomething, which was this; I had occaſion to ſpeak with Mr. *Scot* whilſt *Richard*'s Parliament was Sitting, and among other Diſcourſe inſiſting upon ſome Things that *Richard* had done, ſaith he, *I have cut off one Tyrant's Head, and I hope to cut off another.*

Scot. *My Lord, this is but a ſingle Witneſs.*

Mr. *Sol. Gen.* I ſuppoſe he meant *Richard* for he was a Tyrant.

Lord Chief Baron. Speak on Mr. *Scot* whatever you have to ſay.

Scot. *If that be laid aſide as an Impertinency, I have the leſs to ſay.*

Lord Chief Baron. The next Thing you have to do

do is to anſwer to the Fact, whether you did it, or did it not.

Scot. *I ſay this, whatever I did, be it more or leſs, I did it by the Command and Authority of a Parliamentary Power; I did ſit as one of the Judges of the King, and that doth juſtifie me, what ever the Nature of the Fact was.*

Lord Chief Baron. We have had theſe Things alledged before us again and again: The Court are clearly ſatisfied in themſelves that this Act could not be done by any Parliamentary Power whatſoever. I muſt tell you what hath been delivered, that there is no Power on Earth that hath any Coercive Power over the King, neither Single Perſons nor a Community, neither the People Collectively nor Repreſentatively. In the next Place, that which you offer to be done as by Authority of Parliament, it was done by a few Members of the Houſe of Commons; there were but 46 there at that Time, and thoſe 46, not above 26 that voted it, at that Time the Houſe of Lords was ſitting, who had rejected it, and without them there was no Parliament, there was a Force upon the Parliament, there was excluded Seven Parts of Eight: Suppoſing you were a full Houſe of Commons, and that without Exception, there was not Authority enough; and it is known to you, (no Man better,) that there never was a Houſe of Commons before this Time; that this Foul Act was made for erecting that High Court of Juſtice, (as you call'd it,) aſſumed that Authority of making a Law; you cannot pretend to Act by Authority of Parliament; and becauſe you would excuſe it, you did it by Authority of Parliament, whether it were Good or no: If any Man do that which is unlawful by an unlawful Authority, the aſſuming to do it by that Authority is an Aggravation, not an Extenuation, of the Fact: It was over-ruled; I think my Lords will tell you, That they do not allow of that Authority at all, either to be for Juſtification or Plea.

Scot. *My Lords, I humbly pray leave to ſay, that without Offence to the Court, (every Perſon whereof I honour,) this Court hath not Cognizance to declare whether it were a Parliament or no.*

Lord Chief Baron. That was objected too; and we muſt acquaint you, That firſt of all it is no Derogation to Parliaments, that what is a Statute, ſhould be adjudged by the Common Laws. We have often brought it into Queſtion, whether ſuch and ſuch a Thing was an Act of Parliament, or not; any Man may pretend to an Authority of Parliament: If Forty Men ſhould meet at *Shooters-Hill*, as the *Little Convention* did at *Weſtminſter*, and ſay, *We do declare ourſelves a Parliament of England*; becauſe they do ſo, ſhall not this be judged what is a Statute, and what not? It is every Days Practice, we do judge upon it; the Fact is ſo known to every Body, they did aſſume to themſelves a *Royal Authority*; it hath been over-ruled already; it hath been the miſtake of many; the vulgar Acceptation of the Word Parliament. A Parliament conſiſts of the King, Lords, and Commons; it is not the Houſe of Commons alone, and ſo it is not by Authority of Parliament: It is not, unleſs it be by that Authority which makes up the Parliament: You cannot give one Inſtance that ever the Houſe of Commons did aſſume the King's Authority.

Scot. *I can many, where there was nothing but a Houſe of Commons.*

Court. When was that?

Scot. *In the* Saxons *Time.*

Court. You ſay it was in the *Saxons* Time; you do not come to any Time within 600 Years; you ſpeak of thoſe Times wherein Things were obſcure.

Scot. *I know not but that it might be as lawful for them to make Laws as this late Parliament, being called by the Keepers of the Liberties of* England: *My Lords, I have no Seditious Deſign, but to ſubmit to the Providence of God.*

Court. This is Notorious to every Man; this we have already heard and over-ruled.

L. Finch. That that I hope is this, That Mr. *Scot* will contradict that which he hath ſaid before; that is, that he hopes he ſhould not Repent, I hope he doth deſire to Repent. Mr. *Scot*, for this we muſt over-rule it, as we have done before; there is nothing at all to be pleaded to the Juriſdiction, and this Point hath been determined before.

Scot. *The Parliament in former Times conſiſted not ſo much of King, Lords and Commons, but King and Parliament. In the beginning of the Parliament in* 1641, *the Biſhops were one of the Three Eſtates; if it be not properly to be called a Parliament, a Legiſlative Power, though it be not a Parliament, it is binding: If Two Eſtates may take away the Third, if the Second do not continue to execute their Truſt, he that is in Occupancy may have a Title to the whole: I do affirm I have a Parliamentary Authority, a Legiſlative Power, to juſtifie me.*

Lord Chief Baron. Mr. *Scot*, what you ſpeak concerning the Lords Spiritual is nothing to your Caſe, be it either one Way or other, it was done by an Act of Parliament, with Conſent of the King, Lords, and Commons; though you will bring it down to make theſe Commons have a Legiſlative Power, I told you it was over-ruled before. We have ſuffered you to expatiate into that which was a Thing not intended by many of my Lords, that you ſhould have any ſuch Power to expatiate into that which is nothing but indeed to make a new Government, which is the higheſt Treaſon next to the Murthering of the King, in the World; to ſubvert the Laws, and to make a few of the Commons, nay, if they had been the whole, to make them to have the Legiſlative Power. Mr. *Scot*, if you have any Thing in Extenuation of the Fact we ſhall hear you, further we cannot.

L. Finch. If you ſpeak to this purpoſe again, for my part I will profeſs myſelf I dare not hear further of it; it is ſo Poiſonous Blaſphemous a Doctrine, contrary to the Laws, if you go upon this Point, I ſhall (and I hope my Lords will be of that Opinion too) deſire the Jury may be directed.

Scot. *I thought, my Lord, you would rather be my Council; it is not my ſingle Opinion, I am not alone in this Caſe, therefore I think I may juſtifie myſelf in it; it was the Judgment of many of the Secluded Members to own us to be a Parliament.*

Lord Anneſley. What you ſaid laſt doth occaſion my Riſing; you ſeem to deliver my Opinion, who you know could never agree to what you have alledged; truly I have been heartily ſorry to hear the Defence you have made to Day, becauſe you know I have had Letters from you of another Nature; I was very confident to have heard you an Humble Penitent this Day, inſtead of Juſtifying yourſelf: As to that which you ſay of the Secluded Members owning you to be a Parliament, they were ſo far from it, that you know for how many Years they lay under Sufferings and Obſcurity becauſe they could not acknowledge that an Authority which was not ſo: You cannot forget the Declaration of both Houſes that was publiſhed upon a Jealouſie that the People had, they would change the Government of King, Lords and Commons; it

was

was far from their Thoughts, it was called in that Declaration, *A Black Scandal caſt upon them:* This Declaration you know was by Order of both Houſes affixed in all Churches of *England*, that People might take Notice what they held to be the Fundamental Government of this Kingdom, *King, Lords, and Commons:* After this for you to ſet up another Government, and under them to act ſuch Things that one would think ſhould hardly enter into the Heart of any Man. You know very well all along they declared themſelves Faithful Subjects to the King, and ſo would have lived and died; and you might have had your Share of the Happineſs of that Peace, if you could have had an Inclination to ſubmit to that which both Houſes had reſolved, when you and others could not bring your Hearts to ſtoop to your Fellow Subjects, when you could not ſubmit to that equal Rule to take your Share with them. When Pride carried ſome ſo high, then was the beginning of your Fall and others; and none could expect other than what is now come to paſs, that they ſhould come to that Shame and Sorrow that this Day hath brought upon you: I could have wiſhed to have heard nothing but an humble Confeſſion of the Fault that hath been clearly proved, and no Juſtification of it: You have ſworn, among others, to preſerve the Laws and People of this Kingdom; but you drove away not only the Houſe of Lords, but moſt of the Commons, and then to give the Name of a Parliament to the Remainder, this is a great Aggravation of your Treaſon. I think we of the Secluded Members could not have diſcharged our Duty to God and the Kingdom if we had not then appeared in Parliament to have Diſſolved that Parliament, and ſo by our joint Aſſent put an End to all your Pretences, which if we had not done, we had not ſo ſoon come to our Happineſs, nor you to your Miſeries.

Lord Chief Baron. The Court hath told you before their Opinions in the Thing, and no further Debate is to be allowed in this, the Juſtification of it doth comprehend Treaſon; we our-ſelves are not by Law to allow the Hearing of it. If you have nothing to ſay for yourſelf I muſt give Direction to the Jury.

Scot. *I humbly crave Leave to move the Jury that they bethink themſelves, and conſider of it rather as a ſpecial Verdict, than of a definitive one, I think there is Cauſe of a Special Verdict.*

Court. If there was need of a Special Verdict, (we are upon our Oaths,) I ſhould give Direction to the Jury. What we do, we do upon our Oaths, and muſt anſwer it before God Almighty. The Court hath delivered their Opinions before; that in this Caſe the pretended Authority under which you did derive that Power which you did execute; that it is no Authority, it is void in Law, it is a Foundation (if it were true) of ſubverting all Laws, and indeed of all Religion, a Power that you aſſume to yourſelves of Judging and Condemning your King, that you would countenance ſuch an Authority is a great Aggravation of the Fault. They are Judges whether you did Imagine or Compaſs the King's Death, that is all the Jurors have to do. Gentlemen of the Jury ——

Scot. *I would know what particular Law I have tranſgreſſed in this Thing.*

Court. The Law of God and Man, 25 *Edw.* III.

Scot. *I humbly conceive that reaches not to this Caſe.*

Court. To ſatisfie you in that, the very Words of the Statute are, *If any Man do Compaſs or Imagine the King's Death it is Treaſon*; the Indictment is, That you did Imagine and Compaſs the Death of the King; If the Fact be proved againſt you, you are within the Statute.

Scot. *You will not ſay the King ſhall be a Traytor if he ſhall Compaſs the Death of the Queen.*

Court. The Queen is a Subject.

Scot. *I am not yet convinced.*

Lord Chief Baron. Gentlemen of the Jury.

Scot. *I do plead and claim that I am within the Compaſs of ſeveral Pardons, and deſire Council in that Particular; I do come within the Compaſs of his Majeſties Pardon.*

Lord Chief Baron. If you had not gone on to Matter of Juſtification you might have been more heard to this of Pardon; but after a Juſtification then to come for a Pardon, which implies a Confeſſion of Guilt, they are Contradictory; I muſt tell you we are now upon Point of Law, that Proclamation I doubt not but his *Majeſty* will inviolably make good; but we are not to Judge of that, it is nothing to a Legal Proceeding: You are now in a Court of Law, it is not to be pleaded in a Court of Law; the King's Pardon in Law muſt be under his Broad Seal: How far you are under that Proclamation Care will be taken, and what is fitting to be done will be done; but it is nothing in the Matter of the Charge to this Jury.

Scot. *I deſire Council touching the Statute* 23 Edw. III.

Court. You ſhould have done it before you had confeſſed the Fact.

Scot. *I may do it in Arreſt of Judgment.*

Lord Chief Baron. Mr. *Scot*, for that of the King's Proclamation, if you be within the Benefit and Compaſs of it, according to his Royal Word and Honour in it, you will have the Benefit of it, but it is not a Plea in Law, but it muſt be a Pardon under Seal; whatſoever concerns that Proclamation will be conſidered, it is nothing to the Matter whereupon the Jury are to go.

Lord Chief Baron. Gentlemen of the Jury, you ſee the Priſoner, *Tho. Scot*, ſtands Indicted for Compaſſing and Imagining the Death of our Dread Sovereign King *Charles* the Firſt, of moſt Glorious and Bleſſed Memory: He is Indicted for Compaſſing and Imagining his Death, there is the Treaſon; and what is ſet afterwards in this Indictment is only to manifeſt this Compaſſing and Imagining, becauſe that being in the Heart alone, without ſome Overt-Act no Body can prove it: There are ſeveral Overt-Acts laid in the Indictment; one is, A Traiterous Conſulting and Meeting together how to put the King to Death: Then a ſitting upon the King as a Priſoner, being before them about his Life and Death: The Third is Sentencing to Death; that which followed is, that he was Murthered: If any of theſe Acts ſhould be proved the Indictment is proved; for the Proof, there are ſeveral Witneſſes have fully proved that he did ſit there ſeveral Times, particularly upon *Jan.* 27. which was the Day of the Sentence; that he did ſit there all of them agree to that; it is true, as to the Circumſtance where he ſate, one Gentleman ſaith he ſate in the Second Row, on the Left Hand of *Bradſhaw*; you will remember it is 12 Years ago, how any Man upon the View, and after ſo long a Diſtance of Time, ſhould be able to remember in what Poſture one Man was from the reſt, I think neither you nor I can remember: Here is one proves to you that he did Sign the Warrant for Executing the King; he ſaith, *How can another know his Hand?* You ſee what the Witneſſes ſay, they knew it; a Man can prove nothing more of another Man's Hand than that, unleſs they ſee it written; there is nothing to put upon you but his

Words: You see what Words are Aggravated against Mr. *Scot*; whereas he saith, it is a Breach of the Priviledges of Parliament; if it were so, it is nothing to this Fact; though another Man should break the Priviledges of Parliament; it is nothing to you; but besides; it is not a Breach of the Priviledge of Parliament. You have heard the Witnesses what they have said against him. Mr. *Lenthall* swears that he did speak at large fully in owning that Business of the King's Death, the rest swear positively to the same Effect, and that at several Times; what was that? He gloried in it, defended it, and said, *He could wish it were Engraven on his Tomb-Stone*; he hath denied this that the Witnesses have proved: That which is left to you is, whether upon all this Matter that you have heard, whether the Prisoner at the Bar is Guilty of Compassing and Imagining the King's Death; and so go together ——— After a little Consultation together they settled in their Places again.

Clerk. Tho. Scot, Hold up thy Hand. Look upon the Prisoner at the Bar; how say you, is he Guilty of the Treason whereof he stands Indicted? Or not Guilty?

Jury. Guilty.

Clerk. Look to him Keeper.

Clerk. You say the Prisoner is Guilty, *&c.* and so you say all.

Jury. Yes.

Clerk. Set Mr. *Scot* aside.

Clerk. Set *John Jones* and *Gregory Clement* to the Bar.

Which was done accordingly

Thereupon the said *Gregory Clement* preferred his Petition to the Court.

Indictment read against them both.

Lord Chief Baron. If you do confess your Offence your Petition will be read.

Clem. *I do, my Lord.*

Lord Chief Baron. Mr. *Clement*, if you do confess (that you may understand it) you must when you are called, and when the Jury are to be charged; you must say, (if you will have it go by Way of Confession,) that you wave your former Plea, and confess the Fact.

Clerk. Gregory Clement, you have been Indicted of High Treason, for Compassing and Imagining the Death of his late Majesty, and you have pleaded Not Guilty; are you contented to wave that Plea, and confess it?

Clem. *I do confess myself to be Guilty, my Lord.*

Clerk. Set him aside.

Clerk. John Jones, hold up thy Hand. These Men that were last called, *&c.* if you will Challenge all, or any of them, you must Challenge them when they come to the Book, and before they are Sworn.

Jones. *I confess I sate amongst them some Days, but not maliciously contrived the Death of the King.*

Council. He is troubled at the Form, he confesseth the Matter, that he was there sitting in the High-Court of Justice. If he will not confess it, he knows we can prove his Hand and Seal to that Bloody Warrant. He is troubled that he is said to have Traiterously and Maliciously contrived the King's Death: He that doth these Acts towards it is by Law responsible as to the Malice.

Jury Sworn.

Sir *Tho. Allen*, Sir *Henry Wroth*, Sir *Jer. Whitchcott*, *James Hawley*, *Henry Mildmay*, *Christ. Abdy*, *Nich. Raynton*, *Richard Cheney*, *Tho. Byde*, *Charles Pitfield*, *Abraham Scudamore*, *Charles Pickerne*, in all Twelve.

Clerk. Crier, make Proclamation.

Crier. If any Man can inform, *&c.*

Clerk. *John Jones*, Hold up thy Hand. Look upon the Prisoner, *&c.*

Mr. *Sol. Gen.* My Lords, and Gentlemen of the Jury, I must open to you, as to other Juries, that the short Point of this long Indictment is but this, that the Prisoner at the Bar did Imagine and Compass the Death of the King, which is your Issue to Try. We shall prove it by those Overt-Acts which the Law doth require. To prove the Sitting, Sentencing, and Signing the Warrant for Execution by the Prisoner at the Bar.

Council. Call Mr. *Clark*, and Mr. *Carr*, and *Holl. Sympson*, who were sworn.

Mr. *Sympson*, did you see the Prisoner at the Bar sitting in that which they called the *High Court of Justice.*

Sympson. I did see Mr. *Jones* sit divers Times, both there, and in the *Painted Chamber.*

Jones. *I do confess I sate divers times.*

Council. Did he Sit the Day of Sentence?

Sympson. I cannot say it.

Council. Mr. *Clark*, you hear the Question, pray Answer my Lord.

Clark. My Lord, and Gentlemen of the Jury, I was there the 27th of *January* 1648. I saw Colonel *Jones* there several Days before, but I did not see him that Day; his Name was called, but I do not know whether he was Present.

Council. Mr. *Carr*, did you see him sit on the 27th Day, which was the Day of Sentence?

Carr. My Lords, he answered to his Name some Days, I am not able to tell what Day.

Mr. *Nutley* sworn.

Council. Can you tell whether the Prisoner at the Bar was present in that which they called the *High Court of Justice.*

Nutley. The Prisoner at the Bar was several times in the Court which was called the *High Court of Justice*; truly I cannot say whether he was there the 27th Day, the Day of the Sentence.

The Warrant for Summoning the Court being shewed.

Council. Is that Mr. *Jones*'s Hand (the Prisoner at the Bar) set to that Warrant?

Nutley. I have been acquainted with his Hand, I do believe it is.

The Warrant for Execution was also shewed.

Council. Is that the same Hand-writing?

Nutley. Yes, I believe it is; he hath written several Letters to me.

Mr. *Hartlib* sworn.

Court. Mr. *Hartlib*, do you know Mr. *Jones*'s Hand?

Hartlib. I never did see him write, but I have seen several Letters out of *Ireland*, and other Papers which have been supposed to be his Hand-writing; this seems to be like that which was reputed to be his Hand.

Council. Mr. *Clark*, do you know Mr. *Jones*'s Hand-writing?

Clark. I have seen several Letters of Col. *Jones*'s, and these are like his Hand-writing; I do believe they are his Hand-writing.

Mr. *Jones* looks upon them both, and confesses they are like his Hand-writing.

Council. We have given our Evidence: What do you say for yourself before Charge be given to the Jury?

Jones. *I have little to say, your Lordships have already heard what is to be said in this Case; I have nothing to say to the Point; I am not fit to Plead any Thing, especially in Matter of Law; I must wholly put*

put myself upon the Lord, and this Honourable Court and Jury.

Lord Chief Baron. Gentlemen of the Jury, here is this Priſoner, *John Jones*, ſtands Indicted, for that he, with others, did Compaſs and Imagine the King's Death, that is the Subſtance of the Indictment. The Indictment ſets forth ſeveral Acts, each proving the Compaſſing and Imagining the King's Death: One of them is, that he did conſult and meet together, and propound how the King ſhould be put to Death: The Second is, they did aſſume a Power to Judge the King: The Third is, that they did actually ſit upon him: And the laſt of them is, that they ſentenced the King, and afterwards the King was murthered. The whole Subſtance is, whether he did Compaſs and Imagine the King's Death. If any one of theſe Particulars that are alledged for the Overt-Acts be proved, you are to find the Indictment. He hath confeſſed very Ingenuouſly, that he did ſit upon the King, that he did ſit in that Court, and ſo there is an Overt-Act proved; if nothing elſe, you ought to find him guilty of this Treaſon. There is further Evidence (though not any Evidence of his ſitting the laſt day of the Sentence,) you have had Three comparing Similitudes of Hands to prove that he did Sign that Sentence, that horrid Inſtrument, whereby the King was ordered to be put to Death; one of them having received Letters from *Ireland*, and others acquainted with his Hand, ſay, that it is like his Hand; he hath ſo confeſſed the Likeneſs of his Hand, but he ſaith he doth not remember he Signed it. As to you of the Jury, there is no more to be conſidered, if any one of the Acts do appear true to you, that is ſufficient to find him guilty, (though he were not guilty of all;) but that he did Compaſs and Imagine the King's Death is clear, in Sitting and Signing the Warrant; for the other, whether you ſhall find that he did Sentence the King, that muſt be left to you. Whatſoever it is, ſtill it is the ſame; if any one be proved you ought to find him guilty of the Indictment, which is the Compaſſing and Imagining the King's Death. I think you need not ſtir from the Bar, for he hath confeſſed it.

The Jury went together, and after a little Conſultation, returned to their Places.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. *John Jones*, Hold up thy Hand. Look upon the Priſoner at the Bar. How ſay ye, is he Guilty, *&c.*

Foreman. Guilty.

Clerk. Look to him Keeper.

Clerk. You ſay the Priſoner at the Bar is Guilty, *&c.* and ſo you ſay all.

Jury. Yes.

Clerk. Set all that have been Tried this Day to the Bar.

Lord Chief Baron. Mr. *Scot*, I muſt ſpeak a Word to you; you made mention of the King's Proclamation for Pardon, and you did deſire the Benefit of it. As I told you before, ſo now again, that it was not proper for us upon that Proclamation to give any Allowance by Way of Plea, becauſe the Pardon ought to be under the Broad Seal; but God forbid but juſt and due Conſideration ſhould be had of it with Honour, ſo far as you are comprehended within it; though Judgment ſhall paſs, no Warrant for Execution ſhall go out againſt you till Conſideration be had, how far you are within the Compaſs of that Proclamation, and the like to you, Mr *Scroop.*

Clerk. Adrian Scroop, Hold up thy Hand. Thou haſt been Indicted of High-Treaſon, and haſt thereof been found Guilty: What canſt thou ſay for thy ſelf why Judgment ſhould not paſs for thee to Die according to Law?

Scroop. *I do humbly ſubmit to his Majeſties Mercy.*

Clerk. *John Carew*, Hold up thy Hand. Thou art in the like Condition with the former, what canſt thou ſay, *&c.*

Carew. I *commit my Cauſe unto the Lord.*

Clerk. *Thomas Scot*, Hold up thy Hand. Thou art in the like Condition with the former, what canſt thou ſay, *&c.*

Scot. *I ſhall only ſay, I do only caſt my ſelf upon His Majeſty, and pray Mercy.*

Clerk. *John Jones*, Hold up thy Hand. Thou art in the like Condition with the former, what haſt thou to ſay, *&c.*

Jones. *I pray his Majeſties Clemency.*

Clerk. *Gregory Clement*, Hold up thy Hand. Thou ſtandeſt Indicted of High Treaſon, and thereunto haſt pleaded Guilty, what canſt thou ſay? *&c.*

Clement. *I pray Mercy from the King.*

Lord Chief Baron. You that are Priſoners at the Bar, ye ſee the Sentence of Death is to paſs againſt you; and for ought you know, or we know yet, may be nearer than you are aware: How ſoon it will be executed we know not; when you have reflected upon your own Conſciences, many of you could not chuſe but look there, and ſee, as in a Glaſs, the Foulneſs of this horrid Offence: It is the *Murder of our moſt Gracious Sovereign King* Charles *the Firſt of Bleſſed Memory*; a Prince whom we (ſuch of us as had the Honour perſonally to attend him) knew was of ſuch Parts and Virtues, if he had been a Private Man more could not have been deſired; truly what he did as a King, his Clemency, how it appeared at firſt in this Princes Time: If you look what Peace and Proſperity we enjoyed in his Days, we will not find it in other Kings Times; you had not a Nobleman put to Death, ſave One, and that for an Offence which muſt not be named; a Prince that had granted ſo much: You may remember what was granted before the Beginning of theſe Wars; Grievances complained of, Star-Chamber, High-Commiſſion Court, Ship-money, the *Claim* of Stannery, *&c.* all theſe were taken away: What Conceſſions he made after in the *Iſle of Wight*; how much he wooed and courted the People for Peace. I urge this unto you only that you would lay it to your Hearts, that you would conſider what it is to *Kill a King*, and to Kill ſuch a King. If any of you ſhall ſay, that we had no Hand in the actual Murther of the King, remember that they that brought him to the Bar, were all one as if they had brought him to the Block; as St. *Paul* confeſſed, though he held but the Cloaths, he killed the Martyr *Stephen*. You are ſhortly to appear before God's Tribunal, and I beſeech God Almighty that he will give you, and us all, thoſe Hearts, that we may look into ourſelves; no Fig-leaves will ſerve the Turn; whatſoever you have ſaid now as Priſoners, or allowed to ſay for your own Preſervation in Point of Fact; *notwithſtanding* it will not ſerve before God Almighty: All Things are naked before him. Lay it to your Hearts; God Almighty, though you have committed theſe foul and horrid Sins, yet he can Pardon you, as he pardoned that Murther of *David*: I ſpeak it to you that you may lay it to your Hearts; I am heartily ſorry, in Re-

ſpect you are Perſons of great Civility, and (thoſe that I know) of very good Parts; and this I muſt ſay, That you will conſider with yourſelves, if any of you have been led away, though it were with his own Conſcience, if any of you did it, as you conceived in Conſcience, remember that our Saviour ſaith, *the Time ſhall come when they will perſecute you, and kill you, and think they do God good Service.* I have the Judgment of Charity, poſſibly ſome of you did it in this Kind, and this is leſs than doing it wilfully; others might do it by a miſ-guided Conſcience; there is a Spiritual Pride; Men may over-run themſelves by their own Holineſs, and they may go by pretended Revelations: Men may ſay I have prayed about ſuch a Thing, I do not ſpeak it with Reproach to any; if a Man that ſhould commit a Robbery, or Murther, meerly becauſe he will, and ſhould come and ſay, I have prayed againſt it, and cannot underſtand it to be a Sin, as one in *Shropſhire* did, and yet notwithſtanding killed his own Father and Mother; try your own Spirits, you muſt not think that every Fancy and Imagination is Conſcience; Men may have a ſtrange Fancy and Preſumption, and that they may call Conſcience: Take heed, there is a Spiritual Pride; the Devil doth many times appear like an Angel of Light, do not reſt upon that Self-confidence: Examine your Hearts, conſider the Fact by the Word of God; that is the Rule, the Law is to be applied to it, *Eccleſ.* 8. *Where the Word of a King is, there is Power; and who can ſay unto him, What doſt thou?* That is to ſhew the Power of Kings in Scripture: Remember withal that of *David* in *Pſalm* 51. that Penitential *Pſalm*, when he had committed that horrid Sin againſt *Uriah*; remember what he ſaid being a King, *Tibi ſoli peccavi, againſt thee only have I ſinned*; truly it being in ſuch a Caſe, I ſpeak it as before God Almighty, according to my Duty and Conſcience, I wiſh moſt heartily as to your Perſons: I pray God to give you that Grace that you may ſeriouſly conſider it, and lay it to Heart, and to have Mercy upon you, and to forgive you, and this is all that I have to ſay; and now not I, but the Sentence of the Law, the Judgment which I have to give againſt you, is this, *You Priſoners at the Bar, the Judgment of the Court is, and the Court doth award, that you be led back*, &c. and the Lord have Mercy on your Souls.

Clerk. Crier make Proclamation.

Crier. O Yes, *&c.* All manner of Perſons, *&c.* Jurors and Witneſſes, to appear to Morrow Morning at Seven of the Clock, at this Place, ſo *God ſave his Majeſty.*

Seſſions-Houſe in the *Old-Baily*, *October* the 14th, 1660.

The Court being Aſſembled, Proclamation was made.

Clerk of the Court. Set *Cook*, *Peters*, *Hacker*, and *Axtel*, to the Bar: They being brought, the Keeper was afterwards ordered to take back all, except Mr. *Cook*.

Clerk. John Cook, hold up thy Hand, *&c.*

Jury. Sir *J. Whitchcot*, *James Hawley*, *Jo. Nichol*, of *Hendon*, *Tho. Nichol*, *F. Thorn*, *Edw. Wilford*, *Will. Gumbleton*, *Jo. Shelbury*, *Tho. Fenney*, *Tho. Willet*, Sir *H. Wroth*, *Richard Cheney*, of the Jury called and ſworn.

Mr. Cook. *May it pleaſe your Lordſhip, I do not know any of theſe Perſons, I beſeech your Lordſhip, that in Regard the Safety of my Life depends upon the Indifferency of theſe Perſons, that your Lordſhip may demand of the Sheriff to know whether he hath not heard them ſay, or any of them, that they are pre-ingaged; I hope they are not, and thereupon I have not Challenged any.*

Lord Chief Baron. Sir, the Officer reads their Names out of his Papers, I ſuppoſe he doth not pick and chuſe them; I would not have him; and I am ſure he will not do you any Wrong in that Particular.

Cook. *My Lord, I am ſatisfied.*

Clerk. If any Man can inform, *&c.*

Clerk. *J. Cook*, Hold up thy Hand.

Cook. *My Lords, I deſire Pen, Ink and Paper.*

Lord Chief Baron. Give it him.

Clerk. *J. Cook*, Hold up thy Hand. You that are Sworn look upon the Priſoner; you ſhall underſtand, *&c.* (Here the Indictment was read as before.)

Mr. *Sol. Gen.* May it pleaſe your Lordſhips, and you Gentlemen that are Sworn of this Jury, the Priſoner at the Bar ſtands Indicted for High-Treaſon for Compaſſing and Imagining the Death of the late King of Bleſſed Memory: The Indictment ſets forth, That he, together with others, did aſſemble at *Weſtminſter-Hall*, and ſets forth many other Particulars of Sitting, Sentencing, and of the conſequent Death and Murder of the King. The Matter and Charge of the Indictment is, for Compaſſing and Imagining the Death of the King, the reſt of the Circumſtances of the Indictment are but alledged as Overt-Acts to prove the Imagination, which only is the Treaſon. This Priſoner at the Bar ſtands here Indicted for this Treaſon of Compaſſing and Imagining the late King's Death. My Lord, his Part and Portion in this Matter will be different from thoſe that have been Tried before you; they ſat as Judges to Sentence the King, and he, my Lord, ſtood as a wicked Inſtrument of that Matter at the Bar, and there he doth with his own Hand ſubſcribe and exhibit a Charge of High-Treaſon, a Scandalous Libel againſt our Sovereign, to that pretended Court to be read againſt him, as an Accuſation in the Name of all the People of *England*; when he had done that, he makes large Diſcourſes and Aggravations to prove (if it had been poſſible) Innocency itſelf to be Treaſon. When he had done, he would not ſuffer his Majeſty to ſpeak in his Defence, but ſtill took him up, and ſaid, that he did ſpin out Delays, and deſired that the Charge might be taken as if he had confeſſed it: He preſſed the Court that Judgment might be given againſt the King; he was the Man that did demand that wicked Judgment before the Court pronounced it; and he was the Man that did againſt his own Conſcience, after he had acknowledged that he was a Wiſe and Gracious King, yet, ſays he, *That he muſt die, and Monarchy with him*; there in truth was the Treaſon and the Cauſe of that Fatal Blow that fell upon the King. This was his Part to carry on; how he did it as a wicked Counſellor we ſhall prove to you, and the Wages and Reward of the Iniquity that he did receive.

James Nutley Sworn.

Council. Pray tell the Circumſtances of the Priſoner's Proceedings at *Weſtminſter-Hall*, when he did exhibit a Charge againſt the King.

Mr. *Nutley.* My Lords, the firſt Day of bringing his Majeſty to his Trial was *Saturday Jan.* 20. 1648. Before they ſate in publick, they that were of the Com-

Committee of that which they call the *High-Court of Juſtice*, did meet in the *Painted Chamber*, which was in the Forenoon of that Day. Being there, I did obſerve that there was one *Price* a Scrivener that was writing of a Charge; I ſtood at a great diſtance and ſaw him write, and I ſaw this Gentleman, the Priſoner at the Bar, near thereabouts where it was writing, I think it was at the *Court of Wards*. This Charge afterwards (a Parchment Writing) I did ſee in the Hands of this Gentleman the Priſoner at the Bar. A very little after that they called their Names they did adjourn from the *Painted Chamber* into *Weſtminſter-Hall*, the great Hall. The Method that they obſerved, the firſt thing was to call the Commiſſioners by Name in the Act; the pretended Act for trying the King was read; that is, when the Court was ſate the Commiſſioners were called by their Names, and as I remember they ſtood up as their Names were called: The next thing was reading the Act for trying of his late Majeſty. After that was read, then this Gentleman, the Priſoner at the Bar, preſented the Parchment Writing, which was called the *Impeachment*, or Charge, againſt his *Majeſty*: Mr. *Bradſhaw* was then Preſident of that Court, and ſo called Lord Preſident; he commanded that the Priſoner ſhould be ſent for, ſaying, *Serjeant* Dendy, *ſend for your Priſoner*; thereupon the King was brought up as a Priſoner, and put within a Bar: And when the Court was ſilenced, and ſettled, this Gentleman, the Priſoner at the Bar, did deliver the Charge, the Impeachment to the Court, and it was read; the King was demanded to plead to it preſently. Here I ſhould firſt tell you, that upon the King's firſt coming in there was a kind of a Speech made by Mr. *Bradſhaw* to the King in this Manner, I think I ſhall repeat the very Words, *Charles Stuart King of* England, *the Commons of* England, *aſſembled in Parliament, taking Notice of the Effuſion of Blood in the Land, which is fixed on you as the Author of it, and whereof you are guilty, have reſolved to bring you to a Trial and Judgment, and for this Cauſe this Tribunal is erected*: There was little Reverence given to his Majeſty then, which I was troubled at: He added this further, *that there was a Charge to be exhibited againſt him by the Solicitor-General*; I think this *Gentleman* was ſo called at that Time, and he called to him to exhibit the Charge; and this *Gentleman*, (the Priſoner at the Bar,) did deliver an Impeachment, a Parchment Writing, which was called a Charge againſt the King at that Time, which was received, and read againſt him.

Council. Did you ever ſee the Charge (which was now ſhewn to Mr. *Nutley?*

Mr. *Nutley.* My Lords, I do believe that this is the very Charge, I am confident it is the ſame Writing; I have often ſeen him write, and by the Character of his Hand this is the ſame.

Council. Go on with your Story.

Mr. *Nutley.* My Lords, immediately upon the Delivery of this Charge of Impeachment which was delivered in the King's Preſence, after it was read the King was demanded to give an Anſwer to it; His Majeſty deſired to ſpeak ſomething before he did Anſwer to the pretended Impeachment, (for ſo His Majeſty was pleaſed to call it,) he did uſe Words to this purpoſe; ſaith he, I do wonder for what Cauſe you do convene me here before you: He looked about him, ſaith he, I ſee no Lords here, where are the Lords? Upon this Mr. *Bradſhaw*, the Preſident, for ſo he was called, did interrupt his Majeſty, and told him, *Sir*, ſaith he, you muſt attend the Buſineſs of the Court; to that Purpoſe you are brought hither, and you muſt give a poſitive Anſwer to the Charge; ſaith the King, you will hear me ſpeak, I have ſomething to ſay before I Anſwer; after much ado; he was permitted to go on in the Diſcourſe he was in, ſo far as they pleaſed. His Majeſty ſaid, I was in the Iſle of *Wight*, and there I was treated with by divers Honourable Perſons, Lords and Commons, a Treaty of Peace between me and my People; the Treaty was ſo far proceeded, in that it was near a Perfection: Truly (ſaith he) I muſt needs ſay they treated with me honourably, and uprightly; and when the Buſineſs was come almoſt to an End, then (ſaith he) was I hurried away from them hither, I know not by what Authority; now I deſire to know by what Authority I was called to this Place? That is the firſt Queſtion I ſhall ask you before I Anſwer the Charge. It was told him by Mr. *Bradſhaw*, the Preſident, that the Authority that called him hither was a Lawful Authority; he asked him what Authority it was the Second Time; it was anſwered him by the Preſident, that it was the Authority of the Commons of *England*, Aſſembled in Parliament, which he affirmed then to be the Supream Authority of this Nation; the King ſaid, I do not acknowledge its Authority: Authority, if taken in the beſt Senſe, it muſt be of Neceſſity underſtood to be Lawful, therefore I cannot aſſent to that; I am under a Power, but not under an Authority; and there are many unlawful Powers, a Power that is on the Highway; I think I am under a Power but not under an Authority; you cannot judge me by the Laws of the Land, nor the meaneſt Subject. I wonder you will take the Boldneſs to Impeach me, your Lawful King. To this purpoſe His Majeſty was pleaſed to expreſs himſelf at that Time, with more Words to that Purpoſe. The King went on to further Diſcourſe concerning the Juriſdiction of the Court. *Bradſhaw*, the Preſident, was pleaſed to interrupt him, and told him ſeveral times, that he trifled out the Courts Time, and they ought not to indure to have their Juriſdiction ſo much as queſtioned.

Court. Pray go on.

Mr. *Nutley.* This Gentleman at the Bar I did hear him demand the King's Anſwer ſeveral times; a poſitive Anſwer was required of the King; the King often deſired to be heard, and he interrupted him again and again, ſeveral times, and at length it was pray'd that the Charge that was exhibited againſt him might be taken *pro confeſſo*.

Court. By whom?

Nutley. By the Priſoner at the Bar, if ſo be that he would not Anſwer. This, my Lord, is the Subſtance of what I have to ſay againſt him.

Council. Mr. *Nutley*, pray what Diſcourſe have you had at any Time with the Priſoner at the Bar concerning this Impeachment.

Nutley. Truly, my Lord, I knew the Gentleman well, I was well acquainted with him, and for the Satisfaction of my own Conſcience, (for I was very tender in the Buſineſs, and ſorry he was ingaged in it,) I went to him, and did deſire him to deſiſt; I had Diſcourſe with him, (for I was then a young Student in the *Temple*, and had a little Knowledge in the Laws:) I deſired him to conſider the dangerous Conſequences of ſuch a Proceeding; I may ſay I did it with Tears in my Eyes, for I had a very good Reſpect to the Gentleman for his Profeſſion Sake, being learned therein: Truly, my Lord, he did Anſwer me thus, *I acknowledge it is a very baſe Buſineſs, but they put it upon me; I cannot avoid it, you ſee they put it upon me.* I had ſome Diſcourſe with him concerning the Oath of Allegiance; truly he was ſatisfied that this Oath was againſt the

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Buſineſs in Queſtion: I ſaw he was troubled at it.

Council. Can ye ſpeak of the manner of calling for Judgment againſt the King?

Nutley. That (I have already anſwered to it) was ſeveral times done; the King was brought ſeveral Times to the Bar, and at every Time he was brought he was preſſed to Anſwer whether Guilty? Or Not Guilty?

Court. By whom?

Nutley. By the Sollicitor then, the Priſoner now at the Bar. My Lord, I remember His Majeſty was pleaſed when he ſaw he could not be heard to the Diſcourſe that he did intend to make of the whole Buſineſs; ſaith the King, if you will needs preſs me to Anſwer, I muſt Demurr to your Juriſdiction: My Lord, the Anſwer that was given to that was this, Mr. *Bradſhaw*, their then Preſident did ſay, Sir, ſaith he, if you Demurr to the Juriſdiction of this Court, I muſt let you know that the Court doth over-rule your Demurrer; this was ſaid, my Lord, and Judgment was preſſed very often.

Court. By whom?

Nutley. By the Priſoner at the Bar.

Cook. *My Lord, may I ask him a Queſtion?*

Court. Yes.

Cook. *The firſt Queſtion is, whether the Parchment was delivered by me unto the Court, or brought into the Court by Mr.* Broughton, *the Clerk.*

Mr. *Nutley.* I do encline to believe, (my Lord,) that it was brought into the Court, and delivered by ſome Hand or other to the Priſoner at the Bar; I do believe it was, for I do remember it was written by one *Price*; I was told that was his Name; that may be true; I believe it was brought into the Court, and delivered to the Priſoner now at the Bar.

Council. But did he exhibit it?

Nutley. Yes, my Lords.

Cook. *Did you ſee me ſet my Hand to that Parchment?*

Nutley. No, my Lords, but I believe it to be his Hand.

Cook. *Another Queſtion, whether Mr.* Nutley *did hear me ſay concerning the Opinions of thoſe Gentlemen, what they intended to do in that Buſineſs?*

Nutley. My Lords, I do remember that I had often Conference with the Gentleman at the Bar.

I deſired him to deſiſt from the Buſineſs, conſidering the dangerous Conſequences of it: Truly, my Lord, I do well remember that he did ſay he did hope they did not intend to take away the King's Life: Said I, if they go about any ſuch Thing do you uſe your utmoſt Endeavour to preſerve his Life; ſaith he, I did Labour to that Purpoſe, but they tell me they only intend to bring him to ſubmit to the Parliament.

Cook. *It is ſaid that I demanded Judgment of his Life; Mr.* Nutley, *I demand of you whether I uſed the Words of Judgment againſt his Life, but only I demanded their Judgment.*

Nutley. My Lords, for that I cannot remember poſſibly to a Syllable, but Judgment was demanded.

Court. By whom?

Nutley. By this Perſon.

Cook. *I ſaid the Judgment of the Court, not againſt him, I meant Judgment for his Acquittal.*

Court. Did you ever hear him deſire the Court that the Charge might be taken *pro confeſſo?*

Nutley. That I have ſaid, my Lord, it was urged by the Priſoner at the Bar againſt His Majeſty, that if he would not plead to the Charge, that then the Matter charged in it might be taken *pro confeſſo.* But my Lord, if you pleaſe to give me leave to add this one Word more, my Lord, I did hear him ſay at that Time; he ſhewed me a Paper, that contained an Order of the Court, that did direct the very Words that he ſhould uſe when he came to deliver the Charge; whether thoſe Words were in the Order I do not know.

Cook. *Whether was I not directed by thoſe Gentlemen the very Words I ſhould ſpeak?*

Court. We are ſatisfied in that; he ſaith by an Order that you ſhewed him, you were ſo directed. If you have any Thing more ask it him.

Mr. *Farrington* Sworn.

Mr. Sol. Gen. Pray tell my Lords, and the Jury, what was the Carriage of the Priſoner at the Bar at *Weſtminſter*, at the Place they called the High Court of Juſtice.

Farrington. My Lord, I was preſent about the 20th of *Jan.* 1648, at that which they called the High Court of Juſtice, and Mr. *Bradſhaw* ſate then as Preſident, ſo much as I remember concerning the Priſoner at the Bar I ſhall acquaint your Lordſhip. This Gentleman at the Bar, after the reading of the Commiſſion, and Directions by the Preſident, to bring His Majeſty (the Priſoner they called him) to the Bar; the King being brought, after Silence made, and ſome Speeches made by the Preſident, this Gentleman, the Priſoner at the Bar, having then a Parchment in his Hand, the Subſtance of it was for levying War againſt the Kingdom, he prayed that it might be read, and accepted as a Charge, in Behalf of the good People of *England*. It was accordingly read, and afterwards being demanded to Anſwer, after His Majeſty having given ſeveral Reaſons as to the Juriſdiction of the Court Four Days, every Day the Priſoner at the Bar demanded the Judgment of the Court. And if His Majeſty would not Anſwer to the Charge it might be taken *pro confeſſo.*

Council. Do you know his Hand if you ſee it?

Farrington. I have not ſeen his Hand a long Time: Then the Impeachment was ſhewn to the Witneſs.

Farrington. Truly, Sir, this is like his Hand.

Council. Do you believe it?

Farrington. It is very like it, I do not know poſitively.

Council. Did you hear the Words *pro confeſſo?*

Farrington. Yes, my Lord, ſeveral times after the firſt Day.

Council. Did he interrupt the King in his Diſcourſe, as to ſay theſe Words, that the Charge might be taken *pro confeſſo?*

Farrington. I do remember one Day there was ſome Interruption between the King and him, the King laying his Cane upon his Shoulder, deſiring him to forbear.

Cook. *You cannot ſay that I interrupted his Majeſty.*

Farrington. I remember that the King laid his Cane upon your Shoulders.

Cook. *Whether did I the firſt or the laſt Day demand Judgment, or that any Thing might be taken* pro confeſſo?

Farrington. The firſt Day? No, but after the firſt Day he did ſeveral Days; you did the laſt Day.

Griffith Bodurdo, Eſq; ſworn.

Council. Sir, you have heard the Queſtion, give an Account to my Lord, and Gentlemen of the Jury, of the Carriage of the Priſoner at the Bar towards his Majeſty during the Time of the Trial.

Mr. *Bodurdo.* My Lord, I was all the Time that the King was brought there before the Court, as a Pri-

Priſoner; I was preſent all the Day, having a Conveniency out of my Houſe into a Gallery that was ſome part of it over that Court. I do remember that the Priſoner at the Bar (whom I never ſaw before that Time) did exhibit a Charge the firſt Day againſt the Priſoner at the Bar, which was the King, in theſe very Terms, *the Priſoner at the Bar:* The Charge I heard it read then, I have not ſeen it ſince; the Subſtance was this. That for levying War againſt the Parliament and People of *England*, and namely, at ſuch and ſuch a Place killing of the People of *England*, (I think *Naſeby* and *Keinton* Field was named in it, and divers other Places were nam'd in the Charge,) and the Concluſion was, that he had done thoſe Things as a Tyrant, Traitor, Murtherer, and a Publick and Implacable Enemy of the *Commonwealth*. But this Priſoner at the Bar did exhibit the Charge, and the King did then, as you have heard he did, plead to the Juriſdiction of the Court. The King would fain have been heard, but I think they did adjourn for that Time. The next Day he pleaded the ſame Thing; I remember the Anſwer that was ſeveral Times given; twice given by *Bradſhaw* to the King thus, *That the Court did aſſert their own Juriſdiction*, the Second and Third Day, I do not remember any Day after the Firſt, but that the Priſoner at the Bar did demand Judgment for the Kings not Pleading, and did ſeveral Times make Complaints to the Court of the King's Delays; that he intended Delays, and nothing elſe.

Cook. *Pray, my Lord, One Queſtion, whether my Lord, before he heard me ſpeak of demanding Judgment againſt the King, whether he did not hear Mr.* Bradſhaw *ſeveral Times ſay that the Court own'd their Authority, and that the Matter would be taken* pro confeſſo?

Mr. *Bodurdo.* I did hear the Priſoner at the Bar deſire of the Court, that it might be ſo; and I heard the Priſoner tell the King that it muſt be ſo.

Joſeph Herne ſworn.

Council. Mr. *Herne*, Tell my Lords what you know of the Priſoners Carriage at the High-Court of *Juſtice*, as they called it.

Mr. *Herne.* Upon *Saturday* the 20th of *January* 1648, it was the Firſt Day His Majeſty was convened before them. I could not come near the Court, only I ſaw him at a Diſtance; I heard nothing but the Acclamations of the People, crying out, *God Save Your Majeſty*; what was done in Court I know nothing of. On *Monday* I was there, and had a Conveniency to ſee and hear what was acted; and ſo His Majeſty being come to the Seat appointed for him, the Priſoner at the Bar being called upon by the then Preſident *Bradſhaw*, he demanded of him what he had to ask of the Court. He was then talking with *Doriſlaus*, and ſeem'd not to mind the Buſineſs of the Court. His Majeſty ſitting near, takes his Stick and thruſts the Priſoner at the Bar upon his Shoulder; and the Priſoner looking back with a great deal of Indignation turned about: I did hear *Bradſhaw* ſpeaking to him in theſe Words, Mr. *Solicitor* have you any Thing to demand of the Court? Whereupon the Priſoner at the Bar did uſe theſe or the like Words; May it pleaſe your Lordſhips, I have formerly in the Name of the Commons Aſſembled in Parliament, and the good People of *England*, exhibited a Charge of High-Treaſon, and other High Crimes, againſt *Charles Stewart*, the Priſoner at the Bar, ſtinging his Head back in this manner to him; he had there further to require of the Court that he might be demanded to make poſitive Anſwer by Confeſſion or Denial; if not, that the Court would take it *pro Confeſſo*, and proceed according to Juſtice; this was on the Firſt Day I was in the Court. The Preſident *Bradſhaw* told his Majeſty, that he heard what was craved in the Name of the Commons Aſſembled in Parliament, and the good People of *England*, againſt him, by the now Priſoner at the Bar. The King ſtood up, but *Bradſhaw* prevented him in what he had to ſay, telling of him that the Court had given him Time to that Day to know when he would plead to the Charge. His Majeſty proceeded to object againſt the Juriſdiction, and ſaid he did Demur to the Juriſdiction of the Court; upon which the Preſident anſwered him, If you Demur to the Juriſdiction of the Court, you muſt know that the Court hath over-ruled your Demurrer; and you muſt plead to your Charge, Guilty, or not Guilty: Upon that the King asked their Authority, and deſired he might give Reaſons againſt it; he was denied it by the Preſident; the Preſident at laſt was content to tell him, that though he was not ſatisfied with their Authority, they were, and he muſt; but to ſatisfie him, he told him in ſhort, they ſat there by the Supream Authority of the Nation, the Commons Aſſembled in Parliament, by whom his Anceſtors ever were, and to whom he was accountable; then the King ſtood up, By your Favour ſhew me One Preſident. *Bradſhaw* fits down in an angry manner, Sir, ſaith he, we ſit not here to anſwer your Queſtions, plead to your Charge, Guilty, or not Guilty: Clerk, do your Duty; whereupon *Broughton* ſtood up, and asked what he had to ſay, whether Guilty or not Guilty? And Preſident *Bradſhaw* ſaid, that if he would not plead they muſt record his Contempt. His Majeſty turned about to the People, and ſaid, then remember that the King of *England* ſuffers, being not permitted to give his Reaſons, for the Liberty of the People; with that a great Shout came from the People, crying, *God ſave the King*; but there was an Awe upon them, that they could not expreſs themſelves as they would have done, I believe.

Council. What did *Cook* ſay to the Judgment? Did you hear him preſs for Judgment?

Mr. *Herne.* Yes, I heard theſe Words from the Priſoner at the Bar, That if the King would not plead, his Charge might be taken *pro Confeſſo*, and that the Court might proceed according to Juſtice.

Cook. *One Queſtion more, Whether he often heard me ſpeak theſe Words*, that it might be taken *pro Confeſſo, and to proceed according to Juſtice?*

Mr. *Herne.* You deſired he might be held to his Plea, Confeſſion or Denial, that he might not be ſuffered to uſe any Words to the Juriſdiction of the Court.

Cook. *Whether he heard the Charge read?*

Herne. I did not hear the Charge read, I was not there the Firſt Day. I heard you confeſs you had exhibited a Charge of High-Treaſon againſt the Priſoner at the Bar, which was then the King's Majeſty.

Cook. *Whether I did not in the Charge conclude, that all Proceedings might be according to Juſtice?*

Court. Read the Title and laſt Article of that Charge, which was accordingly read, and follows *in hæc Verba.*

The Title of the Charge.

The Charge of the Commons of England *againſt* Charles Stewart, *KING of* England, *of High-Treaſon, and other Crimes exhibited to the High-Court of Juſtice.*

The

The Laſt Clauſe in the Charge.

And the ſaid *John Cook* by Proteſtation (ſaving on the behalf of the People of *England*, the Liberty of exhibiting at any Time hereafter any other Charge againſt the ſaid *Charles Stewart*, and alſo of replying to the Anſwers which the ſaid *Charles Stewart* ſhall make to the Premiſes, or any of them, or any other Charge that ſhall be ſo exhibited, (doth for the ſaid Treaſons and Crimes on the Behalf of the ſaid People of *England* Impeach the ſaid *Charles Stewart* as a Tyrant, Traitor, Murderer, Publick and Implacable Enemy to the Commonwealth of *England*, and prayeth that the ſaid *Charles Stewart*, King of *England*, may be put to anſwer all and every the Premiſes; that ſuch Proceedings, Examinations, Trials, Sentences, and Judgment, may be hereupon had as ſhall be agreeable to Juſtice.

Court. Mr. *Cook*, will you have any Witneſſes examined touching the Queſtion you laſt asked?

Cook. *No, be pleaſed to go on.*

Mr. *Baker* Sworn.

Mr. *Baker.* My Lords and Gentlemen of the Jury, I was at the *High-Court of Juſtice*, as they called it, the Firſt, Second, and Third Days, not to trouble you with the Proceedings of *Bradſhaw*, I will tell you what I obſerved of this Gentleman; I have the Notes that I took there, and pray that I may read them to help my Memory, which was granted, and then proceeded in this Manner; That Day, my Lord, Mr. *Cook* told the Court, that he charged the Priſoner at the Bar (meaning the KING) with Treaſon and High Miſdemeanours, and deſired that the Charge might be read; the Charge was this, That he had upheld a Tyrannical Government, *&c.* and for that Cauſe was adjudged to be a Tyrant, *&c.* and did then preſs that the Priſoner might give an Anſwer to that, and that very earneſtly. The Second Day, my Lord, he told the Court that he did the laſt Day exhibit a Charge of High-Treaſon againſt the Priſoner at the Bar, (meaning the *King*,) and that he did deſire he might make Anſwer to it; and he told them alſo, that inſtead of making an Anſwer to the Court, the *King* had delayed the Court, but deſired the *King* might make a poſitive Anſwer, or otherwiſe that it might be taken *pro Confeſſo*. The Third Day, my Lord, he came and told the Court as before, that the *King* had delayed them, and then he Charged him with the Higheſt Treaſons and Crimes that ever were acted upon the Theatre of *England*, and then preſſed that Judgment might be given againſt him; and another Expreſſion was, that it was not ſo much he, but the Innocent and Precious Blood that was ſhed, that did cry for Judgment againſt the Priſoner at the Bar: This, my Lord, is the Subſtance; there were other Paſſages.

Cook. *Whether before this Time he had not heard ſomething of an Act or Order Proclaimed at* Weſtminſter? *Whether there was any other Word in Effect uſed in that Charge more than in the Proclamation?*

Mr. *Baker.* I did hear of the Proclamation and Charge, and the Subſtance of it, I have given an Account of it, and I did hear you preſs upon it very much; the Proclamation, I heard of it, that it was made for the Summoning of the Court, but I did not hear the Proclamation made.

Cook. *That that was called the Act of the Commons for Trying of the King.*

Mr. *Baker.* I did hear of the Act, but did not take Notice of it.

Mr. *George Maſterſon* Sworn.

Council. Mr. *Maſterſon*, pray inform my Lords and the Jury what you know touching the Carriage of the Priſoner at the Bar at the Trial of his late Majeſty.

Mr. *Maſterſon.* My Lords, and you Gentlemen of the Jury, I was preſent in that they called the High Court of Juſtice upon the 22d, 23d, and 27th Days of *January*, in the Year 1648, I ſhall wave thoſe Circumſtances which you have heard, and many of which I well remember, and what I heard likewiſe between the King, who was then a Priſoner, and the then Preſident *Bradſhaw*; but concerning the Priſoner at the Bar, this I very well remember, that upon *Monday* I heard him ſay he had exhibited a Charge of High-Treaſon againſt the Priſoner, (then the *King*,) and demanded now that he might plead to his Charge; I do very well remember that after ſome Paſſages between the King and the Court, the Priſoner at the Bar deſired the King might plead to his Charge, or elſe it might be taken *pro Confeſſo*: I remember upon the laſt Day, the Day of that Fatal Sentence, I heard the Priſoner at the Bar demand in the Name of the Commons Aſſembled in Parliament, and all the good People of *England*, Judgment upon the Priſoner at the Bar, pointing to the King; *this is all.*

Mr. *Burden* Sworn.

Council. Do you know who did examine the Witneſſes againſt the King? And were you examined? And by whom?

Burden. By Judge *Cook*, for ſo he was called in *Ireland.*

Council. Did he examine you as a Witneſs againſt the King? Did he give you an Oath?

Burden. Yes, my Lord, and many others.

Cook. *This is a New Thing, I never heard of this before; Where was it that I examined him? I had no Power.*

Council. No, we know that, but you were Active.

Court. Where was it?

Cook. *Whether there were not any others with me in the Room? And where was it?*

Burden. It was at *Weſtminſter-Hall*, within the High Court of Juſtice.

Cook. *Who was there beſides me?*

Burden. I cannot tell; *Axtel*, he was there, and I am ſure *Cook* was there.

Council. Mr. *Burden*, pray tell my Lords and the Jury what Queſtions you were examined upon, and what they tended to.

Burden. He examined me, and gave me my Oath, there was Eight or Nine of us, we had been in the King's Army in former Times; this Gentleman (Colonel *Axtel* brought us in, Commanded us out of our Company, I was in his Company, and this Gentleman) himſelf gave us our Oaths, he asked us where we ſaw the King in Action? I did reply to him, and told him, I ſaw him in the Field with his Army; he asked me many other Queſtions that I could not tell him, he asked me, whether I did ſee the King at *Nottingham* ſet up his Standard? And I was never at *Nottingham* in my Life; theſe were the Queſtions.

Mr. *Starkey* Sworn.

Court. Pray inform my Lords and Gentlemen of the Jury what paſſed between you and the Priſoner at the Bar concerning the Trial of his late Majeſty.

Mr. *Starkey.* My Lords, this Gentleman, now Priſoner, and myſelf, have been acquainted a great while, being of the ſame Society of *Grays Inn*; and

and truly, my Lord, I confeſs I owe all my Knowledge in the Laws to that Gentleman; when I came firſt he was accus'd for Debt, and was pleaſed to do me, and ſeveral other Gentlemen, now and then the Favour to reaſon the Law with us, and aſſiſt us in the Beginning of the Long Parliament; that is, to give you an Account of his being indebted, he did deſire I would do my Endeavour to get his Protection. Near the Time of the King's Trial there was a Gentleman with myſelf, one *Samuel Palmer* of *Grays-Inn*, which frequented his Company, had ſeveral Nights the Opportunity of underſtanding the Affairs at *Weſtminſter*, and truly he himſelf did ſeem to us to count that a very ridiculous Council. I remember what he ſaid one Night, I think they are all Mad, which was within Two or Three Days before the King's Trial; and inſtanced how a Fellow cried out to the Lord *Fairfax*, that if he did not conſent to the Proceedings he would kill Chriſt and him. After that I did not think he did go to this Council for Employment, but out of Curioſity: When the King came to Trial we heard that Mr. *Cook* was the Perſon that was Solicitor, and acted that Part that you have heard of; and that during that Trial, whether the Second or Third Day, I cannot ſay that certainly, Mr. *Cook* came to *Grays-Inn* that Evening about Ten or Eleven of the Clock at Night, only upon ſome particular Occaſion, as he ſaid; I being walking in the Court in the Walk before my Chamber with another Gentleman, I did ſee him paſs out of a Houſe to go back again; I thought it was he, called after him; Mr. *Cook*; ſaid I, upon that he turned back and met me; I took him by the Hand, ſaid I, I hear you are up to the Ears in this Buſineſs, no, ſaith he, *I am ſerving the People*; truly, ſaid I, I believe there's a Thouſand to One will not give you Thanks; ſaid I, I hear you Charge the King for the Levying War againſt the Parliament, how can you rationally do this, when you have pull'd out the Parliament to make Way to his Tryal? He anſwered me, *you will ſee ſtrange Things, and you muſt wait upon God.* I did ask him, but firſt he ſaid this of himſelf, ſaid he, he *was as Gracious and Wiſe a Prince as any was in the World*; which made me reflect upon him again, and asked how he could preſs thoſe Things as I have heard? What Anſwer he made to that I cannot tell, I did by the Way inquire what he thought concerning the King, whether he muſt ſuffer or no? He told me *he muſt die, and Monarchy muſt die with him.*

Cook. *Whether was this after or before the Sentence?*

Mr. *Starkey.* It was before the Sentence; for it was either the Second or Third Trial; or rather in ſome interim of Time before the Sentence; for there was an Adjournment for a Day or Two; but I am ſure it was before the Sentence.

Court. Mr. *Cook*, they have concluded their Evidence, plead for yourſelf what you think fitting.

Cook. *My Lord, I have been a Priſoner Three Months, I humbly deſire to acknowledge His Majeſties and his Councils Favour, that I was not put into a* Jeremy's *Priſon, but in the* Tower, *and not in* Irons; *I give your Lordſhips humble Thanks for that; and truly, conſidering the Nature of the Charge, had it been in ſome other Kingdom they would have ſerved us as* John Baptiſt *in Priſon; I thank you that I have a fair Tryal with the* Judges *of the* Law, *who are upon their Oaths to do equal Right and Juſtice between our Sovereign Lord the King, and every Priſoner, concerning Matters of* Life *and Death; and likewiſe thoſe Noble Lords, that though they are not put upon their Oaths, but upon their Honour if they know any Law to preſerve my Life I truſt they will rather ſave than deſtroy. My Lords, I do therefore ſay as* Paul *ſaid, my Plea is much of that Nature,* againſt the Law, and againſt *Ceſar*, I hope I have not offended at all, *and ſo I have pleaded Not Guilty. The Learned Council have examined ſeveral Witneſſes againſt me; and I humbly conceive that the Matter will reſt in a very narrow Compaſs; the Subſtance of the Charge (ſo far as my Memory will ſerve) doth reſt in theſe Three Things, the other being but Matter of Form.* That I, with others, ſhould Propound, Conſult, Contrive and Imagine the Death of the late King. *Secondly*, That to the perfecting and bringing about this wicked and horrid Conſpiracy, that I, with others, did aſſume a Power and Authority, *(as I remember,) Power I am ſure*, then to Kill and Murther the King; *and Thirdly*, That there was a Perſon unknown that did cut off the King's Head, and that we were abetting, aiding, aſſiſting, countenancing, and procuring the Perſon, *(or Words to that Effect,)* againſt the Form of the Statutes, and ſo forth. *I have Twelve poor Words to offer for myſelf in this Buſineſs, wherein if I do not Anſwer every Thing that hath been particularly objected, I hope you will give me leave afterwards to offer it. Firſt, I humbly propound this, that if it was not made appear to your Lordſhips that I did ever propound, conſult, adviſe, contrive, attempt, or any way plot or counſel the Death of his Majeſty, then I hope I cannot be found Guilty within the Statute of* 25 Edward *the Third; for the Naked Truth Mr.* Nutley *hath in a great Part ſpoke to; I was appointed upon the Tenth of* January, 1648, *for to give my Advice concerning a Charge, there having been upon the Ninth a Proclamation for the Tryal; and upon the Tenth Mr.* Steel, *Dr.* Doriſlaus, *and Mr.* Ask, *and myſelf, were appointed, and ordered to be of Council to draw up a Charge; here I have the Order atteſted by Mr.* Jeſſop, *and pray it may be read.*

Court. They do admit the Thing that you were ſo aſſigned.

Cook. *Then I humbly conceive that that cannot be ſaid to be done maliciouſly, or adviſedly, or with any wicked Intention in me, which I was required and commanded to do; acting only within my Sphere and Element as a Counſellor, and no otherwiſe. The next Thing is this, my Lord, that by Law Words will not amount unto Treaſon; we uſually ſay, that Words may declare an Heretick, but not a Traytor; there were ſome Statutes formerly* 1 Edw. 6. *where Words are made Treaſon, but they are all repealed by* 1 Mariæ, *that nothing ſhall be Treaſon but what is expreſſed in* 25 Edw. 3 *this Objection will ſeem to lye, that theſe were Words put in Writing, and that I humbly conceive to be the greateſt Matter objected; to which I anſwer,* 1. *Whether there be any full, certain, clear Proof, that that is my Hand to the Charge, I muſt leave to you; Two or Three Witneſſes ſay they believe it, and that it is like my Hand; that I leave to you if that appear; yet (my Lord) that that is put in Writing as done by another that is the Dictator, and does dictate unto me; I humbly conceive, that for any Man to write Words, which in their own Nature may be Treaſonable, if he doth but write them by the Command of another, by ſpeaking them after another, taking them upon rebound, that is not Treaſon, becauſe they do not diſcover a traiterous Heart; thoſe Words of compaſſing the Death of the King in the* 25 Edw. 3. *they are ſecret Imaginations in the Heart,*

Heart, and they muſt be manifeſt by ſome Overt-act; that which was dictated (my Lord) unto me, that I had expreſly preſcribed me, what I ſhould ſay, what Words I ſhould ſay. That I did not invent any Thing of mine own Head, of my own Conceit, and therefore cannot properly be ſaid to be malicious. The next Thing that I crave Leave to offer is this, that the pure and plain demanding and praying of Juſtice, tho' Injuſtice be done upon it, cannot poſſibly be called Treaſon within the Statute, then I hope nothing that has been ſaid againſt me will amount to Treaſon: For the Words in the Natural, Grammatical, Plain, Genuine, and Legal Sence, will bear no other Conſtruction, as I humbly conceive, but (that whereas thoſe Gentlemen had his Majeſty then in their Power a Priſoner) that it was prayed by me that they would do him Juſtice; I do hope that it will appear that I did give bonum & fidele Conſilium. *It will appear, I hope, that ſome would have had a very voluminous and long Charge; that I was utterly againſt it, as conceiving that it was not fit and requiſite that any Thing ſhould be put in; at leaſt I durſt not invent one Word myſelf, but what was expreſſed in the Act for Tryal; if your Lordſhips will not admit it an Act, you will an Order, and ſo it will bear me forth, at leaſt to excuſe me from Treaſon, becauſe I kept myſelf to the Words; whereas in that it was ſaid, that they ſhould proceed according to the Merits of the Cauſe, I was againſt that, that I did not underſtand that; but according to Juſtice, and that is but according to Law, becauſe the Law is the Rule of Juſtice. I do humbly hope, (my Lord,) that if by Law, when Words may be taken in a double Sence, they ſhall always have the more favourable Interpretation, much more when the Words in the legal Senſe will bear it; when it is prayed they will proceed according to Juſtice, I hope it will not be inferred there was any Intention of doing Injuſtice, when Juſtice was required. And therefore, (my Lord,) the next Word that I would offer is this, if, my Lord, in all Tragedies which are, as we call them, judicially or colourably, there are but theſe Four Actors, Accuſers or Witneſſes, the Jury, Judges, and Executioner; if I be none of theſe I cannot be Guilty of Treaſon. I hope I may ſafely ſay according to Law, that I had not a Hand at all in his Majeſties Death. My Lord, the Court and Council, it is very true, they do aim at the ſame Thing; the Council* Requirendo Juſtitiam, *the other* Exequendo Juſtitiam, *the End being the ſame, to have Juſtice. If when Juſtice be demanded, and Injuſtice be done, what is that to the Council? We read in the* 19*th of* John *concerning* Pilate, Knoweſt thou not (*ſpeaking to Chriſt*) that I have power to crucifie thee, and have power to releaſe thee? *My Lord, I humbly anſwer this to that which ſeems to be the moſt material part in the Indictment, That we did aſſume a Power; my Lords, I did not aſſume a Power, I hope it will not be ſaid that the Council had any Power,* Eloquentia *in the Council,* Judicium *in the Judges, and* Veritas *in the Witneſſes.* 25*th of Acts,* Tertullus, *that Eloquent Orator, accuſed* Paul; Paul *anſwered for himſelf, and it is ſaid,* Feſtus being willing to do the Jews a courteſie, he left Paul bound; *it was not the Council that left him bound. His Majeſty was never a Priſoner to me, and I never laid any Hands upon him; if any Witneſſes have ſpoke of any Irreverence, I muſt appeal to God in that I did not in the leaſt manner carry my ſelf undutifully to his Majeſty, though One of the Witneſſes was pleaſed to ſay that I ſaid theſe Words,* That there is a Charge againſt the Priſoner at the Bar; *it was not ſaid the* Priſoner at the Bar, *there was not One Diſreſpective Word from me. There is a Caſe in the Third* Inſtitutes *of my Lord* Coke, *it is to this purpoſe, that one wilfully and knowingly forſwore himſelf; the Caſe was put to inveigle the Court; and though the Court does Injuſtice upon a falſe Oath, it is not Injuſtice at all in the Witneſs, it is Perjury in him; if there can be no Injuſtice in a Witneſs, much leſs a Counſellor can be ſaid to have his Hand in the Death of any, becauſe he has no Power at all; this muſt needs follow, that if it ſhall be conceived to be Treaſon for a Counſellor to plead againſt his Majeſty, then it will be Felony to plead againſt any Man that is condemned unjuſtly for Felony. The Counſellor is to make the beſt of his Clients Cauſe, then to leave it to the Court; it is ſaid, I ſhould demand Judgment, I do not remember that, I leave it to you, but ſtill to demand Juſtice. Counſellors they do engage in Buſineſs before they do rightly underſtand the true Matter of the Fact; it is part of a* Serjeants Oath, *that ſo ſoon as he does diſcover the Falſity of the Cauſe, he ſhould forſake the Cauſe. My* Lord, *by what Mr.* Nutley *hath ſaid it appears, and I have many Witneſſes in the Countrey, Three or Four in* Leiceſterſhire, *would have ſpoken full to this, that (my Lord) there was not before the Sentence of the King (to the beſt of my Knowledge) a Word ſpoken by any that they did intend to put him to Death; I ſay to my Knowledge; and my Lord, when Judgment is demanded is it not Twofold, of Acquittal and Condemnation? If thoſe that then were entruſted with the Power of Judicature, if they did not know any Law to proceed by to take away his Majeſty, then I demanding their Judgment, it doth not appear to be my Judgment; and I refer it to the Learned Council, that Council many Times at the Aſſizes and other Courts have been ſorry that the Verdict hath been given for their Clients, when they have known the Right lay on the other Side, and ſo I might in this. The next Thing I humbly offer, is, that if in Right Reaſon, conſidering the Condition his Majeſty was then in, the adviſing to draw up the Charge was rather to be looked upon as a Matter of Service than Diſſervice, then it cannot be called Treaſon; it is very true, my Lord, that a very little ſmall Overt-Act will amount to a Treaſon; and my Lord, had this been in Times of Peace, and had his Majeſty been no Priſoner, (now he was under the Power of an Army,) this had been great Treaſon; but he being a Priſoner, not by my Means, (for I was no Sword-man,) what can a Man that knows himſelf Innocent, being a Priſoner, deſire more than a ſpeedy Trial? So that making the Trial more Speedy cannot be ſaid to be done Traiterouſly. A Trial doth follow Impriſonment as naturally and neceſſarily as the Shadow doth the Body. If any Man ſhall deſire and be inſtrumental in bringing him to a Trial which might acquit, rather than condemn him, and ſo humbly pray Proceedings according to Juſtice, this will have, I hope, a better Name than Treaſon. I am much beholding to His Majeſty and this Honourable Parliament for the Penning of the* Act of Indempnity, *which I hope my Lord, you will give me leave to take Notice of.*

Court. Open as much as you will of it.

Cook. *My Lords, the Words that I would make uſe of are in the Beginning, Treaſon, Murder, and other Felonies that are ſpoken of, they are ſaid to be counſelled, commanded, acted or done; in the Preamble, which is as the Key to open the Mind and Meaning of the Law-makers, it is ſaid, that all Perſons ſhall be pardoned for all, excepting ſuch as ſhall be named, and in ſuch manner as they ſhall be excepted, and then it comes, provided that this Act ſhall*

not

not extend to Pardon such and such Persons, and by Name I am one; and it is said, all which Persons, for their execrable Treason, in Sentencing to Death, or Signing the Instrument for the horrid Murther, or being Instrumental in taking away the Precious Life of our late Sovereign Lord, Charles *the First, of Glorious Memory, are left to be proceeded against as Traytors to His late Majesty, according to the Laws of* England, *and are out of the said Act wholly excepted and forepriz'd. There is not any Thing offered against me upon the Two First great Words, which are Sentencing and Signing; that which I have to do to endeavour to clear myself is this, being Instrumental in taking away the Life of his said Majesty; first, I humbly offer this to the Juries Consideration, That where the Parliament doth begin to fix the Treasonable Part, there, I hope, and no otherwise, this Honourable Court will fix it: If it had been the Intention that Counsellors, Advisers, and such as spoke their Minds sometimes in the Business, (you know that was Epidemical,) many Words were spoken which cannot be justified; whether naturally it would not have followed, that all such Persons for their Counselling, Advising, or being Instrumental, are left to be proceeded against as Traytors, I hope you will take that into Consideration; concerning the Words, or being Instrumental, observe it is not said, or being any otherways Instrumental; but Sentencing, Signing, or being Instrumental; if therefore the Word Instrumental be not of a general comprehensive Nature, then all this Evidence which hath been given in against me, being before the Sentencing and Signing, will fall to the Ground; that this is the Legal, Genuine and Grammatical Sense, and cannot be any otherwise than as Particular, as if it were the Sentencer, Signer, and Executioner; which if it had been so nothing of the Evidence would have reached me. My Argument is this, such a Use is to be made of an Act of Parliament, that no Word may be frustrate and insignificant; but if this Interpretation shall be put upon it, Sentencing, Signing, or being any Way Instrumental, then the Words Sentencing and Signing need not have been. If Instrumental will carry the Words Sentencing and Signing, then these Words will carry no Force at all; especially, my Lord, when there is no need of any Retrospect at all; if it be so, I know not how far it may look back; there is no Necessity of putting any comprehensive Generality upon this Word Instrumental, but that the plain natural Sense will be this, that those that did Sentence and Sign, and those that were Instrumental in taking away his Life, that is, those that did Abet and Comfort that Person unknown, or Justifie, or Countenance him, which is after the Sentencing, and not before, in the Legal Sense. Next I conceive, that a Counsellor cannot be said to do any Thing* vi & armis.

It is said, that by Force and Arms I did Abet, &c. *it is Rhetorical to say that Words may be as Swords, but Legal it is not, unless there be something* vi & armis; *in the Grammatical Sense Instrumental in taking away the King's Life; it is not said Instrumental in order to take away the King's Life, or Instrumental in advising to take away the King's Life, but Instrumental in taking away the King's Life. My Lord, the next Thing is, that there cannot be any Thing to be said to be done by me, first not* falso, *because in that Sense it must have the Operation of Mendacity; that there must be a Lie told in it; I did nothing but what I was required to do, to set down such and such Words, I did not invent nor contrive them, I heard nothing of it till the* 10th *Day of* January. *My Lord, for* malitiose, *that I did not any Thing maliciously, I hope it will appear in this; what I then spoke it was for my Fee; it may be called* avaritia, *but not* malitia, *for the Law will imply a Malice; but when there is no other express Ground or Reason why the Thing was done, but here was an express Ground to speak for my Fee, I hope the Jury will take that into Consideration. Then Secondly, I was not Judicial in the Case, I was not Magisterial as any Officer, but Ministerial. As touching examining of Witnesses, it is a great Mistake, the Court had Power to give an Oath; I might be there, but I had no Power to give an Oath, but whether I might ask any Question, I do not remember, but that I should give an Oath, that is a Falsity; then, my Lord, for* Proditorie, *I hope there is nothing at all that appears to the Jury; so that there was no Malice nor Traiterous Intention in the Thing. There are some Matters of Law which I desire your Lordships will give me Leave to speak to, and that your Lordships will be of Council with me. I would offer something concerning his Majesties Gracious Declaration from* Breda *to the Parliament; I (was then in* Ireland,) *I did put in a Petition to the Honourable Commissioners before any Exception was, that I might have the Benefit of that Declaration; I did lay hold of it: My Lords, there are Two Things in that Declaration that I would offer. His Majesty saith, that for the restoring of the King's Peers and People of the Kingdom to their just Rights and Liberties, he will grant a Free and General Pardon to all, excepting such as shall be by Parliament excepted; and within Three or Four Lines after it is said a Free Parliament; though I do not in the least question the Legality of this Parliament, yet, my Lords, to this particular Purpose, whether the Parliament that was to except ought not to be a Parliament that was to be called according to his Majesties Writ, according to the Laws of the Kingdom, I humbly conceive it will bear that, though his Majesty is pleas'd to confirm this, yet it is not such a Parliament that was to except, that I offer to your Lordships. My Lords, that that I would humbly make Bold to put for myself, because it is the Priviledge of one in my Condition, is this, There is, my Lords, many Lords, the Earl of* Essex, *the Earl of* Southampton, *and others, that were adjudged in the* 44 *of* Eliz. 3. Institutes, *they did Traiterously and Maliciously conspire to take her Majesty Prisoner, and to remove her Counsellors from her, which were found Guilty, and suffered accordingly; the Reason is, That because thereby if it had been done, they had despoiled her Majesty of her Regal Government; and the Case is Instant in* Philip, *who was a Nominative King, that it was not Treason to have attempted any Thing against him. My Lords, his Majesty being a Prisoner without any Hand of mine, I giving Advice according to what was dictated to me to bring him to that Trial, whereby he might have been Acquitted, and so set at Liberty, I hope that will not be said as Instrumental.*

My Lords, I humbly shall offer but Two Words, 1. *To the Honourable Court, then to the Jury, the Words* 25 *of* E. 3. *and so the Exposition of the Learned Judges have been from Time to Time, that there shall be no Semblable Treasons made by Presumptions or Strains of Wit, but those Treasons specified there: It is said if a Husband do kill his Wife, or a Wife kill her Husband, a Master should kill his Servant, or the Servant should kill his Master, that that shall be petty Treason; a Child did kill his Father, though that was looked upon as a great Sin, yet the Judges do not presume that to be Treason, because it was not in the very Words; this being an extraordinary Case,*

to write a Thing after another doth not appear that there was a Malicious Heart in him that did write. There hath been the Act of Parliament that doth call theſe Courts Tyrannical and Unlawful Courts; but, my Lords, a Tyrannical and Unlawful Court is a Court de facto, *though not* de jure; *If a Court be not a Juſt and Lawful Court, it cannot be ſaid but that it is a Court: We ſay a Thief is a True Man, though Morally he is not ſo; this was a Court, Officers attending on them; ſome ſaid they had Authority; and therefore for one to come and act within his Sphere, not to act out of that, nor doing any Thing but what he had a Preſcript Form appointed him, I hope that will not be found to be within the Letter of the Law; I have been told, (how true I cannot tell) that there have been ſome Votes in the Honourable Parliament, that thoſe that did only counſel or adviſe, thoſe were not to be looked upon as Traitors; I have been told ſo, that thoſe that did only ſpeak as Council for their Fee, who were not the Contrivers of it, the Parliament did not intend they ſhould be left to be proceeded againſt.*

Court. That Letter that was ſent from the Commons to the King at *Breda*, they ſpeak firſt of the Violation that was put upon the Parliament, and of the baſe horrid Murther of his late Majeſty. It is ſaid that the Parliament (I conceive they meant of the remaining Part) they were not guilty, but ſome few ambitious, bloody, guilty Perſons, who contrived the ſame, and others miſled by them.

Cook. *The other Matter of Law is this, I ſay that I do hope that though that Order, which I was about to produce concerning my acting, that if it may not in a Legal Senſe any way be ſaid to be an Act of the Parliament and Commons, yet it may be ſaid to be ſuch an Order to bear out thoſe that did Act according to it, becauſe there was then no Authority* de facto, *otherwiſe it were not lawful for any Man to excerciſe his Profeſſion during ſuch a Power. I hope Counſellors might then exerciſe their Profeſſion as well as others. My Lord, though I ſhould ſuffer my ſelf in this Caſe, I ſhould be loth the Honourable Profeſſion of the Law ſhould. I think I was in my Sphere, acting as a Counſellor. Now Gentlemen of the Jury, that which I have to ſay to you is an Evidence concerning Matter of Life; it muſt be ſo clear that every one that hears it may underſtand it. It is called an Evidence becauſe it is evident; it is one Reaſon why Priſoners for their Lives are not allowed Council for Matter of Fact, becauſe the Evidence is, and ought to be, ſo clear and plain that every one ſhould be ſatisfied, both Jury and Standers by; and it is a proper Word to ſay the Priſoner is convicted, that is as much as his Mouth is ſtopped; and therefore I ſay, truly as I hope I may ſpeak it to you without Offence, as* Jeremy *in another Caſe, when ſome of the People would have had them put him to Death,* As for me, behold I am in your Hand, do with me as ſeemeth good and meet unto you, *Jer. 26. ver. 14, 15. ſaith he,* But know ye for certain, that if ye put me to Death ye ſhall ſurely bring innocent Blood upon your ſelves. *I hope you will not willingly be guilty of any ſuch Thing; I muſt leave it to your Conſciences, whether you believe that I had an Hand in the King's Death, when I did write but only that which others did dictate unto me, and when I ſpoke only for my Fee; and this I would be bold to ſay, though the Argument is not ſo directly confeſſed, that Humane Juſtice, (I do firſt ſay as this my Principle and Opinion is,) that as every Man ought to pay his moral Debts, ſo all political Debts; there is a Debt due to Humane Juſtice, ſo political, if the Lord ſhould have ſuffered me to have been Drunk, and killed a Man, for which I ought to have died, inſtead of ſpeaking for my ſelf, I would have rather intreated the Jury to have found me Guilty, I think theſe Things ought to be anſwered political Debts; when I was in* Ireland, *and had Opportunity of going away, if I thought I had been Guilty I might have done it; my Name is put into His Majeſties Proclamation. It is true, I was a Priſoner Three or Four Months before, ſo that I could not render my ſelf, to what End ſhould that Proclamation mention my Name? It was ſaid I obſcured my ſelf, but I did not; Humane Juſtice doth never puniſh ſo much for Expiation as for Prevention; the Judgments of the Learned* Aquinas, Grotius, *and* Ameſius, *and many others, that if a Man doth kill a Man, commit any Thing worthy of Death, though he doth repent never ſo much, yet that others may be deterred from committing ſuch Acts, the Magiſtrate is bound to put him to Death. But where there is not ſuch a Thing there it is different; though it is ſaid the Land is defiled, that is, where there is Danger that the like may be committed again; now all Things are ſettled, there is no Danger at all; now there can never come ſuch a Caſe as this again; I ſay, my Lord, what I acted I did as a Counſellor, I had no malicious Intention in it.* Mr. Nutley *bare Teſtimony ſo far, that I told him* there was not Intention of putting his Majeſty to Death; *I only did ſay, that* I deſired them to do Juſtice; *and I hope what was done was their Act, not mine, and ſo I leave my ſelf to your Lordſhips.*

Court. Silence Commanded.

Mr. Solicitor General. My Lords, this Gentleman who is the Priſoner at the Bar requires ſuch an Evidence of the Fact as may be evident, he ſaith ſo evident as may be as clear as the Sun; I think that Evidence is not to ſeek; but if he muſt never be convicted till he be ſo far convinced as to be ſpeechleſs, I believe we may ſtay long enough; nevertheleſs if he be willing (as he ſaith he is) to pay his Debts to political Juſtice, we ſhall quickly give him the total Sum. That which he hath ſaid hath been like a *Lawyer*, the beſt that his Caſe will bear, but withal, it is a great Aggravation to his Crime, that he that knew the Law ſo well, ſhould ſo much tranſgreſs it. He began, *Words do not make Treaſon*; he miſtakes, his Charge is not for Words, Gentlemen, his Charge is for *Compaſſing and Imagining the Death of the King*, and the Evidence of that Charge is meeting in that Aſſembly, and the Part that he bore in that Aſſembly. And yet, my Lords, he will be much miſtaken too, (under Favour, and with Submiſſion to your Lordſhips Judgment, and thoſe that hear him,) if they think that in all Caſes it is a general Rule that Words are no Treaſon; for when a Man ſhall proceed to declare the Imagination of his Heart, as to exhort and perſwade Men to effect that wicked thing, the *killing of the King*, certainly there cannot be a greater Overt-Act than theſe Words, nor a clearer Evidence of ſuch an Imagination, for *out of the abundance of the Heart the Mouth ſpeaks.* My Lord, to ſay that the demanding of Juſtice is not Treaſon, though Injuſtice do follow, is a very weak Gloſs upon a wicked Action. The Subject Matter was a Charge of *High-Treaſon againſt the King*, the Concluſion of the Charge was a *Proteſtation*, by which he ſaved to himſelf a Liberty to put in a new Charge, if that was not ſufficient; upon the whole he deſires, that the King, *as a Traytor*, may be brought to Juſtice. Judge ye now Gentlemen, upon the Nature of this Demand, whether this were ſuch a Demand of Juſtice as might end in Acquittal; whether he that preſſes that this Charge may be taken *pro Confeſſo*, did mean that when the Court had recorded it they ſhould Acquit him when they

they had done. My Lords, to ſay there are Four Actors in this Caſe, the Witneſs or Accuſer, the Judge, the Jury and the Executioner, and that he is none of them, and therefore in this Caſe he cannot be a Traytor; ſtill, my Lord, that is to beg the Queſtion; for if he be one of them that did Aſſemble in the Place and were any Inſtrument of that Aſſembly, he hath thereby given an Evidence of an Overt-act of his wicked Heart; and when all is done this poor Gloſs amounts but to this, *I am none of thoſe four Ranks, that is, there were others worſe than my ſelf, and therefore I am none at all.* My Lord, the Thing that he hath mainly inſiſted upon is the *Act of Indempnity*; my Lord, he doth obſerve that his Name is excepted in that Act; that he doth hope that it is ſo Penn'd, as by the Favour of the Parliament it may reach his Caſe; and he hath argued very much upon it, and he ſpeaks as if he did believe it himſelf. But ſurely there is no colour for that Interpretation, that he ſhould ſtep out of this Proviſo, by the very *Act of Indempnity*, that was made on purpoſe to bring him in by Name; the Words are, *Provided that this Act, nor any Thing therein contained, ſhall extend to Pardon, or give any Benefit to* John Cook, *&c.* all which Perſons, for their execrable Treaſons in Sentencing to Death, or Signing the Inſtrument for the Horrid Murder, or being Inſtrumental in taking away the Precious Life of our late Sovereign Lord *King Charles* the Firſt, of Glorious Memory, are left to be proceeded againſt as Traytors, *&c.* Firſt, my Lord, this general and clear Anſwer, I conceive, is to be given, that the Priſoner at the Bar being by Name excepted out of the *Act of Indempnity*, by the *Proviſo* mentioned in it, although the ſubſequent Lines that follow be the Reaſons why the Parliament do except; yet if it be within the very Words of the Exception, whether he be in the Reaſons that moved them to that Exception, is not material, if he could diſtinguiſh that he was not Inſtrumental in that Senſe, to which he labours to reſtrain this *Proviſo*, he can but ſay this, the Parliament was miſtaken in their Reaſon but not in their Concluſion; but he is directly within the Exception, and the Reaſon of it too, for the Word Inſtrumental goes as far as far can be, and he is properly and literally in the ſtrict Notion of the Word, an Inſtrument of the Death of the King: The King could never have been brought to Death, if not to the Bar; never had been Sentenced, if he had not been Impeached, that Impeachment could never have been taken *pro Confeſſo*, nor the Impeachment itſelf delivered, if he had not delivered the one, and preſſed the other: He that brought the Axe from the *Tower* was not more Inſtrumental than he; and beſides, a Lawyer, as he, of great Underſtanding, and of good Parts, he knows very well there are no Acceſſaries in Treaſon, but he that Acts any Part in ſo wicked a Conſpiracy, let him begin at what End he will, he ſtands reſponſible for the utmoſt Conſequence of it; and in Effect the very penning of this *Proviſo* is an expreſs Judgment of Parliament, that he was Inſtrumental, but that is not to be preſſed.

The next Thing he doth inſiſt upon is the Declaration of his Majeſty, that he ſent from *Breda*, which he ſaith he laid hold upon; here lyes the Weight of his Anſwer, The King writes his Letter to the Parliament now ſitting, that he doth purpoſe, for the quieting of the Hearts of Men that may be in doubt, to pardon all Perſons all Crimes of what Nature ſoever, either againſt himſelf or Royal Father, excepting thoſe which ſhall be by Act of Parliament excepted; and, my Lord, he doth ſay, and modeſtly preſſes, that he doth conceive the meaning of that is to pardon all Perſons what Crimes ſoever they have committed, except ſuch as by a Free Parliament ſhall be excepted; a Legal Parliament, called by the Writ of the King, which this Parliament is not. To that I give theſe Anſwers; Firſt, my Lord, I do ſay that this Letter of our Gracious Sovereign from *Breda* in itſelf undoubtedly is no Pardon in Law for Treaſon, that cannot be without the Broad-Seal. Next, a Pardon under the Great-Seal in ſuch a Form of Words as this is would not be a Pardon for Treaſon, for that muſt not be pardoned by Implication, but by poſitive Words; ſo in the Caſe of Sir *Walter Raleigh*, a Commiſſion directed to Our Well-beloved Subject would not pardon the Treaſon of which he was Condemned. In the next place, this Letter at the moſt is but a Pardon in Honour, which muſt always be taken according to the Meaning; and that the Kings Honour may be for ever Sacred, I ſay this Letter doth no Way help the Priſoner at the Bar.

Firſt, it is plain by the very Superſcription of this Letter in which the Declaration was inclos'd, that it is directed to the Speaker of our Houſe of Commons in Parliament Aſſembled, which cannot poſſibly be expounded of any other Parliament than that which was then Sitting, to whoſe Speaker it was written.

Secondly, The Letter it ſelf ſays, we have left it to you to provide for Security and Indempnity; and again, if there be a Crying Sin for which the Nation may be involved in Infamy, we cannot doubt but you will be as ſolicitous to vindicate it as we can be. And then in this very Letter encloſeth that Declaration, upon the Penning of which the Priſoner ſo much relies: Now lay all together, and it is clear the Parliament, meant by the Declaration, muſt be the ſame Parliament which was meant by the Letter; and that was this very Parliament whom the King intended to truſt, both with Indempnity, and with the Vindication of his Father's Death, and to be the Diſpenſers both of Mercy and Juſtice in this particular. Another Thing is this, This very Parliament, as the Priſoner obſerves, they did go to the King according to his Gracious Letter, and in the Behalf of all the Good People of *England*, they did lay hold of the King's Mercy in his Letter and Declaration, and prayed that this Claim by their Speaker, in Behalf of all the reſt of the Commons of *England*, might be Effectual to all Purpoſes, and for all Perſons other than thoſe that ſhould be by themſelves afterward excepted, according to their Requeſts, His Majeſty accepts their Petition, and makes Proclamation, that his Pardon ſhould extend to all but ſuch as they ſhould except: What can be more clear and evident, than that this is the Parliament which the King did mean to be the very Parliament to which the Letter ſhould have Reference till the Act of Oblivion was paſſed again? The late Tranſactions of theſe Twelve Years paſt had involved ſo many Perſons, that we could ſcarce find a Man but he had need of Mercy; nay, this very Parliament to which this Letter was written had need of Indempnity; and is it probable in the Nature of the Thing, or can it be underſtood by any Man, that the King writing to this Parliament, and offering them Pardon and Indempnity, ſhould mean ſuch a Pardon and Indempnity as a future Parliament to be called by his own Writ, ſhould be willing to afford them? Whoſe Hearts would have been ſatisfied with ſo contingent a Security?

My

My Lords, upon the whole Matter, by what the King hath ſaid in this Letter, and by what the Parliament hath done in purſuance thereof, and by what the King hath proclaimed, it is to my Underſtanding as clear as the Noon-day, that the Honour of the King is not concern'd at all in the Exemption of the Priſoner at the Bar; and for the Caſes of my Lord of *Eſſex* and *Southampton*, which he hath cited, they make againſt him; they were condemned becauſe they endeavoured to impriſon the Queen, and to remove her Counſellors, of which very Fact the Priſoner is in Law Guilty too; and then the Caſe of King *Philip*, the Husband of Queen *Mary*, makes nothing for him neither, unleſs he will ſpeak out, and tell us plainly, that becauſe by a former Violence the King was made a Priſoner, he became but like a Titular King, as King *Philip*.

In the next Place he ſaith, my Caſe is out of the Law, I acted as a Counſellor in my own Particular for my Fee; it was *Avaritia*, but not *Malitia*, nor *Falſo*, *Malitioſe*, or *Proditorie*: But he muſt know, that no Man hath, or can have, a Lawful Calling to purſue the Life of his King; and the Law implies Malice; for *Malitioſe* and *Proditorie* are not only Words of Courſe, but of Truth too, in this Caſe, elſe it were as much as to ſay, that no Council can be Guilty of High-Treaſon, than which nothing can be more abſurd: My Lord, for that which he ſaid laſt, (for I muſt omit ſome Things, and give him leave to take the Advantage of it,) to ſtand upon it, that the Place was a Court, ſuch a one it was that he was not anſwerable for the Conſtitution of it; if it were not in a Legal Sence, it was ſuch an Order as might bear him out, that is, with Modeſty and good Manners to juſtifie High-Treaſon; it is not with ſuch Inſolency as ſome others before him did it, but it amounts to that, That an Order of a few Perſons that firſt made themſelves a *Parliament*, and then made a Court of Juſtice, had Officers, and met together, and perfected ſo great a Treaſon; I ſay, that this Order to bear him out is impoſſible. He that is a Lawyer, he muſt account to the Laws for what he hath done; if the Authority were not Lawful, he cannot but know that this which he calls the *Parliament* was ſo far from a Legal Authority, that it was one Part of the Treaſon that he did aſſiſt ſuch an Aſſembly.

Gentlemen of the Jury, this is your own Caſe, here is a Charge that is exhibited by the Priſoner at the Bar, as he ſaith, in the Name of all the People of *England*. Look to it, for you are ſome of them if you own it; then it may be true what he hath ſaid; but I hope you meet here to tell this Nation, and all the World, that the People of *England* had no Hand in that Charge; do but conſider how that this Priſoner at the Bar had hunted the Life of the *King*, how he did fiſh out and examine Evidence, whether the *King* ſet up his Standard at *Nottingham*, was at ſuch a Place, and ſuch a Place; to what End is all this, but with Deſign of Blood? Were theſe Things to be produced againſt the *King*, and then Judgment to be demanded that he may be ſaved? Is it not plainly proved to you by Witneſſes, how he did exhibit the Charge, preſs it, aggravate it, deſired it might be taken *pro Confeſſo*, was afflicted with the Delays, how angry he was when he was interrupted? Is it not proved to you, that he was at firſt againſt the Thing, and ſaid, *It was a baſe Buſineſs?* When he was engaged in it ſaid, that he was *a Servant of the People of this Kingdom?* What doth he do at laſt when the Thing had gone far? He ſpeaks that which is the only Truth which I have heard yet from him, *He muſt die, and Monarchy then muſt periſh with him*; from which Event, Good Lord deliver us.

Sir *Edward Turner*. My Lord, the Subſtance of the Defence that the Priſoner hath made at the Bar, with much Skill and Cunning, may be referred to Two Heads. The Firſt to the Statute of the 25th of *Edward* the 3d, the Second to the late Act of Oblivion: For the Firſt, my Lord, he ſaith, that his Fact is not comprized within that Statute; ſaith he, I did never Conſpire or Imagine the Death of the King; nor did believe that would be a Conſequent of their Actings. It was expreſly proved that himſelf did ſay that the King muſt Die, and Monarchy with him; but, Gentlemen, though he had ſaid true, that it had not been proved, or that he did not believe that would be a Conſequent, yet, my Lord, I muſt tell you, that every Step of this Tragedy was Treaſon; the Summoning themſelves, that was Treaſon; every Proceeding upon that was Treaſon; the Summoning of their Meetings in the *Painted Chamber*, Coming into *Weſtminſter-Hall*, every Perſon as Inſtrumental, thoſe that came to act the leaſt Part in that Tragedy, were every one Guilty of Treaſon; what, ſaith he, I acted as a Counſellor for my Fee: It was that Fee that *Judas* had the 30 Pieces of Silver, that made him hang himſelf. He goes further, and tells you, there muſt be no Semblable Treaſons, this is clear; the Conſpiring and Imagining the Death of the King, that's the Treaſon that is mentioned in the Act; Treaſon by the Common Law; though this be not named the killing of the King; yet all theſe Proceedings are Demonſtrations to you there was a Secret Imagination to kill him. Then to the Act of *Oblivion* his Argument is, That becauſe the Act ſaith, that if they had Sentenced, Signed, or been Inſtrumental in the Death of the *King*, that they ſhould be excepted; but it is not ſaid, or *otherwiſe Inſtrumental*; that this therefore ſhould refer to ſubſequent, not precedent Acts, that's a ſtrange Expoſition; take it Grammatically it hath the moſt large Conſtruction, Inſtrumental, more large than if they had ſaid or otherwiſe, for it doth comprehend every Thing: There having been ſo full an Anſwer already, I will be ſhort; I will not meddle with his Civil Debts, but with his Political; if a Man kill another, though he do repent, the Magiſtrate muſt do Juſtice *in Terrorem*. Though he doth repent, (I hope in God he doth ſo,) the Magiſtrates, your Lordſhips, muſt do Juſtice *in Terrorem*; I deſire that Juſtice may be done upon that Man. He ſaid it was no Treaſon to demand Juſtice againſt the King, becauſe he did but demand it; I hope he will think it no Unkindneſs in me to deſire Judgment againſt him, becauſe it is Juſt.

Mr. *Wadham Windham*. As I underſtand the Priſoner at the Bar, the chief Argument which he ſhelters himſelf under was his Profeſſion, which gives a Blaſt to all of us of the Long Robe; I will not mince his Arguments; ſaith he, here was a Court, I was appointed Sollicitor; and ſaith he, for Men to practiſe before thoſe that have not a proper Judicature, it is not Felony, Murther, or Treaſon, (I would not willingly mince his Argument,) and that I was appointed, and the Words dictated to me; and a Counſellor carrying himſelf within the compaſs of his Profeſſion is not Anſwerable; but if he will exceed his Bounds, his Profeſſion is ſo far from ſheltering him, that, as it has been opened, it is very much an Aggravation; it is the Duty of a Counſellor to give Counſel; if a Man ſhall come to me and ask Counſel, and I ſhall counſel him to kill

a Man, am not I acceſſary to that Murder? Words by his Argument will not amount to Treaſon; if the Fact follows I am as Guilty as if I did the Fact; in Point of Treaſon it is all one as if I had done that very Act. If Mr. *Cook* did adviſe that Act, or was Inſtrumental, he is as much a Traytor as the Man in the Frock that did the Execution; for his Profeſſion, truly, my Lord, I do not think that a Counſellor is always bound to know the Patent of him that ſits as Judge, that will not be his Caſe; here was no ordinary Warrant of Law to carry on Juſtice: *Grotius* ſaith, in Caſe of Neceſſity for carrying on Juſtice, there may be many things allowed: I pray where did Mr. *Cook* read of ſuch a Court as a High Court of Juſtice; there was never ſuch a High Court of Juſtice read of in the Law, then as this was a Mock-Court, ſo under good Favour it was a Mock-Juriſdiction. Was there any Law under Heaven to put the King to Death? Is it not out of the Compaſs of all Courts whatſoever to do it? And under good Favour, my Lord, this is but to ſhelter a Man's ſelf under Colour of Juſtice to do the moſt Execrable Treaſon in the World; I have no more to ſay to you.

Lord Chief Baron. I would repeat the Evidence and your Anſwer to you, if you have any thing New ſpeak to it.

Cook. *This is New; it was ſaid by one, that if there had been no Charge there had been no Sentence given in the Caſe; I ſay that the Indictment or Charge is no part of the Trial by the Statute of* Magna Charta: *The Peers of the Land ſhall be Tried by Peers, but are Indicted by the Country; I conceive by what they have ſaid they do make me cauſal of the Kings Death. It is ſaid in the Indictment there was a Power; I ſay this, I did not aſſume any Power; it cannot be ſaid; if Council be come in to an unlawful Power, that he takes the Power, but ſtands with Reſpect at the Bar. At Aſſizes Judgment paſſes, the Clerk of the Aſſizes he is not Inſtrumental in taking away Life; for that which Mr.* Starkey *ſhould ſay, that I ſhould ſay*, The King muſt Die and Monarchy with him, *I humbly beg that the Jury would take Notice of what Mr.* Nutley *ſaid, that I told him there was no Intention of taking away the King's Life; and beſides, it is but a ſingle Witneſs. I hope there muſt be Two Witneſſes in Point of Law to Convict a Man of High Treaſon.*

Lord Chief Baron. Mr. *Cook*, you ſaid right but even now, that if there was any Thing in Matter of Law which the Court knows of, which may be of Advantage to you, they are of Council to you, and ſo they ought to be.

Cook. *I thank your Lordſhips.*

Lord Chief Baron. I ſhall repeat the whole Evidence, and begin with that firſt; (we are upon our Oaths;) the Witneſſes that are againſt you, I took Notice of them; you have had a great deal of Liberty, which you have made uſe of civilly; but, Sir, for the Fact, I think it is a great deal more full than as you have anſwered. Firſt, The Firſt Witneſs produced againſt you was Mr. *Nutley*, (I ſhall ſpeak only the Material parts that concern your Charge,) he ſwears expreſly that he ſaw *Price* a Scrivener writing a Charge in the *Court of Wards*, that he ſaw his Charge in your Hands; he ſaw afterwards, when the King of Bleſſed Memory was brought as a Priſoner, that there you delivered the Charge in; there is more than Words, you delivered that Charge in, that alone is an Overt-act; then if there were nothing elſe in that Caſe, that a Man in a Paper ſhould call the King Traitor, Tyrant, Murtherer, and Implacable Enemy, as there the Words are, and he deliver this Paper, and this be read, if this be not an Overt-Act of Imagining and Compaſſing the King's Death, I do not know what an Overt-Act is; and he gives further Evidence; if I miſtake take free Liberty to interrupt me.

Cook. Sir, they were not my Words, but their Words that Commanded me.

Lord Chief Baron. This I ſay, that this very Thing alone, ſuch a Paper approved by you, delivering this Paper to an Aſſembly, and requiring it may be read, this is an Overt-act to prove the Imagination of your Heart for the Death of the King; the Reaſon is, if the King ſhould be a Tyrant, a Traitor, *&c.* it ſtirs up Hatred in the People, and the Conſequences of that Hatred is the Death of the Prince. The next Thing that Mr. *Nutley* ſaid was this, he ſaid that you demanded poſitively Judgment againſt him, againſt the Bleſſed King, then Priſoner at the Bar. I remember you ſaid that you did demand Judgment, but that you did not demand Judgment againſt the King; take it ſo whether you did, or not, (though you ſhall find in ſome other Witneſſes that I ſhall repeat, that you ſaid Judgment againſt the King,) the Conſequence will be the ſame; who could you demand Judgment againſt but the King? He was the Priſoner; becauſe he did demand a further Hearing by the *Parliament*, you urged that his Charge might be taken *pro Confeſſo*, then it muſt needs be Judgment againſt the King; it is effectively and implicitly the ſame. He went further, and that was, that being your Friend and Acquaintance, and acknowledging your Parts as a Lawyer, (which truly I do very much know my ſelf, and do know this Gentleman to be a Man of very great Parts in his Profeſſion,) he had familiar Acquaintance with you; he told you what a baſe Buſineſs it was, and you did yourſelf acknowledge it; ſaid the Priſoner to Mr. *Nutley* himſelf, it is a baſe Buſineſs, but they put it upon me. He did diſcourſe further to him of the Oaths of Allegiance and Supremacy, which he knew very well, no Man better; this Gentleman, he very ingenuouſly confeſſed it, ſaying, I confeſs it is ſo, they put me upon it, I cannot avoid it; but then excuſes it, I am the Servant of the People: Afterwards he preſſed the King to anſwer poſitively, whether Guilty or not Guilty; the preſſing of the King to anſwer, what was it in Effect but to haſten Judgment? And that was to haſten his Death; ſo that that is the Subſtance of Mr. *Nutley*'s Teſtimony, that he preſſed Judgment, Judgment was demanded by the Priſoner now at the Bar; it is not only demanded, but preſſed, and all the Current of the Witneſſes at ſeveral Days are to this purpoſe. It is true (that I may repeat the whole for you, and againſt you,) that this Gentleman, the Priſoner at the Bar, when Mr. *Nutley* did urge this to him, ſaid, he hoped they did not intend to take away the King's Life; I verily believe they do not intend to take away the King's Life; I hope they do not. But, Mr. *Cook*, it is no Excuſe to ſay you hope, or you believe, they will not, *&c.* How far it may be in ſuch a Crime ſomething in Extenuation *in Foro Cæli*, but not *in Foro Civili*; you opened it yourſelf, that if a Man ſhould go about to take the King Priſoner, it is Treaſon; the Law adjudg'd that to be Treaſon; when you knew they would condemn him as a Tyrant, Murtherer, *&c.* you muſt eaſily believe what would follow ſuch a Condemnation, truly Death; that is no Colour of Excuſe in *Foro Civili*. *Farrington* ſwears to the ſame Purpoſe, that he ſaw you, having a Parchment in your Hands, delivering

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it in, and prayed it might be read as a Charge of the People; you did not ſpeak, I deliver this in as from thoſe that deliver'd it to me; that was not in the Paper, that you ſaid of yourſelf; my Brethren will tell you all this is an apparent Point of the Imagination of your Heart; at that Time he ſwears the ſame Thing, that you did deſire it might be taken *pro Confeſſo*. Mr. *Bodurdo* is the Third, he ſwears the ſame Thing too, that you exhibited a Charge of High-Treaſon againſt the Priſoner then at the Bar, and tells you the Subſtance of it; he ſaith that all but the Firſt Day you demanded Judgment for not pleading to the Charge; he adds, that you complained of the Delays; I am ſure that was not dictated to you; that could not be thought that you ſhould deſire Judgment for the Priſoner: It is very true which you ſay for yourſelf in that, that you did not demand it firſt, till it was demanded by the Court; Mr. *Bodurdo* tells you, and ſo it was granted the Firſt Day, that *Bradſhaw* only ſaid it, but afterwards that you always demanded it: The next was Mr. *Herne*, he ſwears the ſame Words again, that you did in the Name of the Commons Aſſembled in Parliament, and the People of *England*, exhibit a Charge, *&c.* Theſe are your own Words; if you did exhibit a Charge againſt the King, to exhibit a Charge of High-Treaſon the very Thing followed; if it were ſo, there was Death, ſo certainly there cannot be a greater Expreſſion of the Imagination of a Man's Heart than that is: It is true, you asked then a Queſtion, and that was, whether that that you concluded was not that you deſired them to proceed according to Juſtice? It is true, the Words of the Charge are ſo, but before you come to Concluſion you Charge him as a Traytor, Tyrant, *&c. Communis Hoſtis*; after you had given that Charge you demanded Juſtice; thoſe that ſpit in his Face they demanded Juſtice; every one knew what belonged to that Juſtice: Then *Baker*, he ſwears poſitively that you did exhibit the Charge in this Manner; he ſaid this, that you ſaid, you had exhibited a Charge of High-Treaſon, *&c.* and that the King ſought Delays; there is your inſiſting upon it; he ſays further that you ſaid theſe Words, that you did deſire Judgment ſhould be given againſt him, and not ſo much you, as the Blood that had been ſhed that cried for Judgment; truly whether that was a Judgment that you intended for Acquittal, that muſt be left to the Jury. You asked (becauſe I will repeat it in order as my Memory will give me leave) whether there was any other Words in the Charge than was in the Proclamation? Mr. *Cook*, Whether there was any other Words, or no, that differed in the Proclamation, as it was a great Sin and foul Fact in the Proclamation, ſo it was as foul in the Charge. Maſter *Maſterſon* ſwears the ſame too, he heard you ſay the Second Day you had delivered a Charge (the Day before) againſt the King, and that he had delayed his Anſwer; you deſired he might plead Guilty, or not Guilty; the laſt Day, that you did in the Names of the Commons Aſſembled in Parliament, and the People of *England*, demand Judgment againſt the King; and then another ſwears thoſe Words, Judgment againſt the Priſoner at the Bar, which was the King. *Burden* ſwears you Examined him as a Witneſs againſt the King, in what Place he was with the King; it ſeems he was in the King's Army; he ſwears you gave him an Oath, (it is Teſtimony fit to be believed;) but however, if you did not give the Oath, by what you ſay yourſelf you may be by, and asked him the Queſtion. Maſter *Starkey*, he tells you, that during the Trial, and before the Sentence, that you, being an Old Acquaintance of his in *Grays-Inn*, and ſpeaking with him, he ſpake like a Friend to you, *I hear you are up to the Ears in this Buſineſs*; and *whereas you talk of the People, there is a Thouſand for one againſt it*; that you ſhould tell him again, *You will ſee ſtrange Things, but you muſt wait upon God*; theſe Words of waiting upon God are Words of that Nature, People do uſe them now-a-days when they would do ſome horrid Impiety, which hath been the Sin of too many; it is but a Canting Language, that is the beſt Term I can give it: You told him then *He muſt Die*, this was before the Sentence; (that is to be obſerved, Gentlemen of the Jury,) you ſay you did not know of the Sentence, you ſaid *He muſt Die, and Monarchy with him*; you muſt here know that ſome of thoſe Perſons that ſate upon him ſaid, the King was a Gracious and Wiſe King; and as Mr. *Cook* did ſay, and they were the beſt Words they ſpoke, and I think he thinks ſo in his Conſcience; but in Concluſion He muſt Die, and Monarchy muſt Die with him; others ſaid, they did not hate King *Charles*, but they hated Monarchy and Government, but Monarchy was the Thing that they would Behead; I think I have done with the Evidence that was given againſt you, the Indictment itſelf was read, the Overt-Acts was the Meeting, Propounding, and Conſulting about it. It appears he was in the Chamber about the Charge, that he did propound it, he delivered the Charge, and it appears withal, that he demanded Judgment, he deſired the King might anſwer, or that it might be taken *pro Confeſſo:* Theſe are Overt-acts to declare the Imagination of his Heart. The Anſwer of Mr. *Cook* I will repeat it as clearly as I can, becauſe nothing ſhall go to the extenuating of the Fact but it ſhall be ſpoken. Mr. *Cook*, in your Anſwer, your Defence that you make, you ſet forth the Heads of this Indictment, and you ſet them forth very truly; the Heads are the Aggravations of the Indictment, the Indictment was the Compaſſing and Imagining the Death of the King; you ſaid it was upon theſe Grounds, that you did Propound, Abet, and Conſult the Death of the King; that you with others did aſſume Power and Authority to kill the King, and that thereupon a Perſon unknown in a Frock did accordingly kill the King. You ſay to the firſt Part, if it did not appear that you did adviſe the Death of the King, that you were not Guilty: For that, Sir, as I told you before, taking them either complexly or ſingly, if any of the Particulars reached to one of theſe Acts, it was enough, but it reaches to all: You required Judgment againſt the King as a Traytor, and that with a Reaſon, and certainly Death muſt follow: You ſay you were appointed to give your Advice; you had a Proclamation firſt for Trial of the King; you had the Order of *January* 10. whereby you were appointed to give your Advice; if it were ſo it will be no excuſe at all; the Proclamation gives you no Warrant at all; he that obeys ſo wicked a Proclamation it will not ſave him; it appears you were privy to this before the Proclamation; if you were not at all, when ſuch a thing as this is ſuch a Proclamation and Act, and ſuch a Manner of Trial, as I believe though you have read very much, you never heard of ſuch a Thing in our Law, or Foreign Nations, that you thereupon ſhould take upon you to be of Council againſt the King, it Aggravates the Fact: Other Men may be Impudent and Ignorant, but you that were a Learned Lawyer, your being of Council doth aggravate the Thing. You ſay, Secondly, By Law Words will not amount

to

to Treaſon, for that I would not have that go for Law by no means, though it be not your Caſe; for you are not Indicted for Words, but Words are Treaſon, and Indictments are often for it; but the Difference is this, the Indictment is not for Words, but Compaſſing and Imagining the Death of the King; Words are Evidences of the Compaſſing and Imagining the King's Death; it is the greateſt Evidence of the Imagination of the Heart; Words do not make a Treaſon, that is, if it be by Inference or Conſequence, but reductively; but if it be immediately, I ſhall ſay to a Man, Go kill the King, by that which is an abſolute, immediate, neceſſary Conſequence to ſay this is no Treaſon, I would not have that go for Law; your Caſe is not for Words, but for delivering a Charge, the Ground that you ſpeak of; Words may make a Heretick, but not a Traitor; it was a witty Saying, but you have no ſufficient Authority for it, theſe are Words put in Writing; we all know if a Man put his Words in Writing, if a Man ſpeak Treaſonable Words, and put them in Writing, they have been ſeveral Times adjudged Treaſon; and ſo in my Lords *Cook*'s 3 *Inſtitutes*, the Caſe of *Williams* of the *Temple*; there was a Book of Treaſon in his own Study of his making, and he was Indicted for it, Words put in Writing is an expreſs Evidence of the Imagination of the Heart; you ſay it was dictated to you, but when Words are written in a Charge, and your Name to it, (which I had almoſt forgotten,) that's more than Words; the Witneſſes ſwear the Likeneſs of your Hand; they do but ſwear the Likeneſs of your Hand; no Man can ſwear more, unleſs he was preſent and ſee it; but you owned the Charge, and there your Name is; that beſides the Two Witneſſes there is your own Actions to prove it. When Two Witneſſes ſhall ſwear it is like your Hand, and you own that Charge, I muſt leave it to the Jury: You ſay you did this after Command, the Words were dictated to you, the Words were *conceptis Verbis*, appointed and ordered by the Court, but the preſſing was yours; he ſtands upon Delays, let it be taken *pro Confeſſo*, demanding Judgment; theſe were your Words; another Man may dictate a Thing, but you are not forced to ſpeak it; you urged it, owned it; you demanded not in the Name of the Court, but in the Name of all the People of *England*; you ſay further, that your demanding Juſtice is not within the Statute; as I ſaid before, what can be the Effect of demanding Juſtice, but that the King ſhould Die upon thoſe Premiſes? You ſay farther, that it was in behoof of the King, as you would urge it; to do the King a Courteſie, in asking the King might have Juſtice; but you did not Name what Juſtice it was; but you did him a Courteſie; truly the King was but a little beholden to you for that Requeſt; all the World knows what that demanding of Juſtice was, it was to have the King's Head cut off; you went as far as you could; it ended with you when you demanded Juſtice; that is as far as you could you cut off the Head. St. *Paul*, when the Witneſſes laid down the Cloaths at his Feet, he ſaid, I killed *Stephen* the Martyr. You ſay further, that in all Tragedies the Accuſer or Witneſs, the Jury, the Judge, and Executioner, are the only Perſons; and you are none of theſe; you are only of Council; if Juſtice was not done, what was it to you? You ſaid you did not aſſume a Power, there was only Eloquence required in the Council; it hath been truly ſaid, that this is a great Aggravation to be of Council againſt the King; you you ſaid his Majeſty was then a Priſoner and accuſed; Council cannot be heard againſt the King; you undertake to be Council againſt the King in his own Perſon, and in the higheſt Crime; if the Council at the Bar in behalf of his Client ſhould ſpeak Treaſon, he went beyond his Sphere; but you did not only ſpeak, but acted, Treaſon; you ſaid you uſed not a diſreſpective Word to the King; truly for that you hear what the Witneſſes have ſaid; you preſſed upon him; you called it a Delay; you termed him not the King, but the Priſoner at the Bar, at every Word; you ſay you did not aſſume an Authority, it is an Aſſumption of Authority, if you countenance and allow of their Authority; you ſay you do not remember you demanded Judgment againſt the King; that is fully proved againſt you; you yourſelf asked the queſtion; whether you did ſay againſt the King he did not remember; but others poſitively, that you demanded Judgment againſt the King and Priſoner at the Bar; you ſaid that before Sentence there was not an Intention to put the King to Death, to that Mr. *Starkey* ſwears that you expreſly ſaid, the King muſt die, and Monarchy with him, and this before the Sentence: Whereas you ſay this is but One Witneſs, that there is to be in Treaſon Two Witneſſes; but that there ſhould be Two Witneſſes to every Particular that is an Evidence of the Fact, that is not Law; if to one Particular that is an Evidence there be one Witneſs, another to another, here are Two Witneſſes within the Meaning of the Statute; Two Witneſſes to the Indictment Compaſſing and Imagining the Death of the King, being accompanied with other Circumſtances, this One Witneſs if you believe him, is as good as Twenty Witneſſes, becauſe other Overt-acts are expreſly proved by ſeveral Witneſſes: You ſay next, for the drawing of the Charge, in right Reaſon it ought to be counted for the Service of the King: Firſt you do acknowledge, and truly very ingenuouſly, that in the Time of Peace to bring him to the Bar, not being a Priſoner, is Treaſon, (you ſay it,) according to the Law, and that you delivered the Charge for the accelerating of the Charge; and that it was not done by you traiterouſly, you ſay the King was a Priſoner before; and you ſay what Hands he was in, in the Hands of Men of Power and Violence; it had been your Duty to have delayed it, not accelerated it, that there might have been ſome Means of Prevention of that Bloody Act that followed; if you knew that to be Treaſon to make him a Priſoner, Subjects do not uſe to make King's Priſoners, but Death follows. You urge in the next Place the Act of Indempnity, and that you are not excepted, for that you have made as much of it as the Matter will bear; yet you muſt conſider, Firſt, as a Rule in Law, that where they are General Words, when they come to be explained by the Particulars, you ſhall not include them within the General: Mark the very Words, they are theſe, *Provided that this Act, nor any Thing therein contained, ſhall extend to Pardon, Diſcharge, or give any other Benefits whatſoever unto ſuch, and ſuch, (among whom you are named,) nor any of them, nor thoſe Two Perſons, or either of them, who being diſguiſed by Frocks and Vizards, did appear upon the Scaffold erected before* Whitehall, *upon the Thirtieth of* January 1648. *All which Perſons, theſe are the Words. Firſt*, It ſhall not extend to you; then it comes, *All which Perſons for their execrable Treaſon in ſentencing to Death, or ſigning the Inſtrument for the horrid Murther, or being Inſtrumental in taking away the Precious Life of our late Soveraign Lord* CHARLES *the Firſt of Glorious Memory, are left to be proceeded againſt as Traytors to His late Majeſty according to the Laws of* England, *and are out of this preſent Act wholly excepted and forepriz'd.* Firſt, as I told you before,

and as it was very well ſaid by Maſter *Solicitor*, admitting the Reaſon had been miſtaken, and that you had not been comprehended in the Reaſon, you are excepted out of the Body, provided it ſhall not extend, *&c.* Many times Laws do make Recitals, which in themſelves are ſometimes falſe in Point of Fact; that which is the Law is Poſitive Words, the other Words are for the Reaſon; excepting all which, that is, Maſter *Cook*, which Perſons are excepted not for Doing of it, but for his execrable Crimes in being Inſtrumental. It is clear without that, if it were not ſo, we ſay when a Sentence is, or ſuch a one, or ſuch a one, the Third Or makes all disjunctive: Here are Three Ors, firſt in ſentencing to Death, or ſigning the Inſtrument, then comes this, or being Inſtrumental in taking away the Precious Life of our late Sovereign, *&c.* this Or doth clearly exclude the other Two, or Inſtrumental not only in Point of Death; but farther, being neither a Sentencer, Signer, or being Inſtrumental in taking away the King's Life; that is, being any way Inſtrumental. Truly, whether it be not Inſtrumental to exhibit a Charge againſt him, or complain of his Delays, to ask Juſtice againſt him in the Name of the People, to do all this, and deſire that the Charge might be taken *pro Confeſſo*, if this be not Inſtrumental, I know nothing elſe Sentencing and Signing: Some ſigned the Sentence, ſome the Inſtrument for Death: The next degree of being Inſtrumental, the higheſt degree of that, is to Accuſe him, to deliver in the Charge againſt him in the Name of the People, do it again and again, be angry at the Delays. The next Thing is this, that you did not do this *falſo* or *malitioſe*, but for your Fee; and that though there might be *avaritia*, there was not *malitia* in it; it was done by your Profeſſion, you were not Magiſterial in it; you thought the Conſequences that did follow, would not follow. If a Man does but intend to beat a Man, and he die upon it, you know in Law it is all one: You muſt underſtand there is a Malice in the Law; if a Man beat One in the Streets, and kill him, though not maliciouſly in him, but it is ſo in Law. That you deſire to have the Benefit of the King's Declaration; that you did put in your Petition proving the ſame; that you were a Priſoner before; that the Commons in behalf of themſelves and the People of *England*, they craved the Benefit of it, which was granted, excepting ſuch as ſhould be by Parliament excepted; and that the King ſhould mention a Free Parliament; for this, it hath been fully anſwered to you, and clearly by Mr. *Solicitor*, that you are not at all concerned in the King's Declaration at *Breda*. For Firſt, it is nothing in Law, it binds in Honour; and we have given the ſame Directions Yeſterday upon the like Occaſion, that is, that the Kings Declaration binds him in Honour and in Conſcience, but it does not bind him in Point of Law, unleſs there were a Pardon granted by the Broad Seal; the Thing is cleared to you what Parliament the King meant by it; they were ſitting at that Time, had acknowledged their Duty and Allegiance to their King; they went *ad ultimum potentiæ* for a Free and Abſolute Parliament, whilſt the King was abſent, though the King was away; yet notwithſtanding the King declared whom he meant; he directed one of thoſe Declarations to Our Speaker of the Houſe of Commons, and another to the Speaker of our Peers; in this Caſe it was *loquendum ut vulgus*; it was owned by him as having the Name of a Parliament; it was done with great Wiſdom and Prudence, and ſo as it could be no otherwiſe, they that were Loyal Subjects; acting in the King's Abſence; he conſenting to it; the King owning that Authority; ſo he was obliged in Honor no further than his own Meaning and Words; but there is another Clauſe in the Act excludes all theſe Perſons. The next Thing is this, you ſay the Statute of 25 *Edward* 3. and it is very true, you ſay if it be any Semblable Treaſon; we were not to judge upon that, unleſs they were the Treaſons in the Act; and it is moſt true; now you would urge but this, that this is but a Semblable Treaſon; but you are Indicted for the Compaſſing and Imagining the Death of the King: If theſe Acts did not tend to the Compaſſing and Imagining the King's Death, I know not what does; I am ſatisfied you are convicted in your Conſcience. The next Thing (for you have ſaid as much as any Man can in ſuch a Cauſe, it is Pity you have not a better,) you ſay, though it was a Tyrannical Court, as it is called, but ſuch a Court it was, and there were Officers you ſay, it had *figuram judicii*, that aggravates the Fact to you, to your Profeſſion. There is a difference between a ſtanding Court, and that which is but named to be a Court; this was but One of a Day or Two's growth before, and you know by whom; by ſome that pretended to be only the Commons; your Knowledge can tell you that there was never an Act made by the Commons aſſembled in Parliament alone; and you may find it in my Lord *Cook*, that an Act by the Lords and Commons alone was naught, as appeared by the Records; Sir *James Ormond* was Attainted of Treaſon; the Act was a private Act, by the King and Commons alone, the Lords were forgot; when the Judges came to try it, it was void, and another in *Henry* the 6th's Time; you know this was no Court at all; you know by a Printed Authority, that where a ſettled Court, a true Court is, if that Court meddle with that which is not in their Cognizance, it is purely void; the Miniſter that obeys them is puniſhable; if it be Treaſonable Matter, it is Treaſon; if Murder, it is Murder: So in the Caſe of *Marſhalſea*, and in the *Common Pleas*, if a Man ſhall begin an Appeal of Death which is of a Criminal Nature, and ought to be in the *King's Bench*, if they proceed in it it is void; if this Court ſhould condemn the Party convicted, and he be executed, it is Murder in the Executioner; the Court had no Power over ſuch Things; you ſpeak of a Court. Firſt, it was not a Court: Secondly, no Court whatſoever could have any Power over a King in a coercive Way, as to his Perſon. The laſt Thing that you have ſaid for yourſelf is this, that admitting there was nothing to be conſtrued of an Act or an Order, yet there was a difference; it was an Act *de facto*, that you urged rightly upon the Statute of 11 *Hen.* 7. which was denied to ſome, God forbid it ſhould be denied you; if a Man ſerve the King in the War, he ſhall not be puniſhed, let the Fact be what it will. King *Henry* the 7th took Care for him that was King *de facto*, that his Subjects might be encouraged to follow him, to preſerve them, whatever the Event of the King was: Mr. *Cook* you ſay, to have the Equity of that Act, that here was an Authority *de facto*; theſe Perſons had gotten the Supream Power, and therefore what you did under them you do deſire the Equity of that Act; for that clearly the Intent and Meaning of that Act is againſt you, it was to preſerve the King *de facto*, how much more to preſerve the King *de jure*; he was owned by theſe Men, and you, as King; you Charged him as King, and he was Sentenced as King. That that King *Henry* the 7th did was to take Care of the King *de facto* againſt the King *de jure*; it was for a King and Kingly Government, it was not for an Antimonarchical Government; you proceeded againſt

your

your own King, and as your King, called him in your Charge *Charles Stewart* King of *England*. I think there is no Colour you ſhould have any Benefit of the Letter, or of the Equity of the Act. They had not all the Authority at that Time, they were a few of the People that did it, they had ſome Part of the Army with them; the Lords were not diſſolved then when they had adjourned ſome Time, they did ſit afterwards, ſo that all the Particulars you alledge are againſt you. The laſt Thing was this, you ſay, that it having pleaſed God to reſtore the King, Judgment ſhould be given for Example for Terrour to others, that this could not be drawn into Example again; why? Becauſe by the Bleſſing of God Peace was reſtored; no Probability that if your Life was ſpared, that it would be drawn again into Example, this is the weakeſt Thing you have urged; you muſt know the Reaſon: There are Two Things, there is the Puniſhment and Example; Puniſhment goes to the Priſoner, but Example to the Documents of all others; God knows what ſuch Things may be in After-Ages, if there ſhould be Impunity for them; it would rather make Men Impudent and Confident afterwards: If you have any more to ſay I will hear you, if not I muſt conclude to the Jury: You hear the Evidence is clear for Compaſſing and Imagining the Death of the King; you have heard what he has ſaid, and what he hath done; he has within, and examined Witneſſes againſt the King, that he was by at the drawing of the Charge where it was drawn; you hear he exhibited this Charge in the Name of the Commons Aſſembled in Parliament, and the good People of *England*; and what this Charge is; it is High-Treaſon, and other High-Miſdemeanors; you find that he does complain of Delays, does again and again ſpeak of this Charge, deſire it may be taken *pro Confeſſo*; in the cloſe of all, it was not ſo much he as Innocent Blood that demanded Juſtice; this was more than was dictated to him. You have heard the Witneſſes; he was perſwaded to forbear; acknowledged the King to be a Gracious and Wiſe King; the Oaths alledged againſt him, and you have heard his Excuſe; I have nothing more to ſay; I ſhall be very willing to hear you further; I have not abſolutely directed the Jury.

Cook. *I do humbly acknowledge your Patience in hearing me, and that your Lordſhips have truly and juſtly ſtated both Proofs and my Anſwer. If your Lordſhips are pleaſed to lay aſide theſe Acts, or Orders, or Authority, whereby I did at that Time truly conſcientiouſly act, and did think that it would bear me out, if you lay aſide that, and look upon it as ſo many Men got together without Authority, and as well thoſe that were Inſtrumental, though not Sentencers or Signers, and that Clauſe in the Act, I confeſs I humbly make bold to ſay I have not received Satisfaction in my Judgment, thoſe very Words of* not ſo much I as the Innocent Blood cries for Juſtice *were dictated to me; there was nothing at all left to me, becauſe his Majeſty did not plead; there was no Trial; that which I did was according to the beſt, though it may be according to the weakeſt, Part of my Judgment: I have no New Matter.*

Lord Chief Baron. You have ſaid no New Matter, unleſs it be worſe than before, for now you warrant that Authority.

Cook. *Do not miſtake me, (my Lord,) I mean ſo far as to excuſe me in the Point of High-Treaſon.*

Lord Chief Baron. We delivered our Opinions as to that formerly; we were of Opinion, that the acting by Colour of that pretended Authority was ſo far from any Extenuation, that it was an Aggravation of the Thing; the meeting by that Authority was Treaſon, and in them that acted under them, and approving of it, the making of that traiterous pretended Act, making the Proclamation, ſitting upon it, they were all ſo many Treaſons; that was the Reaſon why that was urged againſt you, aſſuming upon you the Power, that was, you approving of their Power by acting under them, ſo that there is nothing more to be ſaid.

Gentlemen of the Jury, You have heard the Indictment was for Compaſſing and Imagining the Death of the King; you have heard the ſeveral Overt-Acts repeated, and whether theſe are Guilty of Treaſon to deliver in a Charge againſt the King, ſuch a One as that was in theſe Words, as againſt a Traytor, Tyrant, Murderer, and Implacable Enemy to the Commonwealth; in theſe very Words to deſire Judgment againſt the Priſoner (then the King) at the Bar, angry at Delays, to deſire that the Charge might be taken *pro Confeſſo*, to have it expreſly, again and again to demand Judgment, if theſe be not Overt-acts of Compaſſing and Imagining the Death of the King, and that which hath been ſaid by the Witneſſes, it muſt be left to you: I think you need not go from the Bar. *Jury went together. Silence is Commanded.*

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. The Foreman.

Clerk. John Cook, Hold up thy Hand. Look upon the Priſoner at the Bar, how ſay you, is he Guilty of the Treaſon in Manner and Form as he ſtands Indicted? Or not Guilty?

Foreman. Guilty.

Clerk. Look to him Keeper.

Clerk. What Goods and Chattels?

Jury. None that we know of.

The Tryal of HUGH PETERS, *the ſame Thirteenth of* October, *and at the ſame Bar.*

Clerk of the Crown. Set *Hugh Peters* to the Bar, which was done accordingly.

Clerk. Hugh Peters, hold up thy Hand; thou ſtandeſt Indicted, *&c.* If you will challenge any of the Jury you muſt challenge them when they come to the Book, before they are Sworn.

Lord Chief Baron. Mr. *Peters*, you may challenge to the Number of 35 peremptorily, but beyond that you cannot, without good Cauſe ſhewn; and you may have Pen, Ink, and Paper.

Peters. *My Lord, I ſhall challenge none.*

Jury Sworn 12, Sir *Jer. Whitch. James Hally, Chriſt. Abdy, Nich. Rainton, Rich. Cheney, Jo. Smith, Rich. Abel, G. Terry, Char. Pickern, Jo. Nichol, Fran. Dorrington, Anthony Hall.*

Clerk. Hugh Peters, Hold up thy Hand. Look on the Priſoner you that are Sworn, *&c.*

Sir *Edward Turner* to the Jury. You have often heard repeated to you that the Subſtantial Part of the Charge is the Compaſſing and Imagining the Death of the King, and all the reſt will be but Evidence to prove that Imagination againſt the Priſoner at the Bar, whom we will prove to be a Principal Actor in this ſad Tragedy, and next to him whom God hath taken away, and reſerved to his own Judgment; and we ſhall endeavour to prove,

that he was a Chief Conſpirator with *Cromwel* at ſeveral Times, and in ſeveral Places; and that it was deſigned by them: We ſhall prove that he was the Principal Perſon to procure the Soldiery to cry out, Juſtice, Juſtice, or aſſiſt or deſire thoſe for the taking away the Life of the King. He did make uſe of his Profeſſion, wherein he ſhould have been the Miniſter of Peace, to make himſelf a Trumpeter of War, of Treaſon and Sedition, in the Kingdom: He preached many Sermons to the Soldiery, in direct Terms for taking away the King, comparing the King to *Barabbas:* He was Inſtrumental when the Proclamation for the High Court of Juſtice (as they called it) was proclaimed, directing where it ſhould be proclaimed, and in what Place. When the King was brought upon the Stage, that Mock-work, he was the Perſon that ſtirred up the Soldiery below to cry for Juſtice; we ſhall ſhew you as he preached at ſeveral Times upon ſeveral Occaſions, ſtill he was in the Pulpit to promote this Buſineſs; the next Day after he was brought to Trial he commends it; you ſhall hear all out of the Mouth of the Priſoner, therefore I ſay no more; call the Witneſſes.

Dr. *William Young* Sworn.

Council. Tell my Lords and Jury what the Priſoner at the Bar has declared to you concerning the Contrivance of bringing the King to Tryal.

Dr. *Young.* My Lords and Gentlemen of the Jury, it was near about (and that the Priſoner may remember) the Month of *July* 1648, ſince we came firſt acquainted, when he went over to *Ireland*; it was about the Siege of *Pembroke* Caſtle; but afterwards in the Year 1649 we renewed our Acquaintance; he went over into *Ireland* with that Uſurper, the late Protector, as he was called, after the Town of *Wexford* was taken; coming over he fell Sick of the Flux, and ſaid he received it by Infection, praying over Captain *Horton:* Coming into *Milford*, that Captain ſends a Summons to me to come on Board, that was to fetch this Priſoner at the Bar, who was Sick. I found him there grovelling upon the Deck, and Sick he was indeed; with much Difficulty we got him on Shore; within a very few Days (to the beſt of my Remembrance Five Days) I perfected his Cure: We became very Familiar; I obſerved in him that he had ſome Secret Thoughts that I could not well diſcover, neither well underſtand; whereupon I thought it might tend to my Security that I ſhould ſo much ſympathize with him, to get within him to know his Intentions. After ſome Weeks, (for he continued with me Ten Weeks, or near thereabouts, ſome few Days rather over than under,) we grew ſo Familiar, that at laſt I found he began to enlarge his Heart to me. Many Times I ſhould hear him rail moſt inſufferably againſt the Blood Royal, not only againſt our Martyred King, but againſt his Royal Off-ſpring; ſtill as we continued our Acquaintance, he became more and more open to me; ſo we would ſit up diſcourſing (till about Twelve or One of the Clock at Night very often) about theſe unhappy Wars late in *England.* At laſt, my Lord, I found him that he began to tell me how he came into *England*, and upon what Account he came out of *New-England.* I ſhall deſire that in regard his Diſcourſes were various, that I may deliver them orderly; they were delivered to me within the Compaſs of Ten Weeks, but the Days and Weeks I cannot remember. Firſt, he told me (diſcourſing of *New England* and the Clergy there, and much of the Clergy here in *England*, and of the Buſineſs here of Reformation,) he told me, that for the driving on of this Intereſt of this Reformation, he was imployed out of *New-England* for the ſtirring up of this War, and driving of it on; this I ſhall my Lord ſpeak to in the Firſt Place, and that upon the Oath I have taken: And, Secondly, he was pleaſed at another Time to acquaint me, and that by way of Complement, complaining then againſt the Parliament, ſaying, that ſome time after he was come into *England* he was ſent over into *Ireland* by the Parliament to receive further Inſtructions to drive on the Deſign, to extirpate Monarchy; ſaith he, I did diſpend a great deal of my own Money, yet never had that Satisfaction from them which they promiſed me, that was, they promiſed me 2 or 3000*l.* for my Journey, and yet they have given me no more but only a ſmall Pittance of Land out of my Lord of *Worceſter*'s Eſtate in *Worceſter-ſhire.* I have ſeen his Letters directed to his Kinſman here in *London*, as I take it his Name was *Parker*, adviſing him for the ſettling of this Land, and ſelling it. Thirdly, my Lord I have obſerved, that by way of Vilification of the Monarchical Government, I have found him jocundarily ſcoffing at it, and would ordinarily Quibble in this Manner, ſaying, this Common-wealth will never be at Peace till 150 be put down. I asked him what this 150 was, he told me Three L's, and afterwards interpreted the meaning to be the Lords, the Levites, and the Lawyers; with that ſaid I, we ſhall be like *Switzers, Tinkers* and *Traytors.* Now, my Lord, we are come to the laſt Particular, we diſcourſing thus frequently, and withal he was then a Colonel, and had a Commiſſion under that Uſurper *Oliver*, and brought over his Commiſſion for Raiſing of Soldiers to foment that War in *Ireland*; that it was ſo I appeal to the Dictates of his own Conſcience, and whether he did not preſs me very importunately to accept of a Commiſſion of Major, or a Captain; he did Iſſue forth Two Commiſſions under his own Hand, one of them to bring over from *Devonſhire* Two Foot Companies unto *Cork.* My Lord, becauſe we were Militarily affected, amongſt the Diſcourſes of our unhappy Wars, I know not how it came from him, it being near Eleven Years ſince, and I have had many Sufferings incumbent on me, ſo that I may fail in ſome particulars, but in general thus it was: We were diſcourſing concerning our Martyr'd King, as then we call'd him, and of his Impriſonment in *Holmeby*-Houſe, which I wondered at; thus we diſcours'd; he told me the Story how they had uſed him at *Holmeby*; and at laſt came up to this, when he was taken away from *Holmeby*-Houſe, the Parliament had then a Deſign to have ſecured *Oliver Cromwell*, and my ſelf being then in *London*; ſaith he, we having Intelligence of it, eſcaped out of *London*, and rode hard for it, and as we rode to *Ware* we made a Halt, and adviſed how we ſhould ſettle this Kingdom in Peace, and diſpoſe of the King; the Reſult was this, They ſhould bring him to Juſtice, Try him for his Life, and cut off his Head: Whether this was the Expreſſion of *Cromwell* I cannot tell; but to the utmoſt of my Remembrance, and I am miſtaken if it was not the Advice of Mr. *Peters* to *Cromwell*; and I believe it, becauſe his former Relations of his Inſtructions out of *Ireland* did tend to that effect.

Mr. *Sol. Gen.* I will ask you this Queſtion; we will not preſs you particularly upon your Memory, whether *Cromwell* or *Peters* ſaid the Words?

Do

Do you remember he confeſſed to you they were agreed upon that Matter?

Young. They did conſult and agree upon it.

Peters. *My Lord, I deſire to ſpeak a Word,* (his Voice being ſo low he was brought to the Second Bar,) *I am the Bolder to ſpeak to your Lordſhips at this Time a Word, and it is high Time to ſatisfie my Conſcience; if theſe Things were true there is enough ſaid to deſtroy me; I deſire leave to tell you what Offence I take at the Witneſs, thus my Lord. This Gentleman I do know* ———

Council. What ſay you to him?

Peters. *That which I have to ſay is this, that in his Story he hath told that which is not true; but I will not find fault with him, becauſe he was my Hoſt, I will not reflect and recriminate; I ſhall give your Lordſhips in Simplicity as much Satisfaction myſelf as any Witneſs; this I ſay to the Man that ſpeaks, and this is certain, I did ſpend ſome time at this Gentleman's Houſe, he is called there Dr.* Young; *and my Trouble at this Diſcourſe is this, I do not know my Lord, that I found a more violent Man for the Parliament than himſelf; ſo far he undertook to be a Spy on one Side; this I find to be ſo, he will not deny it; he was very fierce in that Way; I think Words of ſuch a Man ought to be little attended to. The Second is this, this Gentleman is not a competent Witneſs, and that upon a Twofold Ground. Firſt, Becauſe I know he is under a very great Temptation and Trouble in this very Thing, and it is upon this Account he was put out of his Living in the Countrey, and here he came to me to help him in again, and was very highly offended becauſe I did not do it. Secondly, it is not that I would invalidate his Witneſs, but give me Leave to tell you, it is his way to ſnap and catch at every Man, which is the Complaint of the People in his own Countrey. I know that ſame which is ſpoken is falſe; I ſpeak it in the Preſence of God, I profeſs I never had any near Converſe with O. C. about ſuch Things; I ſpeak this to the Jury, that they would have a care of the Witneſs; I was in Sickneſs then; thoſe that have known me do know likewiſe I have much Weakneſs in my Head when I am Sick, and to take Words that are ſpoken in a Sick Condition, he ought not to do it; for the Words themſelves I do here profeſs againſt them, for the Generality of them; and that he hath been freer in my Judgment in any Communication this Way than I have been; it is marvellous, here I profeſs the Things Untruths, I call God and Angels to witneſs they are not true. I will give you an Account of my whole Condition by and by, if I may be heard.*

Court. You ſhall be heard at large; that which you have been heard now is concerning the Competency or Incompetency of the Witneſs, the Incompetency againſt him is this, that when you came thither none more violent for the Parliament than himſelf, and that he was a great Spy, and you ſay it is uſual with him to take ſuch Courſes, theſe are but Words; if you have any Witneſſes we will hear them; the Man may be traduced and ſlandered, and ſo all Witneſſes may be taken away.

Court. Mr. *Peters*, if you take this Courſe God knows when this Buſineſs will end; if you have a Mind take Pen, Ink, and Paper, and take Notes of the Witneſſes, and make Exceptions to them one after another; but interrupting one, and ſo another, we ſhall never have done.

Young. I do recollect my ſelf of ſome other Conferences between us; as to my being Malicious, I know he never did me any Wrong, and therefore I cannot be Malicious; and as for my Reputation, having reſided Two Years in *London*, I can have Certificates both from my Country, and ſome of this City, to vindicate me in that particular: But, my Lord, that which I would inform your Lordſhip is this, he told me he took Duke *Hamilton* a Priſoner himſelf in his own Chamber, ſeized on his Goods, and took his *George* and Blue Ribbon off his Shoulder, and the *George* he ſhewed me.

Wybert Gunter Sworn.

Council. Mr. *Gunter*, what can you ſay concerning a Meeting and Conſultation at the *Star* in *Coleman-ſtreet*.

Gunter. My Lord, I was a Servant at the *Star* in *Coleman-ſtreet*, with one Mr. *Hildeſley*; that Houſe was a Houſe where *Oliver Cromwel* and ſeveral of that Party did uſe to meet in Conſultation; they had ſeveral Meetings; I do remember very well one among the reſt, in particular that Mr. *Peters* was there; he came in in the Afternoon about Four a Clock, and was there till Ten or Eleven at Night; I being but a Drawer could not hear much of the Diſcourſe; but the Subject was tending towards the King after he was a Priſoner, for they called him by the Name of *Charles Stewart*: I heard not much of the Diſcourſe; they were writing, but what I know not; but I gueſſed it to be ſomething drawn up againſt the King; I perceived that Mr. *Peters* was privy to it, and pleaſant in the Company.

Court. How Old were you at that Time?

Gunter. I am now Thirty Years the laſt *Bartholomew Day*, and this was in 1648.

Court. How long before the King was put to Death?

Gunter. A good while; it was ſuddenly, as I remember, Three Days before *Oliver Cromwell* went out of Town.

Peters. *I was never there but once with Mr.* Nathanael Fines.

Council. Was *Cromwel* there?

Gunter. Yes.

Council. Was Mr. *Peters* there any oftner than once?

Gunter. I know not, but once I am certain of it; this is the Gentleman, for then he wore a great Sword.

Peters. *I never wore a great Sword in my Life.*

Mr. *Starkey* Sworn.

Starkey. My Lords, in the Month of *December* before the King died, in the beginning of that Month, and ſo towards the 12th of *January* following, the Head-Quarters of the Army were at *Windſor*, and Mr. *Ireton*, that is Dead, (who was a General Officer of the Army, was Quartered in my Fathers Houſe there, and by reaſon of his long Reſidence there, being about Two Months, (his Wife was there too,) my Lords, this Gentleman Mr. *Peters*, he likewiſe Quartered in another Place in that Town, and *Cromwel* himſelf was Quartered at one Mr. *Baker*'s that lay low in the Town; ſo that in Truth my Father's Houſe being near the Caſtle, and there being in it a large Room, and in reſpect that Mr. *Ireton* was Quartered there, uſually the Council of War ſate there. My Lords, I was then in the Houſe conſtantly: Beſides this Council of War, which did commonly ſit there, I did obſerve that *Cromwel*, *Ireton*, and this Gentleman, Mr. *Peters*, and one Colonel *Rich*, and a Fifth Perſon, whoſe Name I have forgot, did uſually meet and conſult together, and would ſit up till Two or Three a Clock in the Morning very privately together; this was their uſual Courſe when their Council

Council of War ſate; Mr. *Ireton* came in to Supper, but went out again; there were Guards upon them: After this Time it happened ſo that I was often in Mr. *Ireton*'s Company, where Mr. *Peters* coming to him, was very often at Meals there, but eſpecially at Nights, by occaſion of that.

Mr. *Ireton* being Civil in Carriage, would uſually entertain Diſcourſes with Mr. *Peters*, likewiſe would favour me ſometimes with Diſcourſe; and in that Diſcourſe I did many Times take occaſion to aſſert the Laws in Point of the King; and diſcourſing about the King as being a Capital Inſtrument in the late Inconveniences, as they called it, in the Times of the War, Mr. *Ireton* would diſcourſe this ordinarily; I was bold to tell them that the Perſon of the King was *ſolutus legibus*; this Gentleman, the Priſoner at the Bar, told me it was an unequal Law. I did obſerve Mr. *Peters* did bend his Diſcourſe, not by Way of Argument only, but in Point of Reſolution of Judgment, fully againſt the Perſon and Government of the King. I remember ſome of his Expreſſions were theſe, That he was a *Tyrant*, that he was a *Fool*, that he was *not fit to be a King*, or bear that *Office*; I have heard him ſay, that for the Office it ſelf, (in thoſe very Words which ſhortly after came into Print,) that it was a *Dangerous*, *Chargeable*, and *Uſeleſs* Office. My Lords, the conſtant Diſcourſe of this Gentleman at that Time was ſuch as he did believe would never be called into Queſtion, ſo it was not a thing that a Man was neceſſitated to obſerve by an Accident, but it was their whole Diſcourſe. I will put you in mind of a particular Paſſage, When the News came to *Windſor* that the King was in Priſon at the *Iſle of Wight*, my Father, whoſe Houſe that was, was very much troubled at it; and being an Ancient Man, was not able to controul his Paſſions with Reaſon, told my Mother that they (meaning Mr. *Ireton*, *&c.* ſhould have no Entertainment there, and took the Key of the Cellar and put it in his Pocket; his Paſſions being leſſened, Mr. *Ireton*, his Wife, and another Officer being at Supper, and afterwards my Father ſaid Grace, and, as he uſually did, tho' they were there, he ſaid that Uſual and Honeſt Expreſſion, praying for the King in theſe Uſual Words, *God ſave the King, Prince, and Realm*; ſometimes they did laugh at it, but never did reflect upon him; but this Night he made this Expreſſion, *God ſave the King's moſt Excellent Majeſty, and preſerve him out of the Hands of all his Enemies*, Peters, who was then at the Table, turns about to him, and ſaid, Old Gentleman, your Idol will not ſtand long; I do conceive he meant it of the King. For a matter of Two Months of the conſtant reſidence and being of the Army there, I did obſerve that in the General Council there, and in this Private Cabal, (after the Buſineſs was broke out, and when the King was taken Priſoner; and carried to *Windſor*,) Mr. *Peters* was the conſtant Man; and when the Buſineſs broke out, I looked upon it in reaſon that *Cromwel*, *Ireton*, and this Gentleman at the Bar, and *Rich*, and that other Gentleman, whoſe Name I have forgot, that they were the Perſons that did the Buſineſs. My Lords, Mr. *Peters* he continued at *Windſor*; I remember very well that after the Body of the Army, the General, and the Officers of the Army, were gone to *London*, he continued in *Windſor*: I remember a Paſſage of one *Bacon*, who was a Sectary; Mr. *Peters* being in Diſcourſe of the King, Mr. *Bacon* took great Diſtaſte at Mr. *Peters* for ſome Affront put upon the King; Mr. *Peters* falls upon him, and rails at him, and was ready to beat him; we underſtood it ſo, becauſe he did tell him of his affronting the King.

Council. Mr. *Peters*, if you have any thing to ask this Witneſs you may.

Peters. *I have many Things to ask him. Did I ever lye there?*

Starkey. No.

Peters. *Did you ſee me there at Three a Clock in the Morning?*

Starkey. I have ſeen you go up at Ten a Clock at Night to Mr. *Ireton*'s Chamber, and ſometimes I underſtood you did not go away till Four a Clock in the Morning; I went to Bed it's true, but I underſtood it ſo.

Thomas Walkeley Sworn.

Council. Give your Teſtimony what Conſultation you have had with the Priſoner at the Bar.

Walkeley. I came out of *Eſſex* in at *Aldgate*; juſt as I came in a Proclamation was read for Tryal of his late Majeſty; I went down the next Day to the *Painted Chamber* at *Weſtminſter*, where I ſaw *Oliver Cromwel*, *John Goodwin*, and *Peters*, and others; *John Goodwin* ſate in the middle of the Table, and he made a long Speech or Prayer, I know not whether, but Mr. *Peters* ſtood there: After *John Goodwin* had done his Prayer, it was deſired that Strangers might avoid the Room; then came up *Cook*, and *Doriſlaus*, and *Humphryes*, and *Ask*, and *Dendy*, and ſeveral others, and ſtood by *Bradſhaw* at the upper End of the Table; but *Cromwel* ſtood up and told them it was not neceſſary that the People ſhould go out; but that was over-ruled; and ſo I went out, and ſtaid their riſing, and ſaw this Genteman Mr. *Peters* come out with them. After that, when the King was brought to Town a Priſoner, the Lord *Carew*, a very Honourable Perſon, meeting with me, ſaith he, *Walkeley*; if you will ever ſee your Old Maſter, go now, or elſe it may be you will never ſee him. Where is he, my Lord, ſaid I? ſaith he, he is coming on this ſide *Brainford*. I went to the farther end of St. *James*'s Corner, and there I met ſome of the Army coming, and then I ſaw his Majeſty in his Coach with Six Horſes, and *Peters*, like Biſhop *Almoner*, riding before the King triumphing; then after that, in St. *James*'s *Park*, I ſaw *Peters* marſhalling the Soldiers, and I was forced to go about. My Lord, this is all I can ſay concerning that; I remember one thing further of him; I heard him in *Weſtminſter-Hall* ſay, within a Year or Two after the Army was raiſed, *If we can keep up our Army but Seven Years longer we need not care for the King and all his Poſterity.*

Mr. *Proctor* Sworn.

Proct. I having occaſion to go from *London* to *Windſor* the Day that the King was brought from thence a Priſoner, a little on this ſide *Brainford* I ſaw great Troops of Horſe; I did conceive what the Cauſe was, having heard the *King* was to be brought up to his Trial; after I had paſſed ſome number of Horſes, at laſt I eſpied the Priſoner at the Bar immediately before the *King's* Coach, ſingly riding before the Coach-horſes, and the *King* ſitting alone in the Coach. My Lord, I did put off my Hat, and he was Graciouſly pleaſed to put off his Hat; the Troopers ſeeing this, they threw me into the Ditch, Horſe and all, where I ſtaid till they Paſſed by, and was glad I eſcaped ſo.

Hardwick Sworn.

Council. When the Proclamation was read in *Weſtminſter-Hall* for Trial of the *King*, did you ſee Mr. *Peters* there?

Hardwick. I was in the Hall when that ugly Proclamation was proclaimed, where I ſaw *Dendy*, *King*, and that Gentleman, the Priſoner at the Bar, in the Hall; after the Proclamation was proclaimed, the

Priſoner

Priſoner at the Bar came out into the *Palace-Yard*, and told them, *Gentlemen*, ſaith he, (a great many Officers and Soldiers being there,) *all this is worth nothing unleſs you proclaim it in* Cheapſide, *and at the* Old Exchange.

Council. Explain yourſelf, what Proclamation do you mean?

Hardwick. The Proclamation for the High-Court of Juſtice.

Holland Simpſon Sworn.

Council. What do you know concerning the Priſoner at the Bar?

Simpſon. I do know Mr. *Peters* very well, I have known him theſe 11 or 12 Years: When the High-Court of Juſtice was ſitting, both in the Court and *Painted Chamber* I ſaw this Gentleman in Conſultation there, and at ſeveral other Places, at Sir *Will. Brereton*'s, and otherwhere.

Council. Did you ſee him at the Trial?

Simpſon. I ſaw him, but not as a Judge. There was one Day in the Hall Colonel *Stubbards*, who was Adjutant-General, (he was a very buſie Man,) and Colonel *Axtel*; Mr. *Peters* going down the Stairs, comes to him, and bids *Stubbards* to command the Soldiers to cry out *Juſtice, Juſtice, againſt the Traytor at the Bar.*

Council. Who did he mean?

Simpſon. The King was at the Bar at the ſame Time; whereupon, my Lord, the Soldiers did cry out upon the ſame; and as the King was taken away to Sir *Robert Cotton*'s, ſome of them ſpit in the King's Face, but he took his Handkerchief, wiped it off, and ſmiled.

Peters. *I do not know this Gentlemen, did he ever ſee me?*

Simpſon. Yes, divers Times in the *Painted-Chamber*, at Sir *William Brereton*'s, at the Deanery, in Conſultation with *Bradſhaw*, and you were admitted, and no Man elſe, as I know, unleſs Sir *Will. Brereton*, who came along with you.

Thomas Richardſon Sworn.

Richardſon. My Lords, the Firſt Day that this Court of Juſtice (as they called it) did adjourn, I went up into the Court, and I ſaw the Priſoner at the Bar with ſome more ſtanding in the Court, and I came and ſtood cloſe by him, and ſome with him, whom I did not know, I heard him commend *Bradſhaw*, the Carriage of him in the Trial of the King, and another *Cook*'s Carriage; to be ſhort, Mr. *Peters* holding up his Hands, ſaid, *This is a moſt Glorious Beginning of the Work.*

Sir *Jeremy Whitchcot* Sworn.

Whitch. My Lords, I have by Accident, not by Choice, been ſeveral Times in Mr. *Peters* Company; truly I have heard him ſpeak very ſcurrilouſly of the King; amongſt the reſt he was making ſome kind of Narration of *Cromwel* making an Eſcape, and that he was intended to be ſurpriz'd; *That if he had not preſently gone away he had been clapt up in the* Tower, *and declared a Traytor; he ſaid there was a Meeting of the Officers of the Army, where he us'd this Expreſſion, And there we did reſolve to ſet aſide the King.* My Lord, after this (it was at another Time) he was ſpeaking of that which they called the High Court of Juſtice, and I do very well remember this was his Expreſſion of it, I cannot but look upon this Court with a great *Reverence*, for it doth reſemble in ſome Meaſure the Trial that ſhall be at the End of the World by *the Saints.* This is all that I perfectly remember; it was a great while ago; I cannot ſpeak more punctually; I have ſeldom heard him ſpeak of the King, but of the Tyrant: I remember one Time he was ſaying he would have Preached before the King, but, ſaid he, *the Poor Wretch would not hear me.*

Richard Nunnelly Sworn.

Coun. Was *Peters* upon the Scaffold at the Time of Execution or before?

Nun. On that unhappy Day, 30th of *Jan.* 1648, this *Hugh Peters* came an Hour before the King came to *Whitehall*; I came with a Warrant of 40 or 50000 *l.* to *Oliver Cromwel*, being Door-keeper to the Committee of the Army; *Nunnelly*, ſays *Oliver Cromwel*, will you go to *Whitehall?* Surely you will ſee the Beheading of the King, and he let me into *Whitehall*; coming into the Boarded Gallery I met *Hugh Peters*, and he was in the Gallery; and then I got with *Hugh Peters* into the *Banqueting-Houſe*; being there, *Hugh Peters* met one *Tench* of *Houndſditch*, that was a Joiner; meeting him, he ſpeaks to him, and whiſpers in his Ear, and told him ſomewhat, I do not know what it was; but *Tench* preſently went and knocked Four Staples upon the Scaffold; I meeting *Tench* again, what art thou doing, ſaid I? What will you turn Hangman? Says he, this Day will be a Happy Day; ſaid I, pray God ſend it be not a Bloody Day; upon that *Hugh Peters* went upon the Scaffold juſt an Hour before the King came, and then he went off again, I watched at the Window when the King's Head was cut off, and afterwards I ſaw the Vizards going into a Chamber there; about an Hour afterwards (I ſtaying there at the Door) there comes *Hugh Peters* in his Black Cloak and Broad Hat out of that Chamber (as I take it) with the Hangman; I am ſure I did ſee him go along with the Hangman to take Water; this is all I can remember, it being many Years ſince.

Peters. *I humbly beg I may be heard in this Caſe; I have here a Witneſs, and I deſire he may be examined; it is noiſed I was upon the Scaffold, I here call God to witneſs I was not out of my Chamber that Day; I was Sick that Day; I ſpeak in the Preſence of the Lord.*

Court. If your Witneſs will ſtay he ſhall be heard; there are more Witneſſes to the ſame Thing, and ſo he may ſpeak to altogether.

Dr. *Mortimer* Sworn.

Mortimer. Me Lar, me ha ſerd de King, *&c.*

Court. We cannot underſtand a Word.

Coun. He is a *Frenchman*, my Lord.

Court. Pray let there be an Interpreter.

One Mr. *Young* was Sworn to interpret truly his Evidence.

But it being afterwards found difficult and troubleſome, the Council waved his Evidence, and prayed another Witneſs might be called.

Dr. *Mortimer.* Me Lar, me can peak Englis—

Coun. No, no, pray ſit down, we will examine other Witneſſes, call *Stephen Clough.*

Stephen Clough Sworn.

Coun. What do you know of *Hugh Peters.*

Clough. My Lords and Gentlemen of the Jury, in 1648 I heard of a meeting of the Council of Officers at *Weſtminſter*, I think in the *Painted-Chamber*, and I being willing (my Lord) to hear what their Conſultations were, I went thither, and was there as one of them, (but I was not one,) amongſt the reſt *Hugh Peters* was one; when the Room was pretty full the Door was ſhut, Mr. *Peters* deſired to call for a Bleſſing upon their Buſineſs, in his Prayer he uttered theſe Words, " O Lord, (ſaid he) " what a Mercy is it to ſee this great City fall " down before us! And what a Stir is there to bring

" this

" this Great Man to Trial, without whoſe Blood " he will turn us all into Blood if he Reign again!

Peters. *What Day was this?*

Clough. It was about Three Weeks or a Month before the King died.

Peters. *Where was this?*

Clough. In the *Painted Chamber.*

Peters. *You have been very Bold.*

Clough. I ſpeak upon my Oath.

Peters. *How long was this ago?*

Clough. In 1648.

Peters. *How many Years ſince is that?*

Clough. You know your ſelf ſure how many Years ſince 1648.

Peters. *How long before the King Died do you ſay?*

Clough. About Three Weeks or a Month before the King was Murdered.

Council. We ſhall call a Witneſs to prove, that in *December* 1648, there was a Solemn Faſt appointed to ſeek God in what they were about, and Mr. *Peters* was appointed to Preach before them.

Mr. *Beaver* Sworn.

Mr. *Beaver*'s Evidence. My Lord, and you Gentlemen of the Jury, upon a Day that was appointed for a Feaſt for thoſe that ſate then as a Parliament, I went to *Weſtminſter* to find out ſome Company to Dine with me, and having walked about an Hour in *Weſtminſter-Hall*, and finding none of my Friends to Dine with me, I went to that Place called *Heaven*, and Dined there; after I had Dined I paſſed through St. *Margaret*'s Church-yard to go Home again, (I lay in the *Strand*,) I perceived all the Church yard full of Muskets and Pikes upon the Ground, and asked ſome Soldiers that were there what was the Buſineſs? They told me they were Guarding the Parliament that were keeping a Faſt at St. *Margaret*'s; who Preaches ſaid I? They told me Mr. *Peters* is juſt now gone up into the Pulpit; ſaid I, I muſt needs have the Curioſity to hear that Man, having heard many Stories of the Manner of his Preaching; (God knows I did not do it out of any Manner of Devotion;) I crouded near the Pulpit, and came near the Speaker's Pew, and I ſaw a great many Members there, whom I knew well: I could not gueſs what his Text might be, but hearing him talk much of *Barabbas* and our Saviour, and inſiſting altogether upon that, I gueſſed his Text was that Paſſage wherein the *Jews* did deſire the releaſe of *Barabbas* and crucifying of Chriſt; and ſo it proved; the Firſt Thing I heard him ſay was, *It was a very ſad Thing that this ſhould be a Queſtion amongſt us, as among the Old* Jews, *whether our Saviour Jeſus Chriſt muſt be crucifyed, or that* Barabbas *ſhould be releaſed, the Oppreſſor of the People: O Jeſus,* ſaith he, *where are we, that that ſhould be a Queſtion amongſt us?* Says he, *And becauſe that you ſhould think, my Lords and Gentlemen, that it is a Queſtion, I tell you it is a Queſtion; I have been in the City, which may very well be compared to* Hieruſalem *in this Conjuncture of Time, and I profeſs thoſe fooliſh Citizens for a little Trading and Profit they will have Chriſt* (pointing to the *Redcoats* on the Pulpit-ſtairs) *crucifyed, and that great* Barabbas *at* Windſor *releaſed,* ſays he; *but I do not much heed what the Rabble ſays: I hope,* ſays he, *that my Brethren of the Clergy will be wiſer, the Lips of the Prieſts do uſe to preſerve Knowledge; I have been with them too in the Aſſembly, and having ſeen and heard what they ſaid, I perceive they are for crucifying of Chriſt, and releaſing of* Barabbas; *O Jeſus, what ſhall we do now?* With ſuch like ſtrange Expreſſions, and ſhrugging of his Shoulders, in the Pulpit.

Council. How long was this before the King was Murdered?

—It was a few Days before the Houſe of Commons made that thing called An Act for his Trial.

Council. What did he ſay to the Members?

—I am coming to it; ſays he, my Lords and you Noble Gentlemen of the Houſe of Commons, you are the Sanhedrim, and the great Council of the Nation, therefore you muſt be ſure to do Juſtice, and it is from you we expect it; you muſt not only be Inheritors of your Anceſtors, but you muſt do as they did; they have oppoſed Tyrannical King's, they have deſtroyed them; it is you chiefly that we look for Juſtice from. Do not prefer the great *Barabbas*, *Murderer*, *Tyrant* and *Traytor*, before theſe poor Hearts, (pointing to the *Redcoats*,) and the Army, who are our Saviours: And thus for Two or Three Hours Time that he ſpent, he nothing but rak'd up all the Reaſons, Arguments and Examples, he could to perſwade them to bring the King to condign, ſpeedy and capital, Puniſhment.

Peters. *I do not know you, are you ſure you ſaw me at that Time? Do you know me?*

——Yes, Sir.

Peters. *I did not Preach there at that Time.*

Council. Pray my Lord will you call Mr. *Jeſſop*, who hath the Records of the Parliament, and can produce the Order, whereby you were appointed to carry on the Work of that Faſt; there was the Order for his Preaching, and Order for Thanks for his Work.

Mr. *Jeſſop* produced the Journal, wherein was the Order following, which was read.

Clerk. *reads*, Die Jovis 7. September 1648. *Reſolved that there be a Day of Publick Humiliation for this Houſe to ſeek God in theſe Times of Difficulty, and that to Morrow be the Day, and kept here in this Houſe. Reſolved that Mr.* Peters, *Mr.* Marſhal, *and Mr.* Caryll, *be deſired to perform the Duty on the Day of Humiliation with the Houſe to Morrow.*

Council. That is not it we intend, there was one after that in *December* 1648.

Clerk. *reads*, 20 December 1648. *Ordered that Mr.* Peters *be deſired to Preach on Friday next, the Day of Publick Humiliation, at* Margaret's Weſtminſter, *in the Place of*——

Council. Call Mr. *Chace.* After this the Work went on, and the High-Court of Juſtice ſate; and the Firſt Day they ſate was *Saturday January* 20. in *Weſtminſter-Hall*, the 21ſt being the *Sunday* following; I think this Gentleman was at *White-Hall*; he will tell you what he preached.

Mr. *Chaſe* Sworn.

Chaſe. My Lord, I heard the Priſoner at the Bar preaching before *Oliver Cromwel* and *Bradſhaw*, who was called Lord Preſident of the High-Court of Juſtice, and he took his Text out of the *Pſalms* in theſe Words, *Bind your Kings with Chains, and your Nobles with Fetters of Iron*; that was part of the Text: But ſays he in his Sermon, Beloved, it is the laſt Pſalm but one, and the next Pſalm hath Six Verſes, and Twelve Hallelujahs, Praiſe ye the Lord, praiſe God in his Sanctuary, and ſo on; for what? Says he, Look into my Text, there is the Reaſon of it, That Kings were bound in Chains, *&c.* He went on with a Story of a Mayor and a Biſhop and his Man; the Biſhop's Man, ſaith he, being Drunk, the Mayor laid him by the Heels; the Biſhop ſends to the Mayor to know by what Authority he Impriſoned his Servant; the Mayor's Anſwer was, there is an Act of Parliament for it, and neither the Biſhop nor his Man are excepted out of it;

and

and applied it thus, Here is, ſaith he, a great Diſcourſe and Talk in the World, what? Will ye Cut off the King's Head, the Head of a Proteſtant Prince and King? Turn to your Bibles and you ſhall find it there, *Whoſoever ſheds Man's Blood, by Man ſhall his Blood be ſhed*; ſays he, I will even anſwer them as the Mayor did the Biſhop, here is an Act of God, *Whoſoever ſheds Man's Blood, by Man ſhall his Blood be ſhed*; and I ſee neither King *Charles*, nor Prince *Charles*, nor Prince *Rupert*, nor Prince *Maurice*, nor any of that *Rabble*, excepted out of it. And further he ſaid, This is the Day that I and many Saints of God beſides, have been praying for theſe many Years.

Peters. *Ask him whether he took Notes.*

Chaſe. No Sir, but it being ſo Memorable a Sermon I took ſpecial Notice of it; I came to my Brothers Houſe in *Shooe-Lane*, and told him, ſaid I, Brother, I have been at *White-Hall*, and have heard the moſt Execrable Buſineſs that ever was heard in the World by a Miniſter of the Goſpel, and I told him the Words: I obſerved that *Oliver Cromwel* did Laugh at that Time when you were Preaching.

Tho. Tongue Sworn.

Council. What do you know of the Priſoner's Preaching.

Tongue. Upon *January* 21. 1648, I was at *Whitehall*, where this Gentleman preached, and he preached upon this Text, Pſalm 149. *v.* 8. *To bind their Kings in Chains, and their Nobles in Links of Iron*; in which Text this *Peters* did much applaud the Soldiers there; he ſaid he hoped to ſee ſuch another Day following as the Day before, and that Bleſſed be God (ſays this Parſon *Peters*) the Houſe, the Lower Houſe, is purged, and the Houſe of Lords themſelves they will down ſuddenly; this is all that I well remember at that Time. Upon the 28th of *January*, 1648, next Day after Sentence of the King, I heard *Peters* Preach upon this Text in St. *James*'s Chapel, *Pſalm* 149. 6, 7, 8, 9, Verſes. *Let the high Praiſes of God be in their Mouth, and a Two-edged Sword in their Hands, to execute Vengeance upon the Heathen, and Puniſhment upon the People, to bind their Kings with Chains, and their Nobles with Fetters of Iron, to execute upon them the Judgment written, this Honour have all his Saints*, praiſe ye *the Lord:* And there he did ſo Saint the Redcoats, and ſo Reprobate the Poor King's Friends. And in the Middle of his Sermon he took Occaſion to produce a Text, *Pſal.* 14. 18, 19, 20. *All the Kings of the Nations, even all of them, lye in Glory, every one in his own Houſe. But thou art caſt out of thy Grave like an abominable Branch, and as the Raiment of thoſe that are ſlain, thruſt through with a Sword, that go down to the Stones of the Pit, as a Carcaſs trodden under Feet; thou ſhalt not be joined with them in Burial; becauſe thou haſt deſtroyed thy Land, and ſlain thy People, the Seed of Evil-doers ſhall never be renowned:* Says he, this I did intend to inſiſt and preach upon before the poor *Wretch*, and the *poor Wretch* would not hear me.

Council. Who did he mean?

Tongue. His Majeſty, who was the Day before Condemned; ſaith he, look in your leſſer Bibles and you ſhall find the Title is, *The Tyrant's Fall.*

Council. That that was ſpoken of the King of *Babylon*, the Ignominy that was caſt upon him, he applies it to the King of *England.*

Peters. *Ask him where it was?*

Tongue. It was in St. *James*'s Chapel, *Sunday* the 28th of *January* 1648, in the Forenoon.

Reynold Bowdler Sworn.

Bowdler. That which I have now to ſay is this, I did hear him a few Days before the King was Murthered, Preach in St. *Sepulchre*'s Church, there he compares the King that was then to Die, to *Barabbas* a Murderer, and in this Manner; ſaith he, there is a great Company amongſt us like the *Jews*, they cry out, let *Chriſt* be crucified, and let *Barabbas* be releaſed, ſtill comparing the King to *Barabbas* the Murtherer; theſe were his Words, with many more to the ſame Purpoſe.

William Rider Sworn.

Council. Speak what you know concerning the Priſoner.

Rider. I was at the ſame time at Church in St. *Sepulchres.*

Council. How long was that before the King died?

Rider. It was very near the King's Death.

Council. Was it after the High-Court of Juſtice ſate, as they called it?

Rider. About that Time it was. My Lord, as ſoon as ever he had read the Words of his Text, which was, *He ſhall call his Name Emanuel*, he preſently ſhook Hands with his Text, and fell (as he was wont) to News, and there he ſaid, the great Inquiry now is to know what ſhould become of the King; let that alone, ſaith he; and preſently he falls to it again, and was pleaſed to ſtile the *King Barabbas*; ſaith he, there is a great many of the People had rather *Chriſt* ſhould be crucified than *Barabbas*; and here he was applauding the Soldiers; and ſaid that *Emanuel* was written upon the Bridles of their Horſes; and he was ſpeaking of the *Kings* Soldiers, ſaith he, I have known Eighty Thouſand of them, and not one of them a Gracious Perſon.

Council. Now we expect the Anſwer of the Priſoner at the Bar, the Indictment hath been fully proved.

Peters. *I deſire that Witneſs may be admitted which I ſpoke of, his Name is* Cornelius Glover.

Council. We have omitted One Evidence, we deſire Maſter *Walker* may be called.

Mr. *Walker* Sworn.

Walker. On *Sunday* after the *King* was firſt brought to his Trial, out of Curioſity I went to hear Mr. *Peters* at *Whitehall*; after he had made a long Prayer, ſaith he, I have prayed and preached theſe Twenty Years, and now I may ſay with Old *Simeon*, *Lord, now letteſt thou thy Servant depart in Peace, for mine Eyes have ſeen thy Salvation.* Afterwards he ſpeaks of the Text, of *binding their Kings in Chains*, &c. then much reviled the *King:* But ſoft there, ſaith he, I muſt not talk ſo here, I am in the King's Chapel; there is a very Remarkable Paſſage in *Amos*, *Amos* went to Preach, and *Amaziah* would not let him, but *Amos* would Preach; the *Poor Wretch* would not hear me, but yet I will Preach. Afterwards he ſpeaks of the *Mayor* of *Exeter* that committed the Biſhop's Servant for being Drunk; ſaith the Mayor, here is an Act of Parliament for it, and I do not ſee that the Biſhop nor his Man are either of them excepted out of the Act; and, ſaith he, in Scripture it is ſaid, *Whoſoever ſheddeth Man's Blood by Man ſhall his Blood be ſhed*; and I do not find that either King *Charles*, Prince *Charles*, Prince *Rupert*, Prince *Maurice*, or any of that Rabble are excepted.

Council. Now Mr. *Peters* you may call your Witneſs.

Cornelius Glover not Sworn.

Lord Chief Baron. Where do you dwell?

Glover. In *Paul*'s Church-yard.

Lord Chief Baron. What is your Quality of Life?

Peters. *A Servant of the King's.*

Lord Chief Baron. I do not ask you, Mr. *Peters.*

Glover. I belong to the *Poſt-houſe.*

Peters. *Pray hear him ſpeak.*

Lord Chief Baron. What would you have him asked?

Peters. *Whether I was out of my Chamber that Day the King ſuffered.*

Lord Chief Baron. What ſay you to that?

Glover. I was come to Mr. *Peters* a little before that Time, to live with him as his Servant; it fell out that Day he was ill in his Chamber all the Morning; the Soldiers in St. *James*'s Houſe were all gone away; I had a Deſire to go ſee the Meeting, where they were at *Whitehall*; ſaith he, thou ſeemeſt to have a great Deſire to go and look about thee, it is very ſad, but if you will go you may. I did go over the *Park.*

Council. What Time?

Glover. About Noon.

Council. What Hour?

Glover. I do not know; I did not ſtay there; the Soldiers and the People fill'd the Place, and I went back again to the Chamber; I came back again within a matter of an Hours Time.

Council. Was the King dead before you came back again?

Glover. They ſaid he was not: When I went Home he asked me what was doing? I told him there was a great Croud, I could not come near; I ſtaid there an Hour, and then went out again, and ſtill there was a Croud; and I came back again, and Mr. *Peters* was in his Chamber then.

Council. Was he in Bed, or up?

Glover. I do not remember.

Council. How Old were you then?

Glover. I am not above 32 or 33.

Council. Was Mr. *Peters* Sick?

Glover. Yes, he was Melancholy Sick, as he uſed to be.

Lord Chief Baron. How long have you been at the *Poſt-houſe.*

Glover. About Five Years.

Lord Chief Baron. Mr. *Peters*, have you any more to ask him?

Peters. *I brought him to teſtifie that I was not out of my Chamber that Day, and that I was Sick.*

Lord Chief Baron. Did you deſire to go, or did he ſend you?

Glover. I did deſire to go, being newly come to *London.*

Lord Chief Baron. This Gentleman, though not upon Oath, is examined, and it is only to One Particular, nothing at all to the Main Proofs.

Peters. *I bring him only to vindicate myſelf from that Aſpertion of my being upon the Scaffold.*

Lord Chief Baron. They do not lay the Weight of their Evidence upon that: The King's Council have done with their Evidence, if you have any Thing to ſay you have your Liberty.

Peters. *May it pleaſe your Lordſhips, I will give you an Account of the Buſineſs: I lived Fourteen Years out of* England, *when I came over I found the Wars begun; I began no War, my* Lord, *nor have been the Trumpeter; when I came out of the* Weſt-Indies, *I fled from the War into* Ireland, *to the* Weſtern *Part there; and it was after the Rebellion, when ſome of the* Iriſh *had been ſtirring there, I went and ſpent my Time there. I was neither at* Edge-hill, *nor* Naſeby; *but, my* Lord, *after I came over there was War that the People were engaged in; I was not here in the Beginning of it, but was a Stranger to the Carriage of it. When I came into the Nation I looked after Three Things: One was, that there might be Sound Religion; the Second was, that Learning and Laws might be maintained; the Third, that the Poor might be cared for; and I muſt confeſs I have ſpent moſt of my Time in theſe Things, to this End and Purpoſe: There was a Noiſe in all Parts of ſome Miſcarriages in Matters of Religion, after it was ſettled I lived in* Ireland; *I muſt Profeſs for my own Part ſolemnly that my Carriage hath been upon theſe Heads. For Religion, I have, through God's Mercies, ſpoke the Truths of the Proteſtant Church, upon this Account I did ſtay to ſee what God might do; I was ſent over to his Majeſty that we might have a little Help in Point of Exciſe and Cuſtoms, and Encouragement in Learning. My Lord, this is true, that I being here in the Nation, and being ſent over upon the Occaſions of the Country, and not upon any Deſign; but this I ſay, (I cannot deny it,) that after I came over, and had ſeen the State of* England, *in ſome Meaſure I did ſtir, but by ſtrong Importunities, the Miniſters of* London *deeper than I: I am very ſorry to hear of my Carriage towards the King; it is my great Trouble; I beg Pardon for my own Folly and Weakneſs; I thought God had a great Controverſy with the Nation, and the Lord was diſpleaſed on all Hands; that which ſome People took to I did take unto; I went into the Army; I ſaw at the Beginning of it that Corruptions grew among them; I ſuppoſe none can ſay I have gone aſide from any Orthodox Truth of the Lord: And now to take off the Scandal upon me, and to the Buſineſs, let me beg of your Lordſhips to conſider whatever Prejudices or Revenge may take up Mens Hearts, there is a God that knows all; God hath a Regard to the People of* England; *I look upon this Nation as the Cabinet of the World. That that doth concern the Buſineſs is this, my Lord, that after this Time hither I came, and did bear Witneſs to all the World, that there was amongſt us ſomething that was for better, and ſomething worſe, for the Nation; I took Advice of ſome great Perſons concerning the Weightineſs of it, I had neither Malice nor Miſchief in my heart againſt the King; upon this I did engage ſo far, being Invited; I went into the Wars, and there I found very Strange and ſeveral Kinds of Providences, as this Day hath been ſeen; I do not deny but that I was Active, but not to ſtir in a way that was not Honourable. I challenge a great Part of the Nation to manifeſt my Carriage among them; I ſhall make it good divers ways; I had ſo much reſpect to his Majeſty, particularly at* Windſor, *that I propounded to his Majeſty my Thoughts Three ways to preſerve himſelf from Danger, which were good as he was pleaſed to think, though they did not ſucceed, and the Work died; as for Malice I had none in me. It is true, there was a difference amongſt us, an Army, and an Army; I never had a Groat or Peny from* O. Cromwel *ſince I knew this Place; I profeſs I have had no Ends for Honour or Gain ſince I ſet Foot upon this Shoar; I challenge any Man that belonged to that Party whether they had not the ſame Reſpect from me as my own Party; I have not perſecuted any with Malice; I will only take off Malice.*

Lord Chief Baron. Your Buſineſs is Matter of Fact.

Peters. *I am unskilful in Law, this that I offer is to ſhew that I had no Malice in me; I was ſo far from Malice, that I have a Certificate, if worth the reading, from one of the Eminenteſt Perſons in the Nation, to ſhew I had no Malice: It is concerning*

cerning the Marquiſs *of* Worceſter *under his Ladies Hand, beginning with theſe Words*, I do here teſtifie that in all the ſufferings of my Husband Mr. *Peters* was my great Friend, &c. *I have here a Seal, (and then produced it) that the Earl of* Norwich *gave me to keep for his Sake for ſaving his Life, which I will keep as long as I live.*

Lord Chief Baron. I am not willing at all to interrupt you, or hinder you; that which you ſpeak of doing good Services is not at all to the Point; we do not Queſtion you for what Good you have done, but for the Evil you have done; I hope there is no Malice in your Heart, nor upon the Court nor Jury, we and they are upon our Oaths; and you hear the Matter alledged againſt you; pray come to the Matter.

Peters. *My Lord, I cannot remember them.*

Lord Chief Baron. Then I will remember you, you are charged by this Indictment for Compaſſing and Imagining the Death of the *King*, and there is ſet forth ſundry Particulars to prove the Overt-act, that you, with other Perſons named in that Indictment, did conſult and meet together how to bring about the *King's* Death. Then you are charged with ſeveral Acts of Contriving and Endeavouring the *King's* Death. Overt-acts that tend to the Compaſſing and Imagining the *King's* Death, or any one of theſe, to encourage the bringing on the *King* to his Death, the conſulting or meeting together about it, though you did not fit or ſentence; yet if you did any Thing tending to that Incouragement, or otherwiſe Abet it, Comfort, or any wiſe Aid thoſe Trayterous Perſons that did it, in the doing of it you are by Law Guilty of the whole Fact: The propoſing and determining the King ſhall die, though you were not he that actually put him to Death, yet notwithſtanding if you did the other, you are Guilty of all; if you ſhall ſpeak any Seditious Speeches, be they in the Pulpit, or out of the Pulpit, if you ſhall utter any Thing that tends to Sedition, theſe are open Acts, which prove the Imagination of the Heart, though Imagination of the Heart be Treaſon, yet it cannot be proved but by open Acts, yet the Imagination it ſelf is Treaſon. Firſt you did conſpire, all the Witneſſes go along to prove this. Dr. *Young* ſaith, you came over from *Ireland* to his Houſe, and after Five Days that you were recovered of the Flux, you ſtaid there Ten Weeks; you ſaid yourſelf there was enough, if it were true, to condemn you or any Man: I ſhall repeat it to you; you told him a Narrative, that you came from *New-England*, from thence to *Ireland*, and then you came to *Holland*, with an Intent to ſee how you might bring on the Kingdom to be a Commonwealth: Next he ſaith, you ſpake very often againſt the King by way of Diſgrace, againſt him and his Family, againſt the King and his off-ſpring, this you ſaid very often: Then you ſpake in Vilification of Monarchical Government, that this Commonwealth would never be at Peace till 150, or Three L's, Lords, Levites, and Lawyers were taken away, at which he replied, then they muſt be all Switzers, Tinkers or Traytors; he ſwears you were a Colonel, and had a Commiſſion; that you would have had him accept of a Commiſſion; and that you had Two Companies come from the Weſt; you told him the Parliament had an Intent to ſecure *Cromwel* and yourſelf, but that you rid hard for it; and then you confeſſed you agreed then upon his Death, to bring him to Trial, and to cut off his Head; you did agree together, and he believes it was your Advice to *Cromwel*; your Anſwer was this, that he was more violent than yourſelf; that he took upon him to be a Spy; and that he was no competent Witneſs, becauſe he was under a Temptation, becauſe you did not help him to his Living, and ſo conceived it to be Malice; you ſay he was uſed to take up ſuch Courſes in his own Countrey; the Matter is not whether you had Malice to the King's Life or Monarchy. For the next, One *Gunter*, he ſwears, that he was a Servant to Mr. *Hildeſley*, at the *Star* in *Coleman-ſtreet*, and this was in 1648; he ſaith, that many of the Party of *Cromwel* did uſe to reſort thither, among the reſt he ſaw you, he ſaid he came in to them, and their Diſcourſe was about *Charles Stewart*, and the Priſoner —— and did gueſs it was about the King; that you were privy to it then; he ſaith this was Three Days before *Oliver Cromwel* went out of Town; the Effect of that is urged no further than this, that you were ſo far of the Cabal, that you were preſent with thoſe Perſons, *Cromwel*, *Ireton*, *Rich*, and others; you ſaid, *I was there once with Mr.* Nathanael Fines. *Starkey*, he ſaith, that at his Father's Houſe *Ireton* lay, and was quartered there at *Windſor*, before and when the King was Priſoner; that you had your Quarters there, and *Cromwel* too, in that Town: The General Meeting of the Council of War was at his Father's Houſe; that *Ireton* and his Wife lying there, you came and reſorted thither very often; he ſaith then, that it appeared that after the Council of War had done, many Times *Rich*, and you, and *Cromwel*, and *Ireton*, were there together, ſometimes till Two a Clock in the Morning; he ſaith then, that he did obſerve there was a Fifth Perſon, (he did not remember his Name) and you ſat up uſually till Two or Three in the Morning; you had Guards about you; he ſaith further, that *Ireton* being a Domeſtick, he often diſcourſed with him, and you came ſometimes to be there too; that there being ſome Diſcourſe concerning the King, many Times he did aſſert the Law concerning him, that he was *ſolutus legibus*, as to his Perſon; that you ſhould ſay, that it was an unequal Law, and that you did then diſcourſe fully againſt the King's Government; you ſaid he was a Tyrant, not fit for that Office; that the Office was uſeleſs, chargeable and dangerous; theſe very Words he obſerved, which afterwards were Printed when they took away Monarchy. He ſaith further, that was their full and whole Diſcourſe; he ſaith that his Father at Supper uſed to ſay that uſual Grace, *God ſave the King, Prince, and Realm*; but afterwards that he heard the King was made a Priſoner, that his Father altering the Grace, he ſaid, *God ſave his moſt excellent Majeſty, and deliver him out of all his Enemies Hands*, you roſe up, and ſaid, Old Gentleman, your Idol will not ſtand long; that he did obſerve you often with them; he ſaith further, when *Bacon* was coming out, and ſpeaking ſome Words concerning your frequent Affronting the King, you took up a Staff, and were ready to beat him, and made an Uproar: It appears alſo of your being privy to *Cromwel's* Actions; the next Witneſs is *Walkeley*, and he ſwears this againſt you, that he was in the *Painted-Chamber* the next Day after the Proclamation was made, and there he ſaw *John Goodwin* and you; and there was an Aſſembly, and at the Middle of the Table *John Goodwin* was, and made a long Speech or Prayer; that *Cromwel* would have had the People ſtay there, but it was ordered they ſhould be turned out; at the End he ſaw you come out with the reſt; there it appeared you were in the Conſultation; he ſaith he met the Army at St. *James's*, and there, when they were half paſt,

he ſaw the King in his Coach, and there he ſaw Mr. *Peters* like Biſhop *Almoner* riding immediately before the King; and at St. *James*'s Park he ſaw you Marſhalling the Soldiers, that he was forced thereupon to go about; he ſaith further, that within a Year or Two after the Army was raiſed he heard you ſay theſe Words, If we can keep up our Army Seven Years longer we need not care for the King and all his Poſterity.

Peters. *My Lord, I muſt deny Abundance of this; the King commanded me to ride before him, that the Biſhop of* London *might come to him.*

Lord Chief Baron. But this was Three Weeks after——— The next Witneſs againſt you is one *Proctor*; he ſaith, that Day (as the other Witneſs did) he ſaw you riding juſt before the King's Coach, and becauſe he did his Duty the Soldiers threw him, Horſe and all, into a Ditch. The next Witneſs is one *Hardwick*, he ſaith, that when the Proclamation was read he ſaw you in *Weſtminſter-Hall*, and that you ſaid, they had done as good as nothing, unleſs it was proclaimed in *Cheapſide* and at the *Old-Exchange*; this you ſaid to ſome of the Officers there.

Peters. *My Lord, I cannot acknowledge it.*

Lord Chief Baron. The next Witneſs againſt you is *Simſon*, he ſwears he ſaw you in Conſultation with *Oliver Cromwel*, and take Sir *William Brereton* by the Hand, and come to *Bradſhaw*'s, and this during the time of the King's Trial; he further ſaith, that one Day when the King was at his Trial you commanded Colonel *Stubbers* to bid his Soldiers cry out *Juſtice, Juſtice,* which they cried, and afterwards ſome of the Soldiers ſpit upon the King.

Peters. *I do believe that be that ſwore that cannot ſay I was there.*

Lord Chief Baron. Another Witneſs is one *Richardſon*, who ſaw you the Firſt Day in the Court; and he ſaid further, that you commended *Bradſhaw* and another, to wit *Cook*, for their Carriage in the Trial of the King; that you held up your Hands, and ſaid, this is a moſt Glorious Beginning of the Work.

Peters. *Whereabouts in the Court?*

Richardſon. In the Body of the Court, called then the *High Court of Juſtice.*

Peters. *My Lord, I do not know that ever I was in the Body of the Court.*

Lord Chief Baron. The next Witneſs is Sir *Jeremy Whicheot*, he ſaith he heard you often ſpeak ſcurrilouſly of the King; and making a Narrative of *Cromwel*'s Eſcape, you ſaid there was a Meeting, and *there we reſolved to ſet aſide the King*; remember what the other Witneſs ſaid, we agreed, and here we reſolved; you ſaid, I cannot but reverence the High-Court of Juſtice, it doth reſemble the Judging of the World at the Laſt Day by the Saints, ſo it was the Saints that ſat there; I would have preached before the Wretch, but the Poor Wretch would not hear me; you often called him Tyrant; I cannot poſſibly remember the Place, Things, or Words, that are alledged. Then you have another Witneſs, *Nunnelley*, he ſaith he came with a Warrant to *Oliver Cromwel* for ſome Money, and that he ſhould ſay, go and ſee the Beheading of the King at *White-Hall*; he ſaith there he met with you (though you ſaid you were not there that day) going to the *Banqueting-Houſe*; that you ſpoke to *Tench*, and whiſpered in his Ear, and that *Tench* went and knocked Staples on the Scaffold; he meeting *Tench*, ſaid, what, are you a Hangman? Saith *Tench*, this Day will be a happy Day; he ſaith, after all this *Hugh Peters* was upon the Scaffold, and that he went out with the Hangman——

Peters. *I do profeſs to your Lordſhips before Angels and Men that I did not ſtir out of my Chamber that Day.*

Lord Chief Baron. The Council doth not put Reliance upon that, becauſe of what your Witneſs ſaith, tho' his Evidence is not at all Satisfactory. The next is *Clough*, and he ſwears this, that he ſaw you in the *Painted-Chamber* with the Council of Officers, and there you deſired them to call on God for a Bleſſing upon their Buſineſs, and there you ſaid, O Lord, what a Mercy it is to ſee this great City fall down before us! And what a Stir is there to bring this Great Man to Trial, without whoſe Blood he will turn us all into Blood, if he reign again! And this was about a Month before the King was Murthered.

Lord Chief Baron. You hear it, Mr. *Peters.*

Peters. *Some Part I did, but it is impoſſible for me to bear down many Witneſſes; indeed my Lord, I ſay this, they are marvellous Uncharitable, and ſpeak many falſe Things.*

Lord Chief Baron. The next is this, the Teſtimony concerning ſeveral Sermons of yours; and let me tell you the Pulpit ought not to be a Place where Men with Impunity may ſpeak any Thing, what they liſt, of Sedition and Treaſon.

Peters. *I am of the ſame Judgment myſelf, my Lord.*

Lord Chief Baron. And there was a Solemn Day to ſeek God, then you preach'd at St. *Margaret*'s Church; this was Mr. *Bever*; in he came, and heard you talk much of *Barabbas* and our Saviour; there you fell upon this, ſpeaking of the King, it is a ſad thing that it ſhould now be a Queſtion, whether we ſhould crucifie our Saviour Jeſus Chriſt, or that great *Barabbas*, ſpeaking of the King; you called him Traytor, Tyrant, Murtherer of his Subjects, and the like, you went on in a Way of a Story, theſe Citizens for a little Trading they will have Chriſt crucified, and the great *Barabbas* at *Windſor* releaſed; and ſaid you, the Clergy, the Aſſembly, they are all for crucifying Chriſt, and releaſing *Barabbas*; you made that Expreſſion, *O Jeſus, what ſhall we do?* The King was a Priſoner then at *Windſor*; you made your Application to the Parliament that was then preſent; you told them the People did expect Juſtice from them; you muſt not prefer the great Tyrant and Traytor, naming the King, to theſe poor Hearts, (the *Redcoats* ſtanding by.)

Peters. *I muſt profeſs againſt moſt of that.*

Lord Chief Baron. There is the ſame by others. It is further proved by the Order that you were appointed to preach.

Peters. *I do not deny I preached, but not theſe Things.*

Lord Chief Baron. The next Thing is this, there was one Mr. *Chaſe*, this was during the Trial, he ſaith you preached at *White-Hall* upon this Text, *Pſalm* 149. *To bind their Kings in Chains, and their Nobles in Fetters of Iron:* You had Two or Three other Verſes more; then you made a Diſcourſe of a Mayor and a Biſhop's Man, the Biſhop's Man being drunk, the Mayor committed him to Priſon; the Biſhop being angry, asked by what Authority? The Mayor ſaid, there was an Act of Parliament for it; he did not find that either the Biſhop or his Man was excepted; you applied that to the King; ſaid you, I will ſhew you an Act of the Bible, *Whoſoever ſheds Man's Blood, by Man ſhall his Blood be ſhed*; this doth not except the King,

Prince,

Prince, Prince *Rupert*, Prince *Maurice*, or any of that Rabble.

Peters. *It is falſe.*

Lord Chief Baron. You ſaid further, this is the Day that I and many other Saints of God have prayed for theſe many Years; and *Oliver Cromwel* laughed at that Time. The next Witneſs was *Tongue*, he heard you Preach, and he ſwears the ſame with the former; that you applauded the Soldiers, and that you hoped to ſee ſuch another Day following as the Day before; and that Bleſſed be God the Houſe is purged, and the Lords will be ſhortly pull'd out; and the Twenty Eighth Day of *January*, which was the Day after the King was Sentenced, at St. *James*'s, his Chapel, you took for your Text the 149th *Pſalm*, 6, 7, 8, and 9, Verſes, whereof theſe Words were Part, *To bind their Kings in Chains, and their Nobles with Fetters of Iron*; there in the middle of that Sermon, having ſpoken before of the King, you ſaid you did intend to Preach before the *poor Wretch* upon the 14th of *Iſaiah*, 18, 19, and 20 Verſes, ſpeaking of all the Kings of the Nations, *Thou art caſt out of thy Grave like an abominable Branch, &c.* he ſaith further, you ſaid, look upon your leſſer Bibles and you will find the Title is, *The Tyrant's Fall.* There is another Witneſs, that is one *Bowdler*, a few Days before the King's Death, at St. *Sepulchres*, there you fell upon the Old Compariſon; all along you compared the King to *Barabbas*; and that a great many would have Chriſt crucified, and *Barabbas* releaſed; all along comparing the King to *Barabbas*. One more, and that was *Ryder*, he heard this Text, *He ſhall call his Name Emanuel*; you fell to ſpeak of News; what ſhall become of the King? And you ſaid the King was *Barabbas*, and a great many would rather have *Chriſt* crucified than *Barabbas*. And then Mr. *Walker* he ſaith, that after the King was firſt brought to his Trial he heard you ſay this, I have prayed and preached this Twenty Years, and now may I ſay with Old *Simeon*, *Lord, now letteſt thou thy Servant depart in Peace, for mine Eyes have ſeen thy Salvation:* He mentions that you made Uſe of the other Compariſon of the Mayor and the Biſhop's Man, and inferred from thence, that the King and Prince, *&c.* were not excepted out of the Scripture, where it is ſaid, *Whoſoever ſheds Mans Blood, &c.* you have heard all this witneſſed againſt you, what have you to ſay for yourſelf?

Peters. *Theſe are but ſingle Witneſſes.*

Lord Chief Baron. The Statute is Two Witneſſes for Treaſon, but not Two to One individual Thing, tho' there are ſeveral Witneſſes have proved the ſame Thing about *Barabbas* and our Saviour, *bind their Kings with Chains*, &c. and of your other Actions there is a whole Jury of Witneſſes, Two Witneſſes expreſly, we agreed upon the King's Death, and we reſolved to ſet the King aſide.

Peters. *I do not know the Witneſſes.*

Lord Chief Baron. One is Sir *Jeremy Whitchcot*, the other is Doctor *Young*; you ſhall do well if you have any Thing to ſay to invalidate theſe Witneſſes to ſpeak it, elſe the Jury will be ſent together to deliver up their Verdict.

Peters. *My Lord, if I had Time and Opportunity I could take off many of the Witneſſes, but becauſe their Teſtimony is without Controul I cannot ſatisfie my ſelf; I have no Skill in the Law, elſe I might have ſpoke for my ſelf; I do not know what to ſay more, unleſs I had more Time and Counſel.*

Mr. Solicitor General. If the Priſoner can ſay no more, here is this in it; here are Five Places where he did conſult about the King's Death, at *Windſor*, at *Ware*, in *Coleman-ſtreet*, in the *Painted Chamber*, and in *Bradſhaw*'s Houſe; and Four Witneſſes to prove this; there are Two Witneſſes to his Compariſon of the King and *Barabbas*, and Two Witneſſes to his Text of binding their Kings in Chains, *&c.* Proof that he hath been in Action in *New-England*; that he came from it with that Intent, and then went to *Holland*; that he had been in Arms; that he called the Day of his Majeſties Trial a Glorious Day, reſembling the Judging of the World by the Saints; he prays for this in the *Painted-Chamber*, preaches for it at *White-Hall*, St. *James*'s *Chapel*, St. *Sepulchres*; what Man could more contrive the Death of the King than this miſerable Prieſt hath done? The Honour of the Pulpit is to be vindicated; and the Death of this Man will preach better than his Life did; it may be a Means to convert many a miſerable Perſon, whom the Preaching of this Perſon hath ſeduced; for many come here and ſay they did it *in the Fear of the Lord*; and now you ſee who Taught them; and I hope you will make an Example of this Carnal Prophet.

The Jury went together, and after a little Conſultation ſettled in their Places.

Clerk. Are you agreed in your Verdict.

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. How ſay you? Is the Priſoner at the Bar Guilty of the Treaſon whereof he ſtands Indicted? Or Not Guilty?

Foreman. Guilty.

Clerk. And ſo you ſay all?

Jury. Yes.

Clerk. Look to him Keeper.

Council. We deſire Mr. *Cook* may be brought to the Bar, and that they may both have their Judgment pronounced.

Clerk. John Cook, Hold up thy Hand; what haſt thou to ſay why the Court ſhould not pronounce Judgment for thee to Die according to Law?

Cook. *I have a few Words, Matter of Law: Firſt, there is no Averment in the Indictment, that* John Cook *mentioned in the Act of Indempnity, is the ſame with the* John Cook *mentioned in the Indictment, and that I am the* John Cook *mentioned in both.*

Lord Chief Baron. This will not help you in this Caſe, you have owned, and have pleaded by the Name of *John Cook.*

Cook. *The ſecond is this, that the Overt-Acts ſhould be particularly expreſſed in the Indictment.*

Lord Chief Baron. This cannot be alledged in Arreſt of Judgment, the Jury have found you Guilty of Compaſſing and Imagining the Death of the King by the Statute of 25 *Edw.* 3. and this cannot help you.

Cook. *I ſay it was profeſſionately.*

Lord Chief Baron. That hath been over-ruled already; we have delivered our Opinions; the Profeſſion of a Lawyer will not excuſe them, or any of them, from Treaſon, and this hath been over-ruled, and is over-ruled again.

Cook. *I humbly conceive that the remaining Part of the Houſe of Commons were to be Judges whether there was a Force or not.*

Lord Chief Baron. This is all paſt and over-ruled.

Cook. *Then I have no more.*

Clerk. Hugh Peters, Hold up thy Hand; what haſt thou to ſay for thyſelf why Judgment ſhould not paſs againſt thee to Die according to Law?

Peters.

Peters. *I will ſubmit myſelf to God, and if I have ſpoken any thing againſt the Goſpel of Chriſt I am heartily ſorry.*

Silence commanded.

Lord Chief Baron. You are both Perſons of that Ingenuous and Liberal Education as I hope I ſhall not need to tell you what it is to Die, you have had a great deal of Time to think of it; you could not but think of this Iſſue of your Doings long ago, and therefore I ſhall ſpare my Labour of telling you what it is to Die, and of that Eternity that you are to enter into; only give me leave in a few Words, in relation to both your Profeſſions, to ſay ſomething to ſhew the Nature and Heinouſneſs of this Offence, the Murther of the King, if you were not actually guilty of putting the King to Death; nay, admitting (in Charity) you had no intent to go as far as you did, you are by the Laws of Chriſt and this Nation, guilty of High-Treaſon, in that you that are a Lawyer know very well, (and I ſpeak it that you may lay it to your Heart in the Convictions of your Conſcience. I muſt ſay to you as *Joſhua* ſaid to *Achan*, *my Son, give Glory to God, and confeſs*; and it would become you ſo to do,) you know very well it is the Law of this Nation, that no one Houſe, nor both Houſes, of Parliament, have any coercive Power over the King, much leſs to put him to Death; you know, (as you cited very well,) that the impriſoning of the King is Treaſon. You know both of you this is an undoubted Truth; the Rule of Law is, that the King can do no Wrong; that is, the King can do no Wrong in the Eſtimation of Law; he may do ſome particular Acts as a private Perſon, but he can do little Prejudice in his own Perſon; if he would hurt any it muſt be by Miniſters, in that Caſe the Law provides a Remedy; if he doth it by Miniſters they muſt Anſwer for it. The King of *England* is one of thoſe Princes who hath an Imperial Crown; what is that? It is not to do what he will; no, but it is that he ſhall not be puniſhed in his own Perſon if he doth that which in itſelf is unlawful. Now remember this when you took the Oaths of Allegiance and Supremacy; (I preſume you both did ſo;) What was your Oath of Supremacy? It was this, that the King was the only Supreme Governour of theſe Realms; it goes further, as he was Supream Governour, ſo he was the only Supream Governour, that excludes Co-ordination; you ſwear farther, that you will to the utmoſt of your Power defend the King againſt all Conſpiracies and Attempts whatſoever; truly you that were a Lawyer when you had thus ſworn, your Fee could be no Excuſe againſt what you had ſworn to. We know that the King, in his Politick or Natural Capacity, is not only *ſalus Populi*, but *ſalus Reipublicæ*. The Law hath taken Care that the People ſhall have Juſtice and Right; the King's Perſon ought not to be touched; the *King* himſelf is pleaſed to judge by the Law; you ſee he doth by Law queſtion the Death of his Father; he doth not judge it himſelf, but the Law judges it. Mr. *Peters* knows very well he ſubſcribed the 39 Articles of Religion; look upon them that were made in 1552, and upon thoſe Articles that were confirmed in 13 *Elizabeth*; the *King* is there acknowledged to have the chief Power in theſe Nations; the meddling with the *King* was a Jeſuitical Doctrine: This I ſpeak, not that the *King* ſhould or ought to Govern but by the Fundamental Laws of the Land; they that keep within the Bounds of the Law are happy; you that are a Lawyer know this in Point of Law, and you that are a Divine know this in Point of Divinity. You both know the Truth of it, and when you have thought upon it, I hope you will reflect upon that horrid Crime, the ſhedding of Royal Blood. You ſee he had granted all thoſe Grievances of the People, taken them away, ſecured them, for the future; and at this very Time, when this horrid Act was done, you ſee he had granted all at the Deſire of the People; he had made thoſe Conceſſions, ſuch, as (were it not in reſpect of others more than thoſe that treated themſelves) they thought was more than could be expected by the Nation. You that had a Hand in the *King's* Death, it falls upon you, the Guilt of it, becauſe you were ſome of thoſe Inſtruments that aſſiſted thoſe Perſons that broke the Treaty; prepare yourſelves for that Death which you are to die; it is a Debt which we all owe to Nature; if in this Caſe there is ſomething of Shame comes to you, it is that you muſt take as Part of the Reward of your Sin. The only Work I have now to do is to pronounce the Judgment, and this is the Judgment of the Court, and the Court doth award, that both of you be led back to the Place from whence you came, and from thence ſhall be drawn upon a Hurdle, *&c.* and the Lord have Mercy upon your Souls.

Clerk. Crier make Proclamation.

Crier. O Yes, *&c.* All Manner of Perſons, *&c.* and all Jurors and Witneſſes, are to appear at this Place to Morrow Morning at Seven of the Clock in the Morning, upon Pain of One Hundred Pound apiece. So God bleſs King *Charles*, &c.

The Tryal of WILLIAM HEWLET, *on the Fifteenth of* October, 1660, *at the* Seſſions Houſe *in the* Old-Baily.

Memorandum. That the Bill of Indictment againſt *William Hewlet*, alias *Howlet*, was found at *Hicks*'s-*Hall*, *October* 12th. inſtant.

Proclamation of the Court being made.

Clerk of the Crown. Set *William Hewlet*, alias *Howlet* to the Bar, which was done accordingly.

Clerk. William Hewlet, alias *Howlet*, Hold up thy Hand. Thou ſtandeſt Indicted of High Treaſon in the County of *Middleſex*, by the Name of *William Hewlet*, alias *Howlet*, for that thou, *&c.* How ſayeſt thou, art thou Guilty of the High-Treaſon whereof thou haſt been Indicted, and art now Arraigned? Or Not Guilty?

Hewlet. *I am Not Guilty my Lord.*

Clerk. How wilt thou be Tried?

Hewlet. *By God and the Country.*

Clerk. God ſend thee a good Delivery.

Set him aſide.

Octob. 15. 1660.

Clerk of the Crown. Set *Axtell* to the Bar, which was done accordingly.

Clerk. Daniel Axtell, Hold up thy Hand.

Axtell. *Pray, my Lord, let me have Pen and Ink.*

Lord Chief Baron. Give Mr. *Axtell* Pen and Ink.

Clerk. Daniel Axtell, theſe Men that were laſt called of the Jury are to paſs, *&c.* if you will challenge them, or any of them, you muſt challenge them when they come to the Book, before they are Sworn.

Lord Chief Baron. Do you know how many you have Liberty to Challenge? Becauſe I would not have

have you misinform'd, 35 you may Challenge peremptorily, and no more.

Axtell. *I thank your Lordship.*

Lord Chief Baron. Unless you have any particular Cause; if so, you may challenge more.

Axtell. *I confess I am wholly ignorant of the Law.*

John Kirke, *John Smith*, *Thomas Morris*, *Ralph Halfell*, *John Sherecroft*, *Francis Beale*, *Robert Cromwell*, *John Gallyard*, *John Shelbury*, *George Rithe* were called, and by the Prisoner Challenged.

Thomas Bide, *Charles Pitfield*, *Robert Sheppard*, *William Dod*, *Thomas Usman*, *William Maynerd*, *George Plucknet*, *Samuel Harris*, *John Nicholl* of *Hendon*, *Henry Marsh*, *Thomas Bishop*, *Thomas Snow*, in all Twelve, were admitted, and sworn of the Jury.

Clerk of the Crown. If any Man can inform my Lords the King's Justices, *&c.*

Clerk. Daniel Axtell, Hold up thy Hand. Look upon the Prisoner you that are sworn, and hearken to your Charge; you shall understand that the Prisoner stands Indicted, *&c.*

Council. May it please your Lordships, and you Gentlemen that are Sworn of this Jury, the High-Court of Injustice that was Erected for Trial of the late King, it had all the Formalities of a Court to put in Execution that Bloody Act; they had their *President*, their *Council*, their *Chaplain*, and their *Guards*; some of their Judges have been already Tried, one of their Council, and their Chaplain. Now, my Lord, we come to the Guards, and this Gentleman at the Bar, that is now the Prisoner, he was Commander of that Black Guard, that Cruel and Bloody Guard: The Indictment is, *That he did Imagine and Compass the Death of the King*; there be several Overt-Acts that are mentioned in the Indictment as Evidences of that Imagination, as the Consultation to bring him to Trial, the actual bringing him to Trial, and the Bloody Execution upon the Scaffold; our Evidence shall be this, that during the Time of the Trial the Prisoner at the Bar did Command the Soldiers in *Westminster-Hall*, himself did keep the Entrance into the Court; and when *Bradshaw* did speak to the King, and told him he trifled away Time, and required his Answer to the Charge exhibited in the Name of the Commons of *England* Assembled in Parliament, and the good People of *England*, that a Noble Person in the Gallery there cried out, *It was a Lie*; saying, that above half the Commons disowned it; saying, where are these good People? *It is a Lie*, Oliver Cromwel *is a Traytor*; this Bloody Fellow commanded the Soldiers to Shoot her; he did several times command and encourage the Soldiers to cry out, *Justice*, *Justice*; and the last Day of that horrid Trial, called by them *the Day of Judgment*, he likewise commanded them to cry out, *Execution*, *Execution*; and when some of them would not do it, he had the Valour to Beat them. My Lords, and Gentlemen of the Jury, if we prove any of these Particulars to demonstrate unto you that he was Guilty of Compassing and Imagining the King's Death, it is equal as if we had proved he did actually cut off the King's Head.

Mr. *Bodurdoe*, Mr. *Nutley*, Mr. *Harrington*, Sir *Purbeck Temple*, Mr. *Simpson*, Mr. *Baker*, Mr. *Hunks*, and Mr. *Jeoner*, Sworn.

Council. Mr. *Simpson*, Tell my Lords, and the Jury, who had the Command of the Soldiers during the Trial of the King in *Westminster-Hall.*

Simpson. My Lords, (as I said before in the Case of Mr. *Peters*,) Col. *Stubberd* and Col. *Axtell* had the Command of the Soldiers below Stairs, near that which was called the *High-Court of Justice.*

Axtell. *I desire to know his Name, my Lord?*

Simpson. My Name is *Holland Simpson.*

Council. Did you see him there commanding the Soldiers?

Simpson. There was a kind of Hubbub in the Court; there was a Lady (they said it was the Lady *Fairfax*) who at the exhibiting of the Charge against the King, said to be in the Name of the *Commons and People of England*, she spoke out aloud, and said, *it was a Lie*, that not half, nor a quarter of the People; *Oliver Cromwel* is a *Rogue* and a *Traytor*; they called for a Guard, this Gentleman he was called, and brought up some Musquetteers, and commanded his Soldiers to Present and give Fire against the Lady, and commanded her to Unmask.

Axtell. *What Lady was it? I desire to know.*

Simpson. She went by the Name of the Lady *Fairfax*; I know not whether it was so or no, it was the common Report it was she.

Clerk. Mr. *H.* pray tell my Lord what you know of the Prisoner at the Bar.

Huncks. My Lord, to say positively any Thing of the Man touching his Command I cannot, but only that Morning the King died he came into the Door of the Room where Colonel *Phayre*, Colonel *Hacker*, *Cromwel*, and myself, were, (*Ireton* and *Harrison* lying in bed together in the same Room,) and then he stood at the Door half in and half out; I refusing to Sign an Order for Executing the King, as *Cromwel* ordered me, and some little cross Language having passed, saith the Prisoner at the Bar, Colonel *Huncks*, *I am ashamed of your, the Ship is now coming into the Harbour, and will you strike Sail before we come to Anchor?* This I appeal to yourself; but for crying out, knock them down, shoot them, I know not who it was; the Officers cried, Justice, and some of the Soldiers, but I profess I know not who it was particulary; but they cried, Justice, and then I fell a trembling, for I was afraid of the King; but these were the Words he used to me, *will you strike Sail*, &c?

Axtell. *My Lord, I desire to ask him a Question.*

Lord Chief Baron. Ask him what you will.

Axtell. *If I am not in the right I hope your Lordships will direct me.*

Lord Chief Baron. Go on.

Axtell. Colonel *Huncks*, *where was it?*

Huncks. In a little Room in *White-Hall*, where *Ireton* and *Harrison* lay in bed together.

Axtell. *Do you know whereabouts?*

Huncks. I think I can go to the Room again; I appeal to your own Conscience before all this People.

Axtell. *By your Favour, Sir, the Room I perceive you know not, and truly, Sir*, My Lord, *if you please to give me Leave, because he appeals to my Conscience, I do appeal to the Great God, before whom it may be I may be Arraigned to give an Account of all my Words, Thoughts, and Actions, I do not remember that ever I had any Converse with this Man there, or met him there, or any of that Company there, that Day; he was a Stranger to me, but I wish that you (to save yourself being in the Warrant for Execution) do not make others a Peace offering to save yourself, the Lord that knows my Heart I appeal to him; I appeal to your own Conscience, because you appeal to my Conscience, I never met you, nor saw you there.*

Huncks. Have you done? Then give me Leave; you say you do not know me; I appeal to the same God, when *Cromwel* took upon him to have the Crown, have not I said, What have you got by being

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ing *Jehu*-like? *Lord, ſtrike me Dead here if it be not true.*

Axtell. *I will not reflect upon him; but becauſe he hath appealed to my Conſcience therefore I ſpeak it; it is known Notoriouſly how Jehu*-like *you were, when you were one of the Chief Guards of his Majeſty, One of the forty Halberteers that did oppoſe every Perſon then for the King; had I had Time, and had not been a cloſe Priſoner as I was, there were Witneſſes enough.*

Council. This after our Evidence is more proper.

Huncks. Spare me not Colonel *Axtell.*

Lord Chief Baron. Take the Old and Ancient Courſe, let the Witneſſes that are produced for the King be all heard, then give your Anſwer to all of them together.

Axtell. *My Memory is not very good.*

Lord Chief Baron. You have Pen, Ink, and Paper.

Lord Chief Baron. Mr. *Axtell*, is this all that you deſire to ſpeak to Colonel *Huncks*?

Axtell. *Yes, my Lord.*

Lord Chief Baron. Have you any other Queſtions?

Council. My Lord, we have a few Words; he objects as if Colonel *Huncks* were under a Danger; he is pardoned.

Axtell. *I deſire to ask him upon what Account theſe Words were ſpoke.*

Huncks. My Lord, it was this; *Cromwel* having a Commiſſion, (which I think I heard read here,) Colonel *Hacker* was reading of it, my Lord, *Cromwel* he comes to me, and by Vertue of that Commiſſion he would have me to write a Warrant for Executing the King. I refuſing to write that Warrant, (upon this which he ſpeaks of that ſtanding at the Door, If God bleſs me I will ſearch all the Doors at *White-Hall* but I will find it out,) I not doing it, I ſaid, why ſhould it be offered to me? Says *Cromwel*, thou art a Peeviſh Fellow; *Cromwel* fell a writing, as ſoon as ever he had done that writing, he gave *Hacker* the Pen, what *Hacker* writes I know not; and upon my refuſing, this Priſoner at the Bar ſaid, Colonel *Huncks*, I am now aſhamed of you, *The Ship is now coming into the Harbour, and will you now ſtrike Sail before you caſt Anchor?*

Council. You obſerve the Courſe of this Evidence; there was a Warrant of Commiſſion directed to Three Perſons, *Hacker*, *Huncks*, and *Phaire*, for Execution of the King; *Cromwel* demanded of this Gentleman (Colonel *Huncks*) that he ſhould ſign a Warrant by Vertue of that other Warrant, and this Gentleman refuſing it, the Priſoner objects this, that he to ſave himſelf doth witneſs this againſt the Priſoner; Gentlemen, he did refuſe the Thing; have you any Thing to ask Colonel *Huncks*?

Axtell. *He ſays Colonel* Phaire *and* Hacker *were there, I do not doubt but they will be ſo conſcientious to vindicate me from all this Charge.*

Lord Chief Baron. If it be any Thing that tends to your Defence that you will be heard afterwards; but have you any Queſtions to ask Colonel *Huncks*?

Axtell. *No more; I know nothing of it if I were to Die at this Bar preſently.*

Council. Sir *Purbeck Temple*, pray tell my Lords and the Jury your Knowledge of the Carriage of this Gentleman touching the Trial of his late Majeſty.

Sir Purbeck Temple. My Lord, being preſent, and engaged by ſome Perſons of Honour, Servants of his late Majeſty, to be preſent when that horrid Murther was acting before this Court of Juſtice, (as they called it,) I was preſent at all the Trials of the King, and very near him; I heard the King demand from *Bradſhaw* by what Authority and *Commiſſion* they proceeded thus ſtrangely to Try him. Then I heard the Lady *Fairfax*, and one Mrs. *Nelſon*, (my Siſter,) after the exhibiting of the Charge in the Name of the Commons Aſſembled in Parliament, and the good People of this Kingdom, againſt *Charles Stewart*, King of *England*; I ſay I heard the Lady cry out from a Gallery over the Court, *Not half the People; it is falſe; where are they or their Conſents?* Oliver Cromwell *is a Traytor.* Upon which I heard the Priſoner at the Bar cry out, Down with the Whores, ſhoot them; which made me take farther Notice of him; ſeeing him in *Weſtminſter-Hall* commanding the Soldiers there, I ſaw him the moſt active Perſon there; and during the Time that the King was urging to be heard, he was then laughing, entertaining his Soldiers, ſcoffing aloud, whilſt ſome of the Soldiers, by his Suffering, and (I believe) Procurement, did fire Powder in the Palms of their Hands, that they did not only offend his Majeſties Smell; but enforced him to riſe up out of his Chair, and with his Hand to turn away the Smoke; and after this he turned about to the People, and Smiled upon them, and thoſe Soldiers that ſo rudely treated him: Then turning himſelf to *Bradſhaw*, ſaid to him and the Court, There are ſome ſitting here (fixing his Eyes upon ſome Perſons near *Bradſhaw*) that well knew that if I would have forfeited or betrayed the Liberties and Rights of the People I need not have come hither, (or Words to this Effect,) but their Liberties and Rights are dearer and nearer to me than my Three Kingdoms, nay, than my Life itſelf; therefore I deſire you to hear me, and remember that I am your Lawful King, that have done you many Acts of Grace and Favour.

After which this Perſon, Mr. *Axtell*, Priſoner at the Bar, commanded his Soldiers to cry out *Juſtice*, which the Soldiers not readily obeying of him, I ſaw him beat Four or Five of them with his Cane untill they cried out, (with himſelf,) *Juſtice, Juſtice, Execution, Execution*, which made me turn to a Noble Lord, by whom I then ſtood, and ſaid, pray my Lord take Notice, there is not above Four or Five that cry out *Juſtice, Juſtice*, I heard alſo of their ſpitting in the King's Face; and I think No bodies Sufferings have been ſo like thoſe of our Saviour Chriſt Jeſus as his Majeſties were. After this this Perſon crying, *Juſtice, Juſtice, Execution, Execution*, a ſecond Time, the Court proceeded to paſs a Sentence; the which His Majeſty preſſed hard againſt, and told him, Sir, before you paſs that ugly Sentence, (which I very well underſtand you are intended to do,) I deſire you to hear me; hear me, hear me, paſſionately and not affectionately expreſſing it, which they denying the King, and the Noiſe of *Juſtice, Juſtice, Execution, Execution*, being repeated, they proceeded, and read that ugly Sentence of Death: After which His Majeſty was immediately hurried away from the Bar into a common Cedan, where he was carried by Two common Porters; which Cedan I followed to the middle of *King's-Street*, where I ſaw the Two Porters in Reverence go bare till the Soldiers (under the Command of the Priſoner at the Bar) beat them, and would not ſuffer them to go bare when they carried him. After this the People cryed out, what do you carry the King in a common Cedan, as they carry ſuch as have the Plague? God deliver your Majeſty out of ſuch Enemies Hands. In which Street I was forced to leave the Sight of His Majeſty, occaſioned by the Injuries and Hurts I received in my Perſon from the Soldiers under *Axtell's* Command, they carrying him through the Streets ſhouting in Triumph. A ſhort Time after I received an importunate Command from a Lady of great Honour, (a Servant of His Majeſties,) that I would

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endeavour to find out where the Body of the *Martyr'd King* was, and to give her an Account where it then was: Applying myſelf to *Whitehall*, after Two or Threeſcore Intreaties, I was denied; but underſtanding that Money would do it, I gave the Perſon then under the Command of Mr. *Axtell*, that then kept it, to ſhew it me, half a Piece, who in a ſcoffing Manner took me by the Hand, ſaid, *If thou thinkeſt there is any Sanctity or Holineſs in it, look here*; where I ſaw the Head of that Bleſſed Martyr'd King lye in a Coffin with his Body, which ſmiled as perfectly as if it had been alive; this is the ſad Account of the Martyr'd King, and this ſad horrid Priſoner, Mr. *Axtell*.

Axtell. *My Lord, may I ask that Gentleman ſome Queſtions?*

Lord Chief Baron. Yes, yes.

Axtell. *My Lord, he ſeems to ſay that I bid the Soldiers cry out for Juſtice; he doth not at all ſay I was there in Command, but he ſaith a Lady, by report the Lady* Fairfax, *ſpake ſome Words, and that I ſhould bid the Soldiers ſilence her; truly I deſire to know the Certainty of the Place where I ſtood.*

Sir *Purbeck Temple*. My Lords, and Gentlemen of the Jury, I ſaw this Perſon ſtanding within a Pike or two's Length, as I can gueſs it, (I remember the Place within a Yard of the Ground in *Weſtminſter-Hall*,) I do not ſay this Perſon ſate in the Court as a Principal Officer that did then hold his Majeſty Priſoner at the Bar; I did not ſay it was a Lady unknown, or reported to be ſuch a one; but I ſaid it was the Lady *Fairfax*, and my own Siſter, Mrs. *Nelſon*, and he cried, Shoot the Whores.

Axtell. *He ſeems now to ſay I Commanded the Guards; I never was a Guard to his Majeſty, or had any Thing to do in that Buſineſs, but it was wholly committed to a Company of Men I know not of. That Gentleman that ſpoke I have no Acquaintance with him, I think he did not know me at that Time.*

Lord Chief Baron. Have you any thing to ask him?

Sir *Purbeck Tem.* My Lord, another Paſſage he puts into my Memory; when I did obſerve a Thouſand of ſad Faces, I ſaw none laughing but yourſelf, as if you had been carouſing and entertaining the Soldiers. I do not charge you that you Commanded thoſe Halberteers, but thoſe *Redcoats*; you were all in *Red*: I ſaw you Cane thoſe Four or Five Soldiers I mentioned, till they cryed, *Juſtice, Juſtice*, with you; and that with the Powder in the Palms of their Hands they forced the King to riſe out of his Chair, which you were much pleaſed with, and laughed at.

Axtell. *I ſay before the Lord, before whom I muſt be judged again for this, I do deny this whole Obedience.*

Griffith Bodurdoe, Eſq; Sworn.

Bodurdoe. My Lords, and you Gentlemen of the Jury, I was at the time of this ſad Trial in *Weſtminſter-Hall*.

Axtell. *Your Name Sir, I beſeech you?*

Council. His Name is Mr. *Bodurdoe*.

Bodurdoe. I ſay I was all the Time of the King's Trial in *Weſtminſter-Hall*; I was in a Gallery that I had out of my Houſe where I then lived, juſt under and beſides the Houſe of Commons, and I do remember I ſaw this Gentleman there; I do think he was then called Lieutenant-Colonel *Axtell*, ſo far as I remember; truly I have not ſeen him ſince before this Day, nor have had any Reaſon to have known him, but that I ſaw him very Active in giving Commands to the Soldiers there: This Gentleman was keeping the Court, letting ſome in, and putting others out; he ſeemed to have Command of it; one Day (whether it was about ſome Paſſage, or their Preſident's Speech, I know not) there was a Lady in the ſame Gallery where I ſtood, and ſome Muttering, *It is a Lie, not half the People*, or Words to this Effect, he the now Priſoner at the Bar ſtanding below in the Court within the Bar, not far from *Dendy*, with Five or Six Soldiers, upon this Muttering and Diſturbance (as he apprehended) to the Court, he called to the Soldiers, ſaying, Shoot them if they ſpeak one Word more; they did alſo preſent the Muzzles of their Muskets up to the Gallery; my Lord, by this we were very huſh; after that immediately within half a Quarter of an Hour *Dendy* came to the Gallery from the Court, to know who it was that made that Diſturbance; but the Lady was withdrawn into my Chamber, and did not come out afterwards.

Axtell. *Where was this, Sir?*

Lord Chief Baron. What is it you deſire?

Axtell. *My Lord, where he ſaw me then?*

Lord Chief Baron. Mr. *Bodurdoe*, you hear the Queſtion.

Mr. *Bodurdoe.* There was a Gallery, which I do believe is yet ſtanding, and the Court was juſt underneath the Gallery, and you were juſt underneath the Gallery, and Five or Six Soldiers with you.

Richard Young Sworn.

Council. What do you know of the Carriage of the Priſoner at the Time of the Trial.

Young. I was upon a Scaffold, whereby I did ſee what was done in the Hall; I ſaw that Lieutenant Colonel *Axtell* was buſy and very active in encouraging the Soldiers to ſay, Let us have Juſtice againſt the King.

Axtell. *I deſire to ask Mr.* Young *one Queſtion; others ſay that the Word was Cry for Juſtice, this Gentleman is pleaſed to make ſome Addition,* Let us have Juſtice againſt the King.

Young. No, not againſt the King, but I conceived you meant againſt the King.

Axtell. *I cry you Mercy, you do but conceive ſo.*

Young. You were upon the Right Hand of the Hall, almoſt at the Corner near the Pavement; it could not be otherwiſe applied.

John Jeonar Sworn.

Council. Speak your Knowledge of Col. *Axtell*'s Carriage at the High-Court of Juſtice.

Jeonar. I had the Honour to wait upon the King as a Domeſtick Servant, to the Time of his Death; that Day, which was the Firſt Day the King was brought to his Trial, I did wait upon him among other Servants; we ſtood cloſe to the Bar where the King was, ſome Three or Four of us; Colonel *Axtell* was upon the Right Hand of us commanding the Guard, to keep Things in Order when the Court was to be withdrawn; the many Circumſtances about the Lady *Fairfax* ſhall be omitted;) the *Preſident* commanded the Priſoner to be withdrawn; with that Col. *Axtell* ſteps down before me to draw out his Guard; this I heard him ſay, Soldiers, cry for *Juſtice, Juſtice*, I was the next Man to him; and upon the laſt Day of the Trial he did come down in the ſame manner, and bid the Soldiers cry out for *Execution, Execution*.

Axtell. *I do deſire a Queſtion may be asked of that Gentleman; I muſt confeſs I did not know the Gentleman at that Time, though he ſaid he knew me; he ſeems to ſay that at the Firſt Day I encouraged the Soldiers to cry,* Juſtice, Juſtice, *and the Laſt Day,* Execution, Execution; *what Place was this in, Sir?*

Jeonar. I tell you the King was brought from *Cotton-Houſe*, through a Guard, that you managed, of Muſquetteers, and with a Guard of Partizans;

beſides, there was myſelf and others there: When we came up we got as cloſe to the Bar as we could; you were paſſing up and down from above and below: When the Court was diſſolved you ſtept down juſt before to draw your Guard to make ready, and to cry, *Juſtice, Juſtice,* and the Second Time, *Execution, Execution*, you were very near me, and then you cried, *Juſtice, Juſtice, Execution, Execution.*

Axtell. *Are you certain? I have heard other Men, I confeſs, accuſed for this, ſome other Officers.*

Jeonar. I did hear you, I do know you by Sight.

Council. You know him now to be the ſame Perſon.

Jeonar. Yes.

Samuel Burden Sworn.

Council. Tell my Lord and the Jury what you know of the Carriage of the Priſoner.

Burden. My Lords and Gentlemen, I do believe Col. *Axtell* knows me well enough, I was then under his own Command at *White-Hall*; there were ſome Cavaliers then in the Regiment; it was my Fortune I came into your Company, I wiſh I never had: You commanded more beſides myſelf to be a Witneſs againſt the King, and Juſtice *Cook* took my Examination; you brought me in, you commanded the Guards that Time at *White-Hall* when the King was upon his Trial.

Axtell. *What more?*

Burden. And you commanded *Eliſha Axtell* with a File of Soldiers, to take a Boat and go down to the Common Hang-man, that liv'd beyond the *Tower*, to Execute the King; he is now *Sheppard*'s Serjeant in *Ireland.*

Axtell. *My Lord, I deſire to ask him a Queſtion; he was pleaſed to ſay I deſired him to be a Witneſs.*

Burden. Yes.

Axtell. *Where was it?*

Burden. In the Court at *White-Hall.*

Axtell. *My Lord, I have ſeen the Printed Liſt of Witneſſes againſt the King, and in that Liſt you ſhall find no ſuch Name.*

Burden. I have been a Priſoner in *Dublin* by your means.

Axtell. *My Lord, I hope you will take Notice of that.*

Council. Burden, do you remember any of his Commands to *Web*, to draw up in the *Banqueting-Houſe?*

Bur. He commanded *Web* to draw up in the *Banqueting-Houſe*, during the time of Execution, his own Company. I was one of his own Company then.

Council. In order to what?

Burden. For Execution.

Axtell. *My Lord, is* Web *here?*

Bur. He is in *Dublin.*

Axtell. *I wiſh he were here.*

Edward Cook Sworn.

Cook. And it pleaſe your Honour, my Lord, the laſt Day of the Trial of His Majeſty I came into *Weſtminſter-Hall*, coming where the Court was, I did ſee Col. *Axtell*, the Priſoner at the Bar, there with ſome Muſqueteers.

Council. What Day was this?

Cook. The laſt Day of His Majeſties Trial.

Lord Chief Baron. Go on, Sir.

Cook. Standing there a little while, His Majeſty came Guarded with ſome Halberteers, when he came by the Soldiers that ſtood with Colonel *Axtell*, His Majeſty Bowed, and afterwards put off his Hat, and went up to the Court; I could not know what *Bradſhaw* ſaid to him, I ſtood below; I heard him ſay he was brought by the *Conſent of the Commons and People of* England; there ſtood a Lady above in a Gallery, crying out, *it is a Lie, where are the People? or their Conſents?* Cromwel *is a Traytor:* Whereupon Colonel *Axtell* ſtanding by, ſaith he, what Drab is that that Diſturbs the Court? Come down, or I will fetch you down.

Mr. *Nelſon* Sworn.

Council. Tell my Lords, and Gentlemen of the Jury, touching the Diſcourſe between you and the Priſoner at the Bar in *Dublin.*

Nelſon. My Lords, and Gentlemen of the Jury, upon a Diſcourſe with the Priſoner at the Bar in *Dublin*, Five or Six Years ſince, upon the Platform in that Caſtle we diſcourſed of the late King's having had ſeveral Reports, I deſired to know of him who it was that Executed the King, thinking he might inform me; he was pleaſed to tell me this, ſaith he, the Perſons that were employed in that Service, you know them as well as I do; truly Sir, not I, ſaid I, I ſaw them in Vizards, but not their Viſage, as I know of; yes, ſaith he, you do know them; it is true, ſaith he, myſelf and others were employed in that Affair, in order to the Execution; but there were ſeveral Perſons came and offered themſelves, out of a kind of Zeal, to do the Thing, but we did not think it proper to imploy Perſons whom we did not know, but we made choice of a couple of Stout Perſons; pray let me hear their Names, ſaid I; ſaith he, it was *Hewlet* and *Walker*; I deſired to know their Reward; truly, ſaith he, I do not know whether 30 *l.* apiece, or between them; I ſaid it was a ſmall Reward for a Work of that Nature; truly, ſaith he, that was all.

Axtell. *You named one Man, I did not hear the other named.*

Nelſon. I named *Hewlet* and *Walker*, we was one that managed the Execution, he told me ſo, and it pleaſed you, Sir.

Axtell. *He is pleaſed to ſay that in* Ireland *there was ſuch Conference, was any Body by?*

Nelſon. No, Sir.

Axtell. *Did I Name any Body to you?*

Nelſon. You named thoſe Two Perſons.

Axtell. *Certainly I muſt Invent them then, for I had no more Knowledge of them than any one here.*

Nelſon. You told me you were one of them that had the managing of that Affair.

Council. My Lord, we have done with our Evidence; thoſe Particulars that were firſt opened to you have rendred the Priſoner much a blacker Perſon than we thought; we leave him to his Defence.

Axtell. *May it pleaſe your Lordſhips, in the firſt place, becauſe I am ignorant in the Laws, I deſire to know upon what Statute this Indictment is grounded.*

Lord Chief Baron. It is grounded upon the Statute of the 25th of *Edward* the Third.

Axtell. *My Lords, I muſt acknowledge my Ignorance of the Laws, being a Thing I never ſtudied, nor have the Knowledge of, but I have heard it is the Duty of your Lordſhips and the Judges to be of Counſel for the Priſoner in Things wherein he is ignorant in Matter of Law, to make his juſt Defence; and therefore, my Lord, the Indictment itſelf being Matter of Law, if your Lordſhips pleaſe not to grant me Council to ſpeak to Matters of Law, I humbly pray that your Lordſhips will be pleaſed, that for want of Knowledge, Formalities, Punctilioes, and Nicetics of the Law, I might not undo myſelf:*

ſelf: I have heard by a learned Judge, that though the Judge be of Council to the King, yet by his Oath he is alſo to be Councellor to the Priſoner, and ſtands as Mediator between the King and Priſoner; and therefore, my Lord, I ſhall beg that humble Favour, that wherein I ſhall fall ſhort to make the beſt Improvement of my Plea in Matter of Law, that your Lordſhips will help me, and not take Advantages againſt me, as to the Niceties, Formalities, and Punctilioes of the Law; and my Lord, this is a Reſemblance of that Great Day, where Chriſt will be Judge, and will judge the Secrets of all Hearts, and of all Words, and of all Perſons, and by him all Actions are weighed, knows all our Hearts whether there be Malice, or how it ſtands in the Frame of each Heart before him in this place; and therefore I hope there will be nothing by pre-judging, or any Thing by pre-cluding, to be ſo Black a Perſon as is ſeemed to be ſaid againſt me. My Lords, I muſt ſhorten the Time, and come to ſpeak as to the Authority.

Lord Chief Baron. As to what, Sir?

Axtell. *I ſpeak as to the Authority by which, or under which, I acted; I humbly conceive, my Lord, under Favour, that I am not within the Compaſs of that Statute of the* 25 Ed. 3. *for that Queſtionleſs muſt intend private Perſons;* Counſelling, Compaſſing, or Imagining the Death of the King. *But you know, my Lords, the War was firſt ſtated by the Lord and Commons, the Parliament of* England, *and by Virtue of their Authority was forced to be raiſed, and they pretended by Law that the Right of the* Militia *was in them; and your Lordſhips will remember in ſeveral Declarations and Acts that was mutually exchanged between His Majeſty and Parliament; and, my Lord, that was the Authority, the Lords and Commons aſſembled in Parliament raiſed a Force, and made the Earl of* Eſſex *General, and after him the Earl of* Mancheſter, *of the Eaſtern Aſſociation, and after that Sir* Thomas Fairfax, *Lord General of the Forces; by this Authority I acted, and this Authority I humbly conceive to be legal, becauſe this Parliament was called by the King's Writ, choſen by the People, and paſſed a Bill they ſhould not be Diſſolved without their own Conſents; that the Parliament was in Being when the Trial was, and a Queſtion whether yet legally Diſſolved.*

In the Fourth Place, they were not only owned and obeyed at Home, but Abroad, to be the chief Authority of the Nation, and alſo owned by Foreign States and Kingdoms, ſent Ambaſſadors to that Purpoſe; under them did all the Judges of the Land Act, who ought to be the Eye of the Land, and the very Light of the People, to guide them in their right Actions; and I remember the Judges upon Trial, (I have read it of High-Treaſon,) Judge Thorp, Nicholas and Jermin *have declared it publickly, that it was a lawful juſtifiable Thing by the Law of the Land to obey the Parliament of* England. *My Lord, it further appears as to their Authority over the People of this Nation, Petitioning them as the Supreme and Lawful Authority: And,* my Lords, *as I have heard it hath been objected, that the Houſes of Lords and Commons could make no Act, truly my Lord, if you will not allow them to be Acts, tho' they intitle them ſo, call them ſo, and obeyed as ſo, by the Judges, Miniſters, and Officers of State, and by all other Perſons in the Nation, yet I hope they cannot be denied to be Orders of Parliament; and were they no more but Orders, yet were they ſufficient, as I humbly conceive, to bear out ſuch as acted thereby. And, my Lord, the Parliament thus Conſtituted, and having made their Generals, he, by their Authority, did Conſtitute and Appoint me to be an Inferior Officer in the Army, ſerving them in the Quarters of the Parliament, and under and within their Power; and what I have done, my Lord, it hath been done only as a Soldier, deriving my Power from the General; he had his Power from the Fountain, to wit, the Lords and Commons; and, my Lord, this being done, as hath been ſaid by ſeveral, that I was there, and had Command at* Weſtminſter-Hall, *truly, my Lord, if the Parliament Command the General, and the General the Inferior Officers, I am bound by my Commiſſion, according to the Laws and Cuſtoms of War, to be where the Regiment is; I came not thither Voluntarily, but by Command of the General, who had a Commiſſion (as I ſaid before) from the Parliament. I was no Counſellor, no Contriver, I was no Parliament Man, none of the Judges, none that Sentenced, Signed, none that had any Hand in the Execution, only that which is charged is, that I was an Officer in the Army; if that be ſo great a Crime, I conceive I am no more Guilty than the Earl of* Eſſex, Fairfax, *or the Lord of* Mancheſter.

Judge Mallet. You are not charged as you were an Officer of the Army.

Axtell. *My Lords, That is the main Thing they do inſiſt upon: My Lord, I am no more Guilty than his Excellency the Lord General* Monk, *who acted by the ſame Authority, and all the People in the Three Nations; and my Lord, I do humbly ſuppoſe, if the Authority had been only an Authority in Fact, and not Right, yet thoſe that acted under them ought not to be queſtioned; but if the Authority commanded, whatſoever Offence they committed, eſpecially that that guided me, was no leſs than the declared Judgment of the Lords and Commons ſitting in Parliament; they declared that was their Right as to the* Militia; *and having explained ſeveral Statutes of* Henry *the* 7th, *wherein the King having enterchanged Declarations with the Parliament, the Parliament comes to make an Explanation on that Statute; and, my Lord, it is in* Folio 280, *wherein they do poſitively expound it, and declare it as their allowed Judgment. To clear up all Scruples to all that ſhould take up Arms for them, ſaith the* Parliament *there, as to the Statute of* 11th *of* Henry *the* 7th, *Chapter the Firſt, which is printed at Large, comes there to explain it in General, and comes here,* Folio 281, *and gives this Judgment;* It is not, ſay they, agreeable to Reaſon or Conſcience, that any one's Duty ſhould be known, if the Judgment of the High-Court of Parliament be not a Rule or Guide to them. *In the next Place, this is the next Guidance, Rule, and Judgment of* Parliament, *upon the Expoſition of this Statute, and as they have ſaid in ſeveral Places, (was it not too much to take up your Lordſhip's Time,) they are the proper* Judges and Expounders of the Laws. *The High-Court of* Parliament *have taken upon them to expound the Law, and ſaid that we Lawyers will give the Meaning of the Text contrary to what they have Expounded the Meaning under their Hands: In the ſame* Declaration *His Majeſty is pleaſed to quit that Statute upon which I ſtand Indicted, the* 25th *of* Edward *the Third, where they do, my Lord, expound that very Statute in the Declaration made in* 1643, Folio 722. *I come to the declared Judgment, wherein they did poſitively ſay, that the Perſons that do Act under their Authority ought not to be queſtioned as Perſons Guilty,* Folio 727, *that is the Expoſition that the Lords and Commons Aſſembled in* Parliament *doth make upon the Statute.*

Council. My Lord, this is an Argumentation of Diſcourſe in Juſtification of his Proceedings, we deſire to know what he will Anſwer as to the Plea.

Axtell. *My Lords, I have this further to ſay, that if a Houſe of Commons Aſſembled in* Parliament *may*

be guilty of Treaſon, (for the Truth is, if I acted Treaſon that acted under the Authority of the Lords and Commons in Parliament, and of the Commons in Parliament,) then doubtleſs they muſt begin the Treaſon: If the Houſe of Commons, who are the Collective Body and Repreſentation of the Nation, all the People of England, *who choſe them, are guilty too; and then where will there be a Jury to try this? Concerning the Commons alone I have been over-ruled.*

Lord Chief Baron. If you have any Thing to ſay to the Lords and Commons, Anſwer to your Charge; your Charge is nothing of the Lords and Commons, but what you acted when the Houſe was broke and forced.

Council. You cannot but know that there is nothing charged againſt you, for which you can ſo much as pretend an Authority of the Lords and Commons; you know before you could do this horrid Murther, you were the Perſons that deſtroyed the Lords and Commons both; indeed you Ravel in a Buſineſs, and to make People gaze upon you without any Ground.

Axtell. *I am upon my Life, I hope you will hear me patiently.*

Lord Chief Baron. God forbid but we ſhould.

Axtell. *I do deſire to aſſert my Authority; if any Thing was done upon the Houſe of Lords and Commons I do not come here to juſtifie their Actions, I was not concerned in it. My next Plea is this; that if a Houſe of Commons can be charged Guilty of* High-Treaſon *as a Community, the diſtributive Body muſt needs be Guilty.*

Court. If there ſhould have been 20 or 40 Men come out of the Houſe of Commons, and ſhould Murther a Man, they muſt Anſwer for that; it is not the Community that can do ſuch an Act of Treaſon: Theſe Perſons that you call a Houſe of Commons, there was but 26 of them, and theſe muſt be the People; this is the State of the Caſe; and when you have thruſt out thrice the Number of thoſe remaining, only thoſe can ſerve your Turn.

Lord Anneſly. Mr. *Axtell.* I am very ſorry to ſee you in that Place, and it troubles me as much to hear you vent that for an Authority, which you know yourſelf was no Authority; you would now for your Defence for Life, (and it is Reaſon you ſhould make as full a Defence for Life as you can,) you would ſhelter yourſelf under that Authority, which I am ſorry I muſt ſay were one of the greateſt Violators of. You cannot forget how near a Cloſe of this Bloody War, by the Mercy of God, this Nation was, when the Army interpoſed, whoſe Trade it was to live by War, when they had felt ſo much of the Sweet of War, they would not ſuffer the People to enjoy Peace, though the Lords and Repreſentatives in Parliament had agreed to it; a Treaty was begun, Terms of Peace propounded and agreed to; this you cannot forget, and will have no need of Notes or Books to help your Memory: When the People Groaned under the Miſeries of War, and Thirſted after Peace, then came up the Army, who were Servants to the Parliament till that Time, taking upon them the Authority; (you cannot forget that yourſelf was one of the Number that came to offer Accuſations againſt the Majority of the Commons Houſe, calling them Rotten Members;) the Houſe of Lords was not then ſuffered to ſit, they would not join in that Ordinance that was preparing for the Trial of the King; when the Lords had refuſed, they were no longer fit to be Lords neither; then comes in a new Authority, which we never heard of before; a Remnant of the Houſe of Commons joining with the Army that had driven away the greateſt Part of the Houſe of Commons; (for in all Aſſemblies and Courts the Major Part muſt determine, or no Determination,) after this Courſe was taken, then is an Act ſet on Foot, they take upon them by Votes of their own to be the Parliament of *England*, that the Supreme Power of the Nation is in the Repreſentatives of the People; who were they? Thoſe few only that remained; almoſt all the Cities, Counties and Boroughs of *England*, had none left to repreſent them, they were driven away by Force; then was this Act of Parliament (ſuch an Act as was never heard of before) ſet on Foot and paſſed as an Act by a few of the Houſe of Commons; if you can plead this for your Defence, this is the Act that you muſt ſhelter under. But you know the Lords and Commons had unanimouſly reſolved for Peace, and ſo agree with the King. If this Act will be any Defence, you may plead it to the full; and this is all you have to ſay, therefore go upon no foreign Matter.

Axtell. *If it pleaſe your Lordſhip, that worthy Lord that ſpoke laſt is pleaſed to ſay, that I was one of the Perſons that did accuſe ſome of thoſe Members of Parliament; truly, my Lord, I never did come to the Commons Bar but once, preſenting a Petition; and for my Hand either in Charging any of the Members, or Secluding any of them, I never had any Hand in that Matter; this is all to that Part. Next, I humbly conceive here I muſt ground my Bottom, and if I periſh, I periſh by a Judgment in a Parliament; my Commiſſion that did Authorize me to obey my General, was given me when the Lords and Commons ſate in Parliament; I had no other Commiſſion than this: My Lord* Fairfax *commanded the Army after the King's Death by the like Commiſſion; I did but my Duty in going to my Regiment; the General ſaith, go to ſuch a Place, ſtay there; if I refuſe, by the Law of War I Die; if I obey, I am in Danger likewiſe; I ſay my Commiſſion was given me by the Lords and Commons, and therefore I hope, my Lord, that what I have ſaid and offered in that Particular is not Truthleſs, but of Weight.*

Court. The Effect of your Commiſſion is only to make you an Officer.

Axtell. *My Commiſſion bears Date the 27th of* March 1648, *Ten Months before the King's Death; we had no other Commiſſions, therefore I humbly conceive the Queſtion will be this in Point of Law, and I humbly deſire it may be truly and fairly ſtated by your Lordſhip, and theſe Honourable Judges, that whether a Man being guided by the Judgment of the Lords and Commons Aſſembled in Parliament, and having declared their Judgments and Expoſition of that Statute of the 25th of* Edward *the Third, and Acting only by that Judgment of* Parliament, *and under their Authority, can be queſtioned for Treaſon. That, my Lord, is a Queſtion that I do humbly think is a Point in Law, and that you will pleaſe fairly and truly to ſtate it, whether I am within the compaſs of that Statute whereupon I am Indicted.*

Council. My Lord, we do not charge him with any Thing that he did act under the Colour of his Commiſſion, or with any Thing he did before that, but that which we charge him with are the Acts that he did at the Trial of the King; ſhew us your Commiſſion from the Lords and Commons Aſſembled in Parliament, for Trial and Execution of the King; you ſay ſomething, we do not charge him for any Thing done by Vertue of that Commiſſion, but with thoſe violent Acts that he did in encouraging the Soldiers to cry, *Juſtice, Juſtice, Execution, Execution*, and all thoſe other violent Actions of his own malicious Heart againſt the King. We hum-

humbly beſeech you he may anſwer to that which is the Charge againſt him, and that is, the *Compaſſing and Imagining the Death of the late King*, and his declaring that by thoſe Overt-acts that we have proved. My Lords, we deſire that the Priſoner at the Bar may remember that he is not Indicted for Levying War againſt the King; if ſo, then that, Sir, which you offer, might be given as a Plea, and we ſhould have ſpoken to it; but you are Indicted for *Compaſſing and Imagining the Death of the King*; and that which we have given in Evidence were the ſubſequent Overt-acts to prove the ſame.

Axtell. *I hope you will not think it much to give me ſome more Freedom for my own Defence for Life; My Lord, I muſt needs ſay, though there was a Force on the Parliament, I am not to juſtifie it; I was no Lawyer, no States-man, no Counſellor, but a Soldier; and if the General, who had a Commiſſion from the Lords and Commons, and that ſome Years before and after the King's Death, be not Guilty of Treaſon, what I did was by Command from my General; and though I am charged with being in Arms in* Weſtminſter-Hall, *and at ſuch and ſuch a Place, yet it was not a Voluntary Act, for I was bound to obey my General; I do humbly pray that I may have your Lordſhip's Judgment in this Point; I muſt ſay it was from the Sence of their Expoſition of the Law, and of the Statutes, and from the Authority, that every one took up Arms for, and ſerved them, and obeyed either the one General, or the other; I ſay, it was under this very Authority, and this muſt needs acquit me from all the Guilt that is laid upon me.*

Lord Chief Baron. You put yourſelf upon the Judgment of the Court upon this which you call a Point in Law. Firſt, It is manifeſt that there is no Excuſe at all for Treaſon; no Man by his Commiſſion can warrant the doing of an Act which is Treaſon: You muſt take Notice of the Authority, whether it be good or no; your Commiſſion was not to put the King to Death, but on the contrary, to preſerve the King's Life. The Lords and Commons, what they did we do not meddle with; the Reaſon and Ground of what they did was the Preſervation of the King's Perſon, as well as the Maintenance of the Laws and Liberties of this Nation; they made Proteſtations, Declarations, and Oaths, for the Preſervation of the King's Perſon; and you could not but take Notice of thoſe Things: Now whereas you go about to ſhroud yourſelf under the Lord *Fairfax*, he had no ſuch Power, and therefore you can challenge no more than he had; and to what you ſay concerning the Judgment of the Parliament, there will be a great deal of Difference between a particular Caſe and a Declaration of Lords and Commons; there is nothing you have ſaid that hath any Thing of Force, and God forbid you ſhould make uſe of it; but I muſt tell you, you could not but notoriouſly know all thoſe Tranſactions that were in the Army, what the Army had done, that they came up with Swords in their Hands, and turn'd out whom they would; you ſaw what the Lords and Commons had done, that the Treaty was ready for his Birth; and then you came up with your Myrmidons, with Force and Arms, and exclude the greateſt Part of the Members, and then the Lords were laid aſide: It is true, the Lords were not wholly diſſolved, but they would not ſuffer them to Sit, nor Act at all, and this was apparent to the Nation. If Men, under Colour and Pretence of ſuch Things, namely, that a few Perſons, (for ſo they were,) but an Eighth Part of the Houſe of Commons, permitted to remain, and of that Eighth Part (which was but Forty Six in the whole) there was but Twenty Six that Voted that Act which you ſay you obeyed: But you ſay you obeyed the General; you are not to obey the General in this Caſe; for the Facts that you have committed are not charged as Acts of War; you are not charged for bringing the Soldiers in, but for thoſe violent Actions that you were guilty of there; you made the Soldiers cry out, *Juſtice, Juſtice, Execution, Execution*; you ſent officiouſly for a *Hangman* to come down to you; your Commiſſion gave you no Power for this; the Death of the King you know how it was deſigned; you know the Act for the bringing in of that Commiſſion (as they call'd it) to ſit in Juſtice was after the Houſe of Commons was reduced to a very ſmall Number, and ſome of thoſe diſſenting too; what you did act under that Authority, if you can juſtifie it, in the Name of God ſay ſo; but do not engage the Nation in thoſe Things which they abhorred, and by the Mercy of God are laid aſleep.

Mr. *Juſtice Foſter.* You begin at the wrong End, you ought, as all Men ought to do, firſt to Anſwer the Matter of Fact, and not to put in thoſe long dilatory Pleas till you have anſwered the Matter of Fact, whether thoſe Things charged on you be true or not; then if you have any thing further to ſay for yourſelf by Way of Excuſe, it will be the Time to ſpeak, and not before.

Axtell. *May it pleaſe your Lordſhips, I humbly conceive I am upon that Method to the firſt Part of the Witneſs; they accuſe me for commanding my Soldiers in* Weſtminſter-Hall, *then I muſt prove my Authority, which I have been about to do, and declared the Judgment of Parliament.*

Lord Chief Baron. The Court have heard you with a great deal of Patience, and that which is not at all to the Buſineſs.

Axtell. *I only refer this as to the Authority; (I humbly conceive you will give me Leave to inſiſt upon this, and how far I may improve it for my own Defence;) here is the Commiſſion by which my Lord* Fairfax *acted, and that after the King's Death, and I acted by the ſame Authority he did; I had not been at* Weſtminſter-Hall *but on the Command of the General.*

Court. Doth that Commiſſion Authorize you to cry *Juſtice, Juſtice?* And to look up and down to get Witneſſes againſt the King? Is that in your Commiſſion?

Axtell. *I am to ſerve and obey all my Superior Officers, that is my Commiſſion; if I do not I die by the Law of War.*

Court. You are to obey them in their Juſt Commands; all Unjuſt Commands are Invalid. If our Superiors ſhould command us to undue and irregular Things, (much more if to the committing of Treaſon,) we are in each Caſe to make Uſe of our Paſſive, not Active, Obedience.

Axtell. *Under Favour, it is not proved,* that I did either Compaſs or Imagine the King's Death; *that is Matter of Fact.*

Court. Let us try that.

Axtell. *My Lord, I did nothing but as a meer Soldier; I had Authority from the General; I would leave this before your Lordſhips and the Jury, that what I have done hath been by Authority of the General.*

Lord Hollis. Sir, a Word to you; if you could ſatisfy the Court that you had received a Commiſſion from the General to do thoſe Things with which you ſtand charged it were ſomething, then were it proper for you to plead it, and the Court to Judge. Pray take this along with you, the General gave you no ſuch Command; what you are charged with in the Indictment is, *for Compaſſing and Imagining the*

Death

Death of the King, and that by ſuch and ſuch Overt-acts, as making your Soldiers cry out *Juſtice* and *Execution*, for being active and forward in ſending for the *Executioner*, and ſuch other Acts; prove theſe are in your Commiſſion, and you ſay ſomething: I am ſure you cannot be ignorant that that very Authority that you now do urge to give Life and Power to your Actions, that you deſtroyed it, laid it in the Duſt, acted contrary to it ſeveral Ways; when the Parliament proteſted againſt fetching the King from *Holmby*, as they did, when they went on proceeding in the Way of Peace, then came you up to the Bar, (I think you yourſelf,) and charged ſome of the Members; firſt Eleven as Rotten Members, and theſe Men were forced away; this you know your General had no Commiſſion to do; and this you know was a Violation of that Power that gave your General the Commiſſion. After that, when the Treaty was brought on in the *Iſle of Wight*, when there was great hopes of Peace, then you know the King was hurried thence by Force, which the Parliament proteſted againſt. After that, when both the Houſe of Commons and Lords came to conſider of one Particular that paſſed, they reſolved that it was ſufficient Ground to proceed on for the Settlement of Peace, then did you fall upon theſe Houſes, and tear them in pieces, and throwing out above 200, ſuffering only about 40 to remain, and they were glad to ſend for One Member out of Priſon to make up a Houſe. That which you ſay of the Supreme Authority, and that by Vertue of which you did act, it ſhews that you did not at all go by any Authority, but you followed your own Luſts; and therefore do not ſew theſe Fig-leaves together, which will ſtand you in no ſtead; if you would apply yourſelf to anſwer that which you were charged with, it were ſomething.

Axt. *I do deſire to have no more Interruptions than is meet in making my own Defence. My Lord, here are many Things by Way of Motive urged to the Jury which is not within the Charge, I deſire I may have that fair Play*, that nothing may be urg'd but what is in the Charge.

Lord Chief Baron. You give the Occaſion, Mr. *Axtell*; keep to the Matter; and you ſhall not be interrupted.

Lord *Hollis*. I ſhall be very ſorry to urge any Thing againſt you which doth not neceſſarily follow; for what you ſay touching your Authority, I ſhall ſhew you have no Authority.

Axtell. *My Lord, I have the ſame Commiſſion as the General; what I did was not of mine own Head, I had a Command: As for all that hath been charged againſt me I ſhall ſay this, I was none of the Court, I did not fetch the King from the* Iſle of Wight, *nor adviſ'd, compaſſed, or imagined, his Death, or Sentenced him to Death, or Signed the Warrant for his Execution, or Executed him; I am none of them, my Lords; and therefore whoever did make any Breach upon the Houſe of Commons, they were Grandees, Perſons of a greater Quality; I was an inferior Officer; I was never at the Houſe Bar, but upon preſenting one Petition to the Parliament from the Army. I ſhall now come to ſpeak to the Evidence which hath been given particularly againſt me; and the Firſt, my Lord, is* Mr. Simpſon, *he ſaith, I had the Command of the Guards at* Weſtminſter-Hall: *My Lords, I have told you already, ſhewn you by what Authority I came thither, and that I ought not to refuſe; if I had, according to the Laws of War I muſt have ſuffered Death; and that is all as to Mr.* Simpſon, *only that a Lady (he knows not who) ſpake ſomething there.*

Lord Chief Baron. He ſaith he heard you bid the Soldiers give Fire againſt the Lady.

Axtell. *My Lord, I muſt ſay, if there was any Lady that did ſpeak, who ſhe was I know no more than the leaſt Child here; but, my Lord, to Silence a Lady I ſuppoſe is no Treaſon; if a Lady will Talk impertinently it is no Treaſon to bid her hold her Tongue.*

Lord Chief Baron. A Lady was ſpeaking pertinently enough, when ſhe heard *Bradſhaw* ſay to the King, ſuch a Charge is exhibited, a Charge of High-Treaſon againſt him *in the Name of the Commons Aſſembled in Parliament, and the good People of* England; ſhe ſaid, *That was a Lie, not half, nor a quarter of the People of* England; *that* Oliver Cromwel *was a Traitor*; then you took upon you to Command the Soldiers to Fire at her, and accordingly they levelled the Muzzles of their Muſquets towards her.

Axtell. *My Lord, as to that particular concerning* Oliver Cromwel, *or any other Words concerning the Court, I underſtand them not; but if any Interruption was made, to preſerve the Peace, to deſire a Woman to hold her Tongue is no Treaſon. To the next Particular, wherein Colonel* Huncks *ſaith, at a Door of a certain Lodging where* Ireton *and* Harriſon *were in Bed together, he ſaith, that upon his Refuſal to Sign the Warrant for Executing the King, I ſaid to him, Colonel* Huncks, I am aſhamed of you, the Ship is now coming into Harbour, and will you ſtrike Sail before we come to Anchor? *Truly, my Lord I think all that amounts to nothing; if it were ſo, which I deny it; for to bring the Ship into Harbour, what is that? There is no Perſon named, Fact named, nor Deſign named; and I appeal to my Conſcience, I remember not the Time, Place, Perſon, or Words; and I can call for Colonel* Phayre *and Colonel* Hacker, *who were there; for I deſire Things may appear right, I deſire they Two Perſons may be called for their Evidence in that Point.*

Lord Chief Baron. They both are in the ſame Condition, Colonel *Hacker* in the Priſon behind you, Colonel *Phayre* in the *Tower*; Mr. *Axtell*, you know the Strength of one Affirmative Witneſs; I ſaw ſuch a Man, and heard ſuch a Man ſay, *&c.* is more than if Twenty ſhould Witneſs they ſtood by, but did not ſee him, or hear him ſpeak.

Axtell. *My Lord, he ſaith only this, I ſaw you at the Door going into* Ireton's *Chamber, and ſaid,* Will you ſtrike Sail, *&c? Truly, my Lord, he doth not ſay what, or how, or any Thing I meant; there muſt be according to Sir* Edward Cook's *7th Book of his* Inſtitutes, *that Oracle of the Law, he ſaith,* That Evidence ought to be as clear as the Sun at Noonday; *all that you can ſay is this, it muſt be a wide Inference, a large Inference; I conceive there is nothing in theſe Two Witneſſes, and if the Two Priſoners were here they would clear me in this.*

Lord Chief Baron. If by Law you could have had them, you ſhould; but I fear if they could be admitted they would not be to your Advantage.

Axtell. *Then, my Lord, in the next Place, Colonel* Temple *is pleaſed to ſay, that the Lady* Fairfax *ſaying ſomething againſt the Court, (which in truth, as I ſaid before, I know not who it was, or what the Words were,) he ſaith, I bid Fire againſt them; I did nothing but what I was commanded upon Pain of Death, to preſerve Peace, and in Purſuance of that Command from the Superior Officers of the Army, Silence was required, and that was all that was done. I ſuppoſe where a Man is commanded to keep Silence,*

Silence, as the Sheriff is required to keep all at Peace in a Court, if he reſtrain a Perſon that will not be quiet, it is not Treaſon in him, nor in me, in this Particular. My Lord, in the next Place Mr. Temple *is pleaſed to ſay, that I ſtood upon the Pavement laughing, while others ſighed; truly, my Lord, I know not whether I ſaw the Gentleman, or no; certainly Smiling is no Treaſon, if I did ſo, though I believe I had as great a Sence that Day as many other Perſons there; this is the Sum of that he ſaith; only he further adds, that I bid the Soldiers cry for* Juſtice, *truly, my Lord,* ——.

Lord Chief Baron. Becauſe it may be your Notes are ſhort, I will acquaint you there was a little more in it; he ſaid you bid the Soldiers cry out, *Juſtice, Juſtice*; and they coming not very readily to it, you ſtruck ſome of them, till they with yourſelf cried out, *Juſtice, Juſtice,* till they with yourſelf did it.

Axtell. *My Lord, to that I anſwer, that in the Hall there was ſome kind of People did ſet up a crying ſome kind of Words, and may be ſome of the Soldiers might cry ſo too; I might command them to hold their Tongues, and to ſay* I'll teach you to cry Juſtice, *and ſo the Gentleman ſtanding by might believe I was the Perſon that bid them do it: Truly, my Lord, this is all that the Gentleman ſays, which I humbly conceive is nothing, becauſe he does not ſay againſt any Perſon; and therefore, my Lord, I do hold to that Maxim in the Law, as Sir* Edward Cooke *holds, (that Man of great Parts of Learning and Knowledge,)* That in Matters of Treaſon, wherein a Man is the highlieſt concerned in his Life and Poſterity, there ought not to be conſtrued againſt him Inferences or Preſumptions, or Straint of Wit; *there is no more in this, and this is all that I ſay in this Particular. In the next Place, Mr.* Temple *is pleas'd to ſay, that after the Court had ſentenced his Majeſty he was hurried away in a* Cedan; *truly, whether he was, or not, I know not; there was a Guard of Halberteers, whereof Colonel* Huncks *was one, and ſeveral others, as I have heard; they were Select Guards of his Majeſty, guarding him from St.* James's *to other Places; how he came to be hurried I know not, it was not by me; and whereas he ſays during the whole Trial I was there, truly I think I was there by Command of my General, by Authority of the Lords and Commons.*

Lord Chief Baron. You ſpeak this that the Jury may underſtand you did it by Command of your General. Do you mean by Expreſs Command?

Axtell. *I did not move a Day but by Special Command.*

Lord Chief Baron. By whom?

Axtell. *The Lord* Fairfax *gave his Orders every Morning to his Adjutant-General, or Major-General, and they iſſued them out to ſuch and ſuch Perſons as he appoints.*

Lord Chief Baron. Who gave theſe Orders out?

Axtell. *The Lord* Fairfax; *we did all under him.*

Lord Chief Baron. You had not the Order immediately from him.

Axtell. *The Major-General had.*

Lord Chief Baron. What Major-General gave you that Order?

Axtell. *There was* Cromwel *and* Ireton.

Lord Chief Baron. The Lord *Fairfax* gave you no immediate Commiſſion.

Axtell. *He gave my Superior Officers.*

Lord Chief Baron. How do you know that?

Axtell. *My Lord, becauſe they told me ſo, it was by his Command.*

Lord Chief Baron. The Queſtion is now underſtood.

Axtell. *The next Perſon that ſpeaks is Mr.* Bodurdoe, *and he ſays that I commanded the Soldiers at the King's Trial, and that a Lady that was ſpeaking was commanded Silence, to this Purpoſe; truly, my Lord, this is but the ſame as before.*

Lord Chief Baron. You ſaid *Shoot* too.

Axtell. *No, (my Lord,) I ſaid not any ſuch Word, or any Thing like it; I heard there was an Officer went up and intreated her to be ſilent; I ſay it is the ſame with the former, it is no Treaſon to deſire one to be ſilent. My Lord, the next Witneſs that ſpeaks in Evidence againſt me is Mr.* Young; *he ſays this, I bid the Soldiers cry for* Juſtice; *it is very like that Perſon, as well as Mr.* Temple, *might ſee me in the Croud ſpeaking to make the Soldiers quiet, I might repeat the Words that the People ſaid, repeat the Word* Juſtice, *or ſome ſuch Word, as the Peoples Words.*

Lord Chief Baron. Remember how he repeats them; he ſaw you active in ſetting on the Soldiers to cry *Juſtice.*

Axtell. *If I have taken them right; one ſays he heard me ſay ſuch Words as* Juſtice, *and that he ſaw me ſtrike Two or Three Soldiers; if in the Tumult ſuch a Word ſhould be ſtarted, I hearing of them I might ſtrike thoſe Soldiers that ſaid* Juſtice, Juſtice, *and might repeat the Words,* I'll give you Juſtice, *and ſo ſtrike them; that is a good Evidence that it might be a Repetition of their Words, and not any of mine own: They both ſpeak as to the Word* Juſtice, *but here was not* Juſtice *mentioned to any Perſon; I might repeat their own Words, and chaſtiſe them for thoſe Words; beſides this, (tho' I do not ſay the Word was ſpoken by me,) if the Word* Juſtice *had been ſpoken, my Lord, I hope it is no Treaſon to ſay, I deſire Juſtice;* it is God's great Attribute, it is God's Ordinance, and that can be no Treaſon. *I have read in Law-Books, (though but lately,) and I cannot find that the Word Juſtice ſhould be made Treaſon; then there is no Perſon to whom that adjunct doth belong. The next Evidence, my Lord, is Captain* Jeonar, *he ſaith I commanded a Guard; truly ſeveral Regiments took their Turns as they were commanded by the General, and I, as an Inferior Officer, was there; but that is no more than what was ſaid before, it was done by the Authority of the General; if I had not done it I had died by the Law of War: He ſaith, there was a Cry for Juſtice; I can ſay nothing more than I have formerly ſaid; it may be in the Tumult the Soldiers might ſay ſo, and I chaſtiſing of them, and repeating that in my Chaſtiſement, they might think they were mine own Words.*

Lord Chief Baron. Mr. *Axtell,* I would help your Memory; he ſwears the laſt Day you encouraged the Soldiers to cry, *Execution, Execution.*

Axtell. *For that Particular I am coming to it,* (I thank your Lordſhip for helping me;) *my Lord, for that of* Execution, *truly I cannot ſay whether I was there that Day or no; one Day I was commanded to be there with ſome Companies in* Weſtminſter-Hall, *but whether I was there any more than that one Time is the Queſtion: Admit I was there that Day, I was never there but when I was commanded; when the Colonel that commanded the Regiment was there, I, as an Inferiour Officer, ought to be there: I was there by a Special Order, and not by a Voluntary Act of mine own, and ſo it cannot be* Compaſſing the Death of the King. *For to the Word* Execution, *what can be the Senſe of this Word?* Execution *is a ſingle Word; thoſe People that ſtarted the Word* Juſtice *might put it in the Heads of the Soldiers, which I might ſtrike to command Silence;*

they

they likewiſe might upon the ſame Account cry out Execution, *and ſo to hinder all Tumults, and Hubbubs, and the like, in the Place; I might repeat their Words in correcting of them for it, I might ſay,* I le Juſtice you, I'le Excution you: *But my Lord, this Word* Execution of Juſtice, *it is a Glorious Word; not that there can be an Inference that what they did I ſhould ſay was Juſtice, or to approve of any Thing that they did, but only in General* Execution of Juſtice, *which, my Lord, relates not to any Perſon; poſſibly the rude People might be ſpeaking (as hath been ſaid before) in that Manner, and the Soldiers might take it up, and I might reprove them, and make Uſe of their own Words by Way of Repetion,* I will Juſtice you, I will Execution you.

My Lord, in the next Place I do obſerve to ſpeak that of Mr. Burden, *he did obſerve to your Lordſhips and the Jury, my Country-men, my Brethren, with whom are the Iſſues of Life and Death, for whoſe Life they muſt anſwer before the Lord as to Righteouſneſs, Judgment, and Equity; I ſay, my Lord, as to Mr.* Burden, *he tells you, that for my Sake he was Impriſoned; ſaith he,* I have ſuffered much by him; *and ſpeaks it with much Indignation of Spirit; I have ſuffered, and been Impriſoned, by him, and afterwards he comes to ſpeak his Evidence; how much his Evidence may be of Force I deſire, my Lord, the Jury may conſider of that; and then he comes and ſaith, I commanded a Guard at the* Banqueting-Houſe *in* White-Hall. *Truly, my Lord, the Lord* Fairfax *commanded a Regiment to quarter there, and I, as an Inferior Officer, might be there: In the next Place, my Lord, he ſaith, I ſent* Eliſha Axtell *to fetch the Hangman; truly, my Lord, I wonder this Perſon is come from* Ireland; *(if this were ſo,) the Authority there would not ſend that Perſon with his great Evidence, as well as this Perſon; he may as well charge any Perſon with this as me: It is evident,* Ireton, Harriſon, *and* Cromwel, *they did all amongſt themſelves; I never was with them, amongſt them, received no command from them, nor obeyed them; nor did any Thing but what I had Command for from the General, who, by the Law, I was bound to obey as a Soldier. I ſhall only obſerve one Thing more, this Perſon being ſo long a Priſoner, to Extricate himſelf out of his Impriſonment and Chains, poor Man! he may ſay more than is true. I wonder he ſhould ſay I ſent for the Executioner; I never knew of any Circumſtance touching Conſultation about his Death, or took him Priſoner. When they ſent to me to be one of his Guard, I never would go; I humbly conceive there is nothing ſticks upon me in this, conſidering the Circumſtances, and the Words of the Perſon that ſpoke them.*

My Lord, the next Perſon that ſpeaks againſt me is Mr. Cook, *he ſaith he heard me ſay,* Thruſt that Lady down that made a Diſturbance in the Court, *or Words to that Purpoſe; it is probable there might be a Deſire of Silence. The next Evidence is Lieutenant Colonel* Nelſon, *he ſaith, that upon a Diſcourſe——*

Lord Chief Baron. I would put you in Remembrance, leſt you ſhould forget what Sir *Purbeck Temple* ſaid, that by Leave of Perſons under your Command *he ſaw the Body of the King.* It is only a Circumſtance.

Axtell. *I have heard there were Chirurgions, Phyſicians, and Halberteers, appointed by whom I know not; they had the Care of ſuch Things, and had the keeping of him; he was locked up by them; no Body could come in but by them; I never had a Key; poſſibly Colonel* Temple *might come to me, quartering there, and deſire me to ſpeak to ſome Perſons that had the Charge of it to let him in; whether I did or no I cannot remember; but if it were ſo I hope it will not amount to Treaſon. The laſt Thing given in Evidence againſt me is Mr.* Nelſon, *he ſaith, that upon ſome Diſcourſe between us, he was asking what Perſon cut off the King's Head, and that I ſhould ſay* Hewlet, *&c. Truly, my Lord, I was never privy; and I appeal to Mr.* Ruſhworth, *if he were here, who was Secretary, if ever he ſaw me in any Council, to adviſe, or act, or any Thing in that Kind, in relation to the King's Trial, Sentence, or Execution; for me to know the Perſon that was imployed about the Execution it is ſtrange, when (as I ſaid before) they did all within themſelves: I had no Knowledge thereof, and meddled not with any Thing but within my own Sphere as a Soldier under my Lord* Fairfax, *by Authority of Parliament. For naming any Perſon, truly, my Lord, it would be a wonder to me that I ſhould name any Perſon to go to do any Perſon that Wrong and Injury, to ſay he was the Perſon; I muſt invent it, for I knew nothing of it. But by common Fame up and down the City it was ſaid to be another Perſon; but who it was I cannot ſay, my Lord; but to all this that hath been ſaid againſt me, there are but Two Things upon Two Witneſſes that are placed upon me; the Firſt, my Lord, here is Two Witneſſes for crying* Juſtice, *and* Execution.

Lord Chief Baron. I think you have more than Two to thoſe Words.

Axtell. *Not for both together.*

Lord Chief Baron. No, but ſeveral for *Juſtice.*

Axtell. *There is Three to that; I ſhall only ſay this to your Lordſhip, and this Jury, in whoſe Hand this Life of mine is, and is committed to them, either to acquit or condemn me; and God knows the Hearts of all Men, and my Innocency and Integrity; I ſhall ſay nothing to the Witneſſes, it is a Day of Temptation; and I deſire the Jury, my Countrymen, my Fellow Citizens, my Brethren, that they would well conſider of it, the Word* Execution *and* Juſtice; *admit I had ſaid them, (which, my Lord, I do not, I muſt not grant,) there being an Uproar of People, there ſuch Words might be uſed, and poſſibly Soldiers might take them up from them, and chaſtiſing the Soldiers I might repeat the Words,* I will Juſtice you, I will Execution you.

Lord Chief Baron. The Evidence is, that you beat them becauſe they did not readily cry, *Juſtice, Juſtice.*

Axtell. *It might be more probable I beat them becauſe they did do it, I might chaſtiſe them for doing of it, and repeat it is a Reaſon for their Chaſtiſement; and but admitting it was true, which I grant not, yet I hope Juſtice, and Execution of Juſtice, as it is ſo great an Attribute of God, by God's Laws, nor Man's Laws, is nowhere made Treaſon, but Mercy attends it, and Judgment attends the contrary; I leave it upon the Conſciences of the Jury to weigh it carefully,* how I *could be guilty of* Compaſſing and Imgining the Death of the King, *when nothing is charged againſt me to be either of Council, Sentencing or Signing, or to be at the Execution; only one Man, as I told you before, he ſpoke ſomething Wrathfully, and that he had ſuffered much, and therefore he is come over now, and ſaith I ſhould ſend for the Executioner, which I never knew of, or had any Hand in ſending for; how much Validity that hath I leave to the Jury; if it were ſo it is not Treaſon; for Words may make a Heretick, not a Traytor; I ſpeak that by Way of Preface; I do humbly conceive that theſe*

these being only noted Words, Execution *and* Juſtice, *the King not ſo much as named, nor any Thing done to it by me, I ſay, I conceive it doth not amount to Treaſon by the Law; and beſides, it is againſt the Law of the Great Judge, the Judge of Judges; all of us that are now, and are to come, ſhall ſtand before him to receive our Deſerts; I ſay it is againſt the Law of God* to make me an Offender for a Word; *for a Word; I have heard the Judges ſay, that the Laws of* England *are grounded upon the Laws of God, and the Laws of* England *are Laws of Mercy, not of Rigour: My Lord, if a Man ſhall be deſtroyed in his Life, in his Poſterity, for a Word, (admit the Thing had been ſo,) I leave upon the Conſciences of my Jury, before the Preſence of Jeſus Chriſt, and before whom they and I muſt come to be re-judged again at the Tribunal; and beſides, it is only Words, and Words uncertain; and Sir* Edward Cook *ſaith, he muſt declare plain Truth in Matter of Treaſon; nothing muſt be taken for Evidence that may be a Preſumption or Inference, or Strain of Wit; I hope upon this Conſideration that the Word* Juſtice, *fixed upon me by Two Witneſſes, may be taken up at Second or Third Hand from the People or Soldiers, by chaſtizing them for the Tumult. Then, my Lord, in the next Place, theſe Words were never put in Writing, and ſo not Treaſon; then, my Lord, there was never an Overt-Act done by me; for that Act of Indemnity that His Majeſty and both Houſes of Parliament paſſed, wherein they were pleaſed the very laſt to except me, I wonder'd when I came to be excepted of that Number; I do come back to the Place where I left, and that is the Overt-Act. My Lord, I would only bring it in in this Place; when I was excepted by the Houſe of Commons, one of the Twenty, I was excepted thus, not extending to Life; I went up and down free at Noon-day; I did not hide my ſelf; ingaging a Perſon that was one of His Majeſties Servants to do me a Courteſie, he promiſed me he would do it, and contrary to his Promiſe, he was pleaſed to bring the King's Warrant to carry me to the* Tower; *and after that I came to be excepted with that Black Catalogue of excepted Perſons, and to be brought to the Trial of the Law. Now (my Lord) I return to that Overt-act, as it was but Words uncertain, and they may be Words repeated from the Third or the Fourth Hand, for they were not put in Writing, according to that Act of Indemnity, which I underſtand the Meaning of to be thus; that for their execrable Treaſons, in Sentencing, Signing, or otherwiſe Inſtrumental, they are excepted out of this Act, and to be tried according to the Laws of this Nation. I unſterſtand that to be Inſtrumental, to be Inſtrumentally the Executioner of the King, I never had any Hand in that. Upon the whole, this is the Fact that is proved by Two Witneſſes; they heard me ſay,* Juſtice and Execution, *which muſt relate to the* Execution of Juſtice, *which by the Law of God is not Treaſon, eſpecially when there was not the Word King; for a Word to take away, and deſtroy ſo many, my Life, Wife, Children, and many Fatherleſs that are under the Charge of the Priſoner at the Bar, is very ſad; the Words I do not grant, but upon ſuch Probabilities as I have ſaid I might repeat them,* I will Juſtice you, I will Execution you, *and then the Words were not written; I ſay as Sir* Edward Cooke *ſaid, they may make a Heretick, but not a Traytor. The other Part of the Evidence is this, that I was there with Soldiers at* Weſtminſter-Hall; *I muſt ſay, if that be Treaſon to be guided by Judgment of Lords and Commons in Parliament, I muſt ſay, if that be Treaſon to take up Arms for a Parliament upon ſuch Grounds and Expoſitions of the Statute which they have made and publiſhed by their own Authority, if I am Guilty under the General, then the Parliament would be Guilty of Treaſon.*

Lord Chief Baron. That you have ſpoke to —— I am loth to interrupt you.

Axtell. *I thank your Lordſhip for informing me, but I was commanded to be there by my General; if I had not gone I muſt have died; I did only ſtand there for Preſervation of the Peace, in no other Senſe; if the General order me to be at ſuch a Rendezvous, I muſt be there; if I diſobeyed he would have condemned me by the Law of War. The next Thing againſt me material are theſe Two Things, that is, that I ſhould ſend one* Eliſha Axtell *for the Executioner; I muſt ſay it is moſt admirable ſuch Things ſhould be laid to my Charge; I hope your Lordſhips and the Jury do obſerve, he told you he ſuffered much; and a poor Man, under his Extremities, and Loſſes, and Sufferings, perhaps might ſtart ſome unadviſed Words, and being now ſent over, may aſcertain it. But doubtleſs this* Eliſha Axtell *being in* Ireland, *if by Command it had been ſo, would have been ſent over; truly I muſt ſay I had no Hand in the Buſineſs; it was left wholly to them amongſt themſelves, and whatever was done, or whatever was ſaid, it was ſaid and done by them, I never was acquainted with any Thing of that Nature; he ſaid he heard I ſhould ſend* Eliſha Axtell *for an Executioner; if Hear ſays may be Treaſon it will be a hard Leſſon; and, my Lord, Sir* Edward Cooke *ſaith, there muſt be Two Witneſſes, here is but one. It comes from ſuch a Man, my Lord, as the Providence of God, but I will ſay no more as to that, but pray the Jury will take Notice of it.*

Lord Chief Baron. You need not doubt of it, it ſhall be taken Notice of this of *Burden.*

Axtell. *Now, my Lord, I have but Two or Three Words more, the Statute of the 25th of* Edward *the Third it doth intend private Perſons, my Lord, here is my Commiſſion.*

Lord Chief Baron. It is owned you had it from your General.

Axtell. *My Lord, His Majeſty is pleaſed to ſay in His Gracious Letter, we do by theſe Preſents declare,* That we do grant a Free and General Pardon to all our Subjects, of what Degree or Quality whatſoever, who within Four Days after the publiſhing hereof ſhall lay hold upon this our Grace and Favour, excepting only ſuch Perſons as ſhall hereafter be excepted by Parliament, that is, a Parliament called by his own Writ. You know this Parliament——

Lord Chief Baron. Mr. *Axtell,* I would not interrupt you to that, but this very Objection was made by one of the Priſoners before; this Anſwer was given, Firſt, the King's Declaration is not a Pardon in Point of Law, it muſt be under the Broad-Seal, but God forbid but it ſhould bind in Honour. You inſtanced in the Word Parliament, what was meant by the Word Parliament: You muſt know this, the Exigency of the Times were ſuch, that there were many Noble Perſons that took the Advantage to aſſemble themſelves together to reinſtate the King; they did that which was juſt and lawful, according to the Exigency of the Times; this Declaration he ſent to the Two Houſes, he called them his Two Houſes; ſo that it appears clearly and manifeſtly they were then ſitting, they being accepted by the King, and owned by him; and they did ſit in Way of Convention, according as a Parliament, and his Majeſty ſent his Letter to them; and theſe are

the Perſons that have thought fit to except you out of that Act.

Axtell. *My Lord, may I ſpeak to that any further?*

Lord Chief Baron. If you do it will be over-ruled.

Axtell. *I ſubmit —— with Submiſſion to the Providence of God; I did apply to Sir* Harbottle Grimſton *for the Mercy and Favour of his Majeſty, according to his Declaration, and here is Sir* Harbottle's *own Hand for a Certificate.*

Lord Chief Baron. That is allowed you, that you did claim that Benefit within the Time, but you may remember that it was referred to thoſe Two Houſes of Parliament, they were to conſider who was fit for the Pardon, and you are by them excepted out by Name: Your Queſtion now is no more but *whether Guilty? Or, Not Guilty?* And theſe are but extravagant Diſcourſes that you ſay otherwiſe, and rather do you Harm than Good.

Axtell. *I hope you will pardon me, my Lord; I hope I have ſpoken to clear the Point, the Fact charged by your Lordſhip, and before the Jury; and I hope the Lord will give the Jury a Memory of it, and a right Underſtanding in what I have ſaid for my own Defence. My Lord, the next Thing I have to offer is this, to expound that Act of Parliament, that it was the Intention of his Majeſty and Parliament that all ſhould be excepted, but thoſe Guilty of Councelling, Signing, or Sentencing. Truly, my Lord, I humbly conceive, I being none of thoſe, am not Guilty of Treaſon. I ſhall only ſpeak one Word to my Jury, That they will remember what I have ſaid, that there is but Two Things, Two Witneſſes, as to* Juſtice and Execution; *that it relates to no Perſon, but in General; and then I do not own the Things, but poſſibly they might hear ſuch Words, I taking of them up upon a Rebound, reproved the Soldiers; for the other, that I ſhould ſend one for the Executioner, (he heard ſo,) and that I ſhould name who was the Executioner, I would not have that Perſon, or any other, to ſuffer for that.*

Lord Chief Baron. That is not at all preſſed upon you, not as to any Charge.

Axtell. *I thank your Lordſhip. I am very Ignorant.*

Lord Chief Baron. Have you done, Sir?

Axtell. *I leave the Matter to the Jury, in whoſe Hands I and my little Ones, and Family, are left; I only ſay this to you, remember your Anceſtors, remember your Poſterity. I never heard it before that Words were Treaſon. In Queen* Mary's *Time* Throckmorton *was acquitted for Words by the Jury. Gentlemen of the Jury, I leave my Caſe, my Life, my All, in your Hands.*

Lord Chief Baron. Gentlemen of the Jury, there hath been ſeveral Things offered by the Priſoner at the Bar, as near as my Memory will give me leave in ſo long a Diſcourſe, I ſhall repeat all Things which he ſaith for himſelf, and which are ſaid againſt him. There are ſome Things that he ſeems to utter as tending to Matter of Law, and ſomething meerly of Fact, proper only for you of the Jury. For Matter of Law he hath urged ſeveral Things for himſelf, not by Way of Juſtification of the Fact, (I muſt do him that Right,) but in Excuſe of himſelf; and I hope his Conſcience hath ſo wrought upon him, that he is of Opinion the Fact was a horrid Fact, which was ſo indeed.

For that which he hath ſaid for himſelf, Firſt, he doth alledge to have his Commiſſion from the Lord *Fairfax*, my Lord *Fairfax* had his Commiſſion from the Two Houſes of Parliament, and this Gentleman's was in *March* the Beginning of the Year 1648. He ſaith what he did was in Obedience to his Superiors, as a Soldier; that he never conſulted or adviſed about any Thing of the Trial or Execution of his Majeſty. For this Point, it hath already been ſpoken to, Gentlemen; for that which hath been ſpoken to at large heretofore I muſt repeat it here that he may know it, That no Perſon whatſoever, no Community, not the People, either Collectively or Repreſentatively, have any Coercive Power over the King; neither the Lord *Fairfax*, his General, nor he, nor any other Perſon, could be excuſed for this horrid Fact of bringing the King to Trial, no Perſon, as I ſaid before, nor Community, have any ſuch Power. The Law-books which he hath lately ſeen, (and truly he hath employed his Time well in that,) the Law-books tell us, that whereas the Two *Spencers* had broached a damnable and deteſtable Principle, that the Homage was only due to the King, in Reſpect to his Crown; that if he did not demean himſelf according to ſuch and ſuch Rules, his Subjects might rule him *per aſpertee*, by Aſperity and Sharpneſs; but this was condemned by Two Acts of Parliament; they both appear in my Lord *Cooke* in *Calvin*'s Caſe. I do not go to repeat all the Evidence that might clear this Truth; I ſay, had there been any ſuch Thing, but it hath been told him there was no ſuch Thing in Fact. My Lord *Fairfax*'s Commiſſion was for the Preſervation of the King, as well as for the Liberties of the People. The 11th of *Richard* 2. *Robert de Vere*, and others, for levying a War was puniſhed, but this Gentleman was not charged for levying of War. If either of the Houſes of Parliament ſhould command ſuch a Thing as tends to the Death of the King, it would be void in itſelf. Something he let fall of the Parliament not being diſſolved. My Maſters, for that you have heard ſome of my Lords declare how, and in what manner, this was an Authority of Parliament, but it was clearly nothing at all; this Gentleman goes by Virtue of a Power, from the Lord *Fairfax*. The next Thing he urges in Point of Law was this, he comes by Way of Dilemma; ſaith he, either I muſt obey my General, or die by the Law of War. He goes further, and urges the Statute of 11 *Henry* 7. He comes further, and ſaith, in the 25th *Edward* 3. that concerns ſingle Perſons, truly it concerns every Man. The Indictment, you ſee how it is laid, *it is for Imagining and Compaſſing the Death of the King.* The Overt-acts in the Indictment, you have heard what they are; there muſt be more than one Witneſs for Treaſon. It is very true, but if one Perſon prove one Thing, another Perſon another; if one ſwear he did cry, *Juſtice, Juſtice, Execution, Execution*, and another ſwear ſome other Part, Gentlemen, this was here before delivered to you for an Overt-act. It is any thing that opens and makes it appear to the Jury that he did do the Things for which he is Indicted; I ſay any one of theſe that they did meet together, and did conſult in order to the putting the King to Death. That they did meet in a Traiterous Aſſembly about the King's Death; I ſhall ſay no more; you need not I think go from the Bar.

The Jury go together, and after a little Conſultation among themſelves they returned to their Places.

Clerk of the Crown. Gentlemen of the Jury, are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. Daniel Axtell, Hold up thy Hand. Gentlemen, look upon the Priſoner at the Bar: How ſay you,

you, is he Guilty of High-Treaſon whereof he ſtands Indicted, and hath been Arraigned? Or not Guilty?

Foreman. Guilty.

Clerk. Look to him Keeper. What Goods and Chattels?

Jury. None to our Knowledge.

The Tryal of Colonel HACKER, *on the Fifteenth of* October, 1660, *at the* Seſſions Houſe *in the* Old-Baily.

Clerk of the Crown. Set *Francis Hacker* to the Bar, which was done accordingly.

Clerk. Francis Hacker, Hold up thy Hand. Theſe Men that were laſt called are to paſs upon you, *&c.* If you will Challenge all, or any of them, you muſt Challenge them when they come to the Book, before they are Sworn.

Lord Chief Baron. You may Challenge 35 Peremptorily, but no more.

Hacker. My Lord, I ſhall Challenge none.

Tho. Bide, *Rob. Sheppard*, *Will. Dod*, Sir *Tho. Allein*, Sir *Hen. Wroth*, *Tho. Morris*, *Ralph Halſal*, *John Galliard*, *John Nichol*, *Tho Uſman*, *Tho. Nicol*, *Chriſtopher Abdy*, in all Twelve. The Jury Called and Sworn.

Clerk of the Crown. Make Proclamation. If any Man can inform my Lords the Kings Juſtices, *&c.*

Clerk. Francis Hacker, Hold up thy Hand; look upon the Priſoner you that are Sworn of this Jury. You ſhall underſtand that *Francis Hacker*, Priſoner at the Bar, ſtands Indicted, *&c.*

Mr. Serjeant *Keeling.* My Lords, and Gentlemen of this Jury, *Francis Hacker*, the Priſoner at the Bar, ſtands Indicted, amongſt others, for Compaſſing and Imagining the Death of the late King *Charles* the Firſt of Happy Memory. The Compaſſing and Imagining is the Treaſon itſelf; the other Points, as *Convening*, *Aſſembling*, *Meeting together*, and the actual Villany that followed all theſe, are but as Evidences of that Imagination. As to this Perſon at the Bar our Evidence will be thus; we ſhall make it appear to you that he was one of the Perſons that were upon the Guard, and kept the King a Priſoner, that he might be ſure to be brought to that *Mock Court of Injuſtice.* Then it will appear to you that this Priſoner at the Bar was highly Truſted by all thoſe Miſcreants that thirſted for the King's Blood, by their Bloody Warrant directed to him and others, to take the Kings Perſon into Cuſtody, and to ſee Execution done. This was the Perſon that kept him till he brought him to that Fatal Stage. That this Warrant was lately brought from his own Houſe by his own Wife to the Houſe of Lords; and then we ſhall ſhew you that this Perſon ſet his Hand to the Warrant to the Executioner for Execution. That he did not do it ignorantly nor unwillingly, for he heard the Warrant read. We ſhall make it appear that he was upon the Scaffold, and had the Axe in his Hand.

Council. Crier, call *Holland Simpſon*, Colonel *Tomlinſon*, Mr. *Nunnelly*, Mr. *Nutley*, *Hercules Huncks*, and *Benj. Francis*, who were all Sworn as Witneſſes.

Council. Mr. *Simpſon*, ſpeak your Knowledge of the Employment of the Priſoner touching the Trial and Execution of the King.

Hacker. My Lords, I will confeſs what I know in this Caſe, to ſave your Lordſhips the Trouble. I confeſs I was upon the Guard, and had a Warrant to keep the King for his Execution. (*The Warrant being ſhewn to the Priſoner, he confeſſed that to be the Warrant.*

Council. After you had that Warrant brought to you, did you by Virtue of that direct another Warrant for Execution of the King? Did you not take the King (then Priſoner) from the Cuſtody of Colonel *Tomlinſon.*

Hacker. No, Sir.

Council. We ſhall prove it; the Warrant was read, *At the High Court of Juſtice for Trial*, &c. My Lord at the time that this Warrant was Signed, the Perſon of the King was in the Cuſtody of Col. *Tomlinſon*; Did not you take and demand from Col. *Tomlinſon* the Perſon of the King as ſoon as you received that Warrant?

Hacker. No, Sir, I demanded him not.

Council. Col. *Tomlinſon*, tell my Lords the manner of that Buſineſs.

Tomlinſon. My Lords, and Gentlemen of this Jury, I ſhall, as my Memory enables me, make a faithful Narrative of this Buſineſs: I had indeed to do with the Guard that had to do with the Perſon of the King about St. *James's.* Being then an Officer of the Army, a Colonel of Horſe, when the King came to St. *James's*, it was obſerv'd by ſome that there was too great an Acceſs of People admitted to the King; and within One Day or Two after there was a Party of Halberteers appointed for the ſtricter obſerving the Guard; they were commanded by Three Gentlemen, of whom this Priſoner at the Bar was One; the Orders every Day for removing the Perſon of the King were commonly directed to Four Perſons, and thoſe were my ſelf, Lt. Col. *Cobbet*, Capt. *Merryman* and one more; but the Guards that ſtill went along were the Halberteers. So that every Day when the King did go to *Weſtminſter*, he went to Sir *Robert Cotton's* Houſe, and ſo far I went with him, and no farther; I never went with him, nor ſaw him, at that pretended High Court of Juſtice. When he uſed to go to the High Court of Juſtice, commonly (every Time indeed) the Serjeant, Serjeant *Dendy*, (as I remember his Name was,) he uſed to come and demand that the King ſhould go to the High Court of Juſtice, and *Col. Hacker* did ordinarily go with him, with the Halberteers. It was my Cuſtom to ſtay in the Room till he came back again; theſe Orders continued during the Time of his Trial. After the Sentence was given, on the Day whereon the Execution was to be done, it was ordered, (which Order may be produced if ſignificant,) that the Guards that were for the Security of the Perſon of the King ſhould ceaſe when a Warrant from the High Court of Juſtice for the Execution ſhould be produced: I would not omit any Thing that I well remember; and this I remember, that the Night before the Execution the King called me into his Chamber, and told me ſeveral Things; I will take the Occaſion to Trouble you with a ſhort Diſcourſe of it; he told me of ſome Legacies he had given; he told me he had prepared ſomething that he would ſpeak the next Day; and in the cloſe of it he deſired me that I would not leave him; (for I ſpeak it in Truth,) there were many times ſeveral Incivilities offered to him; and tho' I was upon a Duty that was of a harſh and unpleaſing Nature to me, and did deſire ſeveral Times to be releaſed from it, (as I believe is well known to ſome,) yet I did not admit any Time that any Incivility ſhould be offered to him; People would take Tobacco before him, and keep their Hats on before him, I always check'd them for it; he was pleaſed to have a Con-

ſideration of that Care that I had in that Capacity I then ſtood. That very Night before his Death he was pleaſed to give me a Legacy, which was a Gold Tooth-picker and Caſe that he kept in his Pocket. The next Day, when the Warrant came, the Guard of Halberteers went with him through St. *James*'s *Park*, I was preſent, walking near the King, the Biſhop of *London*, (now of *Canterbury*) was with him, and ſome others. As we were going through the *Park* he was pleaſed to Diſcourſe ſomething of what he had been Diſcourſing before, touching his Burial; he wiſhed that the Duke of *Richmond* and ſome others that he ſhould bring ſhould take Care of it. That Morning in the *Park* he told me he had been thinking of what he had ſaid the Night before. He told me had ſome Thoughts that his Son might come to Bury him, and deſired he might not ſuddenly be Buried; I gave him Aſſurance I would communicate his Deſire, and ſo I did: When he came to *White-Hall* he went into a Room in the Gallery, (I know not the Name,) the Guard ſtood in the outer Room there. There was a Gentleman that came to me there, and told me he was endeavouring to preſent a Letter from the Prince to the King, and told me he could not get an Opportunity; I ſaid he ſhould not want an Opportunity if I could help him; it was Mr. *Henry Seymour*; it was delivered, and the King read it, and he gave ſeveral Things in Charge to Mr. *Seymour* to acquaint the Prince with, and was pleaſed to mention to him ſomething of Civility that I had ſhewn him in his Impriſonment, the Effect and Fruit of it I find, and do moſt humbly acknowledge before all the World my Thanks to his moſt Gracious Majeſty the King, and to the Lords and Commons. After Mr. *Seymour* was gone from him, (I do not well remember the Time, whether it was Twelve, One, or Two a Clock,) Col. *Hacker* came in, and there was preſent with him the Two other Gentlemen that were named in the Warrant, (as I remember,) I am ſure Col. *Hacker*, (if my Memory fail me not,) did produce the Warrant. Myſelf, and thoſe Gentlemen that were concerned in the former Orders, looked upon this Warrant, by which the Orders which he had were at the End. I muſt confeſs I did not, nor none of thoſe did tell him, that the Orders for Security of his Perſon were at an End, but Col. *Hacker* did go in to him, and after a little while Col. *Hacker* comes to the Door, and the King was coming forth, and he told me that the King deſired I ſhould go along with him; and indeed the Night before, when the King told me that he had prepared ſomething to ſpeak, he deſired I would not leave him. So Col. *Hacker* led him forth, the Biſhop of *London* followed him, and I followed the Biſhop of *London*; the Guards were prepared without, and they went on to the Scaffold; when we came to the Scaffold I went ſo far as to the Entrance upon it; the King was upon it, and had looked a little while about it, and was thinking to have ſpoken over, but he turned about to me, and began to direct his Speech to me. I cannot trouble you with what the King ſaid, for I cannot remember it; but that Col. *Hacker* was there in Proſecution of that Warrant, and upon that Warrant our Orders were at an End, I do averr.

Council. You delivered him upon that Warrant, did you?

Tomlinſon. He went and received the King upon that Warrant; it was a Chamber that was known then by the Name of the *Horn-Chamber*, and there the King was in the inner Room; this is the Subſtance of all.

Council. We will trouble you with One or Two Witneſſes more.

Council. Mr. *Tomlinſon*, did Mr. *Hacker*, or his Soldiers, take Tobacco to the Offence of the King?

Tomlinſon. I do not ſay that any Tobacco was taken there by Mr. *Hacker*, but the Soldiers would be ſtepping in, and take Tobacco at his Chamber in St. *James*'s, and committed other Incivilities.

Council. We have proved that the Priſoner did demand, and had the Perſon of the King: Now we will prove to you that himſelf had the Boldneſs to make a Warrant in purſuance of the former, for the Execution of the King.

Council. Crier, call Mr. *Huncks*. (*He being Sworn ſaid.*)

Huncks. My Lords, and Gentlemen of the Jury, that Day the King died, a little before the Hour he died, I was in *Ireton*'s Chamber, where *Ireton* and *Harriſon* were in Bed together, there was *Cromwel*, Col. *Hacker*, Lieut. Col. *Phayer*, *Axtell*, and myſelf, ſtanding at the Door; this Warrant for the Execution was there produced, and you (looking upon Mr. *Hacker* at the Bar,) were reading of it, but *Cromwel* addreſſed himſelf to me, commanding me, by Vertue of that Warrant, to draw up an Order for the Executioner; I refuſed it, and upon refuſing of it there hapned ſome croſs Paſſages. *Cromwel* would have no Delay. There was a little Table that ſtood by the Door, and Pen, Ink, and Paper, being there, *Cromwel* ſtepped and writ, (I conceive he wrote that which he would have had me to write:) As ſoon as he had done writing, he gives the Pen over to *Hacker*; *Hacker*, he ſtoops and did write, (I cannot ſay what he writ,) away goes *Cromwel*, and then *Axtell*; we all went out, afterwards they went into another Room.

Council. What followed?

Huncks. Immediately the King came out, and was Murther'd.

Mr. Secretary *Morrice*. Mr. *Huncks*, you did tell us in the *Tower*, (when we were ſent by His Majeſties Council to examine you, and others there,) that Colonel *Hacker* did then Sign that Warrant for nominating and appointing the Execution.

Huncks. My Lord, *Cromwel* comes to me, and bids me write a Warrant for that Purpoſe; I refuſing of it, *Cromwel* writes himſelf, and *Hacker* writing on the ſame Paper, what ſhould I conceive but that it was the Warrant? (the King preſently after coming to the Scaffold.)

Council. Did *Cromwel* give you no bad Names becauſe you would not write that Order? Did not he ſay you were a Coward?

Huncks. He ſaid I was a froward peeviſh Fellow.

Council. Did *Hacker* only write his Name, or give Directions, in the drawing up of the Order?

Huncks. I conceive he only writ his Name.

Council. My Lord, we have only that Eye-witneſs.

Huncks. *Hacker* confeſſed to the Gentleman Jaylor of the *Tower*, that if he did do it he did it by Order.

Mr. Secretary Morrice *and the* L. Anneſly *Sworn.*

Council. Mr. Secretary, we deſire you would be pleaſed to tell my Lords what Colonel *Hacker*, the Priſoner at the Bar, did confeſs to you, and others, touching this Buſineſs.

Mr. *Secretary.* When Colonel *Huncks* (for that Title he now aſſumes,) was brought over out of *Ireland*, and committed to the *Tower* of *London*, there was Three of the Council, by Order of the Board, ſent to examine him, Sir *Anthony Aſhly-Cooper*, Mr. *Anneſly*, and myſelf: In Obedience to that Order we repaired to the *Tower*, and had Col. *Huncks* brought before us; we told him, that he (being one of thoſe which was appointed by Warrant from the Suppoſitious High Court of Juſtice to carry on the Execu-

tion

tion of the King, and ſee it done,) muſt needs know who was the Executioner: Whereunto he anſwered, that he, for his Part, did not know who was the Executioner, for the Warrant whereby the Executioner was nominated and appointed was refuſed to be ſigned by him, but Colonel *Hacker* ſigned it, and therefore Colonel *Hacker* muſt know it. Accordingly upon our Return we made our Report to the Board, and upon this there was an Order that Col. *Hacker* ſhould be ſent for, taken into Cuſtody, and brought before the Lords of the Council: Accordingly he was apprehended, and the ſame Three Counſellors were ſent down to examine him. We took him into a private Room, and examined him, and told him, (amongſt other Things,) that he being the Man that (as we are informed,) did Sign the Warrant for the nominating and appointing the Executioner, doubtleſs he muſt needs know who that was; at firſt he ſaid he did not Sign this Warrant: I told him I would have him well adviſed what he ſaid; for if you deny it it will be proved by ſuch a Man, naming Colonel *Huncks*, and that you will do yourſelf a great Prejudice if you deny that; ſaith he, *I do believe I did Sign the Warrant for appointing the Executioner*; this is all I can ſay.

Lord Anneſly. Gentlemen of the Jury, it is very true as you have been told already, that I was amongſt thoſe that the Council ſent to the *Tower* of *London*, firſt to examine Colonel *Huncks*, and Mr. *Cook*, that hath been condemned, *Hulet*, and ſome other Priſoners. We did examine Colonel *Huncks*, and he did by his Examination acquit himſelf from Signing that Warrant that he was charged with, being one of the Three appointed to ſee Execution done; but they appointed another to Sign the Warrant. (Colonel *Huncks* refuſing,) and upon his refuſing, (as he ſaid,) *Cromwel*, that urged him to it, ſaid he was a cowardly fellow, or ſomething to that Purpoſe: When we examined him about the Perſon in the *Frock*, he ſaid he knew nothing of that, but that Colonel *Hacker* Signed that Warrant for Execution; this Examination being reported to the Council, the Lords ſent for *Hacker*. I think upon Notice Colonel *Hacker* came; he had been of the Army, and continued till that Time an Officer. When he came thither, the Lords of the Council having Notice of it, commanded the ſame Perſons formerly appointed to go out and examine him; we had him into a little Room belonging to the Clerks of the Council, and examined him to that Point concerning the Man that cut off the King's Head, whether he knew any Thing of it? He did affirm poſitively he did not know; we told him that he was the Man by Teſtimony that Signed a Warrant for Execution of the King, and then certainly he muſt know the Perſon that he appointed by his Warrant; he ſaid, if I did Sign any Warrant it was by Command of the General; that being but Hypothetical, we thought it meet to make it more poſitive, whereupon we asked him whether he was the Man that Signed the Warrant? Or no? Thereupon, (as I remember, and as the Examination, which was all written with mine own Hand, doth help my Memory,) he did ſay he did believe he did Sign ſuch a Warrant; thereupon he was asked further, how could it be poſſible that he could forget the Man if he Signed the Warrant; he knew who the Man was that was appointed; he ſaid for that, that he did believe the Warrant was read to him, and that therein the Man's Name might be, but he could not now remember his Name; this was the Effect of his Examination and Confeſſion.

Council. Mr. *Francis*, did you ſee Colonel *Hacker* at the Time of the Execution upon the Scaffold?

Francis. Yes, I did ſee him as a Principal Commander there; I was coming out of *Weſtminſter* into *London*, about half an Hour before the King came upon the Scaffold; coming near the Scaffold, as ſoon as I was engaged in the Throng, (when I had paſſed about Eight or Ten Yards,) I could not paſs backward nor forward; I was inforced to ſtand there: During that Time I ſaw the Scaffold, and the Ax, and the Block taken up by divers People; and principally I ſaw a Man that is not here, he is in Cuſtody, I ſaw him take it up, and try it with his Thumb, and lay it down; this was *James Berry*, he came off, and came not upon the Scaffold again, unleſs diſguiſed.

Council. Did you ſee *Hacker* there? Did you ſee him upon the Scaffold when the King came on?

Francis. I did ſee him, he was there; His Majeſty came to the Side of the Scaffold next to St. *James*'s; he looked that Way and ſmiled; after a while the Block and Ax lying down about the middle of the Scaffold, there was a Black Cloth hung about the Rails of the Scaffold.

Council. We have another Evidence, the Priſoner hath confeſſed enough; but we have proved that he had the King in Cuſtody; he confeſſed that he believed he did Sign the Warrant, and that he at the Time of Execution was there to manage it. What do you ſay for yourſelf?

Hacker. *Truly, my Lord, I have no more to ſay for myſelf, but that I was a Soldier, and under Command, and what I did was by that Commiſſion you have read.*

Lord Chief Baron. Can you deny any Thing that Mr. Secretary and Mr. *Anneſly* have declared?

Hacker. *I cannot tell what I might then ſay, the Gentlemen were very ſtrict with me; truly I have been no Counſellor nor Adviſor, nor Abettor of it, but in Obedience to the Command over me I did act. My Deſire hath been ever for the Welfare of my Countrey, and that Civil Power might ſtand.*

Lord Chief Baron. Have you yet reſolved who you gave the Warrant for Execution to?

Hacker. *No, my Lord, I delivered none.*

Lord Chief Baron. But you know who it was directed to.

Hacker. *No indeed, my Lord; be pleas'd to ask Col.* Huncks *whether I read this Warrant or no.*

Lord Chief Baron. This is all you have to ſay for yourſelf?

Hacker. *Yes, my Lord.*

Lord Chief Baron. Then Col. *Hacker*, for that which you ſay for yourſelf, that you did it by Command, you muſt underſtand that no Power on Earth could Authorize ſuch a Thing, no Command in ſuch a Caſe can excuſe you. There is a Twofold Obedience, a Paſſive-Obedience, to ſuffer rather than do Things unlawful; and an Active Obedience, to do that only which is lawful; and therefore this will not excuſe your Obedience to thoſe unlawful Commands.—Gentlemen of the Jury, you ſee the Priſoner at the Bar ſtands Indicted for *Compaſſing* and *Imagining* the Death of the late King; and there are ſeveral open Acts ſet forth in the Indictment, which tend to prove that Matter; one is Aſſembling and Meeting together, another is Sitting upon the King, another Sentencing, and at laſt concludes with the Murther of the King, as the Conſequence of all. Any Thing that tends to the proving of this Compaſſing and Imagining his Death in any one of theſe Particulars, that is an Evidence to you to prove the whole Indictment. This Gentleman was Commander of Halberteers; Col. *Tomlinſon* ſaith, that though he

he kept the Guards that were about the King's Perſon, this Gentleman, with Two other Perſons, brought Halberteers, that there might not be ſuch frequent Acceſs as formerly to the King; there is one Act. He commands theſe Halberteers at that Time, when the Buſineſs was in Agitation, before that High Court, as they called it. You ſee after the Sentence was given that he was one of the Perſons to whom the Warrant for Execution was directed; you ſee afterwards there was a conſulting together, *Cromwel*, *Ireton*, *Harriſon*, and *Axtell*, were in the Chamber, when Col. *Huncks* refuſed to Sign; the Priſoner ſigned the Warrant, but knows not the Perſon to whom it was directed: You ſee beſides Col. *Tomlinſon*'s Teſtimony, who ſaith further, that when they were diſcharged, Col. *Hacker* went in, and the King was brought out preſently after to that Fatal Place. Col. *Huncks* Swears, that when the Warrant was offered to him he refuſed it; that *Hacker*, the Priſoner at the Bar, ſigned a Warrant, though he doth not remember the Name of the Perſon to whom; it appears by Two Witneſſes (honourable Perſons) he confeſſed he ſigned it, but he did not know the Perſon to whom directed. You ſee another Witneſs, *Benjamin Francis*, he ſaith he ſaw *Hacker* upon the Scaffold with the King.

He doth not deny the Fact; you need go no further, it is very plain he had a Hand in this Buſineſs, a principal Agent in it; he that brought the King to the Scaffold, he that had the Care in managing that Buſineſs, he that ſigned the Warrant to the Executioner, either he is Guilty of Compaſſing the Death of the King, or no Man can be ſaid to be Guilty.

The Jury went together, and after ſome little Conſultation returned to their Places.

Clerk of the Crown. Gentlemen of the Jury, are you agreed on your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. Francis Hacker, Hold up thy Hand. Gentlemen, look upon the Priſoner at the Bar, how ſay you, is he Guilty of High-Treaſon, whereof he ſtands Indicted, and hath been Arraigned? Or not Guilty?

Foreman. Guilty.

Clerk. Look to him Keeper.

Clerk. What Goods and Chattels, *&c.*

Jury. None that we know of.

The Tryal of WILLIAM HULET, *on the Fifteenth of* October, 1660, *at the* Seſſions Houſe *in the* Old-Baily.

Clerk of the Crown. Set *William Hulet* to the Bar, (who was brought accordingly,) *William Hulet, alias Houlet*, Hold up thy Hand. Thoſe Perſons that were laſt called of the Jury are to paſs, *&c.* if you will challenge them, or any of them, you muſt Challenge them when they come to the Book before they be Sworn.

Lord Chief Baron. Underſtand you have Power to Challenge Five and Thirty Men, and not above; you may Challenge them without Cauſe ſhewn. If you have Cauſe for any other you may Challenge them alſo. If you will have Pen, Ink, and Paper, you may have them.

Hulet. *Truly, my Lord, I cannot write but a very little, I ſhall not need them. I did not underſtand my Indictment well, I deſire to hear it again.*

Lord Chief Baron. You will hear it read again.

Clerk. Sir *Thomas Allen*, Sir *Henry Wroth*, *Tho. Bide*, *Robert Sheppard*, *Thomas Morris*, *Ralph Halſal*, *John Gallyard*, *John Nichol*, *Thomas Uſman*, *Chriſtopher Abdy*, *William Dod*, in all Twelve. Jury Called and Sworn.

Clerk of the Crown. William Hulet, alias *Houlet*, Hold up thy Hand, You Gentlemen that are Sworn, look upon the Priſoner.

Clerk. You ſhall underſtand that he ſtands Indicted of High-Treaſon, by the Name of *William Hulet*, alias *Houlet*, late of *Weſtminſter* in the County of *Middleſex*, Gent. for that he as a falſe Traytor, *&c. (here the Indictment was read,)* unto which Indictment he hath pleaded not Guilty, and for his Trial hath put himſelf upon God and the Countrey, which Countrey you are: Now your Charge is to enquire, *&c.*

Sir *Edward Turner.* May it pleaſe your Lordſhips, and you Gentlemen that are Sworn of this Jury, we are now entering upon the laſt Act in this ſad Tragedy of the Murther of the late King; there have been before you ſome of the Judges, the Council, the Chaplain, and the Guard; this Priſoner at the Bar, in the laſt Place, was one of thoſe which came with a Frock on his Body, and a Vizor on his Face, to do the Work. The Courſe of our Evidence will be this, Firſt, we ſhall prove by Witneſſes that ſaw him, and knew him, that he was thus diſguiſed; he hath confeſt that he was upon the Scaffold, that he hath had ſeveral Preferments; and I fear it will appear that it was he that gave that Fatal Blow; for he hath confeſſed he had an Hundred Pounds given him for his Service therein; and we doubt not but to pluck off his Vizor by and by. The Indictment is for Compaſſing and Imagining the Death of his late Majeſty of Glorious Memory; if we prove to you any Circumſtantial *Overt-act* whereby you ſhall be convinced of this, you are to find him Guilty.

Richard Gittens Sworn.

Council. Mr. *Gittens*, tell my Lord and the Jury what you know concerning the Priſoner at the Bar.

Gittens. The Thing is this, my Lord, this Gentleman at the Bar and myſelf were both in a Regiment in One Company as Serjeants about Twelve or Thirteen Years together. About a Day or Two before the King came to the Scaffold, Colonel *Hewſon* did give Notice to a Lieutenant that we ſhould come to him, about 38 of us, and he put us all to our Oaths, that we ſhould ſay nothing of what they did; he Swore us to the Book; after he had Sworn us, he asked us if we would undertake to do ſuch an Act; if we would we ſhould have an Hundred Pounds down, and Preferment in the Army as long as that ſtood, and the Parliament. Afterwards we refuſed every Perſon, we thought Captain *Hulet* did refuſe; after all refuſed, it ſeems he did undertake to do the Deed. When the King was brought on the Scaffold, we were in *Scotland-yard*, and they were upon the Guard in the *Banqueting-Chamber*; when they were there I laid down my Arms, and got into the Company; Captain *Webb* kept the Guard, with his Halbert in his Hand, by the Scaffold, and I did buſtle to come near to them; then I returned back. *Hulet* (as far as I can gueſs) when the King came on the Scaffold for his Execution, and ſaid, Executioner, is the Block faſt? Then he fell upon his Knees.

Council. Who did?

Gettins. Hulet, to ask him forgiveneſs; by his Speech I thought it was he; Captain *Atkins*, who would not undertake to do this Fact, I told him I would

would not do it for all the City of *London*; no, nor I neither for all the World, ſaith *Atkins*; you ſhall ſee *Hulet* quickly come to Preferment; and preſently after he was made Captain-Lieutenant.

Council. Was he with his Regiment that Day?

Gittens. We could not ſee him with the Regiment all that Day; he was never abſent at any Time before.

Council. Did you know his Voice?

Gittens. Yes, Sir.

Council. Did you mark the Proportion of his Body, or his Habit, what Diſguiſe he was in?

Gittens. He had a Pair of Freeze Trunk Breeches, and a Vizor, with a Gray Beard, and after that Time Colonel *Hewſon* called him Father Gray Beard, and moſt of the Army beſides, he cannot deny it.

Hulet. *I deſire as to this Witneſs; he doth alledge that he and I were Serjeants in One Company, which I deny; he was not in that Company I was in; I deſire to know of him how he comes to know that I was there at that Time.*

Gittens. By your Voice.

Hulet. *I will Swear that this Man was with the Regiment under the Scaffold; where were you at that Time when the Act was done?*

Gittens. Where was I? By Captain *Webb*.

Hulet. *Where was he?*

Gittens. At the Door of the *Banqueting-houſe*.

Hulet. *Was you on the Scaffold, or no, Sir?*

Gittens. I was on the Scaffold End.

Hulet. *My Lord, I deſire you to conſider what this perſon ſaith, that he was upon the Guard in* Scotland-yard, *and at the Scaffold with Captain* Webb. *My Lord, I deſire again, whereas he ſaid I had a Gray Beard, let any Man beſides himſelf ſay that ever I was called by that Name Gray Beard, throughout the Regiment.* Stammers *Sworn.*

Council. What have you to ſay concerning the Priſoner at the Bar.

Stammers. He was a Captain Lieutenant to Colonel *Hewſon's* Troop; when I had entered my ſelf into that Troop I was a while in *Dublin*, and I was commanded by the Priſoner at the Bar, I and the reſt, to march to a Place called *Lutterels*-Town, about 5 Miles beyond *Dublin*; the Priſoner at the Bar came thither to us Two Days after; then being in his Chamber he ſent for me up; I went up and ſate down; he examined where I had ſerved: I told him I did formerly belong to the Lord of *Inchiqueen*; he asked me if I was ever in the King's Army? With that he walks about the Room Two or Three Turns; ſaith he, I was the Man that Beheaded King *Charles*, and for doing it I had an Hundred Pounds, ſaying, I was a Serjeant at that Time.

Hulet. *I deſire to ask him a Queſtion; I confeſs —— (what is your Name?)*

Council. Stammer, his Name is *Stammers*.

Hulet. *Such a one was under my Command: I think I have not ſeen you theſe Eight Years: I deſire to know when theſe Words were ſpoken, and the Place.*

Stammers. I ſay in *Lutterels* Town, in your own Chamber, and that was Nine or Ten Years ago.

Hulet. *It is about Eight Years ago ſince I left that Command: Who was by at that Time?*

Stammers. No body.

Hulet. *'Tis ſtrange: How long had you been in the Troop before?*

Stammers. I was in *Dublin* about a Fortnights time, then you ſent for me, and I came to *Lutterels* Town; the firſt Time that I came to the Troop was at *Dublin*, and then you came to me with Two Orders from *Hewſon*, and then you did pretend you was Brother to one Mr. *Chambers*, and then we went and quartered in *Lutterels* Town.

Hulet. *My Lord, his Examination in* Ireland *and this doth not agree; you did deny this before* Baldwin *a Trooper; I deſire his Examination may be read,* (which was accordingly read, and agreed with the Teſtimony now given,) *I deſire he may mention what Man that was that I ſent for him.*

Stammers. I cannot tell what Man.

Hulet. *My Lord, I deſire that Servant may be either named or produced.*

Stammers. I cannot remember the Man, it was Seven Years ago.

Hulet. *Then again upon another Account, as he ſpeaks before, that I ſhould examine him where he had been, and that he ſhould ſay at the Lord* Inchiqueen's. Captain *Toogood* Sworn.

Toogood. I ſhall firſt give your Lordſhips and the Jury what I have heard others ſay concerning the Priſoner at the Bar, and that is firſt Colonel *Hewſon*; I was in the Year 1650, about *September*, in *Dublin Caſtle*, about ſome Buſineſs with *Hewſon*; Captain *Hulet*, the Priſoner at the Bar, came into the Room, he talked with Col. *Hewſon* a little while; I obſerved them very familiar, and I asked *Hewſon* what he was, he told me he was his Captain-Lieutenant of Horſe: I deſired to know where he had him? he told me he made him ſo from a Serjeant, and a very Mettled Fellow he was; it was he that did the King's Buſineſs for him upon the Scaffold. In the Year 1653 there was a Disbanding of the Army in *Ireland*; this Gentleman was then continued Captain Lieutenant in *Pretty's* Regiment: I diſcourſed with *Pretty* concerning him, and one Part of it, I remember was about the King's Death; and he did tell me that he was aſſured by Colonel *Hewſon*, that *Hulet* either cut off the King's Head, or held it up, and ſaid, *Behold the Head of a Traytor*; Col. *Pretty* would not tell me which of the Two it was; but I ſaw the Perſon that did it, and methought he did reſemble this Perſon. About 12 Months after I came to live near the Priſoner in *Ireland*; once I remember at one Mr. *Smith's* at the *White-horſe* in *Carlow* I met him there, and I was asking the Priſoner at the Bar the Queſtion, Whether he was the Man that cut off the King's Head, or not? Saith he, Why do you ask me this Queſtion? I told him I had heard by ſeveral, namely, by *Hewſon* and *Pretty*; upon that he ſaid, well, *What I did I will not be aſhamed of; if it were to do again I would do it:* Once ſince that Time, about half a Year afterwards, I was in the ſame Place, and there talking with him about the King's Death; he was telling me it was true, he was one of the Two Perſons that was *diſguiſed* upon the Scaffold. I deſired to know what if the King had refuſed to ſubmit to the Block? Saith he, there were *Staples* placed about the Scaffold, and I had that about me that would have *compelled* him, or Words to that Effect; other Times I have heard him ſpeak ſomething to this. *November* the laſt, in the Queens County at *Maryborough*, Col. *Jones* took upon him to be Governour, and to chooſe Two out of a Regiment that might be the Rulers of the People, Legiſlators I think they call'd them; I did Diſcourſe about the Buſineſs again, and did oppoſe it all: After a while he began to be very hot in the Buſineſs about *Lambert*: Said I, you were heretofore too forward; ſays he, if it be the Buſineſs of the King's Head I will never deny it, call me to an Account when you will: I have obſerved in *Ireland*, that it hath been generally reported that he was either the Man that cut off the King's Head, or that held it up, as I ſaid before, and I have heard them ſometimes call him *Grandſire Greybeard*.

Hulet. *My Lord, I do confeſs I know the Gentleman*

tleman very well, we were in a Regiment together; I never diſcourſed with any concerning this, but only once at a Place going from Cullen *to* Munſter *we did drink at a Place called* Goran, *we were diſcourſing about the Buſineſs of the King, the Juſtification of the cutting off His Head; ſaith* Stammers, *I did hear that you were one of the Perſons for that Purpoſe; ſaid I, they that ſay ſo do me Wrong: Saith he, it is no Matter if you were ſo, for it was a Juſt Act: Said I, whether it was or no I have nothing to do to juſtifie it; he was ſpeaking as I hope to be ſaved I would have done it.*

Walter Davis Sworn.

Council. What can you ſay, Mr. *Davis*, to this Buſineſs?

Davis. Gentlemen, that which I can ſay is this; in *January* laſt was Two Years I was at *Dublin*, I met Captain *Hulet*, he invited me to take Share of a Pint of Wine, I went with him to a Tavern; when we were in the Tavern he called for a Pint of Wine, and I call'd for another; before we had Drank the laſt Pint of Wine, ſaid I to Captain *Hulet*, I pray reſolve me this one Queſtion; it is reported that you took up the King's Head, and ſaid behold the Head of a Traytor; Sir, ſaid he, it was a Queſtion I never reſolved any Man, though often demanded; yet, ſaith he, whoſoever ſaid it then it matters not, I ſay it now, it was the Head of a Traytor.

Hulet. *I confeſs we did meet together, as you ſay, but I muſt and do deny the Words.*

Lieutenant-Colonel *Nelſon* Sworn.

Nelſon. My Lords, and Gentlemen of the Jury, upon a Diſcourſe with Colonel *Axtell*, as I related once this Day, about Six Years ſince, in many other Diſcourſes we fell to diſcourſe about the Death of the late King; I ſuppoſing he had been acquainted with that Affair, I deſired him to tell me thoſe Two Perſons diſguiſed upon the Scaffold; he told me I knew the Perſons as well as himſelf; ſaith he, they have been upon Service with you many a Time; pray, Sir, ſaid I, let me know their Names; truly, ſaid he, we would not employ Perſons of low Spirits that we did know, and therefore we pitch'd upon Two Stout Fellows; who were thoſe, ſaid I? It was *Walker* and *Hulet*, they were both Serjeants in *Kent* when you were there, and Stout Men; who gave the Blow ſaid I? Saith he, poor *Walker*, and *Hulet* took up the Head; pray, ſaid I, what Reward had they? I am not certain whether they had Thirty Pounds apiece, or Thirty Pounds between them.

Hulet. *Pray let Mr.* Axtell *ſpeak to this, he is hard by.*

Colonel *Tomlinſon* Sworn.

Council. Pray tell my Lords your Knowledge in this Buſineſs.

Tomlinſon. My Lords, and Gentlemen of this Jury, I cannot punctually remember what their Habits were; but they had cloſe Garments to their Bodies, they had Hair on their Faces, one was Gray to the beſt of my Remembrance, the other was Flaxen.

Council. Can you tell who ſtruck the Blow?

Tomlinſon. My Lord, I cannot remember, but I think he with the Gray Hair on his Face did it.

Nelſon. My Lord, I will not poſitively ſay it, but it came lately to my Mind, that I did hear in *Ireland* by Colonel *Pretty* that *Hulet* did it; my Lord, this Colonel *Pretty* is alive in *Ireland.*

Benjamin Francis Sworn.

Francis. My Lords, and Gentlemen of the Jury, as to the Priſoner at the Bar, he was very Active in that horrid Act; there was Two of them had both Cloaths alike, their Frocks were cloſe to their Bodies, (as I remember,) they were rather in Butchers Habits of Woolen; one had a Black Hat on his Head cock'd up, and a Black Beard, and the other had a Gray griſled Periwig hung down very low; I affirm that he that cut off the King's Head was in the Gray Periwig, and I believe this was about that Man's Stature, (*pointing to Mr.* Hulet,) and his Beard was of the ſame Colour, if he had any. I was coming from *Weſtminſter*, the Scaffold was encompaſſed within with a great Guard of Soldiers of *Redcoats*, I think commanded by *Biſcoe.*

Hulet. *Was you upon the Scaffold?*

Francis. No, Sir, there was none of my Conſtitution upon the Scaffold.

Council. Fuller Evidence I think cannot be expected; you have heard all the Witneſſes, what can you ſay for yourſelf?

Hulet. *My Lord, here is ſeveral Witneſſes examined concerning the Buſineſs, and for my Part I do not underſtand the* Law; *I muſt leave it to the Court. I can upon the other Account prove where I was at that very Time; I can in the next place, my Lord, ſince I came into* London, *for I did not hear it before, I can tell you who was the Perſon that did that Act; I can bring Forty and Forty Witneſſes that will prove who they were that did it, as I have been informed by ſeveral Witneſſes, that they know who was the Perſon that did it: Upon the other Account, I can prove where I was that Day, but I did not know when I was Arraigned what was laid to my Charge; here was ſome Examinations taken before my Lord Mayor concerning the Perſon or Perſons that did that Act;* (*here he offered a Paper, a Copy of the ſaid Examinations, Subſcribed* Mary Brandon, *and divers others.*)

Mr. Secretary *Morrice.* Was you not examined in the *Tower?*

Hulet. *Yes, Sir.*

Mr. Secretary *Morrice.* Did not we tell you that you were charged with cutting off the Head of the King?

Hulet. *Yes, Sir, you did tell me ſo.*

Lord Chief Baron. Then you had time to provide your Witneſſes.

Hulet. *I was a cloſe Priſoner.*

Lord Chief Baron. Where were you on the Day of Execution?

Hulet. *I was a Priſoner then at* Whitehall.

Lord Chief Baron. For what?

Hulet. *Upon this Account we were taken up, about Seven or Nine of us were taken up, we were all Serjeants, Three of Colonel* Hacker's, *the reſt of* Pride's *and* Fairfax's, *and about Ten of Clock at Night were diſcharged.*

Lord Chief Baron. For what was you Impriſoned?

Hulet. *For refuſing to be upon the Scaffold.*

Burden. It was a Common Speech among the Soldiers, that *Hulet* cut off the King's Head.

Lord Chief Baron. How long before did you ſee *Hulet* upon the Guard?

Burden. The Day before, but not that Day, nor the Day after.

Lord Chief Baron. William Hulet, the Evidence againſt you is Twofold, one concerning the cutting off the King's Head, the other that you were in a Frock; if it be proved that you did not cut off the King's Head, yet if you were in a Frock in that Place, it will not excuſe you; if you have any Thing to ſay I will be glad to hear it.

Hulet. *I deſire the Perſons may be examined upon Oath, Priſoners and others, who was the Perſon that did it; I mean* Hacker, Huncks *and* Phayre.

Lord Chief Baron. You that are the Priſoner, for that which concerns *Hacker* and *Phayre*, you know what Conditions they are in, one already tried for his Life, the other a Priſoner in the *Tower*; and *Hacker* ſaith himſelf he doth not know the Perſon

at

at all; you that are Priſoner at the Bar, the Court conceives you have had Time to get your Witneſſes here; you were informed of the Buſineſs before you came here, yet notwithſtanding, it is conceived there are ſome here that can ſay ſomething tending to the Information of the Jury, but they are not to be admitted upon Oath againſt the King.

Sheriffs Officer Examined.

Sheriffs Officer. My Lord, all that I can ſay in this Buſineſs is this; one of our Fellows that belong to our Maſter, the Sheriff, *John Rooten* by Name, he and I were talking about this very Story, and he did acquaint me with this, That he was in *Roſemary Lane* a little after the Execution of the King, drinking with the Hangman, that he did urge him whether he did this Fact; God forgive me, ſaith the Hangman, I did it, and I had Forty Half-crowns for my Pains.

Abraham Smith Examined.

Smith. My Lord, aſſoon as that Fatal Blow was given I was walking about *Whitehall*, down came a File of Muſketeers; the firſt Word they ſaid was this, Where be the Bargemen? Anſwer was made, Here are none; away they directed the Hangman into my Boat; going into the Boat he gave one of the Soldiers a Half-crown; ſaith the Soldiers, Watermen, away with him, be gone quickly; but I fearing this Hangman had cut off the King's Head, I trembled that he ſhould come into my Boat, but dared not to examine him on Shore for Fear of the Soldiers; ſo out I lanched, and having got a little Way in the Water, ſaid I, who the Devil have I got in my Boat? Says my Fellow ſays he, why? I directed my Speech to him, ſaying, are you the Hangman that cut off the King's Head? No, as I am a Sinner to God, ſaith he, not I; he ſhook every Joint of him; I knew not what to do; I rowed away a little further, and fell to a New Examination of him when I had got him a little further; tell me true, ſaid I, are you the Hangman that hath cut off the King's Head? I cannot carry you, ſaid I; no, ſaith he, I was fetched with a Troop of Horſe, and I was kept a cloſe Priſoner at *Whitehall*, and truly I did not do it; I was kept a cloſe Priſoner all the while, but they had my Inſtruments. I ſaid I would ſink the Boat if he would not tell me true; but he denied it with ſeveral Proteſtations.

William Cox Examined

Cox. When my Lord *Capell*, Duke *Hamilton*, and the Earl of *Holland*, were Beheaded in *Palace-yard* in *Weſtminſter*, my Lord *Capell* asked the Common Hangman, ſaid he did you cut off my Maſter's Head? Yes, ſaith he; where is the Inſtrument that did it? He then brought the Ax; is this the ſame Ax, are you ſure, ſaid my Lord? Yes, my Lord, ſaith the Hangman, I am very ſure it is the ſame; my Lord *Capell* took the Ax, and kiſſed it, and gave him Five Pieces of Gold, I heard him ſay, Sirrah, wert thou not afraid? Saith the Hang-man they made me Cut it off, and I had Thirty Pound for my Pains.

Richard Abell Examined.

Abell. My Lord, in the Houſe of one Mr. *Bramſton* I did hear *Gregory* himſelf confeſs that he Cut off the King's Head.

Lord Chief Baron. You that are the Priſoner at the Bar, the Court is willing to give all full Scope, as far as may be, to examine the Truth of the Fact; as they would not condemn the Innocent, ſo they would not acquit the Guilty: Do you deſire further Time to examine the Truth of it, before it be put upon the Jury.

Hulet. *I do confeſs I do not underſtand the Laws, I deſire a little further time; I deſire the Jury may be withdrawn; I deſire a Fortnights Time, but ſubmit to the Court.*

A Stranger Examined.

Stranger. My Lord, I was with my Maſter in the Company of *Brandon* the Hang-man, and my Maſter asked *Brandon* whether he cut off the King's Head, or no? He confeſſed in my Preſence that he was the Man that did Cut off the King's Head.

Lord Chief Baron. You that are the Priſoner at the Bar, the Court was willing to give you as much Time as they could by Law; the Jury hath been charged, and Evidence given; all thoſe Witneſſes have been Examined that we could hear of now for your Advantage; I will ſay ſomething to you, it was here ſaid, and given in Evidence, that *Axtell* did ſend a Boat to fetch the Common Hang-man: If we knew more that might tend to your Advantage it ſhould be repeated. You Gentlemen of the Jury mark it; There is firſt *Gittens*, he ſwears that he was in the ſame Regiment that you were in 12 or 13 Years together; he ſaith that he and others were called together upon their Oaths, and you amongſt the reſt; and there was an Oath of Secrecy, asking them if they would do ſuch an Act; they all refuſed to do it, ſo did you; but he ſaid, the Day of Execution of the King this *Gittens* got among them, and one Captain *Webb* kept the Door, and he ſaw you fall before the King, and ask the King Forgiveneſs; he ſaid he heard your Voice, and ſo knew you; and that the Day after Captain *Atkins* ſaid, you ſhall ſee *Hulet* ſhortly come to Preferment; and he ſaith he did not ſee you in the Regiment that day; and that *Hewſon* and all the Regiment uſed to call you *Father Greybeard*. *Stammers* he ſaith, that you was Captain-Lieutenant to Col. *Hewſon*'s Troop; and you coming to *Lutterels* Town asked him ſeveral Particulars, whether he had been in the King's Army? Walking up and down, you ſaid you were the Man Beheaded King *Charles*, and for that you had One Hundred Pounds; this he Swears poſitively. *Sampſon Toogood*, he ſwears he ſaw you come to Col. *Hewſons* in 1650, you talked to him very familiarly; when you were gone he asked who you were? he told him you were a Capt. Lieutenant of Horſe; and he ſaid that you were a very Mettled Fellow, and did the King's Buſineſs upon the Scaffold; that afterwards Col. *Hewſon*'s Regiment being diſcharged, you came to be of *Pretty*'s Regiment, and that he told this Gentleman that he was aſſured by Col. *Hewſon* that it was you that either Cut off the King's Head, or took it up, and ſaid, *Behold the Head of a Traytor*. He ſaith afterwards, that in 1654 in *Carlow* he asked you the ſame Queſtion, and you demanded of him who told him? he anſwered he was told by ſeveral Perſons, namely *Hewſon* and *Pretty*; you ſaid, what I did I will not be aſhamed of, and if it were to do I would do it again; he ſays again at another Time, that you were One of the Two Perſons who were then upon the Scaffold, and that there were Staples to enforce the King to ſubmit, if he ſtruggled; *I had that about me which would have done the Buſineſs*. And he ſays, in *November* laſt you came to a Meeting upon a Summons of Col. *Jones*, and then did avouch *Lambert*'s Quarrel; he ſaid you were too forward heretofore; you ſaid, if it be the Buſineſs of the King's Head I will never deny it, call me to an Account when you will. He heard many call you *Grandfire Graybeard*. Then there is another Witneſs, I think his Name is *Davies*, he was in Diſcourſe with you, drinking Two Pints of Wine; it is reported (ſays he) you took up the King's Head, and ſaid, *Behold the Head of a Traytor*; and he deſired you to reſolve him whether it was ſo or no; you ſaid again, it had been demanded often,

but you never reſolved any Man; you ſaid, whoſoever ſaid it then, I ſay now, *It was the Head of a Traytor.* *Nelſon* he ſwears, that about Six Years ſince he was in Diſcourſe with *Axtell* about it, and *Axtell* told him they were a couple of Stout Men to your Knowledge, (ſpeaking to *Nelſon*;) I was one to do in that Affair; we made Choice of Two, *Walker* and *Hulet*; who gave the Blow? *Walker*; but *Hulet* took up the Head. Col. *Tomlinſon*, he ſays, that there were Two on the Scaffold, one that had a Grey Beard, and the other ſomewhat Flaxen. *Nelſon* alſo heard by Col. *Pretty* that you did it. And then *Ben. Francis* he ſays, they had both Frocks alike, one a Black Beard, and a Gray-griſled Perriwig, and believes he was about your Stature. This is the Subſtance of what the Witneſſes have ſaid againſt you. Gentlemen, you hear what has been proved on behalf of the Priſoner, that is, if you believe the Witneſſes that are not upon Oath, that *Brandon* confeſſed it, and denied he did it: Several Witneſſes that ſay *Brandon* confeſſed he did it, and that he told them of a Sum of Money that was given him. *Gentlemen of the Jury*, You ſee the whole Point in this Caſe, the Indictment is for Compaſſing and Imagining the Death of his late Majeſty; the Evidence goes Two Ways, part of the Witneſſes one way, part another way; if you believe either of them then you ought to find that the Defendant is Guilty; if either he was in the Frock, though he was not the Man that did it; or if you find he did it, it is a clear Teſtimony of his Imagining and Compaſſing the Death of the King. Now it reſts upon you to conſider the Evidence that is given for the Common Hang-man, that he ſhould be the Man that did it, that the Priſoner at the Bar did not Cut off the Head: On the other ſide, if you do believe he was One of the Two in the Frocks, upon the Relations of theſe Perſons, *Pretty*, *Hewſon*, and *Axtell*; if you believe it upon theſe Relations, and after his own Confeſſion, that if he was to do it again he would do it; then upon this Evidence that is given you, he is to be found Guilty, tho' he did not cut off the King's Head. You have heard the Evidence on all Sides, it reſts upon you, pray go together, and conſider of your Verdict. I have forgotten one Thing. God forbid I ſhould omit any Thing that may be as well for Advantage, as againſt the Priſoner at the Bar: If you take it ſingly, if you have nothing of other Proof, what another Man ſays of me doth not charge me, unleſs there be ſomething of my own; what you have heard from himſelf, and what you have heard by Relations from others, that is to be left to you. It is my Duty to tell you, that which is ſaid by another of me, that alone is not a pregnant Evidence; you muſt remember withall what is ſworn poſitively, what he ſaid himſelf; this being ſaid, I muſt leave it to you. Pray go together.

After a more than ordinary Time of Conſultation the Jury returned to their Places.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you.

Jury. Our Foreman.

Clerk. William Hulet, alias *Howlet*, Hold up thy Hand. Gentlemen, look upon the Priſoner at the Bar: How ſay you, is he Guilty of the High-Treaſon, *&c.*

Foreman. Guilty.

Clerk. Look to him Keeper. What Goods and Chattels.

Jury. None to our Knowledge.

And then the Court adjourned till to Morrow Morning Seven a Clock in this Place.

October 16th. 1660.

Seſſions-Houſe in the Old-Bailey.

Proclamation being made.

Clerk of the Crown. Set *Iſaac Pennington*, *Henry Marten*, *Gilbert Millington*, *Robert Tichburn*, *Owen Roe*, *Robert Lilburn*, *Henry Smith*, *Edm. Harvey*, *John Downs*, *Vincent Potter*, *Auguſtin Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, and *Tho. Wayte*, (in all Fifteen,) to the Bar, which was done accordingly.

Clerk of the Crown. You the Priſoners at the Bar, thoſe of the Jury that were laſt called are to paſs, *&c.* if you, or any of you, will Challenge all, or any of them, you muſt Challenge them when they come to the Book, before they be Sworn.

Charles Pitfield, *Chriſtopher Abdy*, *Richard Cheyney*, *George Tirrey*, *Daniel Cole*, —— *Hall*, *Richard Abell*, *Edmund Starnel*, *Edmund Pitt*, *Will. Witcomb*, *Fran. Dorrington*, and *T. Nicoll*, Called and Sworn of the Jury.

Clerk of the Crown. Iſaac Pennington, *Henry Marten*, &c. Hold up your Hands. Gentlemen that are Sworn, look upon the Priſoners at the Bar. You ſhall underſtand that the ſaid *Iſaac Pennington*, *&c.* together with, *&c.* (*here the Indictment was read,*) unto which they and every of them have ſeverally pleaded Not Guilty, and for their Trial have put themſelves upon God and the Countrey, which Countrey you are: Now your Charge is to enquire, *&c.*

Council. May it pleaſe your Lordſhips, and you Gentlemen of the Jury, the Priſoners at the Bar ſtand Indicted of High-Treaſon, for Compaſſing and Imagining the Death of the late King *Charles* the Firſt, of Glorious Memory. The Indictment ſets forth ſeveral *Overt-acts*, by which that Imagination doth appear the Treaſon it ſelf is the Compaſſing: Our Evidence will go on thus; we ſhall prove againſt them all, that they did ſit (in that which they called the High Court of Juſtice) upon the King, whilſt the King was a Priſoner at the Bar, moſt of them did Sentence him; all but *Harvey* and *Pennington* did Sign that Bloody Warrant for his Execution; and that one of the Priſoners at the Bar was in before the High-Court of Juſtice, conſulting of bringing it about. When we have proved this I think it is enough. Pray call the Witneſſes.

Harvey. My Lord, according to my Duty I ſhall ſave this Honourable Court all their Trouble. I do humbly acknowledge that I was and did Sit in that Court, but I did not Sign and Seal that Warrant.

Lord Chief Baron. It is very true, Mr. *Harvey.*

Harvey. I hope your Lordſhips and this Honourable Bench will give me leave (in that Time which you ſhall appoint) to ſhew you my Reaſons that I did it not of Malice, and it was an Error not of Will but of Judgment; what I have to ſay will be thought not for the annihilating yet for the Extenuation of my Crimes.

Lord Chief Baron. Say now what you will, only conſider with yourſelf whether you have not already ſpoken as much as you can for the Extenuation of it; ſay what you can further.

Harvey. Let me ſpeak a Word.

Lord

Lord Chief Baron. Go on Sir.

Harvey. My Lord, I do humbly conceive if I had conceived that I had then done any Thing of Treaſon I would not for all the World have been there; I was preſent when His Majeſty did not own the Court, deſiring that both his Houſes might meet, that he might have a Conference with them for ſettling of the Peace: My Lord, heartily and unfeignedly I did endeavour that that Advice might be embraced, and that no Sentence might be pronounced. I was one of thoſe (with ſome others) that did ſo far promote it, that that which they called the High-Court of Juſtice did withdraw to conſider of it, but the Major Part of it did diſſent. But, my Lord, I was ſo unhappy as to return to the Court, though with Reluctancy; I went with a Reſolution not to go more to them, nor never did; I was ſummoned to come to the Court: I did declare I abhorred the Thing, that my Soul had Reluctancy againſt it, and I was greatly grieved and troubled at it, and I did refuſe any more to come, or to conſult about any Thing that followed, in order to His Majeſties Death, and to Sign, and to Seal. And that I may make it appear to your Lordſhips I pray I may have a Witneſs or Two examined.

Lord Chief Baron. Name them. Did he Sit upon the Day of Sentence?

Council. Yes he did; he followed it.

Mr. *Edward Corbet* Examined.

Mr. *Corbet.* My Lord, the Atteſtation which I this Day make ſolemnly in the Holy Fear of Almighty God, and in Awful Reverence of this great Tribunal, hath only this great Scope, that Colonel *Harvey*, the Priſoner at the Bar, upon that Day of Signing the Warrant for that horrid Execution of His moſt Excellent Majeſty, not in Title only, but in Reality, he finding me as I was paſſing to the Duty of my Place in the Aſſembly of Divines then Sitting, he ſeized on me, and deſired Privacy of Time and Place, that he might disburthen his Soul and Spirit unto me; it was then about Nine a Clock in the Forenoon to the beſt of my Remembrance.

Lord Chief Baron. What Day, I beſeech you?

Corbet. To the beſt of my Remembrance upon the *Monday*; Sir, ſays he, I deſire to make known unto you the deep Horror that ſits upon my Spirit, the Sadneſs and Grief, above all Expreſſions, that my preſent Caſe has caſt me into; I have endeavoured, Sir, ſays he, in the Sight of God, all that poſſibly I could to divert them from the Sentence, I could not prevail. Sir, ſays he, I have been this Morning ſollicited with very much Earneſtneſs that I would go and Sign, and Seal, and Order that wicked Execution, which my Soul abhorrs; and, Sir, that I might be removed and withdrawn from all Temptations and Sollicitations of ſuch a wicked Fact, I beſeech you ſpare me your Time this Day, which I did, in the Preſence of another Divine, till Four a Clock in the Afternoon, and then I parted and went to *Weſtminſter*, to Sign and Aſſiſt that which I did apprehend my bounden Duty, the Vindication of the Aſſembly of Divines, wherein we did teſtifie, that it was far from our Thoughts to adviſe the Parliament to any ſuch unheard of unnatural Act.

Council. We do admit, that after he ſat, and Sentence paſt, that he did not Sign.

Harvey. *Be pleaſed to call one Mr.* Thomas Langham, *he hath heard me often declare againſt that Act.*

Mr. *Thomas Langham* Examined.

Lord Chief Baron. What do you ſay, Mr. *Langham*, as to this Buſineſs?

Langham. Sir, about the Time that His Majeſty was executed in 1648, I was then Servant to Alderman *Sleigh*, who was formerly Partner with this Colonel, and he frequently came to Alderman *Sleigh*'s every Night; and the Alderman having ſome Buſineſs with him, would ask him what News there was at the High Court of Juſtice; he uſually told him the Paſſages upon any Day; the Alderman asked him, if ſo be he thought His Majeſty might eſcape? He told them this, that he would do what lay in his Power that he might not come to have Sentence paſt; upon *Saturday*, being alſo there, he told him this, that he had done what lay in his Power to hinder the Sentence, but could not attain his Deſign; but he was reſolved he would never Sign nor Seal to His Majeſties Death, for it was utterly againſt his Judgment.

Harvey. There is another, (my Lord,) and but one more, that is *George Langham.*

Lord Chief Baron. To what purpoſe? This is believed.

Harvey. I ſhall only crave and ſupplicate this Favour of this Honourable Bench, that this Honourable Bench will be pleaſed, on my Behalf, (ſince I have endeavoured it Two Months before,) to preſent my humble Petition to His Sacred Majeſty, and to intercede for Mercy and Favour on my Behalf, myſelf, my Wife, and Thirteen Children, ſhall humbly pray.

The Court received the ſaid Petition, and promiſed to preſent it to His Majeſty.

Millington. I do not know whether it will be ſeaſonable for me to interpoſe now, I would ſpeak a little.

Lord Chief Baron. Is he next in Order?

Clerk. No, my Lord, *Penington* is next.

Penington. I am unwilling to be troubleſome to the Court. This I ſhall take the Boldneſs to ſay, (which ſhall be nothing but Truth,) I never had a Hand in plotting, contriving malicious Practices againſt His Majeſty, demonſtrated by my utterly refuſing to Sign the Warrant for his Execution, though often ſollicited thereto; I cannot deny but I ſate amongſt them that Day of the Sentence, but I cannot remember I was there when the Sentence paſſed. My ſitting amongſt them was out of Ignorance, I knew not what I did, therefore I hope you will believe there was nothing of Malice in any Thing I did; I was miſled to it.

Lord Chief Baron. I cannot hear you, (he not ſpeaking aloud.)

Penington. It was Ignorance, not Malice, that led me; if I had known what I had done I would not have done it; I humbly pray that there may be a favourable Conſtruction made of it, I humbly leave it with you. I did my Duty to pray for the King, but had no Malice to act willingly againſt him.

Clerk. *Henry Marten.*

Council. He did both Sign and Seal the Precept for ſummoning the Court, and the Warrant for Execution; ſat almoſt every Day, and particularly the Day of Sentence.

Marten. My Lord, I do not decline a Confeſſion ſo as to the Matter of Fact, the Malice ſet aſide, *Maliciouſly, Murderouſly, and Traiterouſly.*

Council. If you have any Thing to ſay to that we will prove it.

Lord Chief Baron. That I may inform you in it, there is Malice implied by Law, Malice in the Act itſelf: That which you call Malice, that you had no particular Intention or Deſign againſt the King's Perſon, but in relation to the Government, that will not be to this preſent Buſineſs, if it ſhould extenuate any Thing that would be between God and your own Soul; but as to that which is alledged

in the Indictment, *Maliciously, Murderously, and Traiterously*, they are the Consequences of Law. If a Man meet another in the Street, and run him through, in this Case the Law implies Malice; though but to an ordinary Watchman, there is Malice by the Law in the Fact; if there was no such expressed Personal Malice as you conceive, yet the Fact done implies Malice in Law.

Mr. Solicitor-General. My Lord, he does think a Man may Sit upon the Death of the King, Sentence him to Death, Sign a Warrant for his Execution, *Meekly, Innocently, Charitably, and Honestly.*

Marten. I shall not presume to compare my Knowledge in the Law with that of that Learned Gentleman, but according to that poor Understanding of the Law of *England* that I was capable of, there is no Fact that he can Name that is a Crime in itself, but as it is Circumstantiated. Of killing a Watchman, as your Lordship instanced, a Watchman may be killed in not doing his Office, and yet no Murder.

Lord Chief Baron. I instanced that of a Watchman, to shew there may be a Malice by Law, tho' not expressed; tho' a Man kill a Watchman, intending to kill another Man, in that Case it is Malice in Law against him: So in this Case, if you went to kill the King when he was not doing his Office, because he was in Prison, and you hindred him from it, the Law implies Malice in this. It is true, all Actions are Circumstantiated, but the killing of the King is Treason of all Treasons.

Justice *Foster.* If a Watchman be killed it is Murder; it is in contempt of Magistracy of the Powers Above; the Law says that Contempt adds to the Malice.

Council. We shall prove against the Prisoner at the Bar (because he would wipe off Malice,) he did this very Merrily, and was in great Sport at the Time of the Signing the Warrant for the King's Execution.

Marten. That does not imply Malice.

Ewer Sworn.

Council. Come Sir, you are here upon your Oath, speak to my Lords and the Jury; you know the Prisoner at the Bar very well, you have sometimes served him; were you present in the *Painted Chamber, January* 29. 1648, at the Signing the Warrant, the Parchment against the King?

Ewer. The Day I do not remember, but I was in that Chamber to attend a Gentleman there; I followed that Gentleman, (looking at Mr. *Marten,*) I followed that Gentleman into that Chamber.

Lord Chief Baron. After what Gentleman?

Ewer. Mr. *Marten*, my Lord, I was pressing to come near, but I was put off by an Officer, or Soldier there, who told me I should not be there; I told him I was ordered to be by that Gentleman. My Lord, I did see a Pen in Mr. *Cromwel*'s Hand, and he marked Mr. *Marten* in the Face with it, and Mr. *Marten* did the like to him; but I did not see any one set his Hand, though I did see a Parchment there with a great many Seals to it.

Sir *Purbeck Temple* Sworn.

Council. What do you know of that Gentleman in his Carriage of this Business?

Sir *Purbeck Temple.* My Lords, I being present in Town when that horrid Murther was contrived against the late King, there came some Persons of Honour, Servants to the late King, to my Fathers House, Sir *Edward Partridge*, to engage me to join with them to attempt the King's Escape. In order whereunto they told me, nothing would tend so much to His Majesties Service as to endeavour to discover some Part of their Counsels, for that it was resolved by *Cromwel* to have the King tried at the *High-Court of Justice*, as they called it, the next Day, and desired me (if possible) to be there to discover their Counsels, whereby the King might have Notice, and those that were to attempt his Escape. In order whereunto, the next Day, by giving Money to the Officer of the *Painted-Chamber* I got in by Day-light in the *Lobby* of the Lords-House; I espied a Hole in the Wall, under the Hangings, where I placed my self till the Council came, where they were contriving the Manner of trying the King when he should come before them: And after the manner of Praying, and private Consults amongst themselves, when their Prayer was over; there came News that the King was Landed at Sir *Robert Cotton*'s Stairs; at which *Cromwel* run to a Window, looking on the King as he came up the Garden, he returned as White as the Wall: Returning to the Board, he speaks to *Bradshaw*, and Sir *Henry Mildmay*, how they and Sir *William Brereton* had concluded on such a Business; then turning to the Board said thus, *My Masters, he is come, he is come, and now we are doing that great Work that the whole Nation will be full of, therefore I desire you to let us resolve here what Answer we shall give the King when he comes before us; for the first Question that he will ask us will be, by what Authority and Commission do we Try him? To which none answered presently. Then after a little Space,* Henry Marten, *the Prisoner at the Bar, rose up, and said, in the Name of the Commons and Parliament assembled, and all the good People of* England; which none contradicted, so all rose up, and then I saw every Officer that waited in the Room sent out by *Cromwel* to call away my Lord such a one, (whose Name I have forgot,) who was in the *Court of Wards* Chamber, that he should send away the Instrument, which came not, and so they adjourned themselves to *Westminster Hall*, going into the *Court of Wards* themselves as they went thither. When they came to the Court in *Westminster Hall* I heard the King ask them the very same Question that *Cromwel* had said to them.

Mr. Solicitor. Gentlemen, the Prisoner at the Bar confesses his Hand to the Warrant for Executing the King; you see by his Servant how Merry he was at the Sport; you see by his Witness how Serious he was at it, and gave the Foundation of that Advice upon which they all proceeded; and now he says he did it not Traiterously, I humbly conceive he means it was Justifiable.

Sir *Purbeck Temple.* At another Time I was in Town on a *Friday*, and wanting Horses I went to *Smithfield*, where I saw the Horses of State of his late Majesty to be Sold in the Common Market; at which I called to the Rider, said I, What makes these Horses here? says he, I am to Sell them; Why, said I, there's the King's Brand upon them, C.R. and he shewed them me; said I, Will you sell these Horses? What Price? He asked me Three or Fourscore Pound apiece; says I, who Warrants the Sale of these Horses? Says he, Mr. *Marten* and Sir *William Brereton.* Afterwards I heard the Horses were taken into the *Mews* by the Prisoner at the Bar, and Sir *Wil. Brereton.*

Council. Was this before the Trial?

Sir *Purbeck Temple.* It was in 1642 or 1643.

Council. That's nothing to this Business.

Marten. My Lord, the Commission went in the Name of the Commons Assembled in Parliament, and the Good People of *England*; and what a Matter is it for one of the Commissioners to say, Let it be

be acted by the *Good People of* England?

Mr. Sol. Gen. You know all *Good People* did abhor it; I am ſorry to ſee ſo little Repentance.

Marten. My Lord, I hope that which is urged by the Learned Council will not have that Impreſſion upon the Court and Jury that it ſeems to have, that I am ſo obſtinate in a Thing ſo apparently ill: My Lord, if it were poſſible for that Blood to be in the Body again, and every Drop that was ſhed in the late Wars, I could wiſh it with all my Heart: But, my Lord, I hope it is Lawful to offer in my own Defence that, which, when I did it, I thought I might do. My Lord, there was the Houſe of Commons, as I underſtood it, (perhaps your Lordſhips think it was not a Houſe of Commons,) but then it was the Supream Authority of *England*; it was ſo reputed both at Home and Abroad. My Lord, I ſuppoſe he that gives Obedience to the Authority in being *de facto*, whether *de jure*, or no, I think he is of a Peaceable Diſpoſition, and far from a Traitor. My Lord, I think there was a Statute made in *Henry* the Seventh's time, whereby it was provided, That whoſoever was in Arms for the King *de facto*, he ſhould be indemnified, tho' that King *de facto* was not ſo *de jure*: And if Supream Officers *de facto* can juſtifie a War, (the moſt pernicious Remedy that was ever adjudged by Mankind, be the Cauſe what it will,) I preſume the Supream Authority of *England* may juſtify a Judicature, though it be but an Authority *de facto*. My Lord, if it be ſaid that it is but a Third Eſtate, and a ſmall Parcel of that, my Lord, it was all that was extant. I have heard Lawyers ſay, that if there be Commons appurtenant to a Tenement, and that Tenement be all Burnt down except a ſmall Stick, the Commons belong to that One ſmall Piece, as it did to the Tenement when all ſtanding. My Lord, I ſhall humbly offer to Conſideration, whether the King were the King indeed, ſuch a one whoſe Peace, Crowns, and Dignities, were concerned in Publick Matters: My Lord, he was not in Execution of his Offices, he was a Priſoner. My Lord, I will not defer you long, neither would I be offenſive; I had then, and I have now, a Peaceable Inclination, a Reſolution to ſubmit to the Government that God hath ſet over me. I think his Majeſty that now is is King upon the beſt Title under Heaven, for he was called in by the Repreſentative Body of *England*. I ſhall, during my Life, long or ſhort, pay Obedience to him: Beſides, my Lords, I do owe my Life to him if I am acquitted for this. I do confeſs I did adhere to the Parliament's Army heartily; my Life is at his Mercy; if his Grace be pleaſed to grant it I have a double Obligation to him.

Mr. Sol. Gen. My Lord, this Gentleman, the Priſoner at the Bar, hath entred into a Diſcourſe that I am afraid he muſt have an Anſwer in Parliament for it. He hath owned the King, but thinks his beſt Title is the Acknowledgement of the People; and he that hath that, let him be who he will, hath the beſt Title: We have done with our Evidence.

Marten. I have one Word more, my Lord; I humbly deſire that the Jury would take Notice, that though I am accuſed in the Name of the King, that if I be Acquitted the King is not Caſt: It doth not concern the King that the Priſoner be Condemned, it concerns him that the Priſoner be Tried: It is as much to his Intereſt, Crown and Dignity, that the Innocent be Acquitted, as that the Nocent be Condemned.

Mr. Sol. Gen. My Lord, this puts us now upon the Reputation of our Evidence; and you may ſee how neceſſary it is to diſtinguiſh between Confidence and Innocence; for this very Perſon that deſires you to have a Care how you Condemn the Innocent, he doth ſeem to intimate to you that he is an Innocent Perſon at the Bar; and yet confeſſes he did Sit upon the King, did Sentence him to Death; that he Signed the Warrant for the Execution, and yet here ſtands the Perſon that deſires you to have a Care of Condemning Innocence: What is this at the Bottom of it, but that my Fact is ſuch as I dare not call it Innocence, but would have you to believe it ſuch? Gentlemen of the Jury, was it your Intention the King ſhould be ſo Tried as this Priſoner moved? It will concern you to declare, that the People of *England* do abhor his Facts and Principles; every Fact the Priſoner hath confeſſed himſelf, the Sitting in that Court, which was Treaſon; his Sentencing was Treaſon; Signing the Warrant for Execution was the Higheſt of Treaſons: Gentlemen, all that he hath to ſay for himſelf is, there was an Authority of his own making, whereby he becomes Innocent; but we hope out of his own Mouth you will find him Guilty.

Gilbert Millington. I deſire you to hear me; I come not hither to diſpute, but to acknowledge; I will not trouble you with long Diſcourſes. My Lord, it is not fit for Wiſe Men to hear them, I am not able to expreſs them; I will not Juſtifie my ſelf, I will acknowledge my ſelf Guilty. My Lord, the Reaſon why I ſaid the laſt Day *Not Guilty*, was in reſpect of being upon the Scaffold, and Murdering the King, and thoſe Things, but I will wave all things if your Lordſhip will give me Leave, and will go unto the loweſt Strain that poſſible can be; I will confeſs my ſelf Guilty every Way. I was awed by the Preſent Power then in Being. This I leave with you, and lay my ſelf at your Feet, and have no more at all to ſay, but a few Words in a Petition, which I deſire you will pleaſe to accept, and ſo I conclude.

Council. We do accept this Honeſt and Humble Confeſſion, ——and ſhall give no Evidence againſt him to aggravate the Matter.

Lord Chief Baron. Your Petition is accepted, and ſhall be read.

Robert Titchburne. My Lord, when I firſt pleaded to the Indictment, it was, *Not Guilty in Manner and Form as I ſtood Indicted*; my Lord, it was not then in my Heart either to deny or juſtifie any Tittle of the Matter of Fact; my Lord, the Matter that I was led into by Ignorance my Conſcience leads me to acknowledge; but, my Lord, if I ſhould have ſaid Guilty in Manner and Form as I ſtood Indicted, I was fearful I ſhould have charged my own Conſcience as then knowingly and maliciouſly to act it. My Lord, it was my Unhappineſs to be called to *ſo ſad a Work* when I had ſo few Years over my Head; a Perſon neither Bred up in the Laws, nor in Parliaments where Laws are made. I can ſay with a clear Conſcience, I had no more Enmity in my Heart to his Majeſty than I had to my Wife that lay in my Boſom. My Lord, I ſhall deny nothing; after I was Summoned I think truly I was at moſt of the Meetings; and I do not ſay this, that I did not intend to ſay it before, but preſerving that *Salvo* to my own Conſcience, that I did not maliciouſly and knowingly do it, I think I am bound in Conſcience to own it: As I do not deny but I was there, ſo truly I do believe I did Sign the Inſtrument: And had I known that then which I do now, (I do not mean, my Lord, my Afflictions and Sufferings, it is not my Sufferings make me acknowledge,) I would have choſen a Red-hot Oven to gone into as ſoon as that Meeting: I bleſs

God

God I do this neither out of Fear, nor Hopes of Favour, though the Penalty that may attend this Acknowledgment may be Grievous; my Lord, I do acknowledge the Matter of Fact, and do ſolemnly proteſt I was led into it for Want of Years; I do not juſtifie either the Act or the Perſon; I was ſo unhappy then as to be Ignorant, and I hope I ſhall not now, (ſince I have more Light,) juſtifie that which I was ignorant of; I am ſure my Heart was without Malice; if I had been only asked in Matter of Fact at firſt I ſhould have ſaid the ſame; I have ſeen a little: The Great God before whom we all ſtand hath ſhown his Tender Mercy to Perſons upon Repentance; *Paul* tells us, though a Blaſphemer, and a Perſecutor of Chriſt, it being done ignorantly, upon Repentance he found Mercy; my Lord, Mercy I have found, and I do not doubt but Mercy I ſhall find. My Lord, I came in upon the Proclamation, and now I am here I have in Truth given your Lordſhip a clear and full Account, whatever the Law ſhall pronounce, becauſe I was Ignorant; yet I hope there will be Room found for that Mercy and Grace that I think was intended by the Proclamation, and I hope by the Parliament of *England*. I ſhall ſay no more, but in pleading of that humbly beg that your Lordſhips will be Inſtrumental to the King and Parliament on that behalf ——

Council. We ſhall give no Evidence againſt the Priſoner; he ſays he did it ignorantly, and I hope and do believe he is Penitent; and as far as the Parliament thinks fit to ſhew Mercy I ſhall be very glad.

Owen Roe. I have not much to ſay, I never had any Ability; therefore, my Lord, it was never my Intent upon my Plea, as was ſaid before, to deny any Thing I have done; for I was clearly convinced that I ought to confeſs it before, and I do confeſs againſt myſelf, that I did Sit there ſeveral Times, and to the beſt of my Remembrance I did Sign and Seal the Warrant for his Execution; and truly, my Lord, it was never in my Heart to contrive a Plot of this Nature. How I came there I do not know, I was very unfit for ſuch a Buſineſs, and I confeſs I did it ignorantly, not underſtanding the Law, ſo was carried away hidden in the Buſineſs, not underſtanding what I did; therefore, my Lord, I humbly intreat this Honourable Court that you will conſider of it, and look upon me as one that out of Ignorance did it; and if I had known of my Act, I would rather have been torn in Pieces with a Thouſand Horſes. When I heard of the Declaration and Gracious Pardon of his Majeſty, I confeſs I went to my Lord Mayor's, and laid hold of it, and I thought my Life as ſecure as it is now in my own Hands; but I do wholly caſt myſelf upon the King's Mercy; and as I have heard he is a Gracious King, full of Lenity and Mercy, ſo I hope I ſhall find it. I was never againſt Government; it is a Bleſſed Thing that we have it; I hope all the Nations will be happy under it. I ſhall ſubmit to his Majeſty and Government. I can ſay no more; I was not brought up a Scholar, but was a Tradeſman, and was meerly Ignorant when I went on in that Buſineſs; I do humbly intreat your Lordſhips that you would, as tenderly as may be, preſent my Caſe to the King, whom I reſt upon, and leave all to your Lordſhips Wiſdom and Diſcretion to do what you will concerning me ——

Council. We accept his Confeſſion, and do hope he is Penitent before God as well as before the World.

Robert Lilburn. Be pleaſed to give me leave to ſpeak a few Words; I ſhall be Ingenuous before your Lordſhips. I ſhall not willfully nor obſtinately deny the Matter of Fact; but, my Lord, I muſt, and I can, with a very good Conſcience, ſay, that what I did I did it very innocently, without any Intention of Murder; nor was I ever Plotter or Contriver in that Murder; I never read in the Law, nor underſtood the Caſe throughly; whatever I have done I have done ignorantly.

Lord Chief Baron. Becauſe you ſhall not be miſtaken in your Words, God forbid that we ſhould carp at your Words; the Word Innocent hath a double Acceptation, Innocent in reſpect of Malice, and Innocent in reſpect of the Fact.

Lilburn. The Truth is, my Lord, I was for the withdrawing of the Court when the King made the Motion to have it withdrawn; and upon the Day (my Lord) that the King was put to Death, I was ſo ſenſible of it, that I went to my Chamber and mourned, and would, if it had been in my Power, have preſerv'd his Life. My Lord, I was not at all any Diſturber of the Government; I never interrupted the Parliament at all. I had no Hand in thoſe Things, neither in 1648, nor at any other Time. I ſhall humbly beg the Favour of the King, that he would be pleaſed to grant me his Pardon, according to his Declaration, which I laid hold on, and rendered myſelf according to the Proclamation.

Council. We ſhall ſay nothing againſt him.

Henry Smith. My Lord, I ſhall not deſire to ſpend your Lordſhip's Time; what I have done I did it ignorantly, not knowing what I did. I ſhall not deny the matter of Fact; but as to that I pleaded *Not Guilty* before, it was in relation to that which I was Ignorant of the Law of the Nation; I have not been Bred to it, I humbly deſire your Lordſhips to conſider that what I did was done ignorantly, not knowing the Law.

Council. What was that?

Smith. I do confeſs that I Sat in the Court, I do not remember that I Signed or Sealed, (both the Warrants being ſhewed him) adds, my Lords, I confeſs the Hands are like mine, but whether they be ſo or no, I know not.

Council. Then we will prove it. Is the Seal yours?

Smith. I do not know.

Council. Do you confeſs you were in the *Painted Chamber* the 29th of *January?* Do you remember any Thing of that?

Smith. I do not certainly know that.

Council. My Lord, he hath ſaid enough. Shall the Jury doubt of that which he believes?

Smith. I do not remember that I did write it.

Council. My Lord, we preſs it no farther, he hath confeſſed enough.

Smith. My Lord, what I have done I beſeech you conſider I did it in Ignorance, not knowing the Law; there were thoſe about me that were able to call me, who were then in Authority, whom I dared not diſobey, if ſo, I had been in Danger alſo.

Council. My Lords, we have done; be pleaſed to direct the Jury upon theſe ſeveral Evidences and Confeſſions.

Smith. I beg one Word, I muſt declare this, I can ſpeak it ſeriouſly, that from the firſt to the laſt of theſe unhappy Wars, I have been a Man of Trouble and Sorrow; I have been (as many Wiſer Men have been) run upon Error. My Lord, I know not what I have done; I pray that this Court will be pleaſed to be a Mediator for me, that I may have his Majeſties Favour, and that this Petition may be received on my Behalf. (*He then delivered*

ed his Petition to the Court.) I can rejoice for that Happy Settlement that is again in the Nations, and declare cheerfully my humble Submiſſion to that Government, and deſire the Lord will bleſs and proſper his Majeſty and the Parliament in theſe Nations; my Lord, I rendered my ſelf according to the Proclamation; I ſhall ſay no more.

Lord Chief Baron. Gentlemen, you of the Jury, theſe Priſoners that ſtand before you at the Bar, that is, Mr. *Harvy*, *Pennington*, *Marten*, *Millington*, *Titchburne*, *Roe*, *Lilburn*, and Mr. *Smith*, there are Eight, theſe are Perſons who by the *Act of Indemnity* are to be Tried for their Lives for the Treaſons they have committed, but no Execution is to be until the Parliament have further conſidered the Matter that is before us, and you are to find the Matter of Fact: What Mercy they ſhall find hereafter, that is to be left (as I told you) to the Conſideration of the Parliament, we are to proceed according to Law and Juſtice. They are all Indicted for Compaſſing and Imagining the Death of our late Sovereign Lord, *Charles* the Firſt, of moſt Glorious Memory; and for that that hath been opened to you there are ſo many Overt-acts, which are as ſo many Evidences to prove that Indictment, which is the Compaſſing and Imagination of their Hearts to put the King to Death. If any one of theſe be proved, that is alone enough to prove the Indictment, which is the Compaſſing and Imagining of the Heart, that is the Treaſon, the other are but Evidences. If any Thing burſt forth from the Mouth, or from the Hand, as here it is, theſe are Evidences of the Imagination of the Heart; for this you have heard by the Confeſſion of all of them, that they did enough to find the Indictment; they have all of them confeſſed their Sitting upon the King in that Traiterous Aſſembly, which they called the *High Court of Juſtice*. There is One of the Overt-acts expreſsly laid down in the Indictment, they took upon them an Authority to conſider how to put the King to Death, and that they did put the King to Death; but they were miſtaken, as ſome of them ſaid, that the actual Murdering of the King was not their Meaning. But if they did that which tended towards it they are all Guilty of Treaſon; it is all one to you if they be guilty of any of theſe; either Sitting, Sentencing or Signing, they are Guilty; and all of theſe, except Two, are Guilty of all theſe. The Matter is clear and pregnant; there is ſomething hath been ſaid by many of them with a great deal of Expreſſion of Sorrow; they did confeſs (all but one) the Fact; and that which tended to their Defence was Ignorance; but that doth not at all concern you. It will be taken in its due Time into Conſideration; the ſeveral Deportments of them all, that is for another Judicature. Your Buſineſs is to find the Matter of Fact; only this let me repeat unto you, there is Mr. *Harvy*, who hath pleaded ſeveral Matters which are not proper for you, expreſſing his Sorrow and Penitence, we ſhall not trouble you with that, becauſe they are for the Conſideration of another Court; we ought all to have a tender Compaſſion, ought to be ſorry with and for them that are ſorrowful. The like of Alderman *Penington*. *Marten* hath done that which looks forward more than backward. I could wiſh with all my Heart he had looked more backward; that is, to Repentance of that which is paſt, than Obedience to that which is to come; it is a Trouble to repeat thoſe Things which he ſaid himſelf, and truly I hope in Charity he meant better than his Words were. *Millington* he hath done the like with the reſt, confeſſed the Fact, put himſelf upon Mercy wholly, and ſaid, he *was overawed by the preſent Power*. This I repeat, not as any Thing to you, who are to conſider only Matter of Fact. For Alderman *Titchburne*, he hath ſpoken very fully, and truly very conſciencioufly —— upon the whole Matter, acknowledges his Ignorance, his Sorrow, his Conviction in Point of Conſcience; and I beſeech God Almighty to incline his Heart more and more to Repentance. *They that Crucified Chriſt*, (to uſe his own Words,) *through Ignorance, found Mercy*. Colonel *Roe*, he confeſſes the ſame wholly, and caſts himſelf upon the King's Mercy, and he thought it a bleſſed Thing that the King was reſtored again, and ſubmitted wholly to Mercy; and ſo did Mr. *Lilburn*, he ſaid he went to his Chamber and mourned the Day the King was Beheaded; I am very glad he had ſo early a Senſe of it. *William Smith* he did it ignorantly, he was not guilty thus far; that was, he was led on, even like one ſilly Sheep that follows another; by what relation I have heard of the Perſon; at that Time he was not thought fit to be of the Privy Council. There is nothing more to ſay to you, the Fact is confeſſed by them all. It is ſo clear you need not go from the Bar.

After a little Conſultation between the Jurors they returned to their Places ——

Clerk of the Crown. Are you agreed of your Verdict.

Jurors. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. Edmund Harvey. Hold up thy Hand. How ſay you, is the Priſoner Guilty of the Treaſon whereof he ſtands Indicted, and hath been Arraigned? or Not Guilty?

Jury. Guilty.

Clerk. Look to him Keeper.

Clerk. What Goods and Chattels, *&c.*

Jury. None to our Knowledge.

The ſame Queſtion being aſked touching Alderman Penington, Henry Marten, Gilbert Millington, *Alderman* Titchburn, *Colonel* Roe, *Colonel* Lilburn, *and* Henry Smith, *they were ſeverally found Guilty by the Jury in manner aforeſaid. All which Priſoners finding the Place where they ſtood to be Cold and Unwholſom, prayed the Court they might have Leave to be returned to the Priſon till the Court ſhall be pleaſed to command their farther Attendance, which was granted.*

The reſt of the Priſoners aforenamed, together with W. Heveningham, *brought to the Bar.*

Clerk. You the Priſoners at the Bar, thoſe Perſons laſt called of the Jury are to paſs, *&c.* If you, or any of you, will Challenge all, or any of them, you muſt Challenge them when they come to the Book, before they be Sworn.

Clerk. *Charles Pitfield*, *Chriſtopher Abdy*, *George Terry*, *Daniel Cole*, *Anthony Hall*, *Richard Abel*, *Edmund Starnel*, *Edmond Pit*, *William Whitcomb*, *Francis Dorrington*, *Thomas Nicholl*, *Robert Sheppard*, in all Twelve, Admitted and Sworn of the Jury.

Clerk. If any Man can inform, *&c.*

Clerk. John Downes, Hold up thy Hand, *&c. and the like was ſaid to all the other Perſons following*, viz. *Vincent Potter*, *Auguſtine Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, *Thomas Waite*, and *William Heveningham*; look upon the Priſoners at the Bar you that are Sworn; you ſhall underſtand that *John Downes*, the Priſoner at the Bar ſtands Indicted, *&c.*

King's

King's Council. May it pleaſe your Lordſhips, and you Gentlemen of the Jury, the Priſoners at the Bar ſtand Indicted of High-Treaſon, for Compaſſing and Imagining the Death of the late King *Charles* the Firſt, of Bleſſed Memory; the Evidence by which we ſhall make out againſt them this Treaſon of their Heart, in Compaſſing and Imagining the King's Death, (for that is the Subſtance of the Indictment, and all that follows is but Evidence,) will be by proving that they did ſit as Judges in that pretended Court of Juſtice when the King ſtood a Priſoner at the Bar; that they did Sentence him to Death every one of them; and we ſhall prove againſt all but one of them that they did Sign that Bloody Warrant for Murthering of the King; and againſt one of them that ſtands at the Bar we ſhall prove (to his Shame and Confuſion of Face) that he did *Spit* in the *Face* of our late Sovereign Lord.

John Downes. My Lord, I have humbly pleaded *Not Guilty*; not with any Intention to juſtifie the Fact, or to extenuate it; but, my Lord in Regard there is that charged in the Indictment, that my Conſcience ſaith I am not guilty of, I durſt not plead Guilty; otherwiſe, my Lord, I ſhould not have troubled you with *Not Guilty*, but ſhould have humbly taken the Shame and Confuſion for it; it is my Intention to put the Court to as little Trouble as poſſible I can; therefore I do humbly intreat of your Lordſhips, and the Court, that you will permit me to acknowledge that which will be a ſufficient Evidence of my Conviction, if the Court ſo pleaſe, and that you will be pleaſed to hear me on my Behalf; if I can humbly offer to you ſome ſpecial Thing which is not in the Caſe of another, (I could wiſh it had, if it had we had none been here,) I do humbly acknowledge, that to ſit upon that Occaſion in that Place is Evidence enough to convince what is in the Heart, except by ſome ſignal Actions that might happen from ſome that might ſhew how it was his Unhappineſs to be put into ſuch a Buſineſs, yet had neither Malice nor Treaſon in his Heart: I do humbly conceive that there is that Goodneſs in you, that this Plea, this Allegation, will be moſt Welcome to you. My Lord, though there was ſuch a Thing, ſuch an unparallell'd Thing, I was thruſt into this Number; but never was in Conſultation about the Thing: God is Witneſs I was not put in till the Act was ready to paſs in a ſecond Commitment, by one of the ſame Number; I denied it, yet they ſaid I muſt make one, I muſt take my Share, ſo I came in. Never did I know of His Majeſty's being brought to *London* till he came. My Lords, in this great Unhappineſs I think it is ſome Mitigation, and I judge it a Happineſs, that ſo Wiſe, Prudent Perſons as this Court conſiſts of, that you are my Judges, that can look back, my Lord, and conſider what the Times were then, and can, my Lord, account it a Happineſs that there is a ſpecial Wiſdom in you, that in Nice Caſes you will be able to make a Diſtinction. I do indeed, my Lords, ſadly and ſeriouſly confeſs, that I was divers times with thoſe Perſons that were called Judges of the late King, at ſeveral Meetings and Sittings; it is long ago, I cannot ſay how often; I was ſeveral times there. My Lord, I do humbly beg of your Lordſhips, (I will trouble you as ſhort as I can,) that you would be pleaſed ſo far to favour me as to give me leave to give you a ſhort Account of the Buſineſs; the laſt Day His Majeſty came to that which was called then a Court, ſeveral times he was brought, (I think Thrice,) and His Charge was given in Words high enough; he ſaid He *could not acknowledge their Juriſdiction*; that was the Anſwer, my Lord, till the laſt day; then I confeſs I was there. He that was called *Preſident* did again and again tell him the Heads of his Charge; told him he had ſeveral Days given for Conſideration, that this was the laſt Day that the Court (as they call'd themſelves) would give him his final Anſwer; if he ſtood ſtill to Day, and move to the Juriſdiction of the Court, they muſt take all *pro Confeſſo*, and would give Sentence: My Lord, to this His Majeſty indeed with a great deal of Compoſedneſs and Wiſdom told them to this Effect, I cannot own your Juriſdiction; you have Power enough indeed, I wiſh you may uſe it well; but becauſe you are ſo ready to give a Sentence, which may be ſooner given than avoided, I think fit to let you know that I have ſomething that I deſire to ſpeak to my Parliament, for I have ſomething to offer unto them that will be ſatisfactory to you all, and will be for the immediate Settlement of the Kingdom in Peace.

——My Lord, he that was called Preſident anſwered, that no Notice could be taken of any Thing, but only whether he would Anſwer to his Charge: Upon that, my Lord, His Majeſty indeed, (with the greateſt Earneſtneſs that ever I beheld, and yet in no unſeemly Paſſion,) told them they might ſoon repent of ſuch a Sentence; that he did conjure them to withdraw once again, and to conſidet of it, if it were but half an Hour, or (ſaith he, if that be too much for you) I will withdraw. My Lord, here I can make my Appeal to him that muſt Judge me when you have done with me, I had not a murderous nor a traiterous Thought againſt him; but, Sir, I confeſs ſuch deep Paſſions did fall upon me, that truly myſelf I was not. I remember the Perſons between whom I ſate, as it fell out, were one Mr. *Cawly*, and Col. *Walton*, theſe Two I ſate betwixt, theſe were the very Words I ſpake to them, *Have we Hearts of Stone? Are we Men?* They laboured to appeaſe me; they told me I would ruin both myſelf and them; ſaid I, if I die for it I muſt do it. *Cromwel* ſate juſt the Seat below me, the hearing of me made ſome Stir, Whiſpering, he loooked up to me, and asked me if I were myſelf? What I meant to do to that I could not be quiet? Sir, ſaid I, no, I cannot be quiet; upon that I ſtarted up in the very Nick; when the Preſident commanded the Clerk to read the Sentence, I ſtepping up, and as loud as I could ſpeak, ſpoke to this Effect theſe Words, or to the like Purpoſe; my Lord, (ſaid I) I am not ſatisfied to give my Conſent to this Sentence, but have Reaſons to offer to you againſt it, and I deſire the Court may adjourn to hear me; preſently he ſtept up and looked at me; nay, ſaith he, if any one of the Court be unſatisfied the Court muſt adjourn: Sir, accordingly they did adjourn into the inner *Court of Wards*; when they came there I was called upon by *Cromwel* to give an Account why I had put this Trouble and Diſturbance upon the Court? I did ſpeak, Sir, to this Effect, (it is long ago, the very Words I think I cannot ſpeak,) but to this Effect I did ſpeak: My Lord, I ſhould have been exceeding glad if the Court had been pleaſed to condeſcend to this gracious Expreſſion; but it is not too late late for me: I deſire not his Death, but his Life, and that the Nations may be ſettled in Peace: The King now is pleaſed to offer, that if he might but ſpeak with his Parliament he would offer to them ſuch Things as ſhould be ſatisfactory to us all. So (ſaid I) what would you have? Your Pretence of bringing him to theſe Proceedings was, that after ſuch a long and Bloody War His Majeſty would not condeſcend

deſcend to ſuch Conceſſions as might ſecure the Parliaments Party; but now you hear him, that he will give every one of us Satisfaction: I told them, ſadly told them, (I think I may truly ſay more ſadly then then at this Time,) that if they ſhould go precipitantly on, and give Judgment upon him, before they had acquainted the Parliament with what the King was pleaſed to offer, we ſhould never be able to anſwer it; the rather, my Lord, (and that I did preſs with all the little Underſtanding that I had if they did but conſider the laſt concluded Order that the Parliament made after the paſſing of the Act for Trial, (that which was ſo called,) I ſay there was this Order that ſhut up all, that upon any Emergency that could not at that Time be thought on in the Houſe, the Court ſhould immediately acquaint the Houſe with it. My Lord, I did infer as ſtrongly as I could to them, that if this were not Emergent I could not tell what was: The King denied the Juriſdiction of the Court, and yet with all Vehemency deſired to ſpeak with his Parliament; were not theſe Emergencies? If not, I knew not what were Emergencies. My Lords, beſides this, there was another Thing I did preſs, that I thought was of greater Conſequence than this, as to the Satisfaction of every Man's particular Conſcience; that admitting (if it might be admitted) that the King was liable to His Subjects, that they might call him to an Account, and might Condemn him, (I beg your Pardon that I take the Boldneſs to make ſuch Admiſſions,) but if ſuch a Thing might be admitted, certainly it did exceedingly become thoſe Judges that were to give ſuch a Sentence, (not againſt a Common Perſon, but againſt the greateſt,) to be very well ſatisfied in Matter of Fact, to a full Evidence before them, that ſuch and ſuch Things that were ſaid were true. I do acknowledge this, that to the beſt of my Apprehenſion, (I wiſh it had been ſo to others,) there was a great Shortneſs in this; I do humbly affirm this, that not one Member of the Court did hear one Witneſs *Viva Voce*, I did preſs that if the Court did give Judgment againſt the King, without a fair Examination, I ſaid it was ſuch a Thing as no Judge at any Aſſizes would do againſt a common Perſon; what I had was from *Peters*, and from ſome private Whiſpers from one of them that is gone, and hath received his Sentence and Doom. *Cromwel* did Anſwer with a great deal of Storm; he told the Preſident, that now he ſaw what great Reaſon the Gentleman had to put ſuch a Trouble and Diſturbance upon them; ſaith he, ſure he doth not know that he hath to do with the hardeſt hearted Man that lives upon the Earth; however, it is not fit that the Court ſhould be hindred from their Duty by one peeviſh Man; he ſaid, the Bottom was known, that he would fain ſave his Old Maſter; and deſired the Court, without any more ado, would go and do their Duty. Another that ſpoke to me in Anſwer was one that hath been before you, and hath received his Sentence, but is not dead, (and I deſire I may not name his Name,) his Anſwer was to what I have ſaid, that ſome Men were either Scepticks, or Infidels. After this I did go into the Speaker's Chamber, and there I did eaſe my Mind and Heart with Tears, God only knows. I have an unhappy Memory, I have ſlipt many Things.

Lord Chief Baron. Remember yourſelf by Papers, if you have any no Man will hinder you.

Downes. I have no Papers; but, my Lord, for the Truth of this I have ſaid, there are ſome Witneſſes that will make the Subſtance, the Effect of this appear.

Lord Chief Baron. Mr. *Downes*, there is one Particular before you come to the Witneſſes, that after all theſe Convictions you ſigned the Warrant; you deny it, the Council will prove it.

Downes. I did never hope, or think, that any Thing I can ſay ſhould be ſo ſatisfactory to you, but Things might be retorted upon me; and perhaps what I thought might be for extenuating my Crime may fall out to my Diſadvantage: I underſtand you do proceed upon Three Particulars, either Signing the firſt Warrant for conſtituting the Court; to my Remembrance I know not of it; if my Hand was to it I have forgot.

Council. Your Hand is not to that, but we mean your Hand is to the Warrant for Execution, —— pray ſhew it him. (It was ſhewn him.)

Downes. My Lord, how to reconcile that which hath been ſaid before, with this that comes after, I leave it to you, I am totally at a Loſs. When thoſe Times were, how impetuous the Soldiers, how not a Man that durſt either diſown them, or ſpeak againſt them. I was threatened with my very Life, by the Threats of one that hath received his Reward I was induced to it. Certainly, my Lord, it doth argue that there was not Malice Predominant; Love and Hatred cannot be at the ſame Time in one Perſon. Deſign, my Lord, what ſhould be my Deſign? A poor, ordinary, mean Man. Surely, my Lord, I could not deſign any great Matters or Places. I knew myſelf unfit; I humbly beg you would give me leave to tell you a little what I got ——

Mr. Sol. Gen. By your Favour, my Lord, the Priſoners at the Bar may ſay what they will by Way of Extenuation; but we expect that when they enter upon theſe Diſcourſes they will ſave your Lordſhip's Time, and ours, by a publick Confeſſion, and Evidence of Sorrow. We cannot ſpend ſo long Time to hear theſe long Diſcourſes; we will rather prove it againſt every Man ſingly.

Downes. I will trouble you no further, I do acknowledge all; I humbly ſubmit, and beg your Favour, and leave myſelf upon my Countrymen the Jury, and beg the King's Mercy ſpecially. —— Pray ſpare me one Word, that you will hear but a Witneſs or Two unto that Buſineſs.

Council. He doth confeſs he Sat and Signed; we believe he is Sorrowful, and againſt his Conſcience he did Sign: and that he did it out of a Fear, and from a Threat; that he was over-awed; (ſo was the Hangman too;) but after he had apprehended this Sorrow, and declared his Judgment upon the Fact, he Signed the Warrant.

Downes. My Lord, I do humbly beg his Majeſties Mercy; I came in upon the Proclamation.

Vincent Potter. My Lord, my Condition requires Eaſe for my Body; (*he had a Fit of the Stone upon him at that ſame Time*;) I pray that the paſſing the Sentence for Execution may be ſuſpended.

Lord Chief Baron. The Execution muſt be ſuſpended, for you are within that Qualification.

Potter. I deſire only this, I am not in a Condition to declare what I know, and would ſpeak; I am mighty full of Pain; if I am under that Qualification, let me reſt under that.

Council. Do you confeſs the Indictment? Or will you put us to prove it?

Potter. I am one that came in.

Lord Chief Baron. It is thus with you, whether or no did you Sit, Sign, or Act in this High Court of Juſtice againſt the King?

Potter. I will deny nothing; I confeſs the Fact, but did not contrive it; I am full of Pain.

Lord Chief Baron. According to the Demerit of

the Caſe in Law you muſt receive Judgment here, but no Execution of that Judgment ſhall be, until the King, by Advice and Conſent of Lords and Commons, ſhall order the Execution of it; you are to be Tried now; do you confeſs you Signed the Warrant for Execution of the King?

Potter. I do confeſs it, my Lord.

Council. We do accept it.

Potter. I beſeech you let me go to eaſe my ſelf.

Lord Chief Baron. Officer, ſet a Chair for him; *(which was done)* Mr. *Potter*, ſit down.

Aug. Garland. May it pleaſe your Lordſhip, I came here this Day intending to have waved my Plea, and referred my ſelf to this Honourable Court, to be recommended to the King's Mercy and the Parliament; but hearing of ſome Scandal upon me, more than ever I did hear till within theſe few Days, I ſhall deſire your Favour in hearing of my Trial.

Mr. Sol. Gen. My Lord, he ſaith well; for if he had confeſſed the Indictment we ſhould not have accepted it. *Call the Witneſſes.*

Garland. I do confeſs this, I Sate, and at the Day of Sentence Signed the Warrant for Execution.

Mr. Sol. Gen. And we will prove that he ſpat in the King's Face.

Garland. I pray let me hear that, otherwiſe I would not have put you to any Trouble at all.

Clench Sworn.

Council. Do you know the Priſoner at the Bar, *Auguſtine Garland*?

Clench. I know him very well.

Council. Tell my Lords and the Jury how you ſaw him behave himſelf to our Sovereign Lord the King when he was at the Bar.

Clench. I was that Day at *Weſtminſter-hall* when the King had Sentence; they hurried the King down, and Mr. *Garland* came down Stairs by them; towards the Bottom of the Stairs he Spit in his Face at a little diſtance.

Council. Do you believe he did it on Purpoſe, upon your Oath?

Clench. I ſuppoſe he did it ſomewhat Suſpiciouſly in that Way; I did ſee the King put his Hand in his Left Pocket, but I do not know whether the King wiped it off.

Mr. Sol. Gen. The King wiped it off, but he will never wipe it off ſo long as he lives: He hath confeſſed that he Sate, that he Sentenced, and that he Signed: We ſay he contrived it at the beginning, and at laſt bid Defiance to the King; I ſhall deſire he may be remembred in another Place.

Garland. I do not know that I was near him at that Time: I do not remember this Paſſage; I am afraid he is an Indigent Perſon. If I was Guilty of this Inhumanity I deſire no Favour from God Almighty.

Lord Chief Baron. I will tell you this doth not at all concern the Jury, but this Circumſtance poſſibly may be conſidered in another Place.

Garland. I refer my ſelf whether you be ſatisfied that I did ſuch an Inhumane Act, I ſubmit that to you; I dare appeal to all theſe Gentlemen here, (looking upon the Priſoners,) or any other, whether they ever heard of it, nor was I ever accuſed for ſuch a Thing till a few Days ſince; but I wave my Plea, and refer my ſelf to the Court: Now, my Lord, this is the Truth of my Caſe, there is that Honourable Gentleman, the Speaker of the Houſe of Commons, knows I lived in *Eſſex* in the beginning of theſe Troubles, and was forced to forſake my Habitation; I came from thence to *London*, where I have behaved my ſelf fairly in my Way. Afterwards in 1648, I was choſen a Member into the Parliament; in *June* 1648 I came in a Member of the Parliament. My Lord, after the Diviſion of the Houſe by the Inſolence of the Soldiery, ſome came to me, and deſired me that I would go to the Houſe; I was then at my Chamber at *Lincolns* Inn; I forbore a Week and more; ſaid I, I do not expect to be admitted, for they look upon me as another Perſon; ſaid they, if you will go you ſhall have no Contradiction; I went, and went in; when I was in, the Firſt Buſineſs that came was the Buſineſs of Trial of the King, and it was put on me to be Chair-man for bringing in this Act for Trial; I did not know how to contradict that Power or Authority, (be it what it will,) but I muſt obey; (I fear my Ruin will follow it, in that reſpect, my Lord, when I came there I was forced to run throughout what they had impoſed upon me.—— Having ſeen me I could not ſhrink from them for fear of my own Deſtruction, and thereupon I did go in, and did that which I have confeſſed to your Lordſhips, not out of any Malignity to his Majeſty, I never had any Diſreſpect to him in my Life; my Lord, I did not know which Way to be ſafe in any thing, without Doors was Miſery, within Doors was Miſchief. I do appeal to all that had any Thing to do with me, that I never did any Wrong to any that was of the King's Party, but helped them as I was able. My Lord, when the Government was thus toſſed, and turned, and tumbled, and I know not what, and the Secluded Members came into the Houſe, I knew not what to do in that Caſe neither. Aſſoon as this Parliament had declared the Treaty, which was the Eighth of *May*, the Ninth of *May* I appeared before the Right Honourable the Lord Mayor of *London*, and did claim the Benefit of his Majeſties Gracious Declaration, and to become a Loyal Subject, as in my Heart I always was; and my Lord Mayor being there, I hope he will teſtifie that as ſoon as I heard of the Proclamation I rendered my ſelf according to the Proclamation; my Lord, this hath been the Carriage of me, being always under Fear and Force; I refer myſelf to your Lordſhips.

Simon Meyne. When I was laſt here, my Lord, that I did then ſpeak *Not Guilty*, was not as to the Matter of Fact, but my Conſcience telling of me that I had no Malice or ill Intention to his Majeſty, that was the Reaſon. For Matter of Fact I ſhall acknowledge what I have done, and lye at his Majeſties Feet for Mercy. I am an ignorant weak Man in the Law, I will confeſs the Fact.

Council. Did you Sign the Warrant for Summoning that Court? And did you Sign the Warrant for Execution of the King.

Meyne. I did Sit in Court.

Council. Did you Sign the Warrant for Execution.

Meyne. My Lord, I knew not of the King's bringing up, I never was at any Committee.

Council. We do not ask you that; look upon the Warrant, and ſee if your Hand and Seal be not to it.

Meyne. My Lord, it is my Hand.

Council. Then my Lord, we have done.

Meyne. My Lord, I acknowledge it is my Hand, by what importunity it may be known to ſome here; I was very unwilling to it; I was told, what Fear was there when Forty were there before, and Twenty was of the *Quorum*? I was thereupon drawn in to ſet my Hand to it. My Lord, I never plotted nor contrived the Buſineſs. There was a Gentleman that told me, if I did offer to ſpeak in the Houſe,

Houſe (and pluck'd me down by the Coat) and he told me I ſhould be Sequeſtred as a Delinquent; (the Name of this Perſon I ſhall omit;) ſaith he, you will rather loſe your Eſtate than take away the King's Life. I leave it with you.

James Temple. At the laſt Time I pleaded to the Indictment *Not Guilty*, but I ſhall now deſire to ſee my Hand, and if it be my Hand I muſt confeſs all Circumſtances muſt follow. (The Warrants being ſhewn him,) I do acknowledge it is my Hand to both; I never did conſult concerning the Court.

Council. There are ſome worſe than he, but he is bad enough.

James Temple. I refer myſelf to the King and Parliament, and preſented a Petition, which was received by the Court.

Peter Temple. When I was here the laſt Time I pleaded *Not Guilty* —— the Reaſon was, becauſe there are divers Things in the Indictment that my Conſcience tells me I am not Guilty of; for I had not a Malicious or Traiterous Heart againſt the King. To ſave your Lordſhips Time I will confeſs what I am guilty of: I was in the Court, Sat there; if I ſee my Hand I ſhall confeſs it.

Council. Were you there when Sentence was given?

Temple. Yes, Sir.

Council. Shew him the Warrants, (which being ſhewed him,) I acknowledge they are my Hand, and refer it to your Lordſhips.

Council. Mr. *Wayte.* You heard the Charge read againſt you, what ſay you to it?

Thomas Wayte. Truly, my Lord, when I was here laſt I pleaded *Not Guilty*; I humbly deſired then your Lordſhips to hear me a Word or Two. You promiſed me then I ſhould be heard; I ſhall deſire to ſpeak for myſelf.

Lord Chief Baron. God forbid but you ſhould.

Mr. Sol. Gen. By your Lordſhip's Favour we muſt ſpeak firſt; if he will confeſs the Fact he may ſpeak what he will. Did you Sit in the Court?

Waite. Yes.

Council. The Day of Sentence?

Waite. Yes.

Council. Is your Hand to the Warrant for Execution?

Waite. I know not; pray let me ſee it. (It was ſhewn him.) My Lord, I confeſs it is like my Hand, but I do not remember it.

Council. If you do not acknowledge it it will be proved.

Waite, Truly, my Lord, I do believe it is my Hand.

Council. Then the Jury will not doubt it.

Waite. But I deſire to be heard. I am loth to trouble you much; I will tell you how I was brought into this Buſineſs. My Lord, I was a Member of that Houſe that Erected this Court when the Treaty was in the *Iſle of Wight*. Immediately after the Army came up I was utterly againſt that Act in the Houſe. When the Army came up to purge the Houſe I was much Troubled at it; I deſired to know the Charge they had againſt them. Two or Three Days after I did move, and there were other Gentlemen that did move, to know what Charge there was. They ſent Word we ſhould have a Charge in due Time; we ſent, and none came, but ſaid we ſhould have it in due Time; I went to thoſe worthy Gentlemen to ſee them in Priſon, and ſeeing nothing would be done, I took my Leave, and made Account to ſee them no more, and went down into the Country to *Leiceſterſhire*; I was ſent for up ſeveral times; I would not come with Threats upon Pain of Sequeſtration. My Lords, there were Petitions going up and down the Country for bringing the King to that Buſineſs, which was againſt my Conſcience. I went to *Rutlandſhire*, I heard there were ſome things working there; I uſed my Intereſt, and I thank God I ſtopped it; I came then to *London* when all theſe Things were deſtroyed; I came to *London* the Day before the Sentence was given; I went to the Houſe, (thought nothing;) ſome were ſent to the *Tower*, and I was ſent for to the Houſe, and my Name was in the Act unknown to me; but one ſent a Note in my Lord *Gray's* Name, that he would ſpeak with me; I went to him, and I ſaid, my Lord, what would you do with me? Saith he, I did not ſend for you; thereupon *Cromwel* and *Ireton* laid hold on me; ſaid they, we ſent for you, you are one of the High Court; no, ſaid I, not I, my Judgment is againſt it; they carried me to the Court. When the King deſired to ſpeak with his Parliament, I riſing up, one told me I muſt not be heard, for the Preſident was to give Judgment, and ſaid, there was an Order that none ſhould ſpeak in Court. Mr. *Downes* did move, and they did adjourn the Court, and I was glad I got out; *Cromwel* laughed, and ſmiled, and jeered in the *Court of Wards*. I hope your Lordſhip will be pleaſed to conſider I was no Contriver, no Soldier that put the Force upon the Houſe that erected the Court, none of the Law-makers, or did any Thing maliciouſly againſt the King. My Lord, I was looked upon with an Evil Eye for regarding the King's Friends in the Country; *Gray* told me the King would not Die, I hope he will not ſaid I: The next Day, on *Monday* I went to the Houſe, they were labouring to get Hands for his Execution at the Door; I refuſed, and went into the Houſe; ſaith *Cromwel*, thoſe that are gone in ſhall ſet their Hands, I will have their Hands now. That Night I went to the Lord *Gray's*, and he ſaid, I am afraid they will put him to Death. I ſaid ſo alſo. My Lord, I have been a great Sufferer, I was drawn in, trepann'd into it; ſince being a Friend to the King's Friends, I am almoſt ruined in my Eſtate; I beſeech your Lordſhips make the beſt Interpretation. I hope you will believe I was no Contriver; I humbly lay hold upon the King's Mercy and Favour. I came in upon the Proclamation; I pray that this Honourable Court will prefer my Petition to the King, and both Houſes of Parliament, which the Court then received.

William Heveningham. My Lord, in 1648 we were under a Force, under the Tyranny of an Army; they were our Maſters; for a Malicious and a Traiterous Heart I had not. I do abſolutely deny the Signing the Warrant for Summoning the Court, and alſo that Warrant for Execution of the King; at the Time of Sealing I had that Courage and Boldneſs that I proteſted againſt it.

Council. We do not queſtion him for that, but for Sitting in the High Court of Juſtice, and that upon the Day of the Sentence, do you deny that?

Heveningham. My Lord, I cannot ſay poſitively.

Council. If you deny the Matter of Fact it muſt be proved.

Heveningham. My Lord, I cannot ſay poſitively, but it may be I might.

Council. Either ſay poſitively you did, or elſe let the Witneſſes be called.

Heveningham. Truly, my Lord, I think I did, but my After-actions.

Lord Chief Baron. Mr. *Heveningham*, that ſhall be conſidered.

Council. My Lord, to Sit upon the Day of Sen-

tence was High-Treaſon in itſelf, and is an Evidence of Compaſſing and Imagining the King's Death.

Heveningham. I ſhall lay hold of the Declaration; I came in upon the Proclamation; I pray your Lordſhips to intercede for me to the King and both Houſes of Parliament; I pray the Mercy of this Court.

Lord Chief Baron. You of the Jury, they have all confeſſed, and therefore you may go together.

Simon Meyne. My Lords, I have forgot my Petition; it is at my Lodging, I deſire I may ſend it at Night.

John Downes and *Peter Temple* prayed the like Favour.

Lord Chief Baron. Do, ſend them, they ſhall be received.

The Jury having conſulted together a certain Time, they went to their Places.

Clerk. Gentlemen, are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. John Downes, Hold up thy Hand——— Look upon the Priſoner; how ſay you? Is he Guilty of High Treaſon whereof he ſtands Indicted, and hath been Arraigned? Or not Guilty.

Foreman. Guilty.

Clerk. Look to him Keeper. What Goods and Chattels, *&c?*

Foreman. None to our Knowledge. And the like Verdicts at the ſame time paſſed in the ſame Manner againſt *Vincent Potter*, *Auguſtine Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, *Thomas Waite*, and *William Heveningham.*

Potter. I hope I may be freed from Irons, I am in Pain, and a Man of Bulk.

Lord Chief Baron. We can give no Order in it, we muſt Leave it to the Sheriff.

Potter. I beg it of you, my Lord.

Lord Chief Baron. We muſt Leave it to the Sheriff. Mr. *Heveningham*, you muſt withdraw from the Bar.

Clerk. Officer, bring down *Waller*, *Fleetwood*, *Hacker*, *Axtell*, *Hulet*, *Penington*, *Marten*, *Millington*, *Titchburne*, *Roe*, *Lilburne*, *Smith*, and *Harvey*, and ſet them to the Bar, which was done accordingly.

Clerk. Hardreſs Waller, Hold up thy Hand. Thou haſt been Indicted, and found Guilty of High Treaſon, what canſt thou ſay why Judgment ſhould not paſs on thee to die according to Law?

Waller. My Lords, I am now, it ſeems, Convicted by Law, and ſo adjudged: Your Lordſhips the other Day on my Deſire told me I might have Liberty to ſpeak upon my Trial, I muſt now beg the like upon a Condemned Perſon.

Lord Chief Baron. You are Convicted, not Condemned.

Waller. My Lords, I was the firſt that pleaded Guilty, I bleſs God that he gave me a Heart to do it, I find moſt Peace in the doing it; and ſince there is nothing left but Hopes of Mercy, I humbly ſubmit it to your Lordſhips to hear me in this ſad Condition, that that may make me ſeem more capable of Mercy. I have, my Lords, been ſo unhappy to have been tranſplanted out of my Country theſe Thirty Years, I have been but once theſe Eleven Years in *England*, this muſt needs make me a Stranger.

Lord Chief Baron. I muſt not hinder you becauſe it is for Mercy that you plead, but conſider with yourſelf whether it will not be better to give it in a Petition: I leave it to you, we can do nothing in Point of Mercy but Judgment.

Waller. Only this, (my Lord,) whether I am not the more capable of your Mercy?

Lord Chief Baron. That you may underſtand it, the Act of Indemnity of Parliament hath excepted you: yet upon ſome Qualifications we are to proceed according to Law, that is, to go to Conviction and Judgment. The Act ſays, that after Judgment there ſhall be no Execution, but that it ſhall be ſuſpended till a further Act of Parliament to be paſſed for that Purpoſe; ſo that in the mean Time we are to proceed no further than Judgment. That which concerns Mercy is referred to another Place. If you pleaſe to ſay any Thing to ſatisfie us, or to go by Way of Petition, it muſt be left to you, but what you ſay for Mercy is nothing to us.

Waller. I humbly thank your Lordſhip for this clear and noble dealing, and withal, I would beg that theſe People that are Witneſſes of my Shame and Guilt, may know that it was a Force and Temptation upon me; I ſhall not inſiſt much, I have ſaid that I did plead Guilty, which was moſt ſafe to my own Conſcience, yet I ſhould make it appear that I did appear more to preſerve the King from Trial and Sentence than any other.

Lord Finch. Sir. *Hadreſs Waller*, I have heard of late of your Sorrow, which I was glad to hear of, becauſe you are my Kinſman, both by your Father and Mother's Side, and alſo my Countrey-man; I was glad to hear of your great Penitence for that horrid Crime, and I would have been glad to have ſeen it now; adviſe with yourſelf, whether you do yourſelf any Good in ſpeaking to extenuate, when you know there is no Man againſt whom there are ſuch Circumſtances of Aggravation as againſt you; conſider whether a publick Penitence would not be more proper.

Waller. I beſeech you report me both to His Majeſty and Parliament, and receive me into your Grace, as being Penitent, truly Penitent: To ſay ſo now were a ſmall Thing, for the fear of the Puniſhment may procure it; but I have been more Penitent when no Eye hath ſeen me but God; when I never imagined to be queſtioned for this Sin, then my Heart hath yearned in the Buſineſs; but I ſhall not trouble your Lordſhips, God holds forth Mercy, His Majeſty holds forth Mercy, the Parliament holds forth Mercy. My Lord, let me ſay ſomething to you, (though it be but a Word,) of the Violence and Force of Temptation; you may have been under it, or may come to it; Chriſt himſelf was under it; we find that faithful *Abraham*, by the Power of a Temptation, delivered up his Wife to commit Adultery, which ſcarce a Heathen would; we find that valiant *Peter* denied his Maſter; righteous *Lot* committed Inceſt. None abhors this Fact more than I do; I have done it ſo long beforehand, I need not to be afraid to ſpeak it in the Face of the Judge of all Men; that is all I ſhall ſay. I rendred myſelf Three Times; I had as much Opportunity to make my Eſcape as any Perſon whatſoever.

Lord Chief Baron. It is underſtood, Sir *Hardreſs.*

Clerk. Iſaac Penington, Hold up thy Hand, Thou art in the ſame Condition as the former, what canſt thou ſay for thyſelf why Judgment, *&c?*

Pennington. My Lord, I have ſaid what I have to ſay, and ſhall not trouble your Lordſhips any further.

Clerk. Henry Marten, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?* *Mar-*

Marten. I claim the Benefit of the Proclamation.

Clerk. Gilbert Millington, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Millington. I ſhall not trouble you with long Diſcourſes; I will ſay no more but this, I have made a publick Reſentment of my Sorrow for this Offence formerly, and many times. I ſhall now deſire no more, but humbly beg that I may have the Benefit of the Proclamation, and pray his Majeſties moſt Gracious Pardon.

Clerk. Robert Tichburn, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Tichburn. My Lord, I will not trouble you with any Repetitions, I have made my humble Requeſt before, I leave it with you.

Clerk. Owen Roe, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thy ſelf why Judgment, *&c?*

Roe. My Lord, I have no more to ſay than I ſaid before.

Clerk. Robert Lilburn, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thy ſelf why Judgment, *&c?*

Lilburn. I ſhall refer myſelf without further Trouble to the Court; my Lord, I beg the Benefit of the Proclamation.

Clerk. Thomas Waite, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Waite. I can declare no more than what already; my Heart is ſorry for what I have done; I beg the Benefit of the Proclamation.

Clerk. Edmund Harvey. Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Harvey. My Lords, I have no more than what I have ſaid before.

Clerk. John Downes, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Downes. I ſhall not trouble you any further, I ſhall deſire the Benefit of his Majeſties Proclamation.

Clerk. Vincent Potter, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Potter. My Lord, I do not know Law, I underſtand it not; I am not in a Condition to ſpeak what I would have willingly ſpoke; I deſire that God would have Mercy, and I look for Mercy from God, *and wept.*

Clerk. Auguſtine Garland, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Garland. I humbly deſire your Lordſhip's charitable Opinion of me: Notwithſtanding what has been objected againſt me, I humbly refer myſelf to the Parliament.

Clerk. George Fleetwood, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Fleetwood. My Lord, I have already confeſſed the Fact, I wiſh I could expreſs my Sorrow, *and wept.*

Clerk. James Temple, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

James Temple. My Lord, I can ſay no more, I beg the Benefit of the Proclamation.

Clerk. Simon Mayne. Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Mayne. I have told you before, my Lord, I have no more.

Clerk. Peter Temple. Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Peter Temple. My Lord, I came in upon the Proclamation, and I humbly beg the Benefit of it.

Clerk. Francis Hacker. Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Hacker. My Lord, I have nothing to ſay but what has been before your Lordſhips.

Clerk. Daniel Axtell, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Axtell. May it pleaſe your Lordſhips, my Caſe differs from the reſt of the Gentlemen.

Lord Chief Baron. I would be loth to hinder you, but I muſt tell you, that what hath been over-ruled muſt not be ſpoke to; if you have any Thing againſt the Indictment, Matter of Law, go on.

Axtell. I have one Thing more that I did not then mention.

Lord Chief Baron. If it tend not as an Exception to the Indictment it is not to be heard.

Axtell. My Lord, then I ſhall apply myſelf to that Point; I humbly conceive, my Lord, that my Overt-acts were not ſufficiently ſet down in the Indictment, as might be ſufficient in Law to Attaint me of High Treaſon; I do not remember that the Overt-act that was applied to me in Evidence was charged in the Indictment; I have only that Exception, becauſe of the Inſufficiency of that Point. In the next Place, my Lord, there is not the right Additions to my Name; there are many Perſons of the ſame Name; I am arraigned by the Name of *Daniel Axtell*, of *Weſtminſter*, in the County of *Middleſex*, Gentleman. I think none knew me to live there, and inhabit there.

Lord Chief Baron. I would not interrupt you, this is paſt; you ſhould have made your Exception to that as Maſter *Marten* did before concerning his Name; that ſhould have been firſt done; you have appeared and pleaded to that Name, and it was, *late of Weſtminſter.*

Axtell. My Lord, I have this to ſpeak in Arreſt of Judgment, that the Indictment being grounded upon that Statute of the Twenty-fifth of *Edward* the Third, it is either miſtaken, or not purſued; my Lords, I did Yeſterday give you the Judgment of the Lords and Commons concerning the Statute in relation to my Caſe; I ſay the Statute was miſtaken, or not purſued.

Lord Chief Baron. That was offered before, Sir, as to the Matter of it.

Axtell. My Lord, I think not, I am miſtaken if it were.

Lord Chief Baron. Then open it.

Axtell. My Lord, I do not find in that Statute that Words are an Overt-act, Words only.

Lord Chief Baron. This was over-ruled. The Things that you objected were theſe, that there is not any Overt-act that is laid that could be applicable to your Caſe; if it were not particularly applicable (you are found Guilty by the Jury,) it would be nothing: But there is an Overt-act, you were preſent at the Court, beating the Soldiers, ſending for an Executioner: But for Words, if one Man ſhould ſay, here is the King, go and kill him, this is Treaſon; but you were guilty in all according to Law. You being there, and doing this, you were not guilty only of the Words, but of all that was done; there is none but Principals in Treaſon.

What

What we ſay and do to you we well know we muſt anſwer before God Almighty for it.

Axtell. I have but one Word more; truly I do appeal to God, before whom I ſhall have another Trial, I do not find myſelf Guilty either of Conſulting, Contriving, or having a Hand in the Death of the King; I am Innocent, and I pray God that my Innocent Blood——

Lord Chief Baron. Pray Sir——

Axtell. May not cry——

Lord Chief Baron. You are now to ſpeak in Arreſt of Judgment.

Axtell. I have no more; I pray your Lordſhip's Favour and Mercy to me.

William Hulet, alias *Howlet*, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Hulet. Truly my Lord, I have little further to ſay; if you had been pleaſed to give me further Time I ſhould have cleared myſelf; I call God above to Witneſs upon this Account that I am as clear as any Man; I ſubmit to the Mercy of the Court.

Lord Chief Baron. For that I do, (but cannot poſitively ſay it,) that at your Requeſt (notwithſtanding the Judgment will paſs againſt you) there may be ſome Time till his Majeſties Pleaſure be known before any Execution will be upon that Judgment againſt you, in the mean time we muſt proceed according to Law and Juſtice.

Proclamation for Silence whilſt Judgment is given.

The Lord Chief Baron's Speech before the Sentence pronounced againſt the aforenamed Priſoners found Guilty.

YOU that are Priſoners at the Bar, you ſtand here in ſeveral Capacities, yet all of you Perſons convicted of the deteſtable and execrable Murder of our Sovereign Lord King Charles *the Firſt, of bleſſed Memory. Miſtake me not, I do not ſay that you are all of you guilty of executing the Fact, but in Law, and in Conſcience,* (pro tanto, *though not* pro toto,) *you are guilty of it, in that you prepared the Way and Means to it, in that you brought his Head to the Block, though you did not cut it off. You are here in Three Sorts, and I muſt apply my Words accordingly; and truly I do it with as much Sorrow of Heart as you have, many of you being Perſons of liberal Education, great Parts; I ſay you are of Three Sorts. There are ſome of you, that though the Judgment of Death is to paſs againſt you, by His Majeſties Grace and Favour, and the Mercy under him, of the Two Houſes of Parliament, Execution is to be Suſpended until another Act of Parliament ſhall paſs to that Purpoſe, that is, all of you but Three; for thoſe Three, the one of them that was laſt called,* William Heveningham, *he is in another Capacity too; for I preſume ſome Time will be given to him to conſider of ſomething relating to him, before any Order will be given for his Execution; there are Two others of you, and that is* Daniel Axtell *and* Francis Hacker; *and for you, as it yet ſtands before us, there is no Mercy, there is no room for it: But though you be in theſe ſeveral Claſſes, yet what I ſhall ſay will concern you all, becauſe I do not know how it may fall with you; none of us knows how ſoon we may come to our Deaths, ſome (probably) ſooner than others; all muſt come to it: You are now before the Tribunal of Man, but that is for Judgment for your Offence here, but there is another Judgment hereafter, and a Tribunal before which both you and we muſt ſtand, every Man here, and we muſt receive according to our Work; thoſe that have done ignorantly, by a ſerious and unfeigned Repentance God Almighty may ſhew Mercy unto them. He hath reſerved Mercy even for the greateſt Offenders. St.* Paul *himſelf, when he perſecuted Chriſt ignorantly, upon his Repentance he found Mercy; thoſe of you that are not yet convicted in your Conſciences of the Foulneſs of this horrid Fact, look into your Conſciences a little more, and ſee if it be not a great Judgment for your former Offence, that you ſhould be given over to a Reprobate Senſe; let me tell you, a ſeared Conſcience, a bold Confidence, not upon good Grounds is ſo far from ſecuring the Conſcience, it may ſtifle perhaps the Mouth of Conſcience, but it will riſe up more in Judgment againſt you. Here you have made your Defence, and I do not blame you for it; Life is precious, but remember the Thoughts of your Hearts are open; whether you did it ignorantly, covetouſly, or to get the Government into your own Hands, that I am not able to ſearch into, God and you only know that; give me Leave to ſay ſomething, perhaps I have repeated it by Parts before; God is my Witneſs what I ſpeak I ſpeak from mine own Conſcience, and that is this, Gentlemen, becauſe I ſaw it ſtuck with ſome of you, that is, that whatſoever the Caſe was, that by the Laws of theſe Nations the Fundamental Laws, there could not be any Coercive Power over your King. I ſpeak it again, becauſe I would as near as I could ſpeak the whole Truth, and would not miſlead any Man in ſuch a Caſe; remember* that no Power, no Perſon, no Community or Body of Men, (not the People, either Collectively or Repreſentatively,) have any Coercive Power over the Perſon of the King by the Fundamental Laws; *for that, Gentlemen, I ſhall begin to ſhew you that which all of you might remember, that is, your Oaths of Allegiance and Supremacy, and to add to this that Obligation which all this whole Nation did oblige themſelves to, by the Parliament, without Queſtion then rightly repreſented, and in Being, the firſt of* King *James; whereby to ſhew you, that not only Perſons, but the Body Politick of the Nations, not only the ſingle Members, but the Members in both Houſes of Parliament, were Loyal and Obedient Subjects to the King, their Head, even to yield a Natural and Humble Obedience and Allegiance. I told you the Act of* 1 *King* James, *when King* James *came firſt into* England, We the Lords and Commons repreſenting the whole People of the Nation, *(the very Words of the Act are ſo* primo Jacobi, *Chap.* 1.) Repreſenting the whole Body of the Nation, do acknowledge an Humble and Natural Liege Obedience to the King as Supreme, his Heirs and Succeſſors; and in the Name of themſelves, and all the People, humbly ſubmit themſelves until the laſt Drop of their Blood be ſpent in Defence of the King and his Royal Poſterity; *and therefore they did oblige themſelves and all the People of* England, *(as far as they could repreſent them, (the Words are more full than I can expreſs them,) and indeed it is ſo Dark I cannot read them; They did acknowledge to be bound to him and his Imperial Crown. Remember theſe were not Words of Complement; you ſhall find that they all of them, and ſo did ſo many of you as are Members of Parliament, yea, all of you, before you came into the Houſe of Commons, did take the Oath of* Allegiance, *which was made after this Recognition, the Third and Fourth of King* James, *or otherwiſe were not to be Members. What was that Oath of* Allegiance *that you took? It was, that you*

you ſhould Defend the King, his Perſon, (that is in 3 Jacobi, *Chapter the Fourth,) his Crown and Dignity: What was it? Not only againſt the Pope's Power to Depoſe, but the Words are,* or otherwiſe; *look into the Act, and reflect upon your own Conſcience, and you ſhall find that all did Swear to defend the King, his Crown and Dignity, and there it is called* Imperial Crown. *I would have you lay this to Heart, and ſee how far you have kept this Oath: Gentlemen, in the Oath of* Supremacy, *which you all took therein, you did further acknowledge that the King was the only Supreme Governour of this Realm: Mark the Words, I will repeat them that you may lay it to Heart; you that have more Time to apply it to your Fact; and you that have leſs Time, for ought I know, you have reaſon to conſider what I have to ſay; you ſware then, that the King by the Oath of* Supremacy, *which all of you have taken, or ought to have taken; if any of you have not taken it, yet notwithſtanding you are not abſolved from the Obligation of it; but moſt of you did take it; there you did ſwear that the King is the only Supreme Governour of this Realm; and you ſware there that you would defend all Juriſdictions, Priviledges, Preheminences, and Authorities, granted or belonging to the King's Highneſs, his Heirs, and Succeſſors, or united and annexed unto the Imperial Crown of this Realm. For the Firſt, if the King be Supreme then there is no Co-ordination.* Non habet Majorem, non habet Parem; *that Word* (Imperial Crown) *is at leaſt in Nine or Ten ſeveral Statutes; it is the very Word in this Act that was made lately in purſuance of former Acts concerning Judicial Proceedings. And ſo in the Time of King* Charles, *they acknowledged him to be their Liege Sovereign; I ſay that Word* Supream, *and ſo the Word* Imperial Crown, *is in the Firſt of Queen* Elizabeth, *the Third and the Eighth of* Elizabeth, *the Twenty-fourth of* Hen. 8. *Chap.* 12. *there it is ſaid this Kingdom is an* Imperial Crown, ſubject to none but God Almighty. *Before theſe Times you ſhall find in the* 16 *of* Richard *the Second, the Statute of* Præmunire, *the Crown of* England *Subject to God alone. I will go higher,* William Rufus, *(ſome of you are Hiſtorians, and you ſhall find the ſame in* Eadmerus, *and alſo in* Matthew Paris, *ſhortly after* William Rufus *his Time,) when he wrote to the Pope he Challenged, and had the ſame Liberty in this Kingdom of* England, *as the Emperor had in his Empire; (miſtake me not, I ſpeak only as to the Perſon of the King,) I do not meddle of Rights between the King and Subjects, or Subject and Subject; you ſee in this Caſe concerning the Death of his Majeſties Dear Father, and our Bleſſed Sovereign, of happy Memory, he doth not judge himſelf, but according to Law; that which I aſſert is as to the Perſon of the King, which was the Priviledge of Emperors, as to their Perſonal Priviledges, if he had offended, and committed an Offence, he was only accountable to God himſelf. I will come back to what I have ſaid; you ſwore to be faithful to the King as Supream. The King of* Poland *hath a Crown, but at his Oath of Coronation it is conditioned with the People, that if he ſhall not Govern according to ſuch and ſuch Rules they ſhall be freed from their Homage and Allegiance. But it differs with our King, for he was a King before Oath. The King takes his Oath, but not upon any Condition; this I ſhew you, to let you ſee that we have no coercive Power againſt the King. The King of* England *was anointed with Oil at his Coronation, which was to ſhew that Abſolute Power, (I do not ſay of Government,) but of being accountable to God for what he did: The Law ſaith,* The King doth no Injury to any Man; *not but that the King may have the Imbecilities and Infirmities of other Men, but the King in his Single Perſon can do no Wrong: But if the King command a Man to beat me, or to diſſeize me of my Land, I have my Remedy againſt the Man, though not againſt the King. The Law in all Caſes preſerves the Perſon of the King to be untouched; but what is done by his Miniſters unlawfully, there is a Remedy againſt his Miniſters for it; but in this Caſe, when you come to the Perſon of the King, what do our Law-Books ſay he is? They call it,* Caput Reipublicæ, Salus Populi, *the Lieutenant of God, and let me tell you, there was never ſuch a Blow given to the Church of* England, *and the Proteſtant Religion. There was a Caſe, and that of the* Spencers, *you ſhall find in the* 7th *Report of the Lord* Cook, *in* Calvin's *Caſe, that Homage is due to the King in his Politick Capacity; and then they made this damnable Inference, that therefore if the King did not demean himſelf as he ought, that he ſhould be reformed,* pure aſpertee, *by Aſperity, Sharpneſs, or Impriſonment: But theſe were condemned by Two Acts of Parliament in Print, that they could not do that even in that Caſe; one was called the Baniſhment of* Hugh Spencer; *and the other is in* 1 Edward 3. *upon the Roll. My Maſters, in the firſt of* Henry *the Seventh you ſhall find it in the Printed Seven Books, he ſaith,* That as to the Regality of his Crown, he is immediately Subject unto God. *Mark the Doctrine of the Church of* England, *Gentlemen; I do not know with what Spirit of Equivocation any Man can take that Oath of Supremacy: You ſhall find in the Articles of the Church of* England, *the laſt but One or Two; it is that Article which ſets forth the Doctrine of the Church of* England; *they ſay, that the Queen, and ſo the King, hath the Supream Power in this Realm, and hath the Chief Government over all the Eſtates of the Realm; the very Words are ſo; this was ſhortly after making the Act; the Articles were in* 1652, *and ſhe came in* 1558, *or* 1559; *it is to ſhew you the King hath the chief Government over all the Eſtates within the Nation; and if you look upon it, you ſhall find it was not only the Judgment of the Church, but of the Parliament at the ſame Time. They did confirm this Article ſo far, that they appointed that no Man ſhould take, or be capable of a Living, but thoſe that had taken that Oath. God forgive thoſe Miniſters that went againſt it. The Queen, and the Church, were willing that theſe ſhould be put into Latin, that all the World might ſee the Confeſſion of the Church of* England, *and of the People of* England; *you may read it in* Cambden: *I have told you how, and wherein, the chief Power conſiſted; not in Reſpect the King could do what he would; no, the Emperors themſelves did not challenge that, but this they challenge by it, that they were not accountable to Man for what they did: No Man ought to touch the Perſon of the King; I preſs it to you in Point of Conſcience; you ſee in the Scripture, in* Pſalm 51. *the* Pſalm *of Mercy, whereby we ask Pardon of God for our great Offences; I think none of you in this Condition but will join in this; you know the Adultery and Murder that* David *committed, this Penitential* Pſalm *was made for that; what doth he ſay?* Againſt thee, thee only have I ſinned, *&c.* tibi ſoli peccavi, Domine; *not becauſe he had not ſinned againſt Man, for 'tis plain he had ſinned both againſt* Bathſheba *and* Uriah *too; but becauſe he was not liable to the Tribunal of Man, he was not bound or accountable to any Man upon Earth. And now, my Maſters, I beſeech you conſider, that ſome*

of

of you for ought I know ſuddenly, and ſome of you for ought I know not long after, all of us, we do do not know how ſoon, muſt come to make a right Account to God of what we have done. After this Life you enter into an Eternity, an Eternity, an Eternity of Happineſs, or of Woe; God Almighty is merciful to thoſe that are truly penitent, the Theif upon the Croſs, and to all that are of a penitent Heart. You are Perſons of Education, do not you go on in an obſtinate perverſe Courſe, for Shame of Men, even this Shame which you now have, and which you may have when you come to die; a ſanctified Uſe may be made of it; you pay to God ſome Part of that Puniſhment which you owe to him for your Sins. I have no more to ſay, but the next Thing I have to do, is to give the Sentence, the Judgment, which truly I do with as unwilling a Heart as you do receive it. You Priſoners at the Bar, the Judgment of the Court is this, and the Court doth award, That you be led back to the Place from whence you came, and from thence to be drawn upon an Hurdle to the Place of Execution, and there you ſhall be Hanged by the Neck, and being Alive ſhall be cut down, and your Privy Members to be cut off, your Entrails to be taken out of your Bodys, and (you living) the ſame to be Burnt before your Eyes, and your Heads to be cut off, your Bodys to be divided into Four Quarters, and Heads and Quarters to be diſpoſed of at the Pleaſure of the King's *Majeſty*, and the Lord have Mercy upon your Souls.

Court adjourned till *Friday* Morning Seven a Clock.

Friday, October 19. 1660.

Set *William Heveningham* to the Bar.

Serjeant Keeling. May it pleaſe your Lordſhips the Priſoner at the Bar, *William Heveningham* hath been Indicted of High-Treaſon, for Compaſſing and Imagining the Death of the late King, of Bleſſed Memory; he has been Tried, the Jury has found him Guilty, I do humbly move your Lordſhips in the Behalf of the King that you will proceed to Judgment.

Clerk. William Heveningham, Hold up thy Hand. What canſt thou ſay for thyſelf why Judgment, *&c?*

Heveningham. My Lords, I have nothing more to ſay than I ſaid formerly, only I plead the Benefit of the Proclamation, and caſt myſelf upon the Mercy of our moſt Gracious Sovereign, and deſire your Lordſhips to be Mediators on my Behalf.

Lord Chief Baron. By the Act of Indemnity (of which you claim the Benefit, and we ought to take Notice of it) we are to proceed to Judgment, but no Execution of this Judgment is to be until by another Act of Parliament, by Conſent of the King it ſhall be ordered. And therefore I need not ſpeak any more of that, or any Exhortation to prepare yourſelf for Death; our Work is only to give Judgment. The Judgment of the Court is this, and the Court doth award, that you the Priſoner at the Bar be led back to, *&c.* and the Lord have Mercy upon your Soul.

FINIS

THE

The Tryal of Sir HENRY VANE *Kt. at the King's-Bench Weſtminſter, June 2. & 6. 1662. Done by himſelf and his Friends.*

SIR *Henry Vane* was the laſt Term indicted of High Treaſon, before the *Middleſex* Grand Jury; and the Bill being found by them, he was upon Monday the ſecond of *June* this Term arraigned, to this effect:

'THAT you, as a falſe Traytor againſt his 'moſt Excellent Majeſty King *Charles* the 'Second, your ſupreme and natural Lord, not having the Fear of God before your eyes, and withdrawing that your Duty and Allegiance, which a 'true Subject ought to have and bear to our ſaid 'Liege and Sovereign Lord, the thirteenth of *May*, 'in the eleventh Year of our ſaid Sovereign Lord 'the King, at the Pariſh of *St. Martins in the Fields* 'in the County of *Middleſex*, did compaſs and imagine the Death of our ſaid Sovereign Lord the 'King, and the antient Frame of Government of 'this Realm totally to ſubvert, and keep out our 'ſaid Sovereign Lord from the Exerciſe of his 'Regal Government. And the ſame the better to 'effect, the ſaid Sir *Henry Vane*, the ſaid thirteenth 'Day of *May*, in the ſaid eleventh Year, *&c.* at '*St. Martins* aforeſaid, together with other falſe 'Traytors, to the Jurors unknown, did traitorouſly and maliciouſly aſſemble and ſit together, 'and then and there conſulted to bring the King 'unto Deſtruction, and to hold him out from the 'Exerciſe of his Regal Authority, and then and 'there uſurped the Government, and appointed 'Officers, to wit, Colonels and Captains of a 'certain Army, raiſed againſt the King; againſt 'the Peace of our Sovereign Lord the King, his 'Crown and Dignity, and contrary to the Form of 'the Statute in that caſe made and provided.

'And the better to effect this, the twentieth of 'December, in the ſaid eleventh Year, with a Multitude, to the number of a thouſand Perſons, to 'the Jurors unknown, in warlike manner aſſembled, and array'd with Guns, Trumpets, Drums, '*&c.* did levy War againſt the Peace, *&c.* and 'contrary to the Form of a Statute.'

Which being read, he pray'd to have it read a ſecond time, which was granted him. He then pray'd to have it read in *Latin*, which all the Court deny'd, and *Keeling* the King's Serjeant ſaid, That tho all Pleas and Entries are ſet down on Record in *Latin*, yet the Agitations of Cauſes in Court, ought to be in *Engliſh*.

The Priſoner moved ſeveral Exceptions to the Indictment, as that the 25 *Ed.* 3. is not purſued; that he had levied no ſuch Force as amounted to a levying of War: Alſo the Place in which, Perſons with whom, are both uncertain; and the particular Acts of levying War being not ſet forth, he thought therefore the Indictment was inſufficient. Alſo he ſaid, Here is a long time of Action for which I am charged, and I may be concerned for what I acted as a Member in that Sovereign Court of Parliament; and if any thing concerns the Juriſdiction of that Court, I ought not to be judg'd here. At which the Court and King's Counſel took great offence.

He ſaid alſo, There hath been an Act of general Pardon ſince that time, whereby all Treaſons are put in utter oblivion; and though Sir *Henry Vane* were excepted, yet none conſent that he was that Sir *Henry Vane*. But the King's Counſel ſaid, If he would plead that Plea, they would join that Iſſue with him, if he pleaſed; which if it ſhould be found againſt him, it would be too late to plead Not Guilty.

But the Court ſaid, In favour of Life a Man may plead a double Plea, and give in his Exception, and plead over to the Felony or Treaſon, Not Guilty.

But as to the Exceptions taken to the Indictment, they gave little heed to them, but preſſed him to plead or confeſs.

Whereupon he pleaded Not Guilty; and had four days, to wit, till Friday next, for his Tryal.

Friday, June 6. 1662.

ON this Day, the Sheriff returned forty-eight Freeholders of the County of *Middleſex*. After thirty-two were challenged by the Priſoner, he had a Jury of twelve Men ſworn; to wit, Sir *William Roberts* jun. Sir *Chriſtopher Abdy*, *John Stone*, *Henry Carter*, *John Leech*, *Daniel Cole*, *Daniel Browne*, *Thomas Chelſam*, *Thomas Pitts*, *Thomas Upman*, *Andrew Bent*, and *William Smith*.

The † Attorney-General's Speech to the Jury.

† Sir Geoffry Palmer.

The Indictment is, *For traitorouſly imagining and intending*, &c. *the Death of the King*. This very Imagination and Compaſſing, *&c.* is Treaſon. Yet foraſmuch as the Intentions of the Heart are ſecret, the Law cannot take notice of them, till they are declared by Overt-Act. Therefore we ſhall give in Evidence, That for the accompliſhing of theſe Intentions, the Priſoner ſat with others in ſeveral Councils, or rather Confederacies, incroach'd the Government, levy'd Forces, appointed Officers, and at laſt levy'd open and actual War, in the head of a Regiment. If any of theſe Crimes be proved, it is ſufficient to make him guilty within this Indictment. And the open levying of War, and appearing in the head of a Regiment, is not only

Treaſon of itſelf, but an Evidence of all thoſe her Treaſons he ſtands charged with in the Indictment.

Theſe things happening before the Act of Oblivion, you will take notice of that Act; and that the Priſoner being excepted by name from the Benefit of that Pardon, though he be chargeable for any Crime of Treaſon ſince the beginning of the late War, yet we ſhall confine the Facts for which we charge him, to the Reign of his now Majeſty.

After the Houſe had voted the late King's Conceſſions in the Ile of *Wight* to be a good Ground for Peace, many of the Members were kept out by Force, others turn'd out; the Peers laid aſide, and at laſt the King murder'd. The firſt thing then that we ſhall lay to the charge of the Priſoner, is, That that very day wherein that horrid Act was committed, we find his Hand and Seal to a Warrant to the Officers of the Navy, to iſſue out Stores for a Summer's Guard of the Narrow Seas. This was the firſt Day of the Reign of his now Majeſty. And ſo he enumerated all the Particulars which he intended to charge him with, and proved them, as followeth.

1. The Warrant of the 30th of *Jan.* 48. was proved to be the Hand of Sir *Henry Vane*, by *Thomas Lewis* and *Thomas Turner*, as they believe; neither of them affirming that they ſaw him write it, but knowing his Hand, believed it to be ſo.

2. *Ralph Darnel*, an Under-Clerk of the Houſe of Commons, proved the Journal-Book of the Houſe, and ſaid, though he will not take upon him to ſay when Sir *Henry Vane* was there, and when he was abſent, yet he ſaid poſitively, That at what time ſoever he is ſet down in the Journal, to have acted or reported any thing, he was there. In which Book, *Febr.* 7. 1648. fol. 653. was the Order to ſet up a Council of State.

Fol. 684. *Febr.* 13. were the Inſtructions preſented to the Houſe, upon which the Council of State was to act.

1. The firſt was, *That you, or any four or more, are to ſuppreſs all and every Perſon and Perſons pretending Title to the Kingly Government of this Nation, from or by the late King*; Charles Stuart, *his Son*; *or any claiming from or by them, or either of them, or any other ſingle Perſon whatſoever.*

This, the Attorney ſaid, was in the firſt part of that Inſtruction, to deſtroy the King's Perſon; and in the ſecond part, the Kingly Government.

2. *That you*, &c. *are appointed to direct the Forces of this Commonwealth, for the preventing and ſuppreſſing of Tumults and Inſurrections at home, or Invaſions from abroad; and for theſe Ends to raiſe Forces*, &c.

3. That *Febr.* 14. 1648. fol. 695. Sir *Henry Vane* was choſen a Member of the Council of State, and acted upon theſe Inſtructions: which they proved thus; to wit,

Firſt, That Sir *Henry Vane*, (as fol. 893.) 23d of *March* 1648, reported from the Council of State, an Eſtimate of the Number of Ships for the Summer's Guard of the Narrow Seas.

Secondly, *March* 30. 1649. Sir *Henry Vane* reports from the Council of State, That ten thouſand Pounds, Parcel of the twenty thouſand Pounds, aſſeſſed upon *South-Wales* for their Delinquency, be allow'd towards the ſetting out of this Fleet, for the Service of the Parliament: which was ordered accordingly, and to be paid to Sir *Henry Vane*, as Treaſurer of the Navy.

Thirdly, That Sir *Henry Vane* uſually ſat in Council; but this Deponent being never admitted to go in, after the Council was ſat, proves, that he often ſaw him go in at the Fore-door and Back-door, and often continue there all the time the Council was ſitting.

William Dobbins and *Matthew Lock* ſay, That they ſeveral times ſaw Sir *Henry Vane* ſit in a Committee of the Council, in the Years 1651 and 1652, which conſiſted only of Members of the Council; and particularly at the Committee for *Scotiſh* and *Iriſh* Affairs, where Sir *Henry Vane* was often in the Chair, and produced ſeveral Orders of that Committee.

Fourthly, *Febr.* 12. 1649. a new Council of State was choſen, of which Sir *Henry Vane* was one: fol. 720.

Febr. 13. 1649. All the Inſtructions of the former Year were read and aſſented to.

Feb. 22. 1649. fol. 760. Sir *Henry Vane* reported the Form of an Oath of Secrecy to be adminiſtred to every of the Members of the Council; which was, to keep all things which ſhould be tranſacted in Council ſecret, and to be true and faithful to their Inſtructions: which the Attorney ſaid (ſince their firſt Inſtruction was, *to ſuppreſs all Perſons pretending Title from the King*) was in effect an Oath of Abjuration.

Fifthly, *Anno* 1651, Sir *Henry Vane* was Preſident of the Council of State, and ſeveral Warrants were produced, to wit, *May* 20. 1652. and *May* 22. 1652. to deliver to Major *Wigan* two hundred Firelocks and ten Drums. The other, for the delivery of five hundred Foot-Arms, for Recruit of Colonel *Ingoldsby*'s Regiment: and theſe were ſubſcribed, *By Order of the Council*, H. Vane *Preſident*.

April 2. 1653. A Warrant of that date was produced by the Commiſſioners of the Navy, of which he was one, for furniſhing out the *Hampſhire*-Frigate with Proviſions and Ammunition for the uſe of the State.

From this time to 1659, they charge him with nothing; and then the Journal-Book was produced, and atteſted by *Ralph Darnel*, wherein, *May* 7. 1659. an Order was made for appointing a Committee of Safety, (whereof Sir *Henry Vane* was one) *That they, or any four or more of them, ſhould take care of the Safety of this Commonwealth, and they to ſit for eight days and no longer*: fol. 36.

Die Ven. May 13. 1659. Sir *Henry Vane* reported, That they had conferred with all the foreign Ambaſſadors: That the Commonwealth is in Amity with all foreign Princes, but *Spain*.

Reſolved, *That* Ch. Fleetwood, J. Lambert, J. Desborough, James Berry, Arthur Haſlerig, Edmond Ludlow, *and Sir* Henry Vane, *be Commiſſioners to nominate Commiſſion-Officers for the Army of this Commonwealth*. By virtue hereof, they proceeded, *June* 17. 1659. to nominate Commiſſion-Officers, appointed *Robert Moſſe* a Colonel, preſenting a Liſt of his Commiſſion-Officers; and *John Maſon* to be Governour of *Jerſey*.

Die Ven. May 31. fol. 158. Sir *Henry Vane* reports concerning Affairs between the two Northern Kings in the *Sound*, wherein the Affairs of this Commonwealth are concerned.

Die Ven. Sept. 2. 1659. *At the Committee of State at* Whitehall: An Order was produced for the Redelivery of the City-Horſes to their reſpective Owners, ſigned *H. Vane* Preſident.

A Warrant was produced under the Hand of Sir *Henry Vane*, proved by *Thomas Lewis* and one *Falconer*, for ſo many Hangers to Col. *Thompſon*, as he ſhall require for his Regiment.

Three ſeveral Letters, to deliver 1200 Arms for the uſe of my Regiment; to wit, to *Sam. Linn*,

my

my Captain-Lieutenant, 30 Arms for my Company; to Major *Thomas Shurman*, Major of my Regiment, 4 or 5 Barrels of Powder.

Then one *Marsh* was produced a Witness, who proves, That Sir *Henry Vane* proposed the new Model of Government, *Whitlock* being in the Chair, in these Particulars:

1. *That the Supreme Power, delegated by the People to their Trustees, ought to be, in some Fundamentals, not dispensed with.*

2. *That it is destructive to the People's Liberties (to which by God's Blessing they are restored) to admit any earthly King or single Person, to the Legislative or Executive Power over this Nation.*

3. *That the Supreme Power delegated, is not entrusted to the People's Trustees, to erect Matters of Faith or Worship, so as to exercise Compulsion therein.*

Thomas Pury proves, That he was at the debating of the two last of these Propositions, and believes they were proposed to the Chairman *Whitlock* by Sir *Henry Vane*; but affirms confidently, that Sir *Henry Vane* gave Reasons to maintain them.

Tho. Wallis produced, proves Sir *Henry Vane* and Col. *Rich* in the Head of a Company in *Winchester Park* in *Southwark*; and that the Captain-Lieutenant *Linn* said to the Soldiers, That Sir *Henry Vane* had given them Five Pounds to drink; That the said *Linn* sent home a Key to his Wife to send him four Pounds out of his Trunk, to give the Soldiers.

John Cook deposeth, That he was sent to the *Horshoe-Stairs* to meet Sir *Henry Vane* and Col. *Rich*, and that Sir *Henry Vane* delivered five Pounds to Capt. *Linn* to reward the Soldiers. This was all the Evidence given by the King's Counsel: To which Sir *Henry Vane* was required to make his Defence, and to go through with his Case all at once, and not to reply again upon the King's Counsel, who resolved to have the last word to the Jury.

Sir *Henry Vane. Cook*, in his *Pleas of the Crown, fol.* 6. saith, *King* is to be understood of a King regnant, and in actual Possession of the Crown, and not of a King when he is only *Rex de Jure*, and out of Possession. Now an *Interregnum* is confessed by the Indictment: All Ensigns of Authority, and Badges of Government, were visibly in another Name and Stile; the King's best Friends suing, and being sued in another Name.

The Court told him, He should first make his Case out in point of Suit, and it would be then seasonable to stand upon Matter of Law; for (say they) it is a good Rule, *in facto jus oritur*, and enjoined him to call his Witnesses, if he had any.

To which Sir *Henry Vane* desired Process of Court to summon them, and a further time to answer the Charge. But it was told him, the Jury were to be kept without Meat, Drink, Fire or Candle, till their Verdict was delivered in; and therefore that could not be granted.

He then cited the fourth Part of *Coke's Institutes* concerning the Privilege of Parliament, and that many of these things being transacted there——

The Court here interrupted him, and said, If the things charged, were done, justify them; if not, excuse them. So he went to give answer to the Fact.

And as to the first Warrant, *Jan.* 30. 1648. he said, That his Hand had been oftentimes counterfeited, and amongst other Occasions, for two great Sums, to the Value of Ten Thousand Pounds: and that he had great reason to believe, that this Warrant was forged, and produced two Witnesses to prove it.

Then said Justice *Windham*; It may be your Hand may have been forged for receiving of Money, but it is not to be conjectured, that it should be forged to set Ships to Sea; and directed to the Jury to consider of the Circumstances.

Sir *Henry Vane.* Neither of the Witnesses ever saw me set my Hand to either of these Warrants or Orders; nor doth one Witness prove that he ever saw me sit in the Council of State. He further said, That he absented from the House from *December* 3. 1648, till *February* 7. That he was chosen a Member of the Council of State without his Consent and Knowledge; and being demanded to take an Oath of Approbation of what been done to the late King, he refused, and caused it to be expunged; That these Actings in Council, (if any were) were by Authority of Parliament, of a Parliament constituted in an extraordinary manner, made indissolvable but by Act of Parliament. He insisted much on the Preamble of that Act, so as that Parliament being co-ordinate with the King, (for the Government was in the King and the two Houses) whatever he acted by them or their Authority, cannot be Treason within the Statute of 25 *Ed.* 3.

He cited an Ordinance of Parliament in 1642. and said, That he hoped these things had been laid asleep by the Act of Oblivion; and if they should now rise in Judgment against him, he feared they would shake that Security which the People promised themselves under that Act. But if he should be now called in question for those things which were transacted in that Parliament, of which he was a Member, he shall have the Comfort and Peace of those Actions to support him in his greatest Sufferings. He added, That if he were excepted, then must he be judged for the Crime of the whole Nation, and that Crime must be ravelled into thro him: That the Case is such as never yet fell out, to wit, That the Government being entrusted to three Estates, they should so fall out among themselves, as the People cannot tell which to obey; That where these great Changes fall out, it is not possible for any Man to proceed according to all Formalities of Law; That there was a political Power by this Act of 17 *Caroli* co-ordinate with the King; and where these Powers are not in Conjunction, but in Enmity to each other, no Court inferior to the Parliament, by whose Authority these things were acted, ought to be Judges of this Case, which certainly never happened before.

He farther saith, he was not the first Mover in these Actions, and that he should be called in question for these Matters by a King that was out of Possession at a time when these things were acted, would be inconvenient, to say no more; That when the three Estates were dis-joined, he thought it the best Policy to preserve the Government in its Root, to wit, the *Commons*; by whom it was preserved, and at last restored to its former Course: That as to the Regiment that passed under his Name, he disown'd it; That Reports of Messages are not the Fault of the Reporter; for his Judgment does not always go along with them, but he is bound to deliver his Message; That he always loved the Government as it is set forth in our antient Law-Books; and that that Parliament (so much decried) at last restored Affairs to the Posture in which they now are.

As to the Warrants signed by him, he said, they appear to be signed in the Name, and by the Order of the Council; and his Hand that subscribes,

is not ſo much as active or paſſive, to the Commands of the Council. If the Council, who commanded the ſigning, were unwarrantable, the Parliament who appointed the Council, muſt be much more unwarrantable.

And here he offered theſe Points to be conſider'd, and pray'd earneſtly to have Counſel aſſigned him to ſpeak to them.

1. Whether the collective Body of the Parliament can be impeached of High Treaſon?

2. Whether any Perſon acting by Authority of Parliament, can (ſo long as he acteth by that Authority) commit Treaſon?

3. Whether Matters acted by that Authority, can be called in queſtion in an inferior Court?

4. Whether a King *de Jure*, and out of Poſſeſſion, can have Treaſon committed againſt him, he not being King *de Facto*, and in actual Poſſeſſion? and pray'd it might be argued by Counſel.

5. Whether Matters done in *Southwark*, in another County, may be given in Evidence to a *Middleſex* Jury?

As to the laſt Exception, the Court ſaid,

That he was indicted for compaſſing and imagining the King's Death in *Middleſex*; and any Overt-Act to prove this Imagination, may be given in Evidence whereſoever it be acted. To which Sir *Henry Vane* prayed the Benefit of a Bill of Exception, upon the Statute of *Weſtminſter* 2. *cap.* 31. and prayed that the Juſtices might ſeal it; which they all refuſed, and held, it lay not in any Caſe of the Crown.

The King's Counſel deſired he might call his Witneſſes, (if any he had) for if they once came to reply to him, he muſt then be ſilent; and conſented, that (if it would aid him) they would allow his Actings to be in the Name and by the Authority of the Council of State; and the Actings of the Council of State to be by Authority of what he called a Parliament.

Sir *Henry Vane* replied, Then what I acted in the *Council of State*, and *Committee of Safety*, conſtituted by the Parliament to endure for eight Days, you will allow me: Then you muſt prove that I ever acted in the other Council of State, after the Parliament was turned out.

Then the King's Counſel produced a Warrant, dated *November* 3. 1659, which was ſent in purſuance of an Order of the *Committee of Safety*, by Sir *Henry Vane*, as Treaſurer of the Navy. This Warrant was for the ſending of divers Arms Northwards after Mr. *Lambert*, who was gone down to oppoſe the now Duke of *Albemarle*.

Sir *Henry Vane* produced *William Angel*, *Briſco*, *Middleton*, &c. Officers of that Regiment which went under his Name; who having recourſe unto him for Orders about *October* 1659, he bad them deſiſt, and declared his Diſ-ſatisfaction in their Proceedings: and this, after their ſeveral Importunities to have Orders from him. And thus he cloſed his Defence.

Sollicitor *Finch*. As to pretence of the Power of Parliament, it is to be known, that it was not the eighth part of the Houſe of Commons; ſuch as were let in to do all that hath been complained, and acting under Authority of ſuch an End of a Parliament, under ſuch a Violation, was no Excuſe, but an Aggravation; but that the Parliament was, in Law, ended by the Death of the late King, notwithſtanding that Act of 17 *Caroli primi*, appears thus:

Firſt, The King's Writ for a Parliament is *ad tractandum nobiſcum*; which is intended as well of the natural Capacity of the King, as of his politick.

Secondly, 'Tis abſurd to ſay, That the Acts of Parliament of King *Charles* the Firſt, ſhould be his Acts in the time of King *Charles* the Second.

Thirdly, A Commiſſion of Sewers, enacted to be on foot for Ten Years, expires by the Death of the King, and the Authority of the Commiſſioners is at an end.

Fourthly, It is not poſſible for one King to impoſe a Parliament upon a Succeſſor. So much for his acting by Colour of Authority of Parliament.

And as to the Queſtion, Whether an Houſe of Parliament can commit Treaſon? If they depart from that Allegiance which they have ſworn at their firſt Meeting, they are impeachable for it.

As to a Co-ordination in the Parliament, he denied it.

As to the Queſtion, Whether the King being out of actual Poſſeſſion, can have Treaſon committed againſt him? he affirmed it, and ſaid, Otherwiſe, if Rebellion ſhould be ſo proſperous as to depoſe or oppreſs the King in Battel, the Offenders are not to be called in queſtion, becauſe they prevailed. He ſaid it was the Plea of *Watſon* the Jeſuit, who being indicted for compaſſing the Death of King *James* in *Scotland*, after he was declared King of *England*, and before his actual entring into this Realm, made this Defence, That the King was never in Poſſeſſion of the Crown.

Juſtice *Windham*. As to the Act of 17 *Caroli*, and the Preamble of that Act, ſo much inſiſted on by the Priſoner; 1 He held, that the Parliament had not greater Authority by it, but were only made more durable than other Parliaments have been: but he held, That the Parliament was abſolutely diſſolved by the Death of the King; and put this Caſe: If it ſhould be enacted, that ſuch a Marriage ſhould continue till it was diſſolved by Act of Parliament; if one dies, it is a Determination of it in Fact, ſo as no Man can ſay, but it is abſolutely diſſolved. 2. It muſt continue in the Degree and Dignity of a Parliament. If the Houſe be under a Force, and ſome kept out, ſome let in, to ſerve a turn, whatever they act is a Nullity in Law. For Freedom is the principal Eſſence and Honour of a Parliament; yet though the Houſe be under a Force, the Houſe is not diſſolved by ſuch Force, but the Proceedings are to be ſuſpended, till it acquire its former Liberty; and this as well by the Common Law, as by the Civil and Canon Laws of all other Countries. 3. The Parliament is the King's great Council, the Peers are *Conciliarii nati*; if they be forc'd away, or laid aſide, as here they were, all the reſt is but *magni nominis umbra*.

Twiſden held the ſame Opinion, That it is not the ſitting of a few Members within thoſe Walls, that will continue it a Parliament: And tho another Parliament, a great many Years after the King's Death, declared it to be at an end; yet that Act was but Declaration, it was at an end before.

Whether a Parliament may commit Treaſon, is not the Queſtion; but whether a few of the Houſe ſhutting out their Fellows, and uſurping the Government, were not Traytors?

Foſter held the ſame Opinion, and ſaid, The Diſtinction between the Politick and Natural Capacity of the King, was the Treaſon of the two *Spencers*: That Privilege of the Parliament is no Shelter for Breach of the Peace, much leſs for Treaſon.

Twiſden

Twiſden added, That to compaſs the Death of the King as a natural Perſon, was Treaſon; to compaſs his Death in his political Capacity, as to depoſe him, was Treaſon; and both provided for by the Act of 25 *Edw.* 3. That in the ſame inſtant the late King expired, in the very ſame his now Majeſty was King *de facto*; and affirmed the Caſes of *Watſon* and *Clark*, 1 *Jac.* If an Army be raiſed againſt the King, and the King is ſlain in the Battel, this Treaſon is queſtionable by the Succeſſor, as *Stonie's* Caſe is in *Dyer*.

Thus ended the Queſtions of Law propoſed.

The Sollicitor ſpake after to the Jury concerning the Fact, which after they withdrew to conſider; and being withdrawn about half an Hour, returned with their Verdict; which being delivered by the Foreman, in the name of his Fellows, with their Conſent, found the Priſoner guilty of High Treaſon from *Jan.* 30. 1648.

They not only found him guilty according to the Indictment, which was laid for what the Priſoner did, 1659; but for a long Series of High Treaſon (as they reckon) from *Jan.* 30. 1648.

A true Copy of the Priſoner's own Papers, containing the Subſtance of what he pleaded on the ſaid Day of his Tryal, June 6.

THAT without any ſeeking of mine, I was choſen by Writ under the Great Seal, to ſerve as Burgeſs for the Town of *Kingſton* upon *Hull*, in the Parliament that ſat down on the third of *November* 1640. and having in purſuance thereof, taken my Seat in the ſaid Parliament, I was obliged by Law to give my Attendance upon the ſaid Truſt, as well as upon Grounds of Duty and Conſcience.

The ſaid Parliament was not only called and aſſembled after the uſual manner, and had the Power and Privileges incident to that high Court, but was by expreſs Statute and Conſent of the three Eſtates ſo conſtituted, as to its Continuance, Adjournment, Prorogation and Diſſolution, that in none of theſe Particulars they were ſubject to Alteration, but by their own common Aſſent, declared by Act of Parliament, to be paſſed by themſelves for that purpoſe, with the Royal Aſſent.

In the Preamble to the Act for Continuance of the ſaid Parliament, theſe words are contained: *Whereas great Sums of Money muſt of neceſſity be ſpeedily advanced and provided for the Relief of his Majeſty's Army and People in the Northern Parts of this Realm, and for preventing the imminent Danger this Kingdom is in; and for Supply of his Majeſty's preſent and urgent Occaſions, which cannot be ſo timely effected as is requiſite, without Credit for raiſing the ſaid Monies; which Credit cannot be obtained until ſuch Obſtacles be firſt removed, as are occaſioned by Fears, Jealouſies and Apprehenſions of divers his Majeſty's loyal Subjects, That this preſent Parliament may be adjourned, prorogued or diſſolved, before Juſtice ſhall be duly executed upon Delinquents, and publick Grievances redreſſed, a firm Peace between the two Nations of* England *and* Scotland *concluded, and before ſufficient Proviſion be made for the Repayment of the ſaid Monies ſo to be raiſed*, &c. By all which the very Work that was between the three Eſtates agreed to be done for the Good and Safety of the Kingdom, was in ſundry Particulars declared and expreſſed; and not only ſo, but as is acknowledged by the late King himſelf in his Anſwer to the Nineteen Propoſitions, the Power which thereby was legally placed in both Houſes, was more than ſufficient to prevent and reſtrain Tyranny.

So that, by what hath been ſhewed, the Law it ſelf is with me, and for me, enjoining my continued Attendance on the Truſt which by this means was committed to me, and authorized me in particular to effect the things contained in the ſaid Preamble; and to act in all Matters belonging to the high Court of Parliament, for the Good and Safety of the Kingdom in time of imminent Danger: I had been liable to great Puniſhment by the Law, for Diſ-attendance and deſerting my Station therein, till lawfully or by force diſmiſſed therefrom; and this, whatever Occaſions others might have, by a voluntary or forc'd Departure from Attendance upon that Truſt.

The Actions therefore done by me in this Capacity, and according to the Law, Privileges, Cuſtoms and Power of Parliament, and that ſuch a one as was thus extraordinarily conſtituted, neither are nor can be brought within the Statute of 25 *Edw.* 3. *cap.* 2. nor are to be queſtioned, tryed, much leſs judged and ſentenced in any inferior Court. Nay, ſo far is it from this, that by a Declaration and Reſolution of Parliament, *Auguſt* 13. 1642. it is adjudged to be committing Treaſon in the higheſt degree, to bring both or either Houſes of Parliament under that or ſuch like Imputations.

Nor, till of late, have I ever heard but that thoſe who took the Judgment of *Parliament* for their Rule and Guide, (however tortious or erroneous it might afterwards be accounted in ſucceeding times) and they that acted by and under the Countenance of their declared Judgments, Orders or Ordinances, (ever acknowledged binding during the ſitting of the Parliament) were ſafe and indemnified from all Puniſhment. And for Government-ſake it ſelf, it is requiſite it ſhould be ſo; becauſe none are Judges of the Power and Privileges of Parliament but themſelves. For admit once, that their Judgment may be called in queſtion, and diſputed by private Perſons, or by inferior Courts, (whoſe Votes are included in theirs) the Fundamentals of Government are pluck'd up by the Roots. *Par in pares non habet imperium, multo minus in eos qui majus imperium habent:* An Equal has no Command over his Equal, much leſs over thoſe that have a greater Command or Authority.

His late Majeſty, in his Anſwer to the Nineteen Propoſitions, does very briefly and exactly ſtate the Nature and Kind of Government that is exerciſed in this Kingdom, ſaying, *The Laws of this Kingdom are made by a King, a Houſe of Peers, and a Houſe of Commons, choſen by the People, all having free Votes, and particular Privileges. Theſe three Eſtates making one incorporate Body, are they, in whom the Sovereignty and Supreme Power is placed, as to the making and repealing of Laws: And the Government, according to theſe Laws, is truſted to the King, who in the Interval of Parliaments is ſole in the Exerciſe of Government, which (the Parliament ſitting) he is to exerciſe in conjunction with the two Houſes.*

And his ſaid Majeſty aſſerting three ſorts of Government, *Abſolute Monarchy, Ariſtocracy* and *Democracy*, does moſt rightly diſtinguiſh the Monarchy of *England* from all thoſe three, and commends the Conſtitution of this Kingdom, as it is a Mixture of all three, having the Conveniences of them all without the Inconveniences of any one, as long as the Ballance hangs even between the three Eſtates, that they run jointly on in their proper Channels, and that the overflowing of either on either ſide raiſe no Deluge nor Inundation.

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By the passing of the aforesaid Act for the Continuance of the forementioned Parliament, the Intervals of Parliament were no longer, as before, at the Will and Pleasure of the King; but the Power to continue in the said Parliament, without Adjournment, Prorogation or Dissolution, resided in the two Houses with the King jointly, and in none of them severally: so that in effect, the Government of the Kingdom, during the Continuance of that Parliament, was in Conjunction of the three Estates, and in their common Consents and Agreements among themselves, given in Parliament; the assembling and meeting whereof was appointed and fixed to a Place certain, by Law.

By reason hereof, it is not the Attendance of any of the Members in Parliament (for Discharge of the Trust reposed in them, confirm'd and enlarged by the said Act) that is faulty or censurable by the Law, but those that unwarrantably depart and desert that their Trust and Station, are to be blamed; *6 Hen.* 8. *16.*

The King in Conjunction with the Parliament, is *maxime Rex*, and is supported in the Throne and Exercise of his Regal Power by the joint Concurrence of both Houses. And because (as his late Majesty well observed) the Happiness and Good of the Constitution of this Government lies in keeping the Ballance even between the three Estates, containing themselves within the Bounds of their proper Channels, therefore in Attempts of either to overflow those Bounds, (they being coordinate) the Office of a Parliament is by the very fundamental Constitution of the Government, to keep this Ballance well poised. And to that end (as was before mentioned) his Majesty's own words are, in his said Answer to the Nineteen Propositions; *That there was legally placed in both Houses a Power more than sufficient to prevent and restrain the Power of Tyranny.* If so, then are they the legal Judges, when there is Danger of Tyranny; and have legal Power to require their Judgment and Resolves to be obeyed, not only when Arms are actually raised against them, but when they discern and accordingly declare a Preparation towards it; else they may find it too late to prevent the Power of Tyranny. There is no greater Attempt of Tyranny, than to arm against the Parliament; and there is no visible way for the restraining such Tyranny, but by raising Arms in their own and the Kingdom's Defence. Less than this is not sufficient, and therefore far from more than sufficient for the Punishment of Delinquents, and Restraint of Tyranny.

Unto the King, in Conjunction with his two Houses, according as is provided by the Law in this Capacity of his, as *maxime Rex*, was the Duty of Allegiance to be yielded by his Subjects during the indissolved State of that Parliament: For they were the King's great Council, and Supreme Court, exercising the known Power and Privileges, that time out of mind have appertained to them, and been put forth by them, as the Exigents of the Kingdom have required, when Differences have happened about the very Title of the Crown, in declaring the Duty of the Subject, by yielding their Allegiance to Kings *de facto*, when Kings *de jure* have been kept out of Possession. This our Chronicles, and the Histories of former times do plentifully inform.

The Causes that did happen to move his late Majesty to depart from his Parliament, and continue for many Years, not only at a distance, and in Disjunction from them, but at last, in a declared Posture of Enmity and War against them, are so well known, and fully stated in Print (not to say, *written in Characters of Blood*) on both parts, that I shall only mention it, and refer to it.

This Matter was not done in a Corner: the Appeals were solemn, and the Decision by the Sword was given by that God, who being the Judge of the whole World, does right, and cannot do otherwise.

By occasion of these unhappy Differences thus happening, most great and unusual Changes and Revolutions, like an irresistible Torrent, did break in upon us, not only to the disjointing that Parliamentary Assembly among themselves (the Head from the Members, the Co-ordinates from each other, and the Houses within themselves) but to the creating such formed Divisions among the People, and to the producing such a general State of Confusion and Disorder, that hardly any were able to know their Duty, and with certainty to discern who were to command, and who to obey. All things seemed to be reduced, and in a manner, resolved into their first Elements and Principles.

Nevertheless, as dark as such a State might be, the Law of *England* leaves not the Subject thereof (as I humbly conceive) without some Glimpses of Direction what to do: in the cleaving to, and pursuing of which, I hope I shall not be accounted nor adjudged an Offender; or if I am, I shall have the Comfort and Peace of my Actions to support me in and under my greatest Sufferings.

The Resolutions of all the Judges in *Calvin*'s Case, entitled *Post-nati*, in the 7th Book of *Coke*'s Reports, and the learned Arguments thereupon, afford me Instruction even in this Matter. It may be 'tis truly thence affirmed, That Allegiance is due only to the King, and how due, is also shewed.

The King is acknowledged to have two Capacities in him; one a *natural*, as he is descended of the Blood Royal of the Realm; and the Body natural he hath in this Capacity, is of the Creation of Almighty God, and mortal. The other is a *politick* Capacity, in respect of which he is a Body politick or mystical, framed by the Policy of Man, which is immortal and invisible. To the King, in both these Capacities conjoin'd, Allegiance is due; that is to say, to the natural Person of the King, accompanied with his politick Capacity, or the politick appropriated to the natural.

The politick Capacity of the King hath properly no Body nor Soul; for it is framed by the Policy of Man.

In all Indictments of Treason, when any one does intend the Death and Destruction of the King, it must needs be understood of his natural Body, the other being immortal. The Indictment therefore concludes *contra Ligeantiæ suæ debitum*, against the Duty of his Allegiance; so that Allegiance is due to the natural Body.

Admitting then, that thus by Law, Allegiance is due to the King (as before-recited) yet it is always to be presumed, that it is to the King in Conjunction with the Parliament, the Law, and the Kingdom, and not in Disjunction from, or Opposition to them; and that while a Parliament is in being, and cannot be dissolved, but by the Consent of the three Estates.

This is therefore that which makes the Matter in question, a new Case, that never before happened in the Kingdom, nor was possible to happen, unless there had been a Parliament constituted, as this was, unsubjected to Adjournment,

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Prorogation, or Diſſolution, by the King's Will. Where ſuch a Power is granted, and the Co-ordinates thereupon diſagree and fall out, ſuch Effects and Conſequents as theſe that have happened will but too probably follow. And if either the Law of Nature or *England* inform not in ſuch Caſe, it will be impoſſible for the Subjects to know their Duty, when that Power and Command which ought to flow from three in conjunction, comes to be exerciſed by all or either of them, ſingly and a-part, or by two of them, againſt one.

When new and never-heard-of Changes do fall out in the Kingdom, it is not likely that the known and written Laws of the Land ſhould be the exact Rule; but the Grounds and Rules of Juſtice, contained and declared in the Law of Nature, are and ought to be a Sanctuary in ſuch Caſes, even by the very Common Law of *England*: For thence originally ſpring the unerring Rules that are ſet by the Divine and Eternal Law, for Rule and Subjection in all States and Kingdoms.

In Contemplation hereof, as the Reſolve of all the Judges, it was agreed;

1. *That Allegiance is due to Sovereignty by the Law of Nature*; to wit, that Law which God, at the Creation of Man, infuſed into his Heart for his Preſervation and Direction, the Law eternal. Yet is it not this Law, as it is in the Heart of every individual Man, that is binding over many; or Legiſlative, but as it is the Act of a Community, or an aſſociated People, by the right Dictates and Perſuaſions of the Work of this Law in their Hearts. This appears in the Caſe of the *Iſraelites*, *Judges*, *Chap.* 20, & 21. cited in the 4th Part of *Coke's Inſtitutes*, where mention is made of a Parliament, without a King, that made War, and that with their Brethren: They met as one Man to do it, in Vindication of that Juſtice unto which they were obliged even by the Law of Nature. This is that which Chancellor *Forteſcue* calls Political Power here in *England*; by which, as by the Ordinance of Man, in purſuance of the Ordinance of God, the Regal Office is conſtituted, or the King's Politick Capacity, and becomes appropriated to his natural Perſon.

Thus Politick Power is the immediate Efflux and Offspring of the Law of Nature, and may be called a part of it. To this, *Hooker* in his *Eccleſiaſtical Polity* agrees, and *Selden* on that Subject.

The Law of Nature, thus conſidered, is part of the Law of *England*, as is evident by all the beſt received Law-Books, *Bracton*, *Fleta*, *Lambard* upon the *Saxon* Laws, and *Forteſcue* in the Praiſe of the Laws of *England*. This is the Law that is before any judicial or municipal Law, as the Root and Fountain whence theſe and all Governments, under God and his Law, do flow.

This Politick Power, as it is exerciſed in Conjunction with, and Conformity to the Eternal Law, partakes of its moral and immutable Nature, and cannot be changed by Act of Parliament. Of this Law it is that *Magna Charta*, and the *Charter of Foreſt*, with other Statutes rehearſed in the *Petition of Right*, are for the moſt part declaratory: For they are not introductive of any new Law, but Confirmations of what was good in all Laws of *England* before. This agrees with that Maxim, *Salus Populi ſuprema Lex*; that being made due and binding by this Law, which in the Judgment of the Community, declaring their Mind by their own free choſen Delegates and Truſtees in harmony with the Eternal Law, appears profitable and neceſſary for the Preſervation and Good of the whole Society.

This is the Law, which is put forth by the common Conſent of the whole Realm, in their Repreſentative; and (according to the fundamental Conſtitutions of this Kingdom) is that with which the Kings of this Land, by the joint Co-operation of the three Eſtates, do make and repeal Laws.

But through the Diſorders and Diviſions of the Times, theſe two Powers, the Regal and Political, (which, according to the Law of *England*, make up but one and the ſame ſupreme Authority) fell aſunder, and found themſelves in Disjunction from and Oppoſition to one another. I do not ſay the Queſtion is now, Which of theſe is moſt rightly (according to the Principles of the Law of Nature, and the Law of *England*) to be adhered unto and obeyed? but unto whether Power Adherence is a Crime in ſuch an Exigent of State? Which, ſince it is ſuch a new and extraordinary Caſe, evidently above the Track of the ordinary Rules, contained in the poſitive and municipal Laws of *England*, there can be no Colour to bring it within the Statute of 25 *Ed.* 3. *cap.* 2. foraſmuch as all Statutes preſuppoſe theſe two Powers, Regal and Political, in Conjunction, perfect Unity, and Subſerviency, which this Caſe does not, cannot admit. So exceeding new and extraordinary a Caſe is it, that it may be doubted whether, and queſtioned how far, any other Parliament, but that Parliament it ſelf that was privy to all its own Actings and Intentions, can be an indifferent and competent Judge. But however, the Point is of ſo abſtruſe and high Conſideration, as no inferior Court can or ought to judge of it, as by Law-Books is moſt undeniable, to wit, *Bracton*, and others.

This then being the true State of the Caſe, and the Spring of that Conteſt that enſued, and received its Deciſion by the late War, the next Conſideration is, How far I have had my Share and Part therein, that by the Laws is not warrantable, or by what appears in way of Proof to the Jury.

For the firſt, I ſhall crave leave to give you this Account of my ſelf, who have beſt known my own Mind and Intentions throughout, and would not now, to ſave my Life, renounce the Principles of that righteous Cauſe, which my Conſcience tells me was my Duty to be faithful unto.

I do therefore humbly affirm, that in the aforementioned great Changes and Revolutions, from firſt to laſt, I was never a firſt Mover, but always a Follower, chuſing rather to adhere to Things than Perſons, and (where Authority was dark or dubious) to do Things juſtifiable by the Light and Law of Nature, as that Law was acknowledg'd part of the Law of the Land; Things that are *in ſe bona*, and ſuch as, according to the Grounds and Principles of the Common Law, as well as the Statutes of this Land, would warrant and indemnify me in doing them. For I have obſerved by Precedents of former Times, when there have ariſen Diſputes about Titles to the Crown, between Kings *de Facto* and Kings *de Jure*, the People of this Realm wanted not Directions for their Safety, and how to behave themſelves within the Duty and Limits of Allegiance to the King and Kingdom, in ſuch difficult and dangerous Seaſons.

My Lord *Coke* is very clear in this Point, in his Chapter of *Treaſons*, *fol.* 7. And if it were otherwiſe, it were the hardeſt Caſe that could be for the People of *England*: For then they would be certainly expoſed to Puniſhment from thoſe that are in Poſſeſ-

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ſion of the ſupreme Power, as Traytors, if they do any thing againſt them, or do not obey them; and they would be puniſhable as Traytors by him that hath Right, and is King *de Jure*, in caſe they do obey the Kings *de Facto*: and ſo all the People of *England* are neceſſarily involved in Treaſons, either againſt the Powers *de Facto*, or *de Jure*, and may by the ſame Reaſon be queſtioned for it, as well as the Priſoner, if the Act of Indemnity and the King's Pardon did not free them from it. The Security then and Safety of all the People of *England* is by this means made to depend upon a Pardon, (which might have been granted or denied) and not upon the ſure Foundations of Common Law: An Opinion ſure which (duly weighed and conſidered) is very ſtrange, to ſay no more.

For I would gladly know that Perſon in *England* of Eſtate and Fortune, and of Age, that hath not counſelled, aided, or abetted, either by his Perſon or Eſtate, and ſubmitted to the Laws and Government of the Powers that then were: And if ſo, then by your Judgments upon me, you condemn (in Effigies, and by neceſſary Conſequence) the whole Kingdom.

And if that be the Law, and be now known to be ſo, it is worth conſideration, whether if it had been generally known and underſtood before, it might not have hindred his Majeſty's Reſtoration.

Beſides, although, until this Judgment be paſſed upon me, the People have apprehended themſelves as free from Queſtion, and out of Danger, by reaſon of the Act of Indemnity and General Pardon; yet when it ſhall appear to them that ſuch their Safety is not grounded on the Common Law, nor upon the Law of Nature, but that againſt both theſe in their Actions they are found faulty, and tainted with a moral Guilt, and that as Principals alſo, (ſince in Treaſon there are no Acceſſaries) what terrifying Reflections muſt this needs ſtir up in the Mind of every Man, that will be apt to believe his Turn will come next, at leaſt once in two Years; as hath befallen me in my Perſon, who (however I have been misjudged and miſunderſtood) can truly affirm, That in the whole Series of my Actions, that which I have had in my Eye hath been to preſerve the antient well-conſtituted Government of *England* on its own Baſis and primitive righteous Foundations, moſt learnedly ſtated by *Forteſcue* in his Book made in praiſe of the *Engliſh* Laws. And I did account it the moſt likely means for the effecting of this, to preſerve it, at leaſt in its Root, whatever Changes and Alterations it might be expoſed unto in its Branches, through the bluſtrous and ſtormy Times that have paſſed over us.

This is no new Doctrine in a Kingdom acquainted with Political Power, as *Forteſcue* ſhews ours is, deſcribing it to be in effect the common Aſſent of the Realm, the Will of the People or whole Body of the Kingdom, repreſented in Parliament. Nay, though this Repreſentation (as hath fallen out) be reſtrained for a Seaſon to the Commons Houſe, in their ſingle Acting, into which (as we have ſeen) when by the inordinate Fire of the Times, two of the three Eſtates have for a ſeaſon been melted down; they did but retire into their Root, and were not hereby in their Right deſtroyed, but rather preſerved, though as to their Exerciſe laid for a while aſleep, till the Seaſon came of their Revival and Reſtoration.

And whatever were the Intents and Deſigns of others, (who are to give an account of their own Actions) it is ſufficient for me that at a Time critical and deciſive (though to my own Hazard and ill Uſage) I did declare my Refuſal of the Oath of Abjuration, which was intended to be taken by all the Members of Parliament, in reference to Kingly Government, and the Line of his now Majeſty in particular. This I not only poſitively refuſed to take, but was an occaſion of the ſecond Thoughts which the Parliament reaſſumed thereof, till, in a manner, they came wholly at laſt to decline it: A Proof undeniable of the Remoteneſs of any Intentions or Deſigns of mine, as to the endeavouring any Alteration or Change in the Government; and was that which gave ſuch Jealouſy to many in the Houſe, that they were willing to take the firſt occaſion to ſhew their diſlike of me, and to diſcharge me from ſitting among them.

But to return to what I have before affirmed, as to my being no leading or firſt Actor in any Change; it is very apparent by my Deportment at the Time when that great Violation of Privileges happened to the Parliament, ſo as by Force of Arms ſeveral Members thereof were debarred coming into the Houſe, and keeping their Seats there. This made me forbear to come to the Parliament for the ſpace of ten Weeks, (to wit, from the 3d of *December* 1648, till towards the middle of *February* following) or to meddle in any publick Tranſactions; and during that Time the Matter moſt obvious to Exception, in way of Alteration of the Government, did happen. I can therefore truly ſay, that as I had neither Conſent nor Vote at firſt in the Reſolutions of the Houſes, concerning the Non-Addreſſes to his late Majeſty, ſo neither had I in the leaſt any Conſent in, or Approbation to his Death: But on the contrary, when required by the Parliament to take an Oath, to give my Approbation *ex poſt facto* to what was done, I utterly refuſed, and would not accept of ſitting in the Council of State upon thoſe Terms, but occaſioned a new Oath to be drawn, wherein that was omitted. Hereupon many of the Council of State ſat, that would take the other.

In like manner the Reſolutions and Votes for changing the Government into a Commonwealth or Free State were paſſed, ſome Weeks before my Return to Parliament: Yet afterwards (ſo far as I judged the ſame conſonant to the Principles and Grounds, declared in the Laws of *England*, for upholding that Political Power which hath given the Riſe and Introduction in this Nation to Monarchy it ſelf, by the Account of antient Writers) I conceived it my Duty, as the State of Things did then appear to me, (notwithſtanding the ſaid Alteration made) to keep my Station in the Parliament, and to perform my Allegiance therein to King and Kingdom, under the Powers then *regnant*, (upon my Principles before declared) yielding Obedience to their Authority and Commands. And having received Truſt in reference to the Safety and Preſervation of the Kingdom, in thoſe Times of imminent Danger, (both within and without) I did conſcientiouſly hold my ſelf obliged to be true and faithful therein. This I did upon a publick account, not daring to quit my Station in Parliament by virtue of my firſt Writ: Nor was it for any private or gainful Ends to profit my ſelf, or enrich my Relations. This may appear as well by the great Debt I have contracted, as by the deſtitute Condition my many Children are in, as to any Proviſion made for them. And I do publickly challenge all Perſons whatſoever, that can give Information of any Bribes

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or covert Ways uſed by me, during the whole Time of my publick acting. Therefore I hope it will be evident to the Conſciences of the Jury, that what I have done, hath been upon Principles of Integrity, Honour, Juſtice, Reaſon, and Conſcience, and not, as is ſuggeſted in the Indictment, by *Inſtigation of the Devil*, or *Want of the Fear of God*.

A ſecond great Change that happened upon the Conſtitution of the Parliament, and in them of the very Kingdom it ſelf, and the Laws thereof, (to the plucking up the Liberties of it by the very Roots, and the introducing of an arbitrary Regal Power, under the Name of *Protector*, by Force and the Law of the Sword) was the Uſurpation of *Cromwell*; which I oppoſed from the beginning to the end, to that Degree of Suffering, and with that Conſtancy, that well near had coſt me not only the Loſs of my Eſtate, but of my very Life, if he might have had his Will, which a higher than he hindred: Yet I did remain a Priſoner, under great Hardſhip, four Months in an Iſland, by his Orders.

Hereby, that which I have aſſerted is moſt undeniably evident, as to the true Grounds and Ends of my Actions all along, that were againſt Uſurpation on the one hand, or ſuch extraordinary Actings on the other, as I doubted the Laws might not warrant or indemnify, unleſs I were enforced thereunto by an over-ruling and inevitable Neceſſity.

The third conſiderable Change was the total diſappointing and removing of the ſaid Uſurpation, and the returning again of the Members of Parliament to the Exerciſe of their primitive and original Truſt, for the Good and Safety of the Kingdom, ſo far as the State of the Times would then permit them; being ſo much, as they were, under the power of an Army, that for ſo long a time had influenced the Government. Towards the Recovery therefore of Things again into their own Channel, and upon the legal Root of the People's Liberties, to wit, their common Conſent in Parliament, given by their own Deputies and Truſtees, I held it my Duty to be again acting in publick Affairs in the Capacity of a Member of the ſaid Parliament, then re-enter'd upon the actual Exerciſe of their former Power, or at leaſt ſtruggling for it. In this Seaſon I had the Opportunity of declaring my true Intentions as to the Government, upon occaſion of refuſing the Oath of *Abjuration* before mentioned.

And whereas I am charged with keeping out his Majeſty that now is from exerciſing his Regal Power and Royal Authority in this his Kingdom; through the Ill-will borne me by that part of the Parliament then ſitting, I was diſcharged from being a Member thereof about *Jan.* 9. 1659. and by many of them was charged, or at leaſt ſtrongly ſuſpected to be a Royaliſt. Yea, I was not only diſcharged from my Attendance in Parliament, but confined as a Priſoner at mine own Houſe, ſome time before there was any viſible Power in the Nation that thought it ſeaſonable to own the King's Intereſt. And I hope my ſitting ſtill will not be imputed as a Failure of Duty, in the Condition of a Priſoner, and thoſe Circumſtances I then was in. This I can ſay, That from the time I ſaw his Majeſty's Declarations from *Breda*, declaring his Intentions and Reſolutions as to his Return, to take upon him the actual Exerciſe of his Regal Office in *England*, and to indemnify all thoſe that had been Actors in the late Differences and Wars, (as in the ſaid Declaration doth appear) I reſolved not to avoid any publick Queſtion, (if called thereto) as relying on mine own Innocency and his Majeſty's declared Favour, as before ſaid. And for the future, I determined to demean my ſelf with that Inoffenſiveneſs and Agreeableneſs to my Duty, as to give no juſt Matter of new Provocation to his Majeſty in his Government. All this, for my part, hath been punctually obſerved, whatever my Sufferings have been. Nor am I willing in the leaſt to harbour any diſcouraging Thoughts in my Mind as to his Majeſty's Generoſity and Favour towards me, who have been faithful to the Truſt I was engaged in without any malicious Intentions againſt his Majeſty, his Crown or Dignity, as before hath been ſhewed; and I am deſirous for the future to walk peaceably and blameleſly.

Whatever therefore my perſonal Sufferings have been ſince his Majeſty's Reſtoration, I rather impute them to the falſe Reports and Calumnies of mine Enemies and Misjudgers of my Actions, than reckon them as any thing that hath proceeded from his Majeſty's proper Inclination, whoſe Favour and Clemency I have had juſt Reaſon, with all Humility, to acknowledge.

Firſt, With regard to his Majeſty's Speech, made the 27th of *July*, 1660. in the Houſe of Peers, wherein his Majeſty expreſly declared it to be no Intention of his that a Perſon under my Circumſtances ſhould be excepted out of the Act of Indemnity, either for Life or Eſtate.

And Secondly, However it was the Parliament's Pleaſure (my ſelf unheard, tho then in the *Tower*, and ready to have been brought before them) to except me out of the common Indemnity, and ſubject me to queſtion for my Actions, yet they themſelves of their own accord (admitting the poſſibility that in ſuch queſtioning of me I might be attainted) made it their humble Deſire to his Majeſty, that in ſuch caſe Execution, as to my Life, might be remitted. Unto this his Majeſty readily gave his Grant and Aſſent. And I do firmly believe, if the Houſes had pleaſed to give me the Opportunity and Leave of being heard, they would never have denied me the Indemnity granted to the reſt of the Nation.

That which remains of further Charge yet to me is the Buſineſs of a Regiment, an Imployment which, I can in truth affirm, mine own Inclinations, Nature, and Breeding, little fitted me for, and which was intended only as honourary and titular, with relation to Volunteers, who, by their Application to the Council of State in a Time of great Commotions, did propound their own Officers, and (without any ſeeking of mine, or my conſidering any farther of it, than as the Uſe of my Name) did (among others) nominate me for a Colonel, which the Council of State approved, granting Commiſſions to my ſelf, and all other Officers relating thereunto; and the Parliament confirmed my ſaid Commiſſion, upon Report thereof made to them.

This will appear by ſeveral Witneſſes I have to produce in this Matter, that will be able to affirm how little I took upon me, or at all, to give any Orders, or make uſe of ſuch my Commiſſion, any otherwiſe than in Name only.

'Tis true, indeed, that at a certain Time, when I was ſummoned to appear at the Committee of the Militia in *Southwark*, whereof I was a Member, that which was called my own Company of Foot (from the Reſpect which they and their Officers pretended to me) were deſirous to be in a Poſture fit for me to ſee them; and as I paſſed by, I took the opportunity, at their Deſire, to ſhew my ſelf to them, and only (as taking notice of their Reſpect) in ſome few Words, expreſſing the Reaſon I had to receive it in good part, I told them I

would no longer detain them from their other Occasions. After I was gone from them, I appointed my Captain-Lieutenant to give them from me something to drink, as might be fitting on such an Occasion, which, to my best Remembrance, was five Pounds; and he laid it out of his own Money.

More than this (as I remember) was not done by me; so much as to the seeing any more the Companies of that Regiment gathered together, or giving Orders to them: Which I publickly and avowedly declined, persuading the Officers to lay down their Charges in mine own Example, so soon as I discerned the Intentions of the sitting down of the *Committee of Safety*, and the exorbitant Power committed to them to exercise, and the way of Proceedings by the Army, in interesting themselves in the Civil Government of the Nation, which I utterly disliked.

And although I forbore not to keep my Station, in reference to the Council of State, while they sat, or as a Commissioner of the Admiralty, during the time by them appointed to act by Parliamentary Authority, and so had occasion to be daily conversant with the Members of the Committee of Safety, (whereof my self, with others that would not accept, were named;) yet I perfectly kept my self disinterested from all those Actings of the Army, as to any Consent or Approbation of mine, (however, in many Things, by way of Discourse, I did not decline Converse with them) holding it my Duty to penetrate as far as I could into their true Intentions and Actions; but resolving within my self to hold true to my Parliamentary Trust in all Things wherein the Parliament appeared to me to act for the Safety and Good of the Kingdom. However, I was misinterpreted, and judged by them as one that rather favoured some of the Army, and their Power.

Upon the whole Matter, there is not any Precedent that ever both or either of the Houses of Parliament did commit Treason: For tho Privilege of Parliament does not so hold in Treason, but that particular Members may be punished for it, yet it is unprecedented, that both or either Houses of Parliament, as a collective Body, ever did or could commit Treason.

All the Acts done in Parliaments have been reversed indeed, and repealed, as what was done 11 *Ric.* 2. was repealed 21 *Ric.* 2. and what was done 21 *Ric.* 2. was repealed 1 *Hen.* 4. 3. as appears by the printed Statutes: Yet I do not find that both or either House of Parliament were declared Traytors for what they did in those Parliaments; or that any which acted under them suffered for the same in any inferior Courts. And surely the Reason is obvious: For they had a Co-ordinancy in the Supreme or Legislative Power for the making, altering, and repealing Laws. And if so, *par in parem non habet imperium.* And by Authorities out of *Bracton*, *Fleta*, and others, it may appear what Superiors the King himself hath, (who yet hath no Peer in his Kingdom, *nisi Curiam Baronum*) God, Law, and Parliament.

And if either or both Houses cannot commit Treason, then those that act by their Authority cannot: For, *plus peccat Author quam Actor*, the Author offends more than the Actor. If those that command do not, nor can commit Treason, how can those that act by their Authority be guilty of it?

Further, I must crave leave to assert, by reason of what I see opened upon the Evidence, That what is done in Parliament, or by their Authority, ought not to be questioned in any other Court: For every Offence committed in any Court, must be punished in the same, or in some higher, and not any inferiour Court. Now the Court of Parliament hath no superior Court, as is said in *Coke's Jurisdiction of Courts.* And the Reason there given that Judges ought not to give any Opinion in a Matter of Parliament, is, Because it is not to be decided by the Common Laws, but *secundum Legem & Consuetudinem Parliamenti.* This the Judges in divers Parliaments have confessed. And that Reason is not to be waved which the Lord *Coke* gives, That a Man can make no Defence; for what is said and acted there, is done in Council, and none ought to reveal the Secrets of the House: Every Member hath a judicial Voice, and can be no Witness.

June *the* 11*th.*

After the customary Formalities of the Court,

The Clerk demanded of Sir *Henry Vane* what he had to say why Sentence of Death should not be passed upon him.

Sir *Henry Vane* first alledged, That he had not yet heard the Indictment read in *Latin*. The Debate upon this took up some Time: At length some of the King's Counsel desired that the Prisoner might be satisfied in that Point. Sir *Henry* desired that Counsel then might also be assigned him, to make Exceptions thereto, if they found Cause; otherwise he valued not the hearing of it read in *Latin*. This was over-ruled by the Court: He soon therefore desisted from any further urging it.

The next Thing Sir *Henry* offered in his own Defence was the Bill of Exceptions, which he brought with him ready drawn, and offered it to the Judges, desiring them, according to the Statute of *Westm.* 2. 31. made 13 *Edw.* 1. to sign it. This he urged so home, that the Statute was consulted and read in open Court, running in favour of the Prisoner to this effect, *That if any Man find himself aggrieved by the Proceedings against him before any Justices, let him write his Exception, and desire the Justices to set their Seals to it.* This Act was made (says *Coke*) that the Party wronged might have a Foundation for a legal Process against the Justices by a Writ of Error, having his Exception entred upon Record in the Court where the Injury is done, which through the Justices over-ruling it, they could not before procure, so the Party grieved was without Remedy; for whose Relief this Statute was made. The Justices refusing to set to their Seals, the Party grieved may have a Writ grounded on this Statute, commanding them to set their Seals to his Exception. This Exception extends not only to all Pleas dilatory and peremptory, *&c.* but to all Challenges of any Jurors, and any material Evidence, given to any Jury, which by the Court is over-ruled.' As in this Prisoner's Case, the Testimony about falsifying of his Hand to Writings, *&c.* was, by what was offered to the Jury by Justice *Windham*.

Further, says *Coke* on this Statute, 'If the Justice (or Justices) die, their Executors or Administrators may be proceeded against for the Injury done. And if the Judge (or Judges) deny to seal the Exception, the Party wronged may in the Writ of Error take Issue thereupon, if he can prove by Witnesses the Judge or Judges denied to seal it.'

Notwithstanding all this, the Judges over-ruled this Plea also, by such Interpretation as themselves put

put upon that Statute, to wit, That it was not allowable in criminal Cases for Life. This makes the Law less careful for the Preservation of a Man's Life, than any Particulars of his Estate, in Controversies about which this Statute is affirmed by them to hold. Whereas Life is the greater, and innocent Blood, when spilt, is irreversible; as to the Matter, it cannot be gathered up again: The Estate is the lesser; and if an erroneous Judgment pass about it, 'tis reversible upon Traverse, Writ of Error, or otherwise.

The Reason they alledged for their pretended Opinion was this, That if it be held in criminal Cases for Life, every Felon in *Newgate* might plead the same, and so there would be no Goal-delivery.

Sir *Henry* answered, His Case was not the Case of common Felons, alledging the Grant of his Majesty to the Petition of both Houses for his Life, in case he should be attainted. There is no need therefore, sure (said he) of fearing the Consequence of spinning out the Time a little with a Person in his Circumstances. Besides, (he said) he had been a Prisoner two Years, and never called on to give any account of himself and his Actions, (so is it not with Felons;) which, with other Considerations, may sufficiently evince that there is no need of such hastening his Death. He told them withal, That he desired not this for his own sake only, but for theirs, and for Posterity; that they might, on a more leisurely and unprejudiced hearing of what may be said on all hands, prevent the bringing of innocent Blood upon themselves and the Land.

But being in this also over-ruled by the Court, (say what he could) he only desired he might understand whether they would all give it as their common Judgment they would stand to, That what he desired was not his due by the Law? By this means they were all put upon it, one by one, to declare themselves in that Point, unanimously denying him the Benefit of that Act. To the By-standers their chief Reason seemed to be, That it had not been practised this hundred or two of Years.

The third Thing Sir *Henry* desired was, That the Petition of both Houses, with his Majesty's Answer thereunto, might be read in the Court; which, after some Dispute, was concluded to be a Thing they were not bound to take notice of, not being an Act of Parliament. Yet what is any Act of Parliament, but a Bill presented with the Petition of both Houses to his Majesty, with his Royal Assent thereto, upon publick Record? At length they condescended to read it; and that was all.

The fourth and last Thing Sir *Henry Vane* offered to the Consideration of the Bench was this, That in regard there were Questions touching Matter of Law in his Case, which must receive their Determination in Parliament, he desired he might have Counsel assigned him, to argue them before their Lordships. Some of these Points he instanced in, to wit,

1. Whether a Parliament were accountable to any inferior Court?

2. Whether the King, being out of Possession, and the Power Regent in others, ——

Here they stopp'd him, not suffering him to proceed, nor admitting that the King was ever out of Possession. To which Sir *Henry* replied, The Words of his Indictment ran thus, *That he endeavoured to keep out his Majesty*; and how could he keep him out of the Realm, if he were not out?

After Sentence given, Chief Justice *Forster* endeavoured to take off the King from any Obligation by that Grant to the Petition of both Houses, saying, *That God, though full of Mercy, yet intended his Mercy only to the penitent.*

Reasons for an Arrest of Judgment, writ by the Prisoner, but refused to be heard by the Court.

I. I Have been denied so much as to hear the Indictment read in *Latin*, as it is the original Record of the Court; yea, so much as a Copy of it in *English* hath been denied me during the whole Time of my Tryal; by the Sight whereof I might be able to assign the Defects of Law that may be in it.

Counsel also hath been denied, not only before I pleaded, but after; and all Points by me offered in Law to the Judges of the Court have been over-ruled, without admitting me Counsel to argue the same, and better inform the Judgment of the Court. I have demanded that I might put in a Bill of Exceptions upon the Statute of *Westminst.* 2. *cap.* 31. This likewise is denied me, over-ruled, and judged as out of that Statute. Neither will Counsel be allowed me in this, to shew Cause why it ought to be admitted as of Right. And as no Counsel was allowed, so neither were the Judges Counsel to me, as they said themselves they would and ought to be, but rather suffered me to wrong and prejudice my self; some of them saying, *Let him go on, the worst will be his own at last.* And they neither checked nor restrained the King's Counsel in their high and irritating Expressions to the Jury, to find me guilty; one of whom was seen to speak privately with the Foreman of the Jury, immediately before the Jurors went from the Bar, after he had spoken openly, *That the Prisoner was to be made a publick Sacrifice, in reference to the Actions done against his Majesty that now is.*

All this is very far from that Indifferency in Tryal, and from that Equality which the Law requires, and they are bound by their Oath to afford me; besides the undue Proceedings in the Business of the Petty Jury. A List of forty eight Persons was presented to me, who being to me unknown, and no Time allowed me to gain any Knowledge of them, though I was permitted to challenge and refuse three Juries, without shewing Cause, yet could not that Refusal be upon such rational Grounds as the Law supposes, which doubtless intends substantial Relief to the Prisoner, in allowing him the Liberty of such Refusal; whereas, through my Ignorance of the Persons, I might refuse the best, and chuse the worst, as to my Safety. And then, whereas the Law further allows me the Refusal of any other beyond the thirty five, on just and exceptionable Cause shewn, what just Exception was I capable to alledge in a sudden Hurry against Persons to me altogether unknown, unless it would be taken for a just one, That they were unknown to me?

All these Things being so contrary to the Right which the Judges stand obliged to do to every one, as they are for that purpose intrusted by God and the King, is just Cause for an Arrest of Judgment, and a good Reason why they should yet at length allow me a Copy of the Indictment, and assign Counsel to argue for the Prisoner against the Defects in Law that may be found therein. Without this, Law is denied me, which is my Birthright and Inheritance; the best Birthright a Subject

hath, says *Coke* on *Magna Charta*: for thereby (says he) his Goods, Lands, Wife, Children, his Body, Life, Honour, and Estimation, are protected from Injury. The Life, Birthright, or Inheritance, we have from our Parents, may soon be gone, if this Fence thereof be broken down. How great a Wrong then it is for the Court to withhold it from me, is manifest. Are they not therefore in effect chargeable with my Blood, by such unequal Proceedings as I have had in my Tryal?

II. My second Reason for an Arrest of Judgment, is drawn from the Issue that is joined in my Case, which seems to depend chiefly upon Matter of Law; and that in such tender and high Points, as are only determinable in the High Court of Parliament.

For it is become the Question, Whether I am guilty or not guilty, according as these Propositions following are truly or erroneously resolved.

1. Whether the Parliament, that began *Novemb.* 3. 1640. were dissolved by the King's Death? And whether this Court may judge things done in Parliament?

2. Whether the Powers regnant, and *de facto*, that successively were in being, from *Jan.* 30. 1648. to *Decemb.* 20. 1659. were such Powers *de facto*, as are the King, or *Seigneur le Roy*, within the Purview of the Statute of 25 *Edw.* 3. having the Exercise of Regal Power in all the Particulars of it, though not the Name?

3. Whether during that time fore-mentioned, his Majesty that now is were properly King *de facto*? Or whether he were not out of Possession, and without all Exercise of his Regal Authority within the Realm?

4. Whether the Case now in question be a Treason literally within the words of the Statute 25 *Edw.* 3. or at most, any other than an interpretative and new Treason, not declared before the very time of my Tryal; and that only by the Judgment of the Court, or Opinion of my Judges, eleven Years after some of the things charged on me, are alledged to have been committed?

As for the first of these, the Act for Continuance of the *Long Parliament* is express; *That all and every thing or things whatsoever, done or to be done, for the Adjournment, Proroguing, or Dissolving of that Parliament, contrary to that Act, shall be utterly void and of none effect.* I then thus argue:

The Judges do upon occasion of this Tryal resolve, That the King's Death dissolv'd that Parliament. No Act of Parliament hath yet declared it to be so; and the Judges ought to have some Law for their Guide, as *Coke* well says. To be sure, if in process of time the Parliament shall expresly declare, That not the King's Death, but the Act for the Dissolution of that Parliament, did dissolve it; in such case, these Judges Resolution by virtue of such Act is absolutely void. But innocent Blood in the mean time may be shed, and an Estate wrongfully taken away. And in case what the Judges assert herein, were Law; 'tis Law not known or declared till many Years after the Fact committed. At this rate, who is secure of Estate or Life?

As to the second and third Queries or Propositions, it does appear out of the third part of *Coke*'s *Institutes*, fol. 7. and the Statute 11 *Hen.* 7. *cap.* 1. that Actings for the King *in Fact*, are not to be question'd by the King *in Right*. If it be said, That there was no King in this case; it may be replied, That they who had the Power and Exercise of the Royal Jurisdiction, as to Peace and War, Coinage of Money, Power of Life and Death, *&c.* which are the highest Ensigns of Regal Authority, must needs be the Powers regnant, though not under the name of King, and are within the Statute 25 *Edw.* 3. *cap.* 2. as a Queen also is adjudg'd, and any Sovereign Prince, though under the Title only of Lord, as was the Case of *Ireland* before it was a Kingdom. And if so, why not in more such Persons as well as one, that *de facto* exercise the Royal Power and Sovereign Authority, under what Name or Title soever? If upon this Nicety, Judgment be given against me, because the Powers regnant wanted the Name and Formality of a King, I shall doubtless have very hard measure. For the Reason and Equity is the same, if the Powers regnant had the Thing, though not the Title. And where there is the same Reason, there is the same Law, as is a known Rule. Now there is the same Reason the Subject should be equally indemnified, that acteth under any Sovereign Authority that hath not the Name of a King, as if it had. If there had been many Kings, as a Heptarchy hath been in *England* heretofore, those would have been understood to be within the Statute; and the Reason and Equity of the Statute is the same in all cases. For the Law is made for the Benefit and Security of the Subject, whom the Law requires not to examine the Right of Sovereignty. Nor is the Danger less under one Government than another.

The Statute is, for securing the Subjects from all dormant Titles, that they may safely pay their Allegiance when they receive Protection, and that they may not be in danger of being destroy'd by two Powers at the same time. For that Power which is supreme and *de facto*, will be obey'd, and make it Treason to do otherwise, be it right or wrong. And if the Subject be at the same time in danger of committing Treason against the Power *de jure*, then is he in a miserable Condition, and State of unavoidable Necessity, which is provided against by the Laws of the Land. Otherwise, if he be loyal to the King *de jure*, he shall be hanged by the King *de facto*; and if he be faithful to the King *de facto*, he shall die by the King *de jure*, when he recovers Possession.

Against this it was, that the Statute of 11 *Hen.* 7. was provided, in the Difference betwixt the two Houses of *York* and *Lancaster*. My Case is either the same with that, and then I desire the Benefit of that Statute; or else it is new, and then I desire, as is provided 25 *Edw.* 3. that it be referred to the Parliament. So that it is either within the Equity of the Statute 11 *Hen.* 7. or else it is a new Case, and not to be judged by this Court.

If the Judges in the Resolves by them delivered, upon any of the Particulars before alledged, have not declared that Law that ought to guide them, but their particular Judgments or Opinions, as undertaking to guide the Law, and that in Points of so grand Concern as touch the Subjects Life, in case their Judgments after should prove erroneous, the Verdict given upon such Errors must needs be illegal and void. Judgment therefore ought to be suspended, till such time as the Truth and Certainty of the Law may be fully argued and cleared, and that in the proper Court for the hearing and judging of this Case. If this be not done, but I be forthwith proceeded against (notwithstanding any thing however rationally or legally alledged to the contrary) by such undue Precipitation and giving Sentence, I am (contrary to *Magna Charta*, or

Law

Law of the Land) run upon and deſtroy'd, without due Form and Courſe of Law. And I am like to be deprived of Eſtate and Life upon no Law or certain Rule, which was declared before the Fact; no, nor before the Tryal.

Upon theſe Conſiderations, I deſire an Arreſt of Judgment, and that Counſel may be aſſigned me, and competent time allow'd to make good my Averments.

As an Argument to preſs this, I deſire leave of the Court, That the Petition of the two Houſes, and the King's Aſſent to it, may be read in open Court, atteſted by one that is preſent, who examined and compared it with the Book of Record in the Lords Houſe; by which it evidently appears, that as well the King as both Houſes of Parliament were agreed, that admitting I were attainted, yet Execution, as to my Life, ſhould be remitted. And if ſo, there is no cauſe to precipitate the paſſing Sentence; eſpecially when alſo ſuch weighty Points in the Law are yet to be argued and cleared, unleſs the Judges will evidently charge themſelves with my innocent Blood.

III. My third Reaſon for an Arreſt of Judgment, is the manifeſt Newneſs of this Caſe, being ſuch as never happen'd before in the Kingdom; which withal is of ſo vaſt a conſequence to People of all Sorts and Conditions within this Realm, as nothing more. And being ſo, (as I doubt not with your Lordſhips patience I ſhall make it appear) it is the known Law, witneſſed by *Bracton*, and antient approved Law-Books, That in ſuch Caſes the Judges in the inferiour Courts ought not to proceed, but bring it before the High Court of Parliament.

To prove therefore the Newneſs of this Caſe, (beſides what I have already alledged in my Defence, before the Verdict) give me leave to add that, which yet further ſhews the Newneſs and Extraordinarineſs thereof. And I beſeech your Lordſhips to let me go on without interruption, in my endeavouring to make it out as clearly as God ſhall enable me, and as briefly alſo, not to ſpend too much of your Time.

In general, I do affirm of this Caſe, That it is ſo comprehenſive, as to take in the very Intereſts of Heaven and Earth: Firſt, Of God the Univerſal Sovereign and King of Kings; Secondly, That of earthly Sovereigns, who are God's Vicegerents: As alſo the Intereſts of all Mankind, that ſtand in the Relation of Subjects to the one or both thoſe ſorts of Sovereigns.

This in general. More particularly: Within the Bowels of this Caſe is that Cauſe of God, that hath ſtated itſelf in the late Differences and Wars, that have happen'd and ariſen within theſe three Nations, and have been of more than twenty years continuance: which for the greater Certainty and Solemnity, hath been recorded in the form of a *National Covenant*, in which the generality of the three Nations have been either implicitly involved, or expreſly concern'd, by the ſigning of their Names.

The principal things contained in that Covenant, were the known and commonly-received Duties, which either as Men or as Chriſtians we owed and ſtood obliged to perform either to God, the higheſt and univerſal King in Church or State, or to our natural Lord and Sovereign, the Kings of this Realm, in ſubordination to God and his Laws.

Again, It contains as well the Duties which we owe to every particular and individual Perſon, in their ſeveral Stations and Callings, as to the King in general, and our Repreſentative Body in Parliament aſſembled. Theſe Duties we are thereby obliged to yield and perform, in Conſiſtency with, and in a juſt Subordination and manifeſt Agreeableneſs to the Laws of God, as is therein expreſs'd: And this alſo, in no Diſagreement to the Laws of the Land, as they then were.

By this *Solemn Covenant* and *Agreement* of the three Nations, giving up themſelves in ſubjection to God and to his Laws, in the firſt place, as the Allegiance they owe to their higheſt Sovereign, (as the Creator, Redeemer, Owner and Ruler of all Mankind) they have ſo far intereſted the Son of God in the ſupreme Rule and Government of theſe Nations, that nothing therein ought to be brought into practice, contrary to his revealed Will in the Holy Scriptures, and his known and moſt righteous Laws.

This Duty which we owe to God, the univerſal King, Nature and Chriſtianity do ſo clearly teach and aſſert, that it needs no more than to be named. For this Subjection and Allegiance to God and his Laws, by a Right ſo indiſputable, all are accountable before the Judgment-Seat of Chriſt.

It is true indeed, Men may *de facto* become open Rebels to God and to his Laws, and prove ſuch as forfeit his Protection, and engage him to proceed againſt them as his profeſſed Enemies. But (with your Lordſhips favour) give me leave to ſay, that that which you have made a Rule for your Proceedings in my Caſe, will indeed hold, and that very ſtrongly, in this; that is to ſay, in the ſenſe wherein Chriſt the Son of God is King *de jure*, not only in general, over the whole World, but in particular, in relation to theſe three Kingdoms. He ought not to be kept out of his Throne, nor his viſible Government (that conſiſts in the Authority of his Word and Laws) ſuppreſſed and trampled under foot, under any pretence whatſoever.

And in the aſſerting and adhering unto the Right of this higheſt Sovereign, (as ſtated in the *Covenant* before mentioned) the Lords and Commons jointly, before the Year 1648, and the Commons alone afterwards, to the very times charged in the Indictment, did manage the War and late Differences within theſe Kingdoms. And whatever Defections did happen by Apoſtates, Hypocrites, and time-ſerving Worldlings, there was a Party amongſt them, that continued firm, ſincere and chaſte unto the laſt, and loved it better than their very Lives; of which number I am not aſhamed to profeſs myſelf to be: not ſo much admiring the Form and Words of the Covenant, as the righteous and holy Ends therein expreſſed, and the true Senſe and Meaning thereof, which I have reaſon to know.

Nor will I deny, but that, as to the Manner of the Proſecution of the Covenant to other Ends than itſelf warrants, and with a rigid oppreſſive Spirit, (to bring all diſſenting Minds and tender Conſciences under one Uniformity of Church-Diſcipline and Government) it was utterly againſt my Judgment. For I always eſteem'd it more agreeable to the Word of God, that the Ends and Work declared in the Covenant ſhould be promoted in a Spirit of Love and Forbearance to differing Judgments and Conſciences, that thereby we might be approving ourſelves *in doing that to others, which we deſire they would do to us*; and ſo (though upon different Principles) be found joint and faithful Advancers of the Reformation contained in the Covenant, both publick and perſonal.

This

This happy Union and Conjunction of all Intereſts in the reſpective Duties of all Relations, agreed and conſented to by the common Suffrage of the three Nations, (as well in their publick Parliamentary Capacity, as private Stations) appear'd to me a Rule and Meaſure approved of, and commanded by Parliament, for my Action and Deportment, though it met with great Oppposition, in a tedious, ſad, and long War, ; and this under the Name and Pretext of Royal Authority. Yet, as this Caſe appeared to me in my Conſcience, under all its Circumſtances of Times, of Perſons, and of Revolutions inevitably happening by the Hand of God and the Courſe of his wiſe Providences; I held it ſafeſt and beſt to keep my Station in Parliament to the laſt, under the guidance and protection of their Authority, and in purſuance of the Ends before declared in my juſt Defence.

This general and publick Caſe of the Kingdoms, is ſo well known by the Declarations and Actions that have paſſed on both ſides, that I need but name it; ſince this matter was not done in a corner, but frequently contended for in the high places of the Field, and written even with Characters of Blood. And out of the Bowels of theſe publick Differences and Diſputes, doth my particular Caſe ariſe, for which I am called into queſtion. But admitting it come to my lot to ſtand ſingle, in the Witneſs I am to give to this Glorious Cauſe, and to be left alone, (as in a ſort I am) yet being upheld with the Authority before aſſerted, and keeping myſelf in Union and Conjunction therewith, I am not afraid to bear my witneſs to it in this great Preſence, nor to ſeal it with my Blood, if called thereunto. And I am ſo far ſatisfied in my Conſcience and Underſtanding, that it neither is nor can be Treaſon, either againſt the Law of Nature, or the Law of the Land, either *malum per ſe*, or *malum prohibitum*; that on the contrary, it is the Duty I owed to God the univerſal King, and to his Majeſty that now is, and to the Church and People of God in theſe Nations, and to the innocent Blood of all that have been ſlain in this Quarrel. Nothing it ſeems will now ſerve, unleſs by the Condemnation paſſed upon my Perſon, they be rendred to Poſterity Murderers and Rebels, and that upon Record in a Court of Juſtice in *Weſtminſter-Hall*. And this would inevitably have follow'd, if I had voluntarily given up this Cauſe, without aſſerting their and my Innocency; by which I ſhould have pulled that Blood upon my own head, which now I am ſure muſt lie at the door of others, and in particular, of thoſe that knowingly and precipitately ſhall embrue their hands in my innocent Blood, under whatever Form or Pretext of Juſtice.

My Caſe is evidently new and unuſual, that which never happen'd before; wherein there is not only much of God and of his Glory, but all that is dear and of true value to all the good People in theſe three Nations. And (as I have ſaid) it cannot be Treaſon againſt the Law of Nature, ſince the Duties of the Subjects in relation to their Sovereigns and Superiours, from higheſt to loweſt, are owned and conſcientiouſly practiſed and yielded by thoſe that are the Aſſertors of this Cauſe.

Nor can it be Treaſon within the Statute of 25 *Edw.* 3. ſince beſides what hath been ſaid of no King in poſſeſſion, and of being under Powers regnant and Kings *de facto*, as alſo of the Fact in its own nature, and the Evidence as to Overt-Acts pretended; it is very plain it cannot poſſibly fall within the Purview of that Statute. For this Caſe, thus circumſtantiated (as before declared) is no Act of any private Perſon, of his own head, as that Statute intends; nor in relation to the King there meant, that is preſumed to be in the Exerciſe of his Royal Authority, in conjunction with the Law and the two Houſes of Parliament, if they be ſitting, as the fundamental Conſtitutions of the Government do require.

My Lords, if I have been free and plain with you in this matter, I beg your pardon: For it concerns me to be ſo, and ſomething more than ordinarily urgent, where both my Eſtate and Life are in ſuch eminent peril; nay, more than my Life, the Concerns of thouſands of Lives are in it, not only of thoſe that are in their Graves already, but of all Poſterity in time to come. Had nothing been in it, but the Care to preſerve my own Life, I needed not have ſtaid in *England*, but might have taken my opportunity to withdraw myſelf into foreign Parts, to provide for my own Safety. Nor needed I to have been put upon pleading, as now I am for an Arreſt of Judgment; but might have watch'd upon Advantages that were viſible enough to me, in the managing of my Tryal, if I had conſulted only the Preſervation of my Life or Eſtate.

No, my Lords, I have otherwiſe learned Chriſt, than to fear them that can but kill the Body, and have no more that they can do. I have alſo taken notice, in the little reading that I have had of Hiſtory, how glorious the very Heathens have rendred their Names to Poſterity, in the Contempt they have ſhew'd of Death, (when the laying down of their Life has appeared to be their Duty) from the Love which they have owed to their Country.

Two remarkable Examples of this, give me leave to mention to you upon this occaſion. The one is, of *Socrates* the divine Philoſopher, who was brought into queſtion before a Judgment-Seat, as now I am, for maintaining that there was but one only true God, againſt the Multiplicity of the ſuperſtitious Heathen Gods; and he was ſo little in love with his own Life upon this account, (wherein he knew the Right was on his ſide) that he could not be perſuaded by his Friends to make any Defence, but would chuſe rather to put it upon the Conſcience and Determination of his Judges, to decide that wherein he knew not how to make any choice of his own, as to what would be beſt for him, whether to live or to die; he ingenuouſly profeſſing, that for ought he knew, it might be much to his prejudice and loſs, to endeavour longer continuance in this bodily Life.

The other Example is that of a chief Governour, that (to my beſt remembrance) had the Command of a City in *Greece*, which was beſieged by a potent Enemy, and brought into unimaginable Straits. Hereupon the ſaid Governour makes his addreſs to the Oracle, to know the Event of that Danger. The Anſwer was, That the City ſhould be ſafely preſerved, if the chief Governour were ſlain by the Enemy. He underſtanding this, immediately diſguiſed himſelf, and went into the Enemies Camp, amongſt whom he did ſo comport himſelf, that they unwittingly put him to death; by which means, immediately Safety and Deliverance aroſe to the City, as the Oracle had declared. So little was his Life in eſteem with him, when the Good and Safety of his Country required the laying of it down.

The Bill of Exceptions *tranſlated out of the beſt* Latin *Form the Priſoner could procure; no Counſel learned in the Law daring to aſſiſt him in thoſe Circumſtances, without Aſſignment from the Court, which was denied.*

First, *Concerning my Impriſonment.*

(1.) I Shall here mention my Entrance into this new Scene of Sufferings under the preſent Power (after my having been handled at Will and Pleaſure, under the ſix Years Uſurpation of *Cromwel*) which I conceive not to have been at all according to the Law of the Land, as may appear by the 29th Chap. of *Magna Charta*, and *Coke* upon it, with many other Statutes and Law-Books: In all which it appears that the Law of *England* is ſo tender, not to ſay curious, in providing for the Subject's Liberty, that he is not to ſuffer the leaſt Reſtraint, Confinement or Impriſonment, but by the lawful Judgment of his Peers, or by the Law of the Land. Contrary to all which, I was committed at mere Will and Pleaſure, and have been detained cloſe Priſoner theſe two Years, without any Cauſe ſpecified, or any particular Crime laid to my Charge.

Secondly, *Concerning Tranſactions at the Grand Jury.*

(2.) The Grand Jury of *Middleſex*, without my Privity, Knowledge or Preſence, (after I had been kept a cloſe Priſoner two full Years) did meet, take the Depoſitions of Witneſſes, and find the Bill againſt me, which inevitably expoſed me to a Tryal at the King's-Bench Bar, for I knew not what: whereas Major *Rolf* and others have had the Right of *Engliſhmen* granted them, to be preſent at the Grand Jury's Proceedings; yea, and to have Counſel alſo preſent to plead any thing in a way of Reaſon or Law, for invalidating the Teſtimony, or diſabling the Witneſſes, whereby the Indictment hath been immediately quaſh'd; and ſo the Party accuſed, delivered from any Shadow of Infamy, by ſo much as appearing in the Circumſtances of a Malefactor at any publick Bar of Juſtice.

That this Priſoner had great need of that Privilege of being preſent himſelf, or having Counſel and other Friends preſent at the Grand Jury, will appear hereafter, by the ſubdolous and injurious handling of Matters there.

Thirdly, *Concerning the Juriſdiction of the Court.*

(3.) The Offences ſuppoſed to be committed by me, are things done not of my own Head, but as a Member of the *Long Parliament*, or in purſuance of their Authority. The Matters done by me, in the one reſpect or other, if they be deemed Offences, are puniſhable only in Parliament; and I ought not to be queſtioned for them in any inferior Court, as *Coke* ſhews in the 4th Part of his *Inſtitutes*, *chap.* 1. concerning the High Court of Parliament. For the Parliament is not confined in their Actings by the Law, which inferiour Courts are tied up to; but in divers Caſes are privileged to act extraordinarily and unaccountably to any but themſelves, or ſucceeding Parliaments. Moreover, that Parliament was extraordinarily commiſſioned, qualified and authorized by expreſs Act of Parliament, beyond all preceding Parliaments, for the Cauſes and Ends declared in the Preamble of the Act for their Eſtabliſhment, accorded and paſſed by the joint Conſent of King, Lords and Commons, whereby they became unſubjected to Adjournment, Prorogation or Diſſolution, but by their own reſpective voluntary Conſents, to be by them expreſſed and paſſed for that purpoſe, with the Royal Aſſent; which occaſioned his late Majeſty in his Anſwer to the Nineteen Propoſitions, to ſay, *That the Power hereby legally placed in both Houſes, was more than ſufficient to prevent and reſtrain the Power of Tyranny.*

And further, the bringing of this Caſe under the Juriſdiction of this Court, or of any other but a Parliament, may prove of very dangerous Conſequence, in point of Precedent, and moſt diſagreeing to all Rules of Juſtice. For,

Firſt, By the ſame Reaſon that I am queſtioned in this Court, not only every Member of Parliament, but the very Houſes themſelves, with all their Debates, Votes and Orders, may not only be queſtioned, but referred to a Petty-Jury, and ſo come to be judged and ſentenc'd by a Court inferior to themſelves; which Judges in all times have diſclaimed and acknowledged to be out of their power, according to the known Rule, *Par in pares non habet imperium, multo minus in eos qui majus imperium habent.*

Secondly, In ſuch caſe the Parties accuſed, will be debarred of Evidence or Witneſs for their Juſtification and Defence. For no Members, *&c.* preſent at Debates in Parliament, (who are the only Eye and Ear-Witneſſes of what is ſaid and done there) ought to diſcover the Counſels of the Houſe.

Fourthly, *Concerning the Indictment.*

1. I have not been permitted to have a Copy or Sight of the Indictment, nor ſo much as to hear it read in *Latin*, which is the original Record of the Court, and ought to be the Foundation of their whole Proceeding with me. I often deſired theſe things of the Court; yea, or at leaſt to have but the Tranſcripts of ſome particular Clauſes in the Indictment, to enable me to ſhew the Deficiencies thereof in Law, (all which, others in ſuch Caſes have often obtained) but nothing would be granted herein.

This then was my hard Lot and Uſage; I was put (after two Years cloſe Impriſonment) to anſwer for my Life to a long Indictment read in *Engliſh*, which whether it were rightly tranſlated how ſhould I know, that might not hear the original Record in *Latin?* Counſel alſo learned in the Law were denied me, though preſſed for by me again and again, before I pleaded. And had they been granted, what could they have ſaid as to Defects of Law in the Indictment, unleſs they might have a Copy of it? What can any Counſel ſay to any petty Buſineſs concerning any part of a Man's Eſtate that's in Controverſy, unleſs they may have a leiſurely View and Peruſal of the Writings thereabouts? Much more ſure will it appear requiſite to the Reaſon of all Mankind, when a Man's whole Eſtate, Life and all, are at ſtake. 'Tis true, before I pleaded, this Court promiſed I ſhould have Counſel aſſigned me after pleading, (*God forfend elſe*, ſaid the Lord Chief Juſtice) but 'tis as true, I never could yet ſee that Promiſe made good. All things tending to a fair Tryal were promiſed me in general before pleading, but every material Particular for the juſt Defence of my Life, hath been denied me ever ſince. And my Tryal for Life was huddled up the next Day of my appearing before you:

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The Jury (as was told me) muſt not eat nor drink till they had done their Work: (ſo the more than forty Jewry-Men that reſolved to kill *Paul*, Acts 23. 21.) But why ſuch Haſte and Precipitancy for a Man's Life, that's more than Meat or Eſtate, when you can let Civil Cauſes about Mens Eſtates depend many Years? And if an erroneous Judgment be paſſed in ſuch Matters, 'tis reverſible; but if innocent Blood be ſpilt, it cannot be gathered up again, as the wiſe Woman of *Tekoah* ſaid, 2 *Sam.* 14.

2. But Secondly then, as to Defects in the Indictment, which I was in ſome meaſure enabled to obſerve from that broken hearing thereof, that was afforded me here in the Court; I ſay there are many, and thoſe very conſiderable: and by the Law of *England* I ought not to have been urged to plead or make anſwer to ſuch an illegal and defective Indictment.

1. There is no ſufficient Overt-Act therein alledged of the Priſoner's imagining the King's Death, or that he had any the leaſt Intention that way.

2. The Levying of a War is alledged in *Southwark*, and cannot therefore be tryed by a Jury of *Middleſex*; *Dyer*, *fol.* 234. and the 3d Part of *Coke's Inſtitutes*, *fol.* 34.

3. There is Uncertainty and Obſcurity in the main thing alledged againſt me in the Indictment; to wit, *That I, together with a Multitude of Perſons, to the Number of a Thouſand, unknown to the Jury*, &c. whereas no criminal Act can be tryed that is not certain; *Certa res debet eſſe, quæ deducitur in Judicium.*

4. The Treaſon laid to my charge, is alledged to have been committed with a Multitude of other falſe Traitors, which were pardoned by the Act of Indemnity: ſuch ſuppoſed Crimes therefore of theirs cannot be remembred or alledged, without a manifeſt Breach of the Act of Indemnity and Oblivion.

The Indictment is, or ought to be founded on ſome Clauſe or Branch of 25 *Edw.* 3. *chap.* 2. but no ſuch Overt-Act is alledged in the Indictment, or proved by Witneſſes, as doth diſcover that I had any Intention to kill, depoſe, or hold out the King from the Poſſeſſion and Exerciſe of his Regal Power.

Whereas I am accuſed of *compaſſing or imagining the Death of the King*, this muſt be underſtood of his natural or perſonal, not politick Capacity; for in this latter Senſe the Law ſays, *The King cannot die.*

Firſt then, to compaſs only the Depoſition of the King, is not within the words of that Statute, (ſeveral Kings have been depoſed by Parliaments ſince the Conqueſt) and as to my compaſſing or deſigning the natural Death of the King's Perſon, with what Colour can I be accuſed of ſuch Intentions, in the Circumſtances the King at that time was in beyond the Seas?

Secondly, The aſſembling of Men together, without any Hoſtility or Injury offered to any Perſon, but for a Man's own Security and Defence in a time of Confuſion and Diſtraction, is not levying War, or Treaſon at the Common Law, or by that Statute. Yea, in this Caſe, and at the Seaſon wherein ſuch an Act as this is alledged, it might be ſuppoſed to be done for the King's Reſtoration, as well as in oppoſition thereunto; and the moſt favourable and advantageous Conſtruction ought to be made and put upon the Priſoner's Actings or Words, where there is Ambiguity, ſo that they may be taken or interpreted divers ways. For the Law always preſumeth Actions to be innocent, till the contrary be manifeſtly proved. However, in a time of Vacancy or an *Interregnum*, when the Foundations of Government are out of courſe, by the Law of Reaſon, Nature, and common Prudence, every Man may ſtand upon his own Guard, endeavouring his own Security and Protection from Injury and Violence.

Thirdly, To be adherent to the King's Enemies within his Realm, *&c.* cannot, ought not to be underſtood of any Adheſion to a Parliament, wherein the King by Law is ſuppoſed always preſent, as a Part thereof. Nor can the *Long Parliament* be called the King's Enemies, without overthrowing the Act of Indemnity, which the King hath declared to be the Foundation of the Nation's preſent Peace and Security.

Laſtly, The Treaſons alledged in the Indictment are ſaid to have been committed when the King was out of Poſſeſſion: So the Indictment runs, *To keep out the King*, &c. Now my Lord *Coke* in the third Part of his *Inſtitutes*, *fol.* 7. ſaith, *A King* de jure, *and not* de facto, *is not within the Statute; againſt ſuch a one no Treaſon can be committed. For if there be a King regnant in Poſſeſſion, though he be* Rex de facto, *and not* de jure, *yet he is* Seigneur le Roy, *within the Purvieu of this Statute; and the other that hath Right, and is out of Poſſeſſion, is not within this Act. Nay, if Treaſon be committed againſt a King* de facto, & non de jure, *and after the King* de jure *cometh to the Crown, he ſhall puniſh the Treaſon done to the King* de facto.

And after, in the ſame Place he ſaith, *That by Law there is always a King, in whoſe Name the Laws are to be maintained and executed, otherwiſe Juſtice would fail.* The Act alſo of 11 *Hen.* 7. was made for Security of the Subject on this behalf. The word *King* alſo may and ought to be taken largely for any Sovereign Power in a King or Queen, as *Coke* in the place fore-quoted ſhews; and why not by the ſame Reaſon, in a Protector, though an Uſurper, or any other Perſons, one or more, in whom Sovereignty is lodged, or that have all the Badges of Sovereignty; as the calling of Parliaments, enacting of Laws, coining of Money, receiving foreign Ambaſſadors, *&c.*? His Majeſty that now is, is granted by the very Indictment to have been then out of Poſſeſſion: If ſo, then was there either ſome other King, or what was equivalent, ſome Sovereign Power in actual Poſſeſſion and Exerciſe, or none. If the former, then was there a King *de facto*, ſo no Treaſon could be committed againſt him that was King *de jure* only: if the latter, then the Government was diſſolved, no Allegiance was due to any Perſons, and ſo no Offence could be properly Treaſon within the Statute.

But had the late Protector had the Name and Stile of a King, no Treaſon could have been committed againſt the King *de jure* only. Now God forbid that you ſhould give away my Life upon ſuch Niceties, becauſe an uſurping Protector was not clothed with the Title as well as Power of a King. The Protector or any Uſurper's taking or not taking the Title of a King, in caſe he have the Power, cannot alter the State of my ſuppoſed Crime. You ought not to be biaſſed by popular Reports concerning me. 'Tis eaſier to be innocent, than ſo reported: the one is in our own power, not the other.

Fifthly,

Fifthly, *Concerning the Evidence.*

1. No Allegation was directly proved by two positive lawful Witnesses, as in this Case it ought to be.

2. One of the Witnesses for the King confessed in open Court, That to his knowledge my Hand had been counterfeited, to my Prejudice and Damage, in great Sums of Money; yet Orders pretended to be signed by me, (wherein my Hand may as well be counterfeited) are taken as Evidence against me.

3. The Issue of the whole Cause depended on the Solution of some difficult Questions of so high a Nature, and great Importance, as could not safely be determined but in the high Court of Parliament: As,

1. *Whether the Long Parliament called in* November 1640, *were dissolved by the late King's Death?*

2. *Whether the successive remaining Powers that exercised the Royal Supreme Authority from* 1640, *to the Restoration of his now Majesty, were not within the true Sense and Meaning of* 25 Edw. III. *and* 11 Hen. VII?

As to other pertinent Queries, thou mayest see them, Reader, in other parts of this Tryal.

That which remains as an *Appendix to this Bill of Exceptions*, is to lay before thee the Grounds which plainly shew that there was a downright Conspiracy in Sir *Henry Vane*'s Tenants and others, to prosecute him for Life and Estate, under Colour and Pretence of Justice.

1. Presently after I was committed to the Tower for High Treason, and made a close Prisoner, Mr. *O-Neale*, Sir *William Darcy* and Dr. *Cradock* obtained an Order from the King to seize and take into their Possession all the Estates of such Persons that were already, or should be forfeited to his Majesty.

Hereupon the said Mr. *O-Neale* and Sir *William Darcy* appointed some under them, in the Bishoprick of *Durham*, (by name, *Thomas Bowes* Esq; now deceased, and Captain *William Darcy*) to join with the said Dr. *Cradock*, to put in execution the said Warrant, as their Deputies; who thereupon went to *Raby-Castle*, and demanded the Rent-Books of *Thomas Mowbray* my Steward, offering him his Place under them, which he refused.

Contrary to this Proceeding, Sir *Edward Coke* expresly declares, 'That before Indictment, the 'Goods or other things of any Offender, cannot 'be searched, inventoried, or in any sort seized; 'nor after Indictment, seized, moved or taken a-'way before Conviction or Attainder, *Instit. part* '3. *chap.* 133. concerning the Seizure of Goods, *&c.* 'for Offences, *&c.* before Conviction.'

2. At the Instance and Prosecution of my Tenants and others, an Order was made by the House of Commons (not of the Lords) requiring the Tenants of such Persons as were excepted out of the *General Pardon*, to detain their Rents in their own Hands. By Pretence of this Order, (though that Parliament that made it, were dissolved) the Tenants refused to pay their respective Rents as they grew due, contrary to all Law and Equity; and joined together in open Defiance and Conspiracy against their Landlord.

3. The said Tenants (when legally prosecuted in his Majesty's Courts at *Westminster*, for the Recovery of the said Rents out of their Hands) did petition the late House of Commons to put a stop to such legal Prosecution and Suits, which Motion of theirs, put the House into a great Heat and Violence against me; insomuch as that they had almost passed a Vote to sequester all my Estate, though unheard or unconvicted.

4. *William Watson* of *Cock-field*, and other of the said Tenants, have continued in *London* to carry on this Conspiracy against me; by whose means, with others, the King hath been importuned to send for Men from the Isle of *Scylly*, in order to this Tryal.

5. By common Fame (which at least affords a strong Presumption) my Goods and Estate have been long begg'd by several Persons, and granted: whereas the begging of the Goods and Estate of any Delinquent, accused or indicted of Treason, before he be convicted and attainted, is utterly unlawful; because till then nothing is forfeited to the King, and so not his to dispose of; as Sir *Edward Coke* shews in the fore-mentioned Chapter about the Seizure of Goods, *&c.*

6. I am credibly informed, that about *December* last a certain Captain came from the Duke of *Albemarle* to Captain *Linn*, with threatning Language, that if he would not confess things against Sir *Henry Vane*, he should be fetched up before the Council, and made to do it. *Linn* answered, He knew nothing against Sir *Henry Vane*, nor had any Orders from him, but from the Parliament and Council.

The same Captain came again, about a fortnight after, from the Duke of *Albemarle*, with a parcel of fine Words, That if he the said *Linn* would testify, That Sir *Henry Vane* was in the Head of his Regiment, and that he received Orders from him, the Duke of *Albemarle* would gratify him with any Civility he should desire *Linn* replied, he knew no Regiment Sir *Henry Vane* had; but that it was the Parliament's and Council of State's Regiment. The same Captain came again to him from the Duke of *Albemarle*, and told him, the Duke desired him to testify Sir *Henry Vane*'s being in the Head of his Regiment, and that he received Orders from him to fight Sir *George Booth*. *Linn* replied, He knew no such things. The Captain told him, as from the Duke, he should have any Place or Office in the Court: Be not afraid to speak, said he, I warrant you we shall hang Sir *Henry Vane*, for he is a Rogue.

7. I am credibly informed, That one of the Grand Jury declared, That after the Bill of Indictment against me was brought in, some from the King's Counsel came to desire them, they would please to come into the inward Court of Wards: Upon which, one of the Jury said, They were there to judge of Matters brought before them, and ought not to go in thither; but if the Counsel had any thing to say, they ought to come to them. This was seconded by some; others said, They were the King's Counsel, and it was but Matter of Civility to grant them their Request. Whereupon they went into the inward Court of Wards, where the King's Counsel were, to wit, Attorney-General *Palmer*, Sollicitor-General *Finch*, Serjeant *Glynne* and Serjeant *Keeling*. After a while they caused all to withdraw but the Jury. Then the Clerk read the Indictment

in the uſual Form for levying War from 1659. After it was read, one of the Counſel told them, It was a Bill of High Treaſon againſt his Majeſty, and they were to conſider of it according to their Evidence. Then they proceeded to examine their Witneſſes.

Jefford ſaid, Sir *Henry Vane* offered him a Commiſſion to go againſt Sir *George Booth*; which, ſaid Serjeant *Keeling*, was to go againſt the King.

Wright being examined, whether he ſaw Sir *Henry Vane* in the Council, ſaid, Yes. The Attorney-General replied, That if he was amongſt them, they might find the Bill upon that.

Upon this the Jury withdrew, and were by themſelves. Then Sir *John Cropley*, the Foreman, ſaid, *We muſt paſs this Bill*: at which all the Jury were ſilent. At laſt, one ſtood up and ſaid; 'This Bill 'contains Matter of Fact, and Matter of Law. 'Some of this Jury, to my Knowledge, were ne-'ver of any Jury before, as well as I, therefore 'ignorant of the Law, (in ſo difficult and unuſual 'a Point as this is) and conſequently could not 'give in their Verdict, as to Law, but only Fact.' Several others of the Jury ſeconded him in this; and proteſted againſt giving in their Verdict, as to Matter of Law: Notwithſtanding all which, the Bill was carried up to the King's-Bench.

8. On the Day of my Arraignment, an eminent Perſon was heard to ſay, I had forfeited my Head, by what I ſaid that day, before ever I came to my Defence: what that ſhould be, I know not, except my ſaying in open Court, *Sovereign Power of Parliament*, which the Attorney-General writ down, after he had promiſed, at my Requeſt, no Exceptions ſhould be taken at words. And whole Volumes of Lawyers Books paſs up and down the Nation with that Title, *Sovereign Power of Parliaments*.

9. Six moderate Men that were like to conſider of what they did, before they would throw away my Life, were ſummoned to be of my Petty-Jury; which the King's Counſel hearing, writ a Letter to one of the Sheriffs not to ſummon them: And a new Liſt was made the Night immediately before the Day of Verdict, on purpoſe that the Priſoner might not have any Knowledge of them, till preſented to his View and Choice in *Weſtminſter-Hall*. Yet one of the Forty-eight of this Liſt, (who ſaid, He would have ſtarv'd himſelf before he would have found Sir *Henry Vane* guilty of Treaſon) was never called, though he walked in the Hall all the while. And in that Hurry of thoſe that compaſſed him about, he being alone, ſtripp'd of all Aſſiſtance, Sir *William Roberts*, Foreman, and Sir *Chriſtopher Abdy*, were ſworn by the Court, before I was aware; ſo my challenging them, might ſeem a perſonal Diſobliging, and Exaſperation of them againſt me, after they were ſworn and fixed.

The Sollicitor alſo had a long Whiſper with the Foreman of the Jury in the Court, before they went to Verdict, telling him, *The Priſoner muſt be ſacrificed for the Nation*, &c.

Suddenly after which, I am here called to receive my Sentence.

10. After the Day of my Tryal, the Judges went to *Hampton-Court*.

11. None were more forward to abſolve the King from his Grant about my Life, than they that had appeared moſt forward in promoting the Bill by way of Petition to the King for it. This Grant being upon Record, may ſeem to have the ſame Validity that other Acts of Parliament have; which are ſtill but the two Houſes Petition to the King for his Aſſent to the Bills by them drawn up and paſſed. They uſed this as a Means to induce the King to exempt me from all Benefit of the Act of Indemnity and Oblivion; and then at laſt perſuade and abſolve him from making good this Grant alſo, thereby depriving me of all viſible Relief for my Life. I conceived my Life as ſecure by that Grant, as others Lives or Eſtates are by the Act of Indemnity it ſelf; for what is that, but the Bill of both Houſes, with the King's Aſſent to it, upon their Petition?

The Petition *of both Houſes of Parliament to the King's moſt Excellent Majeſty, on the behalf of Sir* Henry Vane, *and Colonel* John Lambert, *after they left them uncapable of having any Benefit of the Act of Indemnity.*

To the King's moſt Excellent Majeſty;

The humble Petition of the Lords *and* Commons *aſſembled in Parliament,*

Sheweth,

'THAT your Majeſty having declared your 'gracious Pleaſure to proceed only againſt 'the immediate Murderers of your Royal Father: 'We your Majeſty's moſt humble Subjects, the 'Lords and Commons aſſembled, not finding Sir '*Henry Vane* nor Col. *Lambert* to be of that Number, 'are humble Suitors to Your Majeſty, that if they 'ſhall be attainted, That Execution, as to their 'Lives, may be remitted.

And as in Duty bound, &c.

The ſaid Petition being read, it was agreed to, and ordered to be preſented to his Majeſty by the Lord Chancellor.

The Lord Chancellor reported, That he had preſented the Petition of both Houſes to the King's Majeſty, concerning Sir *Henry Vane* and Col. *Lambert*, and his Majeſty grants the Deſires in the ſaid Petition.

John Brown, Cler. Parliamentorum.

The Tryal of JOHN JAMES, *the Fourteenth Day of* November, 14 Car. II. 1662. *Done by his Friends.*

BEING carried in a Coach to *Weſtminſter* by the Under-Sheriff and brought to the *King's-Bench* Bar, Chief-Juſtice *Forſter*, Juſtice *Mallet*, Juſtice *Twiſden*, and Juſtice *Windham*, being Judges upon the Bench; he was commanded, according to Cuſtom, to hold up his Hand: and he did ſo, and told them he did hold up his Hand to ſignify he was there to anſwer to what ſhould be laid to his Charge. But he held up his Hand with his Glove on, which ſome were offended at, and told him he muſt pull it off. *John James* anſwered, it was all one to him, to hold up his Hand with it off or on; and then he did pull off his Glove, and held up his Hand, and then his Charge was read.

The Subſtance of the Indictment.

HE ſtood indicted by the Name of *John James*:

'1. For compaſſing and imagining the Death of 'the King.

'2. For endeavouring to levy War againſt the 'King.

'3. For endeavouring a Change of the Govern-'ment. And in this his compaſſing, imagining, 'and contriving the King's Death, he had ma-'liciouſly, traitorouſly, and by Inſtigation of the 'Devil, not having the Fear of God before his 'Eyes, declared theſe Words. (1.) That the King 'was a Bloody Tyrant, a Blood-ſucker, and Blood-'thirſty Man, and his Nobles the ſame. (2.) That 'the King and his Nobles had ſhed the Blood of 'the Saints at *Charing-Croſs*, and the Blood of the 'Covenanters in *Scotland*. (3.) That the King 'was brought in to this end, to fill up the Meaſure 'of his Iniquity; and that the King's Cup of Ini-'quity had filled more within this laſt Year than 'in many Years before. (4.) That he did bemoan 'that they had not improved their Opportunity 'when they had Power in their Hands; and that 'he did ſay it would not be long before they had 'Power again, and then they would improve it 'better; and that he did bewail the Apoſtacy of 'the People of God, and ſay, They had not 'fought the Lord's Battels thoroughly; but when 'the Lord ſhould give Power to them again, and 'give his Work into their Hands, they would do 'it better. (5.) That the Death and Deſtruction 'of the King drew very near.'

The Indictment being read, the Clerk called upon *John James* to anſwer to his Charge, and plead Guilty, or Not guilty.

John James deſired, before they did proceed, that he might have a Copy of his Charge, and Time to conſider of it.

The Lord Chief-Juſtice anſwered, That a Copy of his Charge was not allowed in Caſes of High Treaſon; and he told him he muſt plead Guilty, or Not guilty, or elſe a worſe Thing would follow.

John James anſwered, He humbly conceived it was his Privilege as an *Engliſhman*; and till he had that, he was not free to plead one way or other. He alledged that Chief Juſtice *Coke* had declared it good Law; and that Judge *Heath* had declared it alſo good Law; and that he did at *Oxford* give *John Lilburne* a Copy of his Charge, being arraigned there for High Treaſon.

Then one of the King's Counſel told him, That the Law would not grant him a Copy of his Charge in caſe of Felony, much leſs in caſe of High Treaſon; and told him, If he would not plead, they would proceed againſt him as a Perſon contemning the Court, and look upon him a Mute.

John James made anſwer, Seeing he was overruled, he pleaded Not guilty, neither in Form nor Matter.

The Clerk asked him how he would be tried?

He anſwered, By the Law of God. At which the Lawyers gave a great Hiſs.

And it was anſwered thus, or to this effect; It was not a Place or Time to talk of the Laws of God. But *John James* was willing to urge it again, That ſeeing the Judge did ſit there as Judge of the Law, and of God's Law, as they thought, it was meet they ſhould give him Liberty to appeal to God's Law.

Whereupon the Judge told him he muſt proceed according to their Law, or elſe a worſe Thing would follow; and ſay, By God and the Country.

John James anſwered, He was ignorant of their Law, and knew not what Snare there might be in it, never having been at any Bar before; and therefore deſired him he would open the Terms, what they meant by *God*, and what they meant by the *Country*.

The Judge anſwered, God forbid but he ſhould open the Terms: By *God* (ſays he) is meant your firſt Demand, to wit, the Law of God.

John James asked him, Why then his firſt Demand was not granted?

The Judge ſaid, God forbid but that you ſhould ſo be tried; but you muſt uſe the Form of the Court.

John James ſaid, If it were ſo, he was ſatisfied.

And by the *Country*, (ſaith the Judge) twelve *Middleſex* Men, Men of Truth, that would judge impartially between the King and him.

John James ſaid, If that be the Meaning, he put himſelf upon the Tryal of God and the Country.

When this was done, *John James* was ſent by a *Habeas Corpus* to the *King's-Bench* Priſon in *Southwark*, and there continued till the 19th Day of *November*,

vember, and then was brought again to the *King's-Bench* Bar at *Weſtminſter*, to his further Tryal.

In this Interval betwixt the Commitment and Tryal, upon the firſt Day of the Week, being the 18th of *November*, *John James* received a Letter from a Perſon of Note, to advertiſe him that there were ſuch a Jury of Life and Death impannelled to proceed upon him, as had not been for many Years before, being all pick'd Men, and moſt of them Knights and Gentlemen; and that if he did not except againſt them, or moſt of the chief of them, he was a dead Man.

The ſecond Day's Tryal.

UPON the 19th of *November* he appeared the ſecond Time at the *King's-Bench* Bar, according to the Order of the Court, where were preſent,

The Judges;

Sir *Robert Forſter* Chief Juſtice.
Sir —— *Mallet* Juſtice.
Sir *Thomas Twiſden* Juſtice.
Sir *Wadham Windham* Juſtice.

Sir *Jeoffry Palmer* Attorney-General.
Sir *Heneage Finch* Sollicitor-General.

The King's Counſel;

Serjeant *Maynard*. Serjeant *Wilde*.
Serjeant *Glynne*. Serjeant *Keeling*.

The Witneſſes Names appearing in the Court;

Alderman *Chard*. *John Tipler*. *Bernard Osburn*.
The fourth Witneſs's Name not yet known.

The Names of the Jury.

Charles Pitfield.	*Humphry Higgens*.
Ralph Halſaye.	*Thomas Snow*.
Thomas Egleſield.	*William Cole*.
Daniel Charlwood.	*Thomas Upnel*.
Ambroſe Hanburough.	*Gilbert Meſe*.
Anthony Hall.	*William Blunt*.

The Witneſſes and Jury being called into the Court, *John James* having excepted againſt divers Knights and Gentlemen pick'd for his Jury, and the afore-named ſtanding for his Jury, the Clerk bid *John James* hold up his Hand as before. He did ſo; and again told them it was to ſignify he was there; (and then they laughed) and the Judge ſaid, *O ho, are you come?*

Afterwards, the Indictment being read again, the Clerk proceeded to tell the Court for what he was indicted and arraigned; and that he pleaded Not guilty, and had put himſelf upon God and the Country for Tryal; and therefore told the Jury they were to judge between the King and him in that Matter.

Serjeant Keeling's *Speech.*

Hereupon Serjeant *Keeling*, one of the King's Counſel, ſtepp'd up, and ſaid, My Lord, and you Gentlemen of the Jury, *John James*, Priſoner at the Bar, ſtands indicted for High Treaſon; for that he, with other diſaffected Perſons, Enemies unto the Government of the King, being aſſembled at *Bulſtake-Alley* in *White-Chappel*, not having God before his Eyes, but being moved by the Inſtigation of the Devil, ſpake and publiſhed theſe Words, *viz. That King* Charles *was a Blood-thirſty Tyrannical King; and that the Nobles of* England *were Blood-thirſty and Tyrannical Men; and that the Cup of their Iniquity was begun to be filled by the ſhedding of the Blood of the Covenanters in* Scotland; *and that it was almoſt filled by the ſhedding of the Blood of the Saints this time Twelve-month; and that the Time of their Deſtruction was near at hand: And did condole the Neglect of the Opportunity and Price they had put into their hands; and that if ever the like Occaſion were adminiſtred unto them again, they would fight the Lord's Battel more effectually than they had done before.* And (ſaid he) if we prove that theſe Words were ſpoken by *John James*, you are to find him guilty of High Treaſon; (and ſo he ſat down.) Then ſtood up Sir *Jeoffry Palmer*, Attorney-General.

The Subſtance of Sir Jeoffry Palmer's *Speech.*

Firſt, he ſpake of the Antiquity of Monarchy, and did fully aſſert the preſent Government. Then, by way of Reflection, he reviewed the twenty Years Troubles that had paſſed over our Heads in theſe Nations; and that the Veſſel of this Commonwealth had been beaten and blown upon the Waves and Billows of a tempeſtuous raging Sea, being almoſt broken to pieces, and like utterly to be loſt, unleſs God by a miraculous Providence had reſtored his Majeſty *Charles* the Second to his Crown and Dignity; for which (he ſaid) ever bleſſed be his Name. Then he obſerved that the beginning of our Sorrows was by the ſeditious preaching of ſome diſcontented Miniſters in this Nation, and about this City. Then he told them how much Care the Law had taken for the Preſervation of his Majeſty's Perſon and Government; and that it was as much Treaſon in the Heart, as in the Act, *Mens rea facit reum.* Then he did deſcant upon the Words of the Indictment, and opened them, and told the Jury, that according to the Law of *England* they were Treaſon, for which he ought to die: and then ſat down.

Then the Court called *John Tipler*, the firſt Witneſs, the Judge bidding him look upon the Priſoner Serjeant *Glynne* asked him, what he could ſay concerning the Words ſpoken by *John James?* Who ſaid (at the Time the Indictment alledged, which was on Saturday) he was at a Houſe near adjoining unto the Place where they uſually did meet; and that about Two of the clock in the Afternoon he ſtood at a Window in a Yard, next adjoining to the Meeting-place, and ſaw *John James*, the Perſon at the Bar, preaching, (as they call it, ſaid he) and repeated the Words that were opened by Serjeant *Keeling* exactly; only further, That he did wonderfully adore *Oliver Cromwell*, ſaying, *That every Finger of his was a Champion; and that when they had Power again, they ſhould do the Work more thoroughly.* And ſaid, That thereupon he told it preſently to a Juſtice, and afterwards to a Neighbour of his, who was in an extreme Fright and Horror, and ſo they both went together to Alderman *Chard* Juſtice, who then came immediately, and ſurprized and ſeized upon them; the Women only they let go, but the Men the Juſtice did commit to Priſon that would not take the Oath of Allegiance: That they ſeized *John James* in the Pulpit, where he was preaching when they came in. The Court asked him, what

Time

Time of the Day it was? And he ſaid it was about Two of the clock in the Afternoon. And they asked him where he ſtood? And he ſaid he ſtood directly oppoſite in a Window, in a Yard next adjoining to the Meeting-place; and that he could eaſily diſcern him. Demanding of him ſome other Queſtions, that might induce the Jury to believe the Evidence given was neither with Thought of Malice to the Priſoner, nor Hope of Reward; then the Court gave the Priſoner leave to ask *Tipler* what Queſtions he pleaſed.

The Exception that *John James* took unto the Witneſs, was, That it was a hard thing for him to ſwear that he was the Perſon that was then preaching, he being without the Window, which might intercept his Sight. To which he anſwered, That he knew him very well; and that he was not deceived.

Another Witneſs was Alderman *Chard*, the Juſtice; who ſaid, He could ſay nothing as to the Words that were ſpoken; but ſo ſoon as *John Tipler* came to him, and informed him of the Words ſpoken by *John James*; he enquired the Place where it was, and immediately he and his Clerk and the Conſtable haſted thither, where they found *John James* preaching, and about thirty or forty aſſembled there to hear him. And ſaid, He there ſeized *John James*, and pulled him out of the Pulpit where he was preaching; and all thoſe Men that would not take the Oath of Allegiance, he committed, but the Women he let go. So the Court asked him, if it were at the Time alledged in the Indictment? And he ſaid, Yea.

Another Witneſs was a *Yorkſhire* Man, whoſe Name we know not: Who coming into the Court, was commanded to look upon the Priſoner at the Bar, and declare what he heard him ſay. Who anſwered, He was at *Tipler*'s Houſe, and heard very loud Speaking, which cauſed him to come out, and hearken, and he heard very dangerous Words. The Judge asked him, what thoſe dangerous Words were? He ſaid, He could remember no more than this, that one ſaid, *That the Lord had a great Work to do for his People*; and *that they were the People that muſt do it.* The Judge asked him if he heard nothing concerning the King's Cup of Iniquity? To which he anſwered, No. And they bid him look upon the Priſoner at the Bar, and asked if that were the Man? He anſwered, He could not ſay that he was the Man.

Whereupon *John James* deſired the Judge to ask him, if he was the Man? And he turned his Face towards *John James*, as if he directed his Speech to him, and ſaid, He could not ſay he was the Man.

Another was *Bernard Osburn*, whom the Judge commanded to look upon the Priſoner at the Bar, and tell the Court what he heard him ſay concerning the King, and the Powers that were now in being.

Hereupon *John James* told *Osburn*, He hoped he was a Man of ſome Conſcience and Integrity, and that he feared wrongfully to take away the Life of a Man; and how great a Sin it was, eſpecially to ſhed the Blood of them that feared the Lord.

Then the Court asked the Witneſs, where he was when the Words were ſpoken? He ſaid he was in the Meeting-place: And he ſaid he heard *John James* ſay, *That King* Charles *was a blood-thirſty tyrannical King; and that the Nobles of* England *were blood-thirſty: That he had drank pretty deep of the Blood of the Saints already, in that he had ſhed their Blood twelve Months agone at* Charing-Croſs, *and the Blood of the Covenanters in* Scotland; *and that God had brought him in to that end, to fill up the Meaſure of his Iniquity, and he had filled it up more in twelve Months than in many Years before.* They asked him if he heard nothing concerning the Lord's Battels? And he told them (as though he had forgot it) that he heard him ſay, *That they ſhould have Power in their hands; and that they ſhould fight the Lord's Battels more thoroughly.* And they asked him if he heard any thing concerning the Ruin of the King? He anſwered, Yes, he heard him ſay, *That the Ruin of the King was very near.* Then they asked him if thoſe were the Words? He ſaid, He could not ſay they were the ſame Words, but to the ſame Subſtance.

Having done this, the Judge told *John James* he had Liberty to ſpeak for himſelf.

Whereupon he deſired the Favour of the Court to thoſe Witneſſes he had attending the Court, in reſpect of *Bernard Osburn*. Whereupon four Witneſſes were called into the Court, that gave Evidence that this *Bernard Osburn* confeſſed to them he had ſworn againſt *John James* he knew not what. One of them declared further and more largely, (that was near Marriage to *Bernard Osburn*) That he had told her *he did not only ſwear he knew not what, but that he was affrighted into what he ſwore.* He did ſay, That what he ſwore to, was firſt ſworn to by another Man, and then brought to him in Writing. The former Witneſſes declared, That moreover they deſired to know of *Bernard* what he had ſworn againſt *John James*: And he told them, *He could not tell except he heard the Words repeated.* (Though *Bernard Osburn* denied in the Face of the Court that ever he ſaid any ſuch Things.) *John James* then told the Court, he had ſeveral Witneſſes attending the Court, that were free, if they pleaſed, to prove that the Words charged upon him were not ſpoken. The Judge told him he might call in as many Witneſſes as he would. Whereupon *John James* called in four Witneſſes more; all which did teſtify in the Face of the Court, That the Words charged upon him were not ſpoken. And the Court did, as before, give them the hearing.

Then the Judge bid the Jury take notice what had been ſpoke by the King's Witneſſes and his. And then the Court told *John James* that now he had free leave to ſpeak for himſelf, as much and as long as he pleaſed, if he had called all his Witneſſes; and told him, That when the King's Counſel had concluded, he could ſpeak no more; but now he might ſay as much as he pleaſed. Then he ſpake with much Liberty and Freedom, the Court and all preſent giving Attention to what he ſaid, which was to this purpoſe:

John James's *Defenſive Speech.*

HE ſaid he had ſomewhat to ſay, firſt, as to the Form of the Charge, *viz. That he had maliciouſly, wickedly, traitorouſly, and by the Inſtigation of the Devil, not having the Fear of God before his Eyes, &c.* He told them, That in the Fear of God he did deny it; and told them he had not a malicious Thought againſt the Perſon of the King, but deſired the Salvation of his Soul, as of his own; that he had not dealt maliciouſly againſt the King, neither was inſtigated thereto by the Devil; and that by the Goodneſs of the Lord, what he had done, he had done it in the Fear of God. Neither could he be judged, as he told them, as a malicious Perſon againſt the King, in regard he never had any publick Imployment in the Nation, either againſt this

this King in being, or his Father, being a Man of no account in the World, having not worn a Sword this eleven Years; and therefore desired they would in their Understanding clear him from this Charge, as a Person malicious against the King. And further he said, He was a Person that could not be supposed to have in his Eye any thing of Advantage in the World in so acting against the King. And as to the Matter of the Charge, whereas it runs, *That I* John James *had compassed, imagined, and contrived the Death of the King*; *John James* told the Court he did not well understand what they meant by *compassing the Death of the King*, as compassing and imagining is ordinarily taken: He had not, neither was he capable of endeavouring the King's Death, nor the Change of the Government; being a mean inconsiderable Person, a Man that had lived upon his Calling. And as to those Particulars lastly charged upon him, he said he was not guilty of them: He did not say the King was a Bloody Tyrant, a Blood-sucker, a Blood-thirsty Man; that in the Fear of the Lord he did utterly deny; neither did he say any thing tending thereto. He further said, He did not say the King had shed the Blood of the Saints at *Charing-Cross this time Twelve-month*: He did not say, They, when they had power in their hands, would improve it more thoroughly for God; and that we did not fight the Lord's Battels thoroughly. And whereas he was charged for contending for *Cromwell*, and that Power, (that God had so eminently wiped off from the Stage) he said he did declare against that Power, and was averse to it, and did suffer under it in his measure; and told them he did not stand there as *Cromwell*'s Advocate. Then did he endeavour to speak more particularly to the Jury, letting them know that in a secondary way his Life was in their hands; and it was, in the Eye of Reason, in their power to save or destroy him, and wished them to have a care of shedding innocent Blood: and told them, Because of innocent Blood the Land did mourn, to wit, for the Blood shed in Queen *Mary*'s Days, and King *Henry* the Eighth's; and if there were any innocent Blood shed since, he desired no more may be added to it. He told them he did desire they would act conscientiously, and not be over-awed by any Man. He told them they were his Judges in Law of Matter of Fact, and desired them to be tender of his Blood. He said, He should say very little more for himself, but one Word for the Lord, and therefore desired he might have his Fear before him; and although he was the poorest and meanest for such a Work, yet he was called forth, and did declare, *That the Lord Jesus Christ was King of Nations as well as King of Saints; and that the Government of Kingdoms did of Right belong to him.* And he quoted *Rev.* 11. 15. *And the seventh Angel sounded, and there were great Voices in Heaven, saying, The Kingdoms of this World are become the Kingdoms of our Lord, and of his Christ, and he shall reign for ever and ever.*

And when he had so spoke, the Lord Chief Justice *Forster* interrupted him, saying, *Hold, Sirrah; Sirrah, you think you are in the Conventicle in* White-Chappel, *preaching.* And thereupon commanded the Clerk to read the Act of Parliament, entitled, *An Act for the Preservation of the King's Person and Government*; wherein was expres'd to this purpose, *That whosoever shall contrive or endeavour to levy War against the King or Government*, &c. *or endeavour to compass or contrive the Death of the King, his Wound or Maim; or that by Printing, Preaching, Writing, or other Speaking, endeavour the same; then every such Person or Persons shall be looked upon as Traytors to the King, and shall be proceeded against as in the Case of High Treason*, &c. Which when the Clerk had read,

John James desired Liberty to speak, desiring the Court to produce a Statute that would reach his Case, for that did not, but the Case of such as had endeavoured to levy War against the King, or had compassed or contrived his Death or Maim: But he had not contrived or compassed the Death of the King, or the Change of the Government within or without his Dominions; and therefore desired a Statute might be produced that might reach his Case, for he conceived that was short.

The Judge told him it fully reached his Case.

And one of the King's Counsel made answer, That it reached him in every Case.

And another of the Counsel said, Treason was the first Conception and the first evil Thought in the Heart; and Treason was made visible by Preaching, or Printing, or Speaking, *&c.* which was a Manifestation of the Things that were in the Heart.

This being spoken, the Judge asked him if he had any more to say for himself; and told him, if he did not speak now, the King's Counsel would enter upon their Plea, and then he must speak no more for himself.

He told them he had one Word to the Jury, which he desired to lay before them: It was a Scripture written in the 29th of *Isaiah*, *ver.* 21. *That make a Man an Offender for a Word, and lay a Snare for him that reproveth in the Gate.*

Whereupon the Judge told him it was not to be borne; for he did inveigh against the Parliament.

Though he said, He had not the least Thought of the Parliament; but he spake it to let the Jury know, that if he were guilty of those Words, there was no Law of God to take away a Man's Life for Words.

Hereupon the King's Counsel pleaded severally one after another.

First Serjeant *Glynne* stood up, and said, Brother *Maynard*, shall we not answer something to what the Prisoner hath objected? So *Glynne* began.

The Substance of Serjeant Glynne's *Speech.*

He told the Jury, That if they proved the Words alledged in the Indictment substantially, though it were not adequate thereunto in every Tittle and *Iota*, yet it was sufficient to satisfy their Consciences, and to find the Prisoner guilty of High Treason.

First, He began with the Exception taken unto the first Witness, That he stood without the Window, and therefore could not easily discern the Visage and Physiognomy of the Prisoner that was there a preaching. He told them he had sworn expresly it was the same Person; and that as he came into the Yard he was there a preaching, and as he went away to the Justice of Peace he saw him: and the Justice did seize the same Person, and find him preaching when he came; and therefore it must be him, and no other. And told them, That the Witness could have no end in discovering of it; for if he had kept Silence, he had consented, and so been guilty of Misprision of Treason.

Then said he, As to the Exception taken against the fourth Witness, That he said he swore he knew not what, and could not tell what he had sworn to:

He said, This was no cause to reject this Evidence; for peradventure he could not well call to

mind the ſeveral words that were ſpoken; or peradventure he would not tell them, becauſe he might ſuppoſe that they were ſent to enſnare him in his Evidence, that they might make it void.

Then as to the Witneſſes that were brought on the part of the Priſoner, to teſtify that no ſuch words were ſpoken; he ſaid, As to that he muſt refer it unto the Conſciences of the Jury. But he ſaid, he conceived that it was altogether immaterial; for the queſtion is not, what he did not ſay, but what he did ſay. They ſay that he did not ſay theſe words, but they do not ſay what he did.

Then ſtept up Serjeant *Maynard*, and ſaid, That as to the Evidence of thoſe three Perſons, his Brother *Glynne* had ſpoken ſo much, and ſo well, that he could add no more, or very little: And urged the ſame things that Serjeant *Glynne* did. And further ſaid, That the Priſoner ſpoke much of his Integrity and Innocency; I believe (ſaith he) Gentlemen of the Jury, never was there any Offender, or the vileſt Miſcreant in the world, that would ever have received the Reward of his Doings, if his own Excuſe and Proteſtation might have ſaved him.

Then he ſaid, As for the Blood of the Saints that was ſpilt this time twelvemonth, he ſaid they were ſad Saints, ſuch Saints (ſaid he) as would have cut all our throats.

Then *John James* deſired to be heard one word, that that Gentleman had untruly alledged againſt him; but the Court refuſed to allow him the liberty.

Then ſtood up Sir *Heneage Finch*, Sollicitor-General.

The Subſtance of Sir Heneage Finch's *Speech.*

My Lord, and you Gentlemen of the Jury, be it known unto you, and to all that hear me this day, that the Priſoner at the Bar is not arraigned for his Conſcience or Religion, but for Treaſon and Rebellion, for horrid Treaſon and Rebellion, for ſpurning againſt the meekeſt King in the Earth. His Majeſty, to the great and inexpreſſible Grief of his Heart, did not think there was a Perſon ſo unworthy left within his Dominions, that would have lifted up the heel againſt him, after twenty Years rejecting of his Majeſty and his Royal Father; and having alſo conferred this Grace upon us, to reduce us to a State of Innocency, he could not think there was any Gall left in our Hearts, or any Guile to be found in our Mouths.

He then preſs'd his Treaſon upon the Conſciences of the Jury, who, as he told them, would affright their Conſciences with his Innocency. And told them, how that the Puniſhment of this Offender might affright the like Malefactors for the future: And ſaid, that there were a People, that under the pretence of Religion had the Liberty of Conſcience allow'd by the King for a time, till they were better informed; but this Man, and thoſe of his mind, are none of thoſe Men: but they endeavour not only to deſtroy the Monarch, but Monarchy itſelf; not only in *England*, but all the World over. This is the Principle that they are of, therefore I deſire the Jury to take notice, what may be their Duty upon that account. And that when the Priſoner was preaching that pernicious Sermon, he preſs'd it with the Peril of their Salvation, and now would affright you upon the account of innocent Blood: but you ſhall find, if his Blood be rightly and ſwiftly purſued, it may be a means of preventing the ſhedding of the Blood of thouſands, for the time to come. And withal did deſire them to conſider further, That the great Trouble this Nation had undergone for theſe twenty Years laſt paſt, ſprung from Pulpits, Conventicles, and ſeditious Preaching; and therefore if theſe Cauſes were taken away, it might prevent ſuch evil Effects for the future. And ſaid, That as to the Evidence he had produced, it had been well ſpoke to by the two Serjeants that ſpoke laſt: And as to that Evidence by the Women, he ſaid they had no reaſon to tell what was ſaid by *John James*, for thereby they would make themſelves guilty of Miſpriſion of Treaſon; which is to be puniſhed with perpetual Impriſonment, Confiſcation of Goods, and the Loſs of the Profits of Lands during Life.

That's well obſerved, ſaid my Lord to the Sollicitor.

Then Judge *Forſter* endeavoured further to inform the Jury, and to incenſe them againſt his Principle, telling them, that he was of the ſame Spirit with thoſe that did endeavour heretofore to put all the Nation in a flame, and to ſet every one againſt each other; and ſaid, No Treaſon was comparable to that Treaſon that was covered with a Pretence of Religion.

This being done, and the Jury ready to go forth, *John James* deſired the Court to favour him with one word to the Jury.

They told him he had had a great deal of liberty, and time to ſpeak; but now he ſhould ſpeak no more.

Then *John James* reply'd, That if they would not ſuffer him to ſpeak to his Jury, they had as good have hanged him at *Bulſtake-Alley* Gate, before he came there, and not brought him thither to cover over the Matter with the Pretence of Law.

This being ſpoken, the Judge gave him a ſore Rebuke, and told him he was not to be Judge in the Caſe.

Then my Lord and the Judges laid their heads and conferred together, whereupon my Lord ſaid thus to the Jury, or to this effect; You have heard the Evidence, you are to find the Matter of Fact as it is laid before you, whereof you are the proper Judges, and I pray God direct you.

Then the King's Counſel and the Jury departed from the Bar; and at the Return of the Jury, being about a quarter of an hour, the Attorney and Sollicitor-General came back into the Court with them.

Whereupon the Cryer called them all by name, and the Clerk asked them if they were all agreed, and they anſwered, Yes.

Then the Clerk of the Crown commanded the Priſoner to hold up his Hand, and asked the Jury, How ſay you, is *John James*, who hath been arraign'd and try'd, guilty of the Treaſon alledged in the Indictment, or not guilty?

And the Foreman, which was *Charles Pitfield*, ſaid, Guilty according to the Indictment.

Then the Attorney-General pray'd Judgment for the King. To that the Court anſwered, Never the ſame day he is arraigned, but appoint what day the Priſoner ſhall be brought, and it ſhall be granted. Then the Attorney and Sollicitor conferred together, and the Attorney ſaid, On Friday next. Till which time he was remanded to the *King's-Bench* Priſon in *Southwark*.

His Wife's Application to the King, after her Husband was cast.

In the interval betwixt his Casting and Condemnation, upon the fourth Day of the Week in the Evening, his Wife, by Advice of some Friends, endeavoured to make address to the King, to acquaint him with her Husband's Innocency, and the Condition of those loose Persons who had falsly accused him; which she put in writing, lest she might either want an Opportunity, or not have Courage enough to speak to him. And with some difficulty at last she met with the King as he came out of the Park, going into the Gallery; where she presented him with the Paper, which on the back-side was endorsed, *The Humble Request of* Elizabeth James: acquainting him also by word who she was, to whom he held up his finger, and said, *Oh Mr.* James, *he is a sweet Gentleman!* But following him for some further Answer, the Door was shut against her; which was all she could obtain at that time. The next Morning she came again to the same place, where she had not long been, but the King came out of the Gallery to go into the Park, whom she follow'd down the stairs, imploring his Answer to her Request, who then replied, *That he was a Rogue, and should be hanged.* One of the Lords attending him, asked her of whom she spake; whereunto the King answered, *Of* John James, *that Rogue: he shall be hanged, yea he shall be hanged.* And so she came away, satisfied in her Conscience, that what she had done was but her Duty.

What passed the Third Day of his Tryal, Novemb. 22.

BEING this day brought to the Bar, according to former Order, the Clerk proceeded according to their manner, and told the Court, that *John James* had been arraigned and try'd, *&c.* and had committed himself to God and the Country for Tryal, and by the Country was found guilty of the Crimes and Treasons alledged against him in the Indictment. And then it was demanded of *John James*, what he had to say for himself why Sentence of Death should not be passed upon him according to the Law? To which *John James* answered, That he had not much to say, only two or three Scriptures he would leave with them. The first Scripture was *Jer.* 26. 14, 15. *As for me, do as seemeth good unto you; but know ye for certain, that if ye put me to death, you shall surely bring innocent Blood upon yourselves, and upon this City, and upon the Inhabitants thereof.*

The second Scripture was *Psal.* 116. 15. *Precious in the sight of the Lord is the Death of his Saints.* He also minded that good Word of the Lord, *He that toucheth the Lord's People, toucheth the Apple of his Eye.* He told them he had not more to say for himself, only one word for the Lord, and so he had done: *That Jesus Christ the Son of God was King of* England, Scotland, *and* Ireland, *and of all the Kingdoms of this World.* Which being spoken, they silenced him, and the Court proceeded to Sentence, and the Judge pronounced Sentence according to the Law, and said thus:

'*John James*, thou hast been here indicted, arraigned, and tryed as a false Traytor to his Majesty, his Crown and Dignity, and hast put thy self upon the Tryal of God and the Country, and the Country have found thee guilty; and therefore, *John James*, thou art to be carried from hence to Prison, and from thence to the Place of Execution, and there to be hanged by the Neck, and being yet alive, to be cut down, and thy Bowels to be taken out, (a Fire being prepared) and to be burnt before thy face; and thy Head to be sever'd from thy Body, and thy Body to be quartered, and thy Head and Body to be disposed according to the King's Pleasure.'

This being done, *John James* had only time to say, *Blessed be God; whom Man hath condemned, God hath justified.*

The Tryal of Thomas Tonge, George Phillips, Francis Stubbs, James Hind, John Sellers, *and* Nathaniel Gibbs, *at Justice-Hall in the* Old-Bailey, *London*, Decemb. 11. 1662. 14 Car. II.

THE Commission of *Oyer* and *Terminer* being read, and Proclamation made, the Grand Jury were sworn: whose Names are,

Arthur Jourdan,
John Freestone,
Thomas Fawson,
Thomas Coney,
George Compere,
Isaac Rutter,
Chr. Rigby,
Rowland Steed,
William Standen,
John Worth,
John Rigby,
Leonard Staples.

And several Witnesses being called, there appeared *William Hill*, *Edward Riggs*, ... *Tyler*, ... *Godolphin*, ... *Bonfoy*, and several others; who being all sworn, were directed up to the Grand Jury.

After some hours Examination of the Witnesses, and Consultation, the Grand Jury returned the Indictment *Billa Vera.*

Clerk of the Peace. You good Men of the City of *London*, summoned to appear here this day, to inquire between our Sovereign Lord the King and the

the Priſoners that are and ſhall be at the Bar, anſwer to your Names as you ſhall be called, every one at their firſt call, upon pain and peril that ſhall fall thereon. Good Men of the Ward of, &c.

Serjeant *Glynne*, Serjeant *Maynard*, his Majeſty's Serjeants at Law; Sir *Jeoffry Palmer*, Attorney-General; Sir *Heneage Finch*, his Majeſty's Sollicitor; Serjeant *Keeling*, his Majeſty's Serjeant; Sir *Edward Turner*; taking their Places in Court,

The Priſoners were commanded to be ſet to the Bar.

Clerk of the Peace. Thomas Tonge, hold up thy Hand; *George Phillips*, hold up thy Hand; *Francis Stubbs*, hold up thy Hand; *James Hind*, hold up thy Hand; *John Sellers*, hold up thy Hand; and *Nathaniel Gibbs*, hold up thy Hand.

Which they ſeverally doing, their Indictment was read, the Subſtance whereof is as followeth, *viz.*

'YOU the Priſoners that were laſt called to 'the Bar, ſtand indicted in *London* by the 'Names of *Thomas Tonge* late of *London* Diſtiller, '*George Phillips* late of *London* Yeoman, *Francis* 'Stubbs late of *London* Cheeſemonger, *James Hind* 'late of *London* Gunner, *John Sellers* late of *London* 'Compaſs-maker, and *Nathaniel Gibbs* late of *Lon*'don Felt-maker; for that you ſix, together with 'divers others, particularly in the Indictment men'tioned, and others not yet taken, as falſe Tray'tors to the Illuſtrious, Serene, and moſt Excellent 'Prince, *Charles* the Second, by the Grace of God, 'of *England*, *Scotland*, *France*, and *Ireland*, King, 'Defender of the Faith, &c. minding and with 'all their Force intending the Peace and Tranquil'lity of this Kingdom of *England* to diſturb, and 'our ſaid Sovereign Lord the King to Death and 'final Deſtruction to bring and put, the 31ſt Day 'of *October* in the fourteenth Year of the Reign of 'our ſaid Sovereign Lord King *Charles* the Second, 'traitorouſly did compaſs, imagine and intend the 'killing of our ſaid Sovereign Lord the King, and 'the antient Government of this Kingdom of '*England* to change;' [as in the Indictment more particularly was mentioned.]

What ſayeſt thou, *Thomas Tonge*, art thou guilty of this High Treaſon in Manner and Form as thou ſtandeſt indicted, or not guilty?

Tonge. Not guilty.

Clerk. How wilt thou be try'd?

Tonge. By God and my Country.

Clerk. What ſayeſt thou, *George Phillips*, art thou guilty? &c.

Phillips. I am guilty in hearing and not diſcovering of it.

Clerk. Art thou guilty of this High Treaſon whereof thou ſtandeſt indicted?

Phillips. I am guilty, but not in Manner and Form as I ſtand indicted; I have heard the Words, as I formerly confeſſed to Sir *Richard Brown*: Not Guilty, as to the Manner and Form.

Clerk. How wilt thou be try'd?

Phillips. By God and my Country.

Clerk. How ſayeſt thou, *Francis Stubbs*, art thou guilty? &c.

Stubbs. Not guilty.

Clerk. How wilt thou be try'd?

Stubbs. By God and my Country.

Clerk. What ſayeſt thou, *James Hind*, art thou guilty? &c.

Hind kneeling down, and diſcovering much Penitency, anſwered, I am guilty, and humbly beg Mercy of his Majeſty.

Court. Record his Confeſſion.

Clerk. How ſayeſt thou, *John Sellers*, art thou guilty? &c.

Sellers. Not guilty.

Clerk. How wilt thou be try'd?

Sellers. By God and the Country.

Clerk. How ſayeſt thou, *Nathaniel Gibbs*, art thou guilty? &c.

Gibbs. Not guilty.

Clerk. How wilt thou be try'd?

Gibbs. By God and the Country.

Court. Carry up *Hind* to the Goal.

And the reſt ſtanding at the Bar, Silence was commanded.

Clerk. Thomas Tonge, *George Phillips*, *Francis Stubbs*, *John Sellers*, and *Nathaniel Gibbs*; you the Priſoners that were laſt called to the Bar, thoſe Men that you ſhall hear called are to paſs upon Tryal for your ſeveral Lives and Deaths: if you or any of you will challenge them or any of them, you muſt challenge them when they come to the Book to be ſworn, before they be ſworn.

Edmond Butler.

Tonge. I challenge him. [But afterwards admitted him.]

Clerk. Edmond Butler, *Clement Punge*, *George Dixon*, *Samuel Paine*, *John Bagnal*, *John Gourney*, *William Gayler*, *Ralph Silverton*, *William Dudley*, *Joſeph Drake*, *John Peake* and *Robert Morrice*, were ſeverally ſworn in this manner: *Lay your Hand on the Book, look upon the Priſoner; You ſhall well and truly try, and true Deliverance make between our Sovereign Lord the King and the Priſoners at the Bar, whom you ſhall have in charge, according to your Evidence. So help you God.*

Clerk. Count theſe, Cryer. *Edmond Butler*; *Cryer*, One. *Clement Punge*, Two, &c. Twelve good Men and true, ſtand together, and hear your Evidence.

Clerk. Cryer, make Proclamation.

Cryer. O Yes! If any one can inform my Lords the King's Juſtices, the King's Serjeants, or the King's Attorney, before this Inqueſt be taken, let them come forth, and they ſhall be heard; for now the Priſoners ſtand at the Bar upon their Deliverance: And all others that are bound by Recognizance to give Evidence againſt any of the Priſoners at the Bar, come forth and give Evidence, or elſe you forfeit your Recognizance. And all manner of Perſons that were ſummoned upon the Jury, and have not yet been ſworn, they are diſcharged, and may depart the Court.

Clerk. Tho. Tonge, hold up thy Hand: [and ſo to the reſt of them at the Bar.] You of the Jury, look upon the Priſoners, and hearken to their Cauſe; you ſhall underſtand that they ſtand indicted in *London* by the Names of *Tho. Tonge*, late of, &c. [and ſo as in the Indictment afore-mentioned] who together with *James Hind*, who ſtands convicted by his own Confeſſion, and the reſt alſo aforementioned: [and ſo reads the Indictment again.]

Upon which Indictment they have been arraigned, and thereunto have ſeverally pleaded, Not guilty; and for their Tryal have put themſelves upon God and the Country, which Country you are: Your Charge is to inquire whether they be guilty of the High Treaſon in Manner and Form as they ſtand indicted, or not guilty; if you find that they, or any of them are guilty, you ſhall inquire what Goods and Chattels, Lands and Tenements, they or any of them had at the time of committing the ſaid Treaſons, or at any time ſithence; if you find that they are not guilty, you

ſhall inquire whether they or any of them did flee for it; if you find that they fled for it, you ſhall enquire of their Goods and Chattels, &c. as if you had found them guilty; if you find that they are not guilty, nor that they did flee, ſay ſo, and no more, and hear your Evidence.

Sir *Edward Turner*. May it pleaſe your Lordſhips, and you Gentlemen that are ſworn of this Jury, the five Priſoners at the Bar, by the name of *T. Tonge*, *G. Phillips*, *F. Stubbs*, *J. Sellers*, and *N. Gibbs*, do ſtand indicted, for that they as falſe Traytors, together with ſeveral other Perſons mentioned in the Indictment, the 31ſt of *October* laſt, did, in the Pariſh of *St. Michael's* in the Ward of *Cornhill*, *London*, aſſemble and meet together, conſult, contrive, and deſign to levy War againſt the King, to ſubvert and change the Government as it is now eſtabliſhed, to depoſe and kill the King: And in order to effect this, they did likewiſe then and there agree and deſign to ſeize and take in their hands the King's Royal Palace called *Whitehall*, where the King reſides. For this they have been indicted, arraigned, and all theſe five have ſeverally pleaded Not guilty: if we prove them guilty, you muſt find them ſo.

Serjeant *Maynard*. Gentlemen of the Jury, you have heard the Indictment read, you have heard the Subſtance of it opened, it is ſhort in words, but of as high conſequence as any thing can be. I ſhall open the Particulars of that Evidence, that we conceive will be made good by the Oaths of Witneſſes to be produced to you. You ſee here what the Indictment is: I ſhall inſiſt upon theſe Particulars, which I ſhall open and make good to you; Firſt, What was their Deſign; Next, What was their Means of Accompliſhment, what Encouragements they uſed one to another, and what Colours they put upon this wicked Action. For the firſt, Gentlemen, I ſhall begin at the higheſt, higher no Man can go in this World, that is, to deſign and compaſs, to contrive to put the King himſelf to death, to ſeize his Perſon; ſome of them called it *ſecuring*, you know the *Engliſh* of that, a King ſecured. We will go further, for we ſhall prove to you the Perſon that with his own wicked Hand undertook the Slaughter and Murder of the King; he did contrive how he might do it, ſometimes when the King was performing an Office of Piety to viſit his Mother, other times when he ſhould recreate himſelf by Hunting: higher than this they could not go, and this they coloured over with Religion. This merciful King that had pardoned his People beyond their own Deſires, and contended to do it; this King they would murder. Had there been no more, it had been exceeding heinous; but they went further, their Malice reſted not upon his Perſon, but the Family, the Noble and Excellent Duke of *York* is deſign'd to be ſecured likewiſe, and uſed like his Brother: not they only, they went further, the whole Nobility was in deſign; not (Gentlemen) that every one of theſe before you uſed theſe Expreſſions, but they and their Complices, ſome one and ſome another Expreſſion: but all joined in this, to deſtroy the King and his Family, Root and Branch, that was their Expreſſion. King, his Family, Nobility, nay, go down to the Gentry, and it ceaſed not there, they go to the Clergy, as one of the Priſoners at the Bar (as you will hear) did expreſs himſelf, I think it was *Stubbs*, That there ſhould be never a Lawn-Sleeve, never a Surſingler ſhould have a hole to hide his head in.

Stubbs. I never opened my mouth to that purpoſe.

Serj. *Maynard*. That will be left to Proof: I undertake not of myſelf to prove this, but to open it, let the Witneſſes ſpeak. In diſcourſe ſome went further than that, whoſoever would not join with them in their Deſign (it was one *Strange*) was an Enemy; and thereupon one *Cole*, who is gone, deſerted them, though he was contented to have the King murdered, the Nation ruined, yet would not agree in that Principle. To accompliſh this, we ſhall prove to you they did treat of levying a War, that among themſelves it was given out that Arms were provided, ſome delivered; and their Deſigns to raiſe Money, ſeizing all the Treaſury at *Whitehall*, *Worceſter-Houſe*, and the Chamber of *London*; to ſeize the Perſon of the noble Duke of *Albemarle*, and all about him, and Quarter to be given to none, that was their Expreſſion. They did give out among themſelves, (for a while there was ſome difference among theſe Foxes, whoſe Tails were tyed together, and had fire in them) and *Tonge* told them (as we ſhall prove) that all Parties were now agreed, and would join: they had framed Declarations to juſtify their Proceedings, framed Papers to raiſe a Mutiny among the Mariners, and encouraged them to join with them, this will be proved. For their Means, *Phillips* at the Bar undertakes to procure the Word that the Guard in the City had, ſo to betray them. There was a Deſign made for ſeizing the Tower, ſeveral Men appointed for that purpoſe, they and their Complices were to come there with Papers in their hands, as if they were Mariners and had Accompts to make up, theſe were to go up to thoſe that ſat there to finiſh Accompts. To encourage themſelves, they gave out that they had dealt with the Soldiers at *Windſor*, and ſecured that Caſtle; if this be proved to you, there can nothing be higher. There was this one Pretence, it was given out (and perchance the Rumours of the City are come to your ears) that they had deſigned a Day for the Execution of this Miſchief; ſeveral Days were appointed, one on the Lord Mayor's Day, another on *Alhallows* Eve. They gave out by a feigned Letter, that there would be a Maſſacre by the *French* and Papiſts, of the Proteſtants; this was to raiſe a Fear and Diſcontent among the Nation, to induce them to join when this Deſign ſhould be attempted. Gentlemen of the Jury, had they gone on in this wicked Purpoſe, having poſſeſſed the People with theſe Fears, who could have told how to behave himſelf? And it ſeems ſtrange and wonderful, eſpecially looking upon the Perſons, Men of little Conſideration, deſpicable Men, and who live under the Mercies of ſo good a Sovereign, that they ſhould take ſuch a Deſign in their Hearts, and undertake the Performance. Though the Spear hath not entred into the Sides of our Sovereign, yet it muſt needs crown his Head with abundance of Thorns, that ſuch People ſhould be deſperately wicked. But we ſhall call our Witneſſes, and when you have heard this proved, we cannot be ſo uncharitable to think you ſhall need any further Aggravation, or doubt of your giving a Verdict againſt ſuch Miſcreants as theſe are.

Sir Jeoffry Palmer, *Attorney-General*. Theſe few Priſoners at the Bar were not all in this Contrivance, tho we have not all their Names; but in the Evidence you will hear, there was a Council of Forty, and then of Six, but none diſcovered. Theſe Six acted and infuſed into theſe and divers others what they intended, and then broke up, and gave

gave out all was ready, and would be done on ſuch a day. We ſhall not trouble the Jury with giving Evidence particularly againſt theſe Men, they are joined and knit together in one Cauſe. But hear the Evidence.

William Hill, Edward Riggs, and one *Bradley* were ſworn.

Counſel. Mr. *Hill,* ſpeak your Knowledge in this Buſineſs, to my Lords and the Jury.

Mr. *Hill.* May it pleaſe your Lordſhips, about the middle of *October* laſt I met *John Baker,* one that is now indicted, he was a Captain formerly called; I met him in *Cheapſide:* he meeting me (after a Salutation) invites me to drink with him; I went into a Houſe with him. When I was with him, he began to ask me what News there was in the Country; I told him I had little to inform him. He told me, if I would ſtay a while he would tell me ſome. I asked him of what nature. Says he, Not long ago the King went a hunting, ſent ſome Stags to Sir *John Robinſon,* now the Lord Mayor, and went but with a ſmall Guard, and I could have been one of the twenty that would have ſlain that Outlandiſh Dog. Then ſaid I, Mr. *Baker,* that's nothing to me; but what other News have you? Says he, I know thou art right, and I know your Father; there is ſomething on foot in the City, and if you will meet to-morrow, I will bring ſome Perſons to you that will give you Information. Sir, ſaid I, underſtanding it of dangerous conſequence, and willing to get it out, I will meet you: and we agreed to meet the next morning. That Morning three Perſons came early to my Quarters, *Hill* the Clothdrawer, Mr. *Bradley,* and this Mr. *Riggs;* he appointed them to meet him there, but failing himſelf, they being Strangers ſaid nothing to me then, and ſo I departed, and left them a drinking. The morrow after, he himſelf came to my Lodgings, fetches me out of my Bed, and tells me he had appointed ſome Perſons on the Exchange to give me an account. I went with him thither, and there we met with ſome Perſons that were his Acquaintance; and from thence we went to the *Ship* in *Leadenhall-ſtreet;* and among us was *Hind,* that confeſſed himſelf guilty: and there the Buſineſs was fully diſcourſed of, what their Intention was, that all Intereſts were agreed, *Fifth-Monarchy-Men, Anabaptiſts, Independents,* and *Fighting Quakers;* and the Congregational Churches were conſenting, and were reſolved to endeavour their Deliverance from Adverſaries at *Whitehall:* many Paſſages more. On the morrow after we met again, and there met with us *Hind,* and *Brown,* and *Baker.* There we were acquainted of their Magazine and Arms provided, and about their Correſpondence in the ſeveral Counties, that they were ſure of *Windſor-Caſtle,* that the head Gunner and Serjeant there were privy. We had Information concerning this *Tonge,* as an active Perſon in this Deſign; I ſtudied to know this *Tonge,* and I was brought to him at his Houſe; and there I met one *Ward, Stubbs,* and *Hind,* and ſome others, and there we had diſcourſe concerning the Buſineſs. *Tonge* told us ſomething of the Buſineſs of *Windſor-Caſtle,* and propoſed ſomething in reference to the taking the *Tower,* what Arms and Men they had for this Deſign. We met many times at the *Ship,* that *Gibbs* we met at *Bridewell-Dock,* and there was *Stubbs* and one *Beazley* with me; there we waited for a Brother of this *Gibbs*'s, to give us Intelligence when the Day of the Inſurrection would be: we waited not long, but in came his Brother and two Perſons more, one *Thomas* a Bridler or Bit-maker in *Shoe-Lane,* and another Perſon in a handſom Garb came along with him. His Brother was ſomewhat ſhy (becauſe I was a Stranger) to ſpeak any thing, but calls for this *Gibbs* and *Stubbs,* and had ſome private diſcourſe with them, and away departed: After they were gone, we deſired to know the Intelligence; they told us that the Council of Six was broken up, all Buſineſs was ſettled, *Ludlow* was Commander in chief, and *Alhallows*-Eve was the time, that Horſe and Arms were provided. For *Phillips*: That day that the Meetings were intercepted, that the Trained-Bands did ſurprize them, that day this Gentleman and I (pointing to *Riggs*) came to the Main-Guard at the *Exchange;* where Serjeant *Phillips* was with a Buff Coat and a Halbert: and this Gentleman (meaning *Riggs*) ſaluted him, and thanked him for his Service in ſending down notice to the Meeting to be gone, for he was coming with the Trained-Bands to ſurprize them. He asked him, what was the occaſion of the Buſtle: ſays he, they ſay——

Sir Robert Forſter, *Chief Juſtice.* Who is that he?

Hill. That *Phillips* ſaid, They ſay they were up in the Weſt, and if they were not, I would they were, and here too, for a few would do the work. Upon the Monday after, we met him near the *Exchange;* and ſo likewiſe *Riggs* thanked him for his Service, and then he (*Phillips*) promiſed his further Service when the time of the Inſurrection would be.

For *Sellers,* I was by Agreement to have thirty Arms delivered me, and I was very preſſing to have the Arms out of the Magazine. *Sellers* met with this Gentleman (*Riggs*) and he urging *Sellers* about the Arms, *Sellers* told him that they were all delivered out the Night before, about five or ſix hundred; and that forty of their Friends went away without Arms, but that within two or three days there would be more laid in.

Sir Heneage Finch, *Sollicitor-General.* Mr. *Hill,* I will ask you one Queſtion, (with my Lord's favour;) as you have given a general Account, I will keep you to one particular Perſon, *Tonge:* Did *Tonge,* in any diſcourſe with you, tell you of one *Strange* that was gone into the Country?

Hill. One night he told us he had ſpoke with *Strange;* that he was gone into the Country, and would come back the morrow, and then we ſhould have more Intelligence.

Sir *Heneage Finch.* What concerning the Tower and *Windſor-Caſtle?*

Hill. He talked of the good Service that he had done in being at *Windſor-Caſtle,* with the Serjeant and Gunner, for the ſecuring of that Caſtle; that near five hundred of their Friends were in and about *Windſor,* ready to aſſiſt for ſurprizing that Caſtle.

Court. Who told you this?

Hill. Tonge told me himſelf, That he was inſtrumental in it.

Finch. Did he tell you any thing of the Tower?

Hill. Only he ſaid, it was fit ſome care ſhould be taken to ſurprize the Tower at the time.

Finch. Any thing of *Alhallows*-Eve?

Hill. He did not fix the very inſtant time, but ſaid, he look'd for Intelligence from *Strange.*

Sir *Jeoffry Palmer.* What Day of the Month was that?

Hill. I cannot remember the very day.

Serj. *Maynard.* What did he ſay concerning Declarations?

Hill. The Declaration was read, *Stubbs* acquainted us, againſt Popery, and Monopolies, for Liberty of Conſcience, and a Free Commonwealth.

Finch. Any thing of the Popiſh Maſſacre?

Hill. Yes, I had this Paper of them, a Copy of a Letter.

Sir *R. Forſter.* How many Copies of that Letter were to be diſperſed in the City?

Hill. About five thouſand.

Sir *Jeoffry Palmer.* Theſe things were to be diſperſed, to poſſeſs the People that the Papiſts about that time would maſſacre the Proteſtants, that ſo they might draw all againſt that Party to join with them; a brave Colour, when in truth there was no ſuch thing, but only to carry on their Deſign of killing the King, and altering the Government.

The Letter was read by the Clerk, and follows *in his verbis.*

SIR,

'OUT of the Reſpect which I bear to you 'in particular, and to the Proteſtant Party in 'general, I give you notice of this Paſſage: About 'a fortnight ſince, a Woman, which you muſt be ig-'norant where, who had it from a Correſpondent of 'the Papiſts, that they intend to make uſe of their 'Army (which all the World ſees they have pro-'vided) againſt *Alhallows*-Eve next; it was 'thought good therefore, in as prudent way as 'may be, to give notice to our Friends in remote 'Parts, that they may do what Piety to God, 'Loyalty to their Prince, Love to their Country, 'and Self-preſervation ſhould direct them. Sir, I 'call the Eternal God to witneſs, that this is not 'to trepan, to put a trick upon you, but a ſober 'Truth; and alſo communicated to a Juſtice of 'the Peace, and by him to the Privy-Council: 'And what the Iſſue of it is, I have not heard; I 'hope you will inquire, and tell us.

'From *Yexford* in *Suffolk*,
'*Octob.* 31. 1662.'

Serj. *Keeling.* Do you (Mr. *Hill*) remember any Diſcourſe of the Way of taking *Whitehall?* Name who were there, and who ſpoke.

Hill. There was *Hind*, and one Captain *Browne* a Shoe-maker in the *Strand*, and ſome other Perſons.

Counſel. Was *Stubbs* there?

Hill. Not at this Diſcourſe: but we talked of taking *Whitehall* at *Stubbs*'s Houſe, when a Sea-Captain was there, that was to go to *Surinam*, and *Stubbs* invited him to ſtay at home to aſſiſt them; who was to come down with a Party by *Charing-Croſs*, and another Party to come up by the *Cock-Pit*, and to kill my Lord Duke of *Albemarle*, and to ſlay Sir *Richard Brown* in the City, and the Party in the City to keep a Drum beating, *&c.* And *Tonge* ſaid, That their main Care muſt be to keep down Sir *Richard Brown*, and the Trained-Bands, or elſe they ſhould never be able to ſtand.

Counſel. What concerning the Privy-Garden Way?

Hill. They diſcourſed concerning the getting down the Door and the Wall, and ſo get the ſooner to *Whitehall.*

Counſel. What was *Stubbs*'s Opinion at that Communication?

Hill. His was at *Blackfryars*, the laſt Tueſday Night before they were taken, this *Stubbs*, *Thomas*, and *Gibbs.*

Court. Which *Gibbs?*

Hill. This black *Gibbs* at the Bar: They diſcourſed that they would be ſure to make an end of Kings, Princes, and Dukes, that they might have a Free State, and troubled no more with any ſuch kind of Perſons, neither Lawn-Sleeves, nor Surſinglers.

Counſel. Do you remember that *Stubbs* propoſed any other Way to *Whitehall?*

Hill. No, Sir.

Maynard. Did they ſay what Number was provided, Ten, or Twenty Thouſand?

Hill. Stubbs aſſured us, that there was a great Party in *Eaſt-Smithfield* right for the Work, and had their Arms.

Counſel. What Employment had *Sellers* about delivering the Arms?

Hill. He ſaid, the Arms were delivered out at *Crutchedfryars*, about ſix hundred; and that forty of their Friends went away laſt night for lack of Arms; that within two or three days there would be more.

Counſel. Did he name a Magazine?

Hill. Yes, the Magazine in *Crutchedfryars.*

Counſel. Did you know any thing touching the Diſcovery of the Word, and by whom?

Hill. No, Sir: But I underſtood that *Tonge* was aſſured by *Phillips*, that *Phillips* would get him the Word that very Night that they intended the Inſurrection.

Counſel. What was propounded, if they had taken the King, what would they do?

Hill. He ſhould have the ſame Quarter as *Ludlow* was to have.

Court. Who ſaid that?

Hill. Stubbs, and *Gibbs*, and *Tonge.*

Counſel. That's three of the Priſoners at the Bar: Lord have mercy upon us!

Court. Were you not acquainted of a Council of Six?

Hill. Yes, they named ſome at a venture, but they belived ſome of them were of the Six: That they met not twice in a place, ſometimes here, and ſometimes in another place.

Counſel. Who did they name?

Hill. Colonel *Danvers*, *Phillips*, *Nye* the Miniſter, *Lockyer*, and one *Cole* of *Southampton*, that theſe five were part of the ſix.

Counſel. What Diſcourſe touching the Diſtance of Place where they engaged any?

Hill. Forty miles about the Town.

Counſel. Did *Tonge* tell you that *Strange* had lodg'd any Horſe?

Hill. He ſaid, he had taken out the Horſe that were provided for a time; but *Gibbs* and *Stubbs* at *Blackfryars* aſſured us of the Horſe coming into the Town the night before.

Counſel. Did *Tonge* tell you of any Back, Breaſts, Blunderbuſſes?

Hill. Not he, Sir. It was talked of that night at the *Blackfryars.*

Counſel. What did you hear concerning ſending into *Dorſetſhire*, to ſpread Rumours there?

Hill. That they had four hundred of their Friends there, that they were ſure of, and ſeveral Caſes of Piſtols were ſent down by the Carrier.

Court. Who ſaid that?

Hill. I know not what particular Perſon, but at that Meeting, and in that Company.

Counſel. Who was preſent?

Hill. Gibbs and *Stubbs.*

Counſel. None of the reſt? Was *Tonge* or *Phillips* there?

Hill.

Hill. No, Sir.

Counsel. Did you hear of any other Country, either *Kent*, or *Worcestershire*, or *Derby*, or *Leicestershire?*

Hill. Tonge informed us of the Faithfulness of Col. *Kendrick* in *Kent*, to bring him some Arms.

Court. If the Prisoners will ask him any Questions, they may.

Sellers. Friends, all that are here present, I did ever abhor such an Action. Ask him whether he did hear me speak those words, that I should say, That there was Arms delivered out, and that forty went away lacking, and in one or two days there would be more: which words I never did speak in my life, or any such thing, only what I heard from *Wapshot*, as *Wapshot* declared to my Lord Mayor he told me, to whom I appeal. It's true, meeting with that *Wapshot*, says he, We hear there will be a Rising, and there are some Arms delivered out. Said I, I would advise you to have a care of such a Business.

Sir *Orl. Bridgman.* I would not interrupt you, you will be admitted to make your Defence afterwards; but if you will, ask him any Question.

Sellers. My Lord, I shall come to that: *Wapshot* told me there were Arms delivered; but further told me, he knew not of the Certainty of these things; that at night he should go to a House where he should know. I bid him have a care. At night, as I was passing along, I met *Riggs* at *Stubbs*'s Door; he asked me, What News at *London?* I said, I was told there would be a Rising, and that Arms were delivered. Is there, says he? Said I, I do not believe it, but I shall know certainly to-morrow. I did call the next morning, and asked, Is the Story true? No, says he, I was there, and there was no Arms; that was all that I know of the Business. Friend, did I tell you any such thing?

Counsel. Tell him, and upon what occasion.

Hill. Upon occasion of *Riggs*'s asking him for thirty Arms for me, (this upon the *Exchange*) *Sellers* took him a little aside, and told him, They were all delivered out, that forty went away lacking, that more would be there within two or three days.

Sellers. That which I said to *Riggs*, was the Message I received from *Wapshot*; but that I inquired, and there was no Arms there; so that it was but a Fallacy: for I advised him not to meddle with any such thing. Mr. *Hill* never saw my face, till I was apprehended upon the *Exchange*, and brought before Sir *Richard Brown*.

Hill. I saw him upon the *Exchange* with this Man, (*Riggs.*)

Counsel. Did he say that any Arms were deliver'd before, and what number?

Hill. About five or six hundred.

Sellers. He never heard me speak a word.

Counsel. How long before he was apprehended?

Hill. Never but that time with *Riggs* upon the *Exchange*, about nine days before his Apprehension; and he confessed upon his Examination, That he did see me with *Riggs*.

Court. Have you, or any other the Prisoners, any Questions more?

Sellers. I have more: Whether he will positively affirm that he spake with me upon the *Exchange?*

Hill. No, Sir, you answered the Question to *Riggs*.

Counsel. You heard the Answer?

Hill. Yes, Sir.

Sellers. May be at the second hand.

Counsel. Did you hear the Prisoner answer it, or had you it at the second hand?

Hill. I heard it from *Sellers* himself, answering *Riggs*.

Sellers. Did you hear me?

Hill. Yes, to Mr. *Riggs*.

Sir *Hen. Finch.* He swears it, and you wonder at it, and so we do all.

Sellers. Who was there then?

Hill. It was upon the *Exchange*, when almost full.

Sellers. What Day of the Month?

Hill. I cannot remember the Day.

Sellers. I do declare before this Honourable Bench, Gentlemen of the Jury, and this great Auditory, That I never saw this Man's face till I was apprehended. That which I told Mr. *Riggs*, was what I heard *Wapshot* say. I never till then saw this Man's face, nor exchanged one word with him; whereas he says, he heard me. I do not believe Mr. *Riggs* saw him near me, when I gave him the Answer.

Hill. Seeing he doth invalidate my Testimony, Mr. Adjutant *Carent* took him upon the *Exchange*, I shew'd him the Person; and therefore certainly I must see him before.

Sellers. It was not he, but the other in the white Clothes, that came and took me, that knew me.

Court. Will any of the rest ask him any Question?

Sellers. Here is that that I am accused of, That I delivered Arms, which is altogether false: my Lord Mayor can bear witness, *Wapshot* confessed he told me such a thing. I did ever abhor any such thing; I was always serviceable to his Majesty upon all occasions, and all times: my Neighbours can witness my civil Conversation.

Court. Have you any thing more to ask him?

Sellers. I would fain know, whether the Bench and Jury are satisfied with this Evidence.

Court. That you will hear anon: What else will you ask him?

Stubbs. What he accuses me, you have all heard: I do in the presence of God, and this Honourable Bench, and the Jury, deny it; for it is very false, and believe none will verify the same upon Oath.

Court. Have you any Questions?

Gibbs. We all stand in the presence of God; and I am very conscientious of what I say and do; I must give account of all things before the Lord. This Gentleman, Mr. *Hill*, has asserted concerning me, That I should deliver divers Cases of Pistols, as knowing the Delivery of them: If Mr. *Hill*, who stands likewise in the presence of God, can produce any Man to prove, that I delivered to any Man any Pistols, or that any were so delivered by my Order, or that I convey'd or sent them away into the Country; do this in the sight of the Lord and his own Conscience, I expect not Mercy. But I would have him speak no more of me, but what he knows of me, or by me; whether he knows I ever received any Pistols, or delivered any at any time, for such an End as he is pleased to speak: which my Soul abhors, and God can witness.

Stubbs. This Mr. *Hill* was the Man that mentioned this, and that he had four Horses and Arms himself, and had two hundred Pound in order to it. I was never any Plotter, nor contrived any thing, but am as innocent as the Child unborn; but being by an accident at *Tonge*'s House, a Strong-water-Man: Ask the other Witnesses, whether he speaks Truth——

Sir

Sir *Orl. Bridgman.* I would have put you in a right Way: You ſhall be all heard at large, when you make your Defence. But will you ask him any Queſtions?

Gibbs. I propounded one; I deſire an Anſwer: Whether I received or delivered any Piſtols to ſuch a Uſe?

Hill. I did not ſay he did: But at that Meeting at *Black-Fryars* it was diſcourſed among them, That ſeveral Arms were ſent to *Dorſetſhire*, to ſeveral Friends there; and he was there then: I believe he cannot deny it.

Stubbs. There was Arms ſpoken of; but that Man (Mr. *Hill*) ſpoke of them, and upon this Conſideration, That there were Arms delivered to every Hall, Ammunition and Powder. *Riggs* knows he ſpoke it at that time.

Hill. Sir, that was ſpoken after the Queſtion was put, What was the occaſion of ſending the Powder and Ammunition to the Halls? Theſe Arms were ſpoken of in reference to the Deſign. I do acknowledge I told them I had ſome Arms my ſelf; and ſaid, I had two hundred Pound for carrying it on. And I know the grounds of my ſpeaking; and ſo do ſome of this Honourable Bench.

Stubbs. *Hill* adviſed, That they fall upon Sir *Richard Brown* as an Enemy to all honeſt Men.

Gibbs. This *Hill* ſays that I ſhould ſay theſe Things; there were more there, and had Ears as well as he, let them ſpeak.

Hill. There was *Riggs*, *Stubbs*, my ſelf, and I know not the other Names.

Gibbs. This *Hill* and Mr. *Riggs*, whoſe Face I never ſaw, came to my Neighbour's Houſe, where I was alone, found me plotting with no Man.

Hill. We were brought into his Company by one *Beazly*: He had been at *Tower-Hill*, about Two or Three a-clock, to give ſome Intelligence to ſome Perſons there about the Deſign. *Riggs* and I took a Coach, and went after him; and *Stubbs* told us we might meet him at a Baker's Houſe near the *Tower*. We found *Beazley*, and he ſaid he could not ſignify any thing to us, but would carry us to *Black-Fryars*, to one *Gibbs*: And there he brought us to this very Man. Firſt enquiring at a Houſe for him, *Beazley* was told he was at a Tavern at *Bridewell-Stairs*: We went there, and found him. He told us he could tell us little himſelf, till his Brother came; and accordingly he preſently after came. That was the occaſion that I came into his Company.

Gibbs. He ſays that I ſpoke of Piſtols delivered, and a Number; but how many he knows not: And that I ſhould talk of the Death of the King; which is as falſe as God is true. Again, I knew not of his coming, never appointed him, never was privy to any ſuch Plot; I abhor it in my Soul. I never engaged in any ſuch Deſign with any Man at any time ——

Court. You do your ſelf much wrong, and take away that Time which you may happily ſpend better.

Stubbs. I deſire to know of Mr. *Hill* who was preſent at that Meeting that I ſhould ſay, The King ſhould have ſuch Quarter as *Ludlow*.

Hill. It was ſpoken at that Meeting at *Black-Fryars*: After his Brother and the other Perſons were gone, it was there ſpoken, That the Council was broke up, and all ready; *Alhallows-Eve* the Time, and then the ſame Quarter to be given as *Ludlow* ſhould have, if taken.

Stubbs. You do not anſwer the Queſtion: Who was there beſides your ſelf?

Hill. There was *Riggs*, and that *Gibbs* there.

Stubbs. You have only his Evidence.

Tonge. Who was in Company when I talked of 300 Men at *Windſor*?

Hill. It was at your own Houſe; and there was *Ward*, *Stubbs*, *Riggs*, *Hind*, and my ſelf.

Phillips. Whether did he ever ſee my Face at any Meeting?

Hill. I never ſaw you before that Time in *Cornhill*.

Phillips. Upon what account did I ſpeak to *Riggs* then?

Hill. When you came off the *Exchange*, you told him you could not ſtay, your Captain was coming. *Riggs* thanked you for your Favour, in ſending Word to the Meeting to be gone to a certain Quaker.

Phillips. I never ſent to any Quaker to that purpoſe. I did not ſee this Man upon the Sabbath-day: But *Riggs* came down to me, and thought I had ſent notice to *Anchor-Alley*; but I did not.

Sellers. He affirmed that there was ſeveral Meettings of forty, and then of ſix; ask Mr. *Hill* whether I was in either of thoſe Numbers at any time.

Counſel. He did not charge you with any ſuch Thing, of being in that Number: He asks a Queſtion about Things not laid to his Charge. Let Mr. *Riggs* ſpeak.

Edward Riggs. About three and twenty Weeks ſince I became acquainted with Mr. *Tonge*, upon this occaſion: Captain *Baker* did ſay that he was a Man of Intelligence, but Mr. *Tonge* did not care for him; and told me that I might be acquainted with him. A while after I came acquainted with him accidentally, when I came to his Houſe.

Court. Whoſe Houſe?

Riggs. *Tonge*'s Houſe. Mr. *Stubbs* was there. He ſaid, That he had been at *Windſor*, ſpoken with the Gunner and Serjeant; and that they promiſed it ſhould be ready upon ſome certain notice given. That Night he had received a Letter of ſome Buſineſs concerning a Suit of Law, he ſaid; in which there was a myſtical Meaning, which he did not tell me of. But this he ſaid, That he had made ſure of *Windſor* by the Gunner and Serjeant's Promiſes. This is that I know of him.

Counſel. Is this all of *Tonge*?

Riggs. This likewiſe he has told me, That he had ſometimes met with a certain Company; he did not ſay thirty or forty, but a pretty many there was. He named Mr. *Cole*, Captain *Elton*, Captain *Leigh*, that they had often met, but could not well agree. But at laſt Mr. *Strange* did meet with them, give them one Meeting; they could not agree neither. They went away, and ſaid theſe Words, to the beſt of my Remembrance; Mr. *Strange* did refuſe to join with them; but when God did bid him go, he would go, whether this Day, or next Week, or next Year, matters not; but when God bids him go, he would go. Mr. *Cole* was ſomewhat troubled to hear it: But ſays Mr. *Cole*, If you will go, give me but notice, if I cannot go ſo faſt as you ride, I will hold by your Horſe-tail. A little while after he told me, They had not met again; that Mr. *Cole*, becauſe they could not agree about this Buſineſs, was gone beyond-Sea; but before he was gone, he did tell me of ſome Conſiderations that were drawn, as he judged, about a Government by Maſter *Cole*; and gave me in a Paper ſome certain Propoſitions, three or four concerning Seamen: The Subſtance was this, What great Benefits they had by a Commonwealth.

Court.

Court. Who gave you them?

Riggs. Tonge: But it came from Mr. *Cole*, as he ſaid. In general, they were to declare againſt the Miſgovernment of Church and State: In particular, to Seamen; what great Advantages there would be to them. And three or four Things propounded in order to them: 1. That no Seamen ſhould pay Cuſtom for any Commodity that he did bring under the Value of ten Pounds; upwards they muſt. And likewiſe there ſhould be Care taken upon our own Coaſts, and beyond-Sea, that where any of our *Engliſh* Ships ſhould be caſt away, there ſhould be Care taken out of the Cuſtoms that might keep them, in their travelling homewards, either from begging or ſtarving. But Mr. *Cole*, when they met, as *Tonge* ſaid, would not agree; and therefore went beyond-Sea. After he was gone, within a Week or a Fortnight they had another Meeting.

Court. They: Which they? Name them.

Riggs. I did not hear him name many, unleſs *Leigh* and Captain *Elton*; I remember no more. And there, he ſaid, they had under Conſideration the Government of a Commonwealth; and ſo to declare againſt the Miſgovernment of the Church and State; and that there was to be a Meeting at *London-Wall* in a litte time after; and he was there. He afterwards told me he miſſed that Meeting; but had Intelligence brought him, That that Time that he miſſed, thirty or forty, I know not the certain Number, had referred it to ſix Men: They called it, *The Council of Six*; but the Names of them I never heard from him; and indeed, he ſaid he knew them not, by reaſon of his Abſence from that Meeting. But what I gathered from him was this, That he judged Captain *Elton* was one of them.

Counſel. He told you there was a Council of Six?

Riggs. Yes; That he heard there was, but knew them not.

Sir *Heneage Finch.* To make Things ſhort: Were you ever at any Meeting where there was a Diſcourſe touching ſurprizing the King, altering the Government? And who was there, upon your Oath?

Riggs. That Friday immediately before we were taken, I think *October* 24. there was ſome Diſcourſe in general concerning *Whitehall*; what might be done as to the procuring of that, and likewiſe concerning the *Tower*.

Counſel. Who was preſent that Friday?

Riggs. My ſelf, *Hill*, *Tonge*, *Stubbs*, *Ward*, *Hind*, and *John Baker*: And then, to the beſt of my Knowledge, there was this Diſcourſe in general. Concerning the taking of the *Tower*, there was ſome Propoſitions on all hands concerning the taking of that. Mr. *Hind*, he only mention'd, but did not ſay he would undertake it, the righting of Gunners Accompts. Mr. *Tonge*, he ſaid that the Way that he thought convenient might be this; When Sir *John Robinſon* now Lord Mayor, did late in the Evening go into the *Tower*, there ſhould be a Party following his Coach in, and ſo might do it. And *John Baker*, at that preſent Inſtant of Time did ſay, That it was neceſſary the King ſhould be ſurprized: And likewiſe ſaid then, That there ſhould be no Quarter; he would give nor take none.

Counſel. Who was preſent?

Riggs. Mr. *Hill*, my ſelf, *Bradley*, *Hind*, Captain *Brown*, and *Baker*, and another *Hill*, the Drawer, I think.

Counſel. Was not *Tonge* and *Stubbs* there then at that Time?

Riggs. Yes; they were there.

Sir *Heneage Finch.* I ask you this; I do not deſire large Stories, but firm and cloſe Anſwers: Were you preſent at any Meeting when the ſecuring the King, *Tower*, or *Whitehall*, was diſcourſed of, or no?

Riggs. Sir, that Friday, *October* 24. immediately before we were taken there was this Diſcourſe: *Tonge* did propound ſuch a Way for ſurprizing the *Tower*, by following Sir *John Robinſon*'s Coach in at Night; and *Baker* did ſay, That it was neceſſary to undertake the ſecuring of the King's Perſon, and aſſaulting *Whitehall*; and that if there were five hundred Horſe and Foot, they would undertake it, by going into the Privy-Garden, and Back-ſtairs.

Counſel. Were you preſent when *Stubbs* did adviſe the aſſaulting of *Whitehall* by the Privy-Garden?

Riggs. No: But *Baker* did ſay he would undertake it.

Counſel. Who was preſent?

Riggs. Mr. *Hill*, *Bradley*, *Stubbs*, and *Hind*, was there: But that *Stubbs* undertook it, I cannot ſay; but he was there.

Sir *Heneage Finch.* Did *Tonge* ever tell you any thing of *Phillips*, or that he had Hopes of the Word?

Riggs. I came acquainted with *Phillips* preſently after I was acquainted with Mr. *Tonge*. *Phillips* once met me, and I carried him to *Tonge*'s; and then *Phillips* freely ſaid, That there was three hundred Arms at the *Artillery-Garden*; he being one of the Artillery, knew where they lay, and could tell them how they might come by thoſe Arms. And that for the Word, it was neceſſary to be got. And if in caſe that it ſo fell out, that the White Regiment was then out, or he then in Office, he would endeavour to procure it. But afterward, meeting him ſeveral times, he declared he would not meddle any more with it.

Sir *Heneage Finch.* Were you upon the *Exchange* with *Sellers* when there was a Diſcourſe about delivering out of Arms? And what did *Sellers* ſay?

Riggs. Mr. *Hill* ſaying that he had two hundred Pound to buy Horſes, and that he had four already, and wanted Swords, and had Friends in Town wanted Arms, asked me if I knew if any were given out. I told him, that one Mr. *Sellers* told me, That he had heard ſome Arms were given, and to be given out that Day. Upon the *Exchange*, Mr. *Hill*, and *Bradley*, and I being together, Mr. *Hill* ſaid, Ay, there is the Perſon that told me of the Arms: I will go and ask him if there be any ſuch thing. Whether Mr. *Hill* heard the Diſcourſe, I cannot tell; but he ſaid, ſays he, I have enquired, and ſome Arms are delivered, and forty went without; but within two or three Days there would be more.

Sir *Heneage Finch.* Did *Hill* ſee *Sellers* upon the *Exchange* at that Time?

Riggs. Yes; but whether he heard him, I cannot tell.

Sir *Robert Forſter.* What induces you to believe he did ſee him?

Riggs. We were cloſe together.

Sir *Robert Forſter.* What about *Nathaniel Gibbs*?

Riggs. For *Gibbs*, I brought Mr. *Hill* acquainted with Mr. *Stubbs*; and he ſaid he knew one at *Fleet-Bridge*, that ſells Plumbs and ſuch Things, and if we would go along with him, he would tell us News.

News. *Hill*, *Stubbs*, and I, that Day I was taken, went to *Beazley*. *Stubbs* asked him, What News? Says he, I hear the Buſineſs goes on; but if you will go to one *Gibbs*, meaning him that is fled, he has Intelligence. So we went to an Alehouſe near him, but he was not at home; and we were told, if we would go to *Bridewell*, they ſaid they would ſend for his Brother, meaning him at the Bar; and ſo ſhould have an Account. *Gibbs*, at the Bar, being with us, he told us he knew little himſelf; but when his Brother came, we ſhould hear. Three quarters of an Hour after came *Gibbs* that is gone, *Thomas*, and another Man; I knew him not; and *Gibbs* called this Brother. *Beazley*, *Stubbs*, and *Hill*, and I, ſat ſtill. When this *Gibbs* came, he ſaid his Brother knew little, hoped we were honeſt Men. The News was this, That he heard that *Ludlow* was in Town; and that now the Council was broken up.

Court. What Council?

Riggs. The Council of Six was broken up; and that they had ſent Meſſengers into the Country to give notice, and to make their Intereſts good abroad. This is that he ſaid there, or as much as I remember.

Finch. Now I will ask you in general: Did you ever hear of any Diſcourſe at any time of theſe Meetings touching a Riſing by the Papiſts, and a Maſſacre of the Proteſtants?

Riggs. Being upon the *Exchange*, *Hill*, *Bradley*, and I, there was a Lieutenant came to me, and ask'd me whether I heard of the Maſſacre to be? I ſaid, No. Says he, I can let you ſee a Copy of a Letter to that purpoſe; and gave it me. *Hill* going to the *Ship*, I told him of this, and he was deſirous of having a Copy. And this was the Copy that was this Day read in Court.

Sir *Jeoffry Palmer.* What did you hear concerning the ſurprizing of the King at *Camberwell*, when he came from his Mother? And what did *Phillips* ſay?

Riggs. Phillips, *Tonge*, *Stubbs*, and my ſelf, being together, they were diſcourſing concerning the King's going abroad: And at that *Phillips* ſaid the King was to come to *Hampton-Court*, to ſee the Queen-Mother at *Greenwich*, and hinted that he might be ſurprized. *Tonge* ſaid it need not; there might be ſuch an Opportunity twice every Week.

Court. Priſoners, will you ask the Witneſſes any Queſtion?

Phillips. Did you not meet me on a Sabbath-day? You may remember I met you in *Cheapſide*; we walked to *Birchin-Lane* End. You asked me of a Riſing that ſhould be: I ſaid, What Riſing? Says you, To ſurprize the King coming from *Hampton-Court* to *Greenwich*. And I came and ſpoke it openly in my Family, as News that I heard. This Gentleman had me to *Tonge*'s Houſe; and there grew the Diſcourſe. *Riggs* told me *Tonge* could tell further: And *Riggs* told me, That the Reaſon why the Time for it was not appointed, was becauſe the Fifth-Monarchy-Men and Anabaptiſts were not agreed. *Riggs*, did not I diſclaim this Buſineſs, and declared I would have nothing to do with it?

Riggs. This is certain, That afterwards he did ſay he would not have any thing to do with it; and I did not ſee him a great while after that. Concerning *Baker*'s ſurpriſing the King, it is true, he did ſay before *Hill*, and I, and *Bradley*, That the King was a hunting, and came through the City; and ſaid, He would have been one of the Fifty would have ſurprized him, and pulled him out of the Coach.

Court. Who ſaid that?

Riggs. Baker.

Court. Who preſent?

Riggs. Bradley, Mr. *Hill*, and the other *Hill*, *Brown*, and others.

Finch. Do you remember no Diſcourſe concerning the coming in at the Privy-Garden?

Riggs. I have under my Hand to the Grand-Jury declared, That *Baker* ſaid he knew the Way to the Back-ſtairs through the Privy-Garden better than any. And *Bradley* did once, and but once, ſay, That he knew it as well as any, and would undertake to do the ſame, in the Preſence of *Stubbs*, *Tonge*, *Hill*, and the reſt of them that were there that Friday Night.

Court. Who were the reſt?

Riggs. Hill, my ſelf, *Ward*, *Stubbs*, *Hind*, and *John Baker*, at *Tonge*'s Houſe.

Sir *John Maynard.* We do conceive that theſe two Witneſſes have given Evidence againſt all of them; if any thing ſtick with the Jury, let them ſpeak.

Counſel. Here *Bradley*, this Witneſs that we call, he was no Conſpirator; but when there was notice of the Deſign, he was imployed to find it out, and to give us an Account of it.

Sir *Heneage Finch.* Mr. *Bradley*, were you preſent at any Debate?

Gibbs. Whether did *Riggs* hear me ſay, That *Ludlow* was in Town; or that the Council was broke up, and the Buſineſs went forward?

Riggs. This I ſaid, That *Hill*, *Stubbs*, and *Beazley*, were preſent; and he ſaid he knew nothing himſelf, but from his Brother: This was the News, That he heard that *Ludlow* was in Town, Council broke up, and that there was ſent out Meſſengers to give notice to prepare for the Buſineſs; that it would be on *Alhallows*-Eve, or the latter end of the Week, being Saturday the next Day.

Gibbs. I never ſpake theſe Words; and do deſire that the Honourable Bench will enquire of the Perſons then preſent, whether they will avouch the ſame; whether I ſaid it from my Brother? Theſe Words I did not ſpeak; and others being preſent, had Ears as well as he.

Tonge. Mr. *Riggs* told me *Ludlow* was in Town; and told me he would enquire after him.

Riggs. I confeſs I did ſo.

Tonge. And that he was like to be taken in *Cheapſide*. He was continually at my Shop, and would not let me alone, prompting and inducing me to theſe Things.

Counſel. Mr. *Bradley*, were you at any Meeting touching Diſcourſe of ſurprizing *Whitehall*?

Bradley. I was one Friday Night at *Tonge*'s Houſe, a Strongwater-Man on *Tower-Ditch*, where there was theſe two Gentlemen with me, (pointing to Mr. *Hill* and Mr. *Riggs*) and there was Mr. *Stubbs*, and *John Baker*, and another Gentleman, one *Ward*; and we had ſome Diſcourſe about ſurprizing of *Whitehall*, which way it might be done. Some ſaid that a Party might go through the Guard, and ſo ſurprize General *Monk*'s Guard; others ſaid they might come down by *Charing-Croſs*: But *Tonge* ſaid, There was no coming down by *Charing-Croſs*, becauſe there was two great Guns planted at the bottom, and commanded all that way: But ſaid, The only way he conceived, was to bring a Party thro *King's-Street*, and, if it were poſſible, to get into the Privy-Garden, and ſo into the Lodgings that way. This is all that I remember.

Serjeant

Serjeant *Keeling*. Do you know any thing about the *Ship* at the *Eaſt-India* Houſe?

Bradley. I went to this *Ship* ſometimes; and with *Riggs*, *Hill*, *Brown*, *Hind*, and one *Hill* a Cloth-Drawer; we had divers Diſcourſes concerning the Deſign, and the News on foot.

Court. What Deſign? Expreſs it.

Bradley. To alter the Government; the ſurprizing the King, the Duke, and the General, and as many more of the Council as they could lay hands on.

Counſel. What about the Guards, ſurprizing *Whitehall*?

Bradley. At another Meeting they diſcourſed about the bringing down Forces to *Whitehall*.

Counſel. Who were preſent then? Which of the Priſoners at the Bar?

Bradley. None, unleſs *Hind* be there.

Counſel. At what other Meetings were you?

Bradley. I was never at any other, but twice at *Tonge*'s Houſe. The Friday Night we had a Diſcourſe about taking *Whitehall*. And the Day before we were taken, I met this Mr. *Riggs* upon the *Exchange*. He asked me to go home, and dine with him; and we intended to go and ſee a Ship. His Dinner not being ready, we went over to *Tonge*'s Shop, and had a Quartern of Strong-waters; and I took a Pipe of *Tobacco*. *Riggs* went away, and ſaid he would not ſtay: *Hind* ſtaid with me the whilſt. After we had taken a Pipe of Tobacco, he came again, and ſaid he heard the Buſineſs was near at hand, and that there would be ſpeedy Action. *Hill* was at the Shop. And after Dinner, *Riggs* and I, Mr. *Hill* and *Hind*, went all out together to *Stubbs*'s Houſe. *Riggs* and *Hill* went in; *Hind* and I ſtaid. Standing there a little, ſaid I to *Hind*, What mean theſe Gentlemen to ſtay ſo long? *Riggs* ſaid he ſtaid for a Friend; but I will go and meet him. Said I, Will you not go on board a Ship with Maſter *Hind* and I? Says *Riggs*, No, I will go to meet my Friend: Do you go on board the Ship, and come to my Houſe; if I am not there, pray ſtay a little. We asked Mr. *Hill* if he would go with us; but he went with *Riggs*: And they told me coming back, That *Gibbs* had informed them the Deſign was ready, Council broke up, and Meſſengers ſent to give notice; and *Ludlow* in Town, and to be General.

Court. Who told you this?

Bradley. *Riggs* did, when he returned from *Bridewell*.

Tyler *ſworn*.

Sir *Heneage Finch*. Mr. *Tyler*, do you know *Tonge*?

Tyler. I know him very well.

Sir *Heneage Finch*. Have you ever been in his Company, and ſpake of any Deſign about ſecuring the King?

Tyler. Often.

Counſel. Tell what you have heard.

Tyler. I have met Mr. *Tonge* and others in three or four ſeveral Places: At the *Wheat-Sheaf* at *Lion*'s once, if not twice; at the *Half-Moon*, Widow *Jordan*'s, within *Biſhopſgate*, twice at the leaſt. Near *Duke's-Place*, at the *Shears*, I have heard ſeveral Things, and have noted it down, to be ſure to deliver the Truth. I have heard them ſpeak about *Whitehall*, and ſecuring of it, and of the two Guns there. *Elton* and he ſaid, That they might come with a Party backwards, breaking through a Barber's Shop in *King's-Street*, and diſmount the two Guns. But as touching the King, the Duke, and the Noble Duke of *Albemarle*, they propoſed what excellent Service it would be to ſecure theſe Perſons: He ſaid it was not a Thing that would admit of much Debate, inaſmuch as he had a Friend a Courtier, (I know not his Title) that would give him notice at any time when the King was gone a hunting, or his Progreſs; and that it was eaſy to take it. *Tonge* ſaid he ſerved the *Tower*-Suttlers, and was acquainted there; and ſaid, There was no way to ſurprize that but this, either about Ten or Eleven a-clock. I will undertake we may do it with forty Perſons thus, ſays he; Some to go in dropping, one by one, or two together, and others to be at ſeveral Alehouſes near, to be ready; and they within ſeizing on the Guard by a private Sign, we ſhould ſecure thoſe without; and the Soldiers, being of the old Army, will readily comply. And ſaid, There was a Perſon that lived nigh him, wears Ropes about him, is a Porter when off the Guard, and believes he can command the whole Company, and would undertake it. For *Windſor*-Caſtle, there was an old Gunner that he kept a Correſpondence withal; and he ſerved the Suttlers of that Caſtle alſo with Tobacco, I think he named Strong-water; and that the Soldiers were many of them his Acquaintance; and that he had received Letters from this Gunner under ſome ſtrange Title. And ſaid it was eaſy; and knew that at any time, when the Word was given, let him go, or ſend by ſuch a Token, and that Place were our own.

Court. Who ſaid this?

Tyler. Mr. *Tonge*. As to the other Perſon, *Phillips*, I can only ſay this of him: There is one Lieutenant *Chapman*, ſo formerly, now a Priſoner in the *Tower*. This Lieutenant was a Carrier of *Norwich*. I went to his Inn, the *George* in *Lombard-Street*, and asked for him; I was told he was at Captain *Foſter*'s Houſe, in *Leaden-Hall-Street*, and there I might find him. I went to Captain *Foſter*'s; and Captain *Foſter* told me he was at Supper there with his Maſter. I went up: There was this Lieutenant *Chapman* and *Phillips*, which was the firſt time I laid my Eyes on *Phillips*. My Buſineſs was to ſpeak with Mr. *Chapman* the Carrier; but I perceived by ſome Diſcourſe of Mr. *Phillips*, there was ſomething driving on: But I muſt ſay that Captain *Foſter* walked about the Room as if he minded not the Diſcourſe. There was *Chapman*, *Phillips*, *Elton*, and a Man looking a-ſquint; I heard *Phillips* call him Muſter-Maſter, but I know not the Man. I heard them diſcourſe very promiſcuouſly about Ships, and ſomething wildly. I tarried while I ſpent Two-Pence, and came away with Mr. *Chapman*, and asked him, what that young Blade was that talked ſo promiſcuouſly? *Chapman* told me he was a Serjeant, belonging to the Trained-Bands. Tell me his Name? His Name is *Phillips*. Do you know his Trade or Dwelling? He is a Gilder, I think. Then this is the ſame Perſon I have heard of at a Coffee-Houſe; which was thus: A Perfumer in *Southwark*, he heard of great Rumours about a new Commonwealth; and preſſing this Perfumer how he came to be thus informed, ſays he, There is one *Phillips*, that lives in *Abchurch-Lane*; this Man knows of it: For, ſays he, he hath ſaid himſelf, that he has gone from Committee to Committee, where Officers met about theſe Things; and he named Captain *Foſter* for one that was engaged in the Buſineſs. Said I, This is ſtrange! I haſtened back again in the Morning to Captain *Foſter*'s: Sir, ſaid I, do you know that *Phillips* that was here laſt Night? Yes, ſays he. What is he, ſaid I? He anſwered, A Serjeant.

The thing is this, this Man does talk abroad, That there is a Meeting of the old Officers, and that you are engaged. At which Captain *Foſter* ſeemed to be troubled that he ſhould be ſo aſperſed, anſwered, I know nothing, no not one word of this; I do declare an Abhorrence thereto, or of any Action againſt his Majeſty; and thereupon preſently went to *Phillips*, and charged him with this Report: and ſoon after this Perfumer comes to my Houſe, and deſired me to go over to the *Croſs-Keys* where *Phillips* was. When I came there, ſays *Phillips*, Sir, I ſaw you the laſt Night, when we were talking of Ships, I hope you do not mind the Report about Captain *Foſter*, for I am troubled ſuch a thing is mentioned: for my part, I know not that I ſaid ſo; I am ſure I knew no ſuch thing. This was all as to *Phillips*; but for *Tonge*, I muſt needs ſay, in all the Meetings where I was, the ſeveral Places that I formerly named, and the *Whalebone* behind the *Exchange*, he ſtill diſcourſed of this buſineſs.

Counſel. What was done there concerning chuſing the Council of Six?

Tyler. He was ſpoke to, to be at the *Shears*, but he ſent a Note ſealed and directed, in which was incloſed either nine or eleven of the Rump-Parliament Names of Perſons: And, ſays he, for my part, I cannot come this Day, becauſe the Hamlets are to go out into the Field; (it was when Sir *John Robinſon* marched with his Regiment) that I may avoid Suſpicion, I muſt go with him.

Counſel. What were thoſe Names?

Tyler. I cannot tell; but they were nine or eleven of thoſe in the *Tower*: and he promiſed he would get a Note of thoſe Mens Names in the *Tower*; for he was confident of it, that they would ſit as Members, and do good Service upon the account of a Commonwealth; and ſaid, there were ſome that had a Correſpondence with them in the *Tower*.]

Counſel. What Correſpondence had they in the Country?

Tyler. *Tonge* told me at the *Wheat-ſheaf*, That if a Riſing ſhould be, it were neceſſary that the old Commanders up and down the Country ſhould head them: And therefore, ſays he, what Forces can be raiſed, ſhould go under that Conduct, or to that effect. He and *Elkin* did propoſe ſeveral Colonels, I think moſt that are now living, both in *England* and beyond the Seas.

Counſel. Can you tell any thing of the Rumours abroad, expecting this Deſign?

Tyler. *Tonge* told me this, That there was one that they called the Lord *Lockhart*; he ſaid he was Governour of *Dunkirk*; That he had thirty or forty Servants about him; That theſe Perſons expected a Riſing; and that they and himſelf would engage. We heard that Col. *Roſſiter*, not particularly from *Tonge*, but there in Company, was expected to be at *Sturbridge-Fair*, to head Fifteen Hundred Horſe, to be at *London*. Alſo he asked me this Queſtion at his Houſe, Whether I was acquainted with Captain *Leigh*, a Man with one Arm, a ſtout honeſt Fellow, and an active Fellow, of his Acquaintance?

Counſel. Speak your knowledge both of Perſons and Things.

Tyler. There was one Mr. *Cole* of *Southampton*, *Swetnam*, *Gibbs* a Hatmaker, not he at the Bar, *Tonge*, *Thomas Elton*, *Elkin*, *Pryor*, and one *Cox* a Gardiner, and *Ward* now a Priſoner in the *Tower*, and one *Ward* a *Southwark* Man, and *Dyer* a young Scholar; there was one *Roſe* of *Cheſterfield*, and the Perfumer I ſpoke of, I know not his Name, he lives in *Southwark*; and there was a Quaker, I know not his Name: the great Buſineſs was to unite all Intereſts. *Elkin* ſaid, There were ſeveral Meetings in *St. Martins*, and other Places.

Tonge. If there be any one of the ſix in *London*, I believe this Mr. *Tyler* is one.

Tyler. To clear that I am none of them, I will name thoſe whom I ſaid were the ſix; *Thomas* of *Shoe-lane* the Copperſmith, one *Elton* in *White-Chappel*, one *Raddon*, Captain *Spurway* of *Tiverton*, a Weſt-country Gentleman, Dr. *Ward* in *Southwark*, and *Jones* a Miniſter.

Sir *Hen. Finch.* Did *Tonge* tell you that the time was appointed when the Riſing ſhould be?

Tyler. I know nothing of that.

Maynard. What about *Leiceſter*?

Riggs. Hill ſaid, He dwelt there, and came from ſome that dwelt there, and others in *Glouceſterſhire*; but there was another Perſon with *Stubbs* and *Tonge*, and ſaid, There was a Report in the Country, That there would be ſome Riſing; and he came to Town to bring his Child to put him Apprentice with his Brother, and would go down again, and carry the Certainty of the News: He was one of *Lambert*'s Soldiers.

Phillips. Mr. *Tyler*, did not you come in with the Carrier of *Norwich* to Capt. *Foſter*'s?

Tyler. No, I did not.

Phillips. I am ſure I came accidentally to Captain *Foſter*'s, and going, I ſaw you there.

Gibbs. Did I tell you, Mr. *Riggs*, that my Brother ſaid *Ludlow* was in Town, and there would be a Riſing ſhortly?

Riggs. Mr. *Hill*, *Beazley*, *Stubbs*, and I and you were together; Mr. *Thomas* and your Brother came in: your Brother, *Beazley*, *Stubbs* and *Thomas* were private in Diſcourſe. When you came again to us, we asked you what News? You ſaid, Before we came you knew not much, but your Brother could tell; but then you ſaid, *Ludlow* was in Town, the Council was broke up, and that Meſſengers were ſent to give notice to the Country.

Gibbs. I deny that I or my Brother ſaid ſo.

Maynard. Know you any thing of ſurprizing the King's Council, or *Whitehall*, or any thing of that, or altering the Government?

Tyler. As for altering the Government, that muſt needs be deſigned; for *Tonge* ſaid, It was debated, and thought convenient, as being the Deſire of ſeveral in the Country, that the old Parliament ſhould be choſen again: that was to ſay, That ſo many of them that had approved themſelves faithful from firſt to laſt, to a Commonwealth's Intereſt, eſpecially in the times of Declenſion. Secondly, That none ſhould have Power to elect, or be elected, but ſuch alſo as have approved themſelves faithful, as aforeſaid. Thirdly, This Houſe was to be filled up within a Month. Fourthly, That it ſhould continue one Year, and no more. Fifthly, That they ſhould not have Power in things of an Eccleſiaſtical Nature, to impoſe any thing upon the Conſciences of the People. Sixthly, That it ſhould be High Treaſon amongſt them to aſſert the Intereſt of a King, Houſe of Lords, or ſingle Perſon. Seventhly, That they ſhould not appoint any Salary-Officers. Eighthly, That while they keep to this, it ſhould be High Treaſon to diſturb them. As touching Arms, and things of that nature, the truth is, the Buſineſs which was very much urged, is this; That there ſhould be an Uniting of all Intereſts together, Quaker, Fifth-monarchy-Men, Anabaptiſt, Independent, Presbyterian, and Leveller; to which purpoſe every one was obliged at the Meeting to ſee what Intereſt they could

make among the Presbyters, becauſe they looked upon them as Perſons that had moſt Money and Strength. I think there was no Presbyterian ſpoken of, except one, who is lately ſecured in the *Tower*: He ſaid, that if ſo be that Colonel *Beanes* was at liberty, he could engage him. There was one Man that was there, which was one *Prior*, I ſuppoſe *Tonge* knew him; he ſaid, He had very much Acquaintance with the Presbyters, knew many in the Country; and that there they did not meet with any Difficulties, as here; for all Intereſts, Quakers, and Presbyterians, and the reſt, are all agreed.

Sir. *Hen. Finch.* Very well, you ſee *Tonge* was at all theſe Meetings at the *Wheat-ſheaf* and *Shears*; and there were the Colonels propoſed. Did you hear of any Orders given out, in any of theſe Conſultations, to make the Riſing in the Country at the ſame time as in *London*?

Tyler. Mr. *Gibbs*'s Brother told us, That he kept a Correſpondence in the Country; that in *Eſſex* he knew there were divers Horſe ready there; and I my ſelf ſpoke with one who is lately ſecured, who ſaid, There were divers Horſe ready thereabouts. I remember there were ſeveral at the *Half-Moon* at *Biſhopſgate*, one *Smith*, a *Northamptonſhire* Man, and one *Eloſe* of *Cheſterfield*, and *Tonge*; and we heard, that at *Mansfield* and *Nottingham* there was a Riſing intended; and it was aſſured, that the Country was very ripe and forward for Action. We were informed that there were two hundred Horſe at *Briſtol*; one Perſon, not yet ſecured, did affirm to us, That one Colonel *Templar* in *Eſſex* had two or three thouſand Men ready, his Name was *Thomas*; That *Templar* was now in Town, if we would, we might go and ſpeak with him. Said I, ſurely he doth but tell you this. Saith he, His Lieutenant-Colonel gave me this Information, and aſſures me, that his Colonel had converted his Eſtate into Money to pay his Soldiers. Upon this, having occaſion to go down into *Eſſex*, I promiſed *Tonge* I would enquire further there: and underſtanding that one *Thornback* a Glover, was one of theſe *Templar*'s Men formerly, I went to his Houſe, and being not at home, I rode to *Holſted*-Fair; and riding there, the Man pulled me by the Coat, for he knew me; ſaith he, Mr. *Tyler*, my Servant ſaid you were at my Houſe to ſpeak with me. Yes, ſaid I, I underſtand your Name is *Thornback*; That you can give me ſome account concerning Colonel *Templar*; we hear in *London* that he hath two or three thouſand Men in readineſs, I pray inform me. Saith he, I do not believe any ſuch matter; I have ſerved him long, and if Occaſion were, he would be for you. I asked him the News: ſaith he, We all dread a Maſſacre; we underſtand by a Letter from *Ipſwich*, That the Papiſts intend a Maſſacre of all Proteſtants about *All-hallontide*, and that that Country was in great fear about it. This *Thomas* the Copper-ſmith told us another Story about ſome *Roman* Catholicks in *Southwark*, that had a Purpoſe to riſe and take off all Fanaticks.

After this the Court directed, that *Phillips*'s Examination ſhould be ſhewed him at the Bar, and he acknowledged his Hand thereto; and was read as followeth.

The Examination of George Phillips, *Serjeant and Bringer-up to Col. Sir* William Wales's *Company of Trained-Bands in the City of* London, *taken this 29th of* October 1662. *before me* Richard Brown.

Who ſaith,

THAT he knoweth one Parſon *Riggs*, late Chaplain to *Blake*, who is now Clerk to one *Friend* a Brewer in *Cat's-Hole*, near the *Iron-gate* in *St. Catherine's*; which ſaid *Riggs* told him this Examinant, That there would be a Riſing of divers godly People in Arms, for Preſervation of Religion, about the time the Queen came to Town; and that they intended to ſeize the King's Perſon about *Camberwel*, in his Paſſage to ſee the Queen Mother at *Greenwich*: but after the Queen was come to Town, This Examinant asked the ſaid *Riggs*, why it was not done according to their Intendment? who replied, They were not then ready, becauſe the Congregational Churches and they were not fully agreed; but now they were come all to an Agreement, and the Work would be done in a ſhort time; That all things were now near ready both in Country and City; and that a Frigat or more would revolt from the King to them. Not long after, the ſaid *Riggs* carried him the ſaid *Phillips* to the Houſe of one *Tonge*, an old Army-Captain, but now a Seller of Tobacco and Strong-water in *Tower-Ditch*; where he heard *Tonge* ſay unto *Riggs*, That he had been at *Windſor-Caſtle*, and had made a Captain, two Serjeants and a Gunner to be of their Party; and that they had undertaken to deliver up the ſaid Caſtle to that Party which were now to riſe. To which *Riggs* replied, You have done well: And further ſaid, I am going now to ſurprize two Caſtles in *Kent*; one of them, as this Deponent remembreth, was to be *Deal-Caſtle*; and this he would and could do, for that he had ſome Correſpondence therein, and much Acquaintance near, where he formerly uſed to preach. And further ſaith, That *Tonge* asked *Riggs*, Who ſhould lead the Men that were to riſe, and who commanded in chief? To which *Riggs* replied, That *Ludlow* was appointed for that Work.

He further ſaith, That he asked *Riggs* and *Tonge*, how this Buſineſs might be carried on with Safety and Secrecy? *Riggs* told him, That there was a Council of Six which managed the Deſign, who ſat but one Day in a Place, and would not be ſpoken with, but by the Agitators of each County, who were employed by them to and fro in this Work, to prepare and make ready all Parties in the ſeveral Counties; and that theſe Six were of ſeveral Congregations and Opinions, to the end that all Parties might unite. And further ſaith, That one *Wade*, or ſome ſuch Name, whom he heard *Riggs* and *Tonge* ſay, was a Ship-Chandler in *Eaſt-Smithfield*, did furniſh Powder to carry on this Deſign, in whoſe Company he once was, and heard himſelf ſay as much; which ſaid Perſon he believes he knows when he ſeeth him again. He alſo ſaith, That *Riggs* told him all the Congregational Churches were now agreed to join in this Deſign; and that *Riggs* and *Tonge* deſired this Examinant to furniſh what Men and Arms he could: which, he ſaith, he never intended to do it, though they earneſtly requeſted it of him. Only he ſaith, In ſome things he was too faulty, which he prayeth Pardon for; which was, in ſending word to the ſeveral Meetings on Sunday laſt, That the Trained-Bands were coming to ſeize them: Upon which the chiefeſt of them made their eſcape before the Soldiers Arrival; and that he being deluded by their fair Speeches, did promiſe to give them the Word when the general Riſing was to be; in which Riſing all the Churches aforeſaid promiſed to join, and the Fifth-Monarchy-men to lead the Van. And further ſaith, That *Riggs* told him, They had a Declaration ready to fling among the People, againſt *Biſhops* and *Common-Prayer*; and that *Liberty of Conſcience* was held forth therein. But firſt, before this Declara-

tion, they would ſeize on the King's Perſon, and that then their Declaration would take with the People. And alſo ſaith, That one Capt. *Baker*, one *Bradley* and *Tonge*, were privy to all theſe Tranſactions which were debated by them in his Preſence; and that the ſaid *Baker* came afterwards to this Examinant, and diſcourſed all the aforeſaid Particulars, and incited him to help on with the Work; and told him, their Arms and Powder were diſtributed, and that a Porter, which was formerly a Soldier, carried the Powder to ſeveral Places in a Sack. And further ſaith, That *Riggs* told him they had divers Friends both in *London* and the Country, who had, and would help them to Money; and that all their Friends were now ready in all Countries, waiting only for the Day when they were to act; and that the Treaſure in the *Guild-Hall* was likewiſe to be ſeized.

And that the ſaid *Riggs* alſo told him, That they intended to ſurprize the *Tower*, which they could eaſily do, having ſome therein that would aſſiſt: and this was to be put in execution in ſome Evening when Sir *John Robinſon* came home late, by following cloſe after his Coach with a Party of Men, which ſhould lie ready for that purpoſe.

George Phillips.

Sir William Morice, *and Sir* Henry Bennet, *Principal Secretaries of State, ſworn.*

Sir *William Morice.* I have had Intelligence, and ſeveral Advertiſements from ſeveral Parts of the Kingdom, that there was a Deſign of Riſing, and an Inſurrection, that it was the general Expectation and common Diſcourſe of the diſcontented and diſaffected Party; nay, it was likewiſe preached about, that the Papiſts had a Deſign to riſe and cut the Throats of the Proteſtants. I had four or five Letters to that effect ſent and brought me; and theſe Rumours were ſpread to excite others to join with theſe.

Sir *Henry Bennet.* Divers Letters of mine were to the ſame effect, That there was an Inſurrection intended at that time, and calling upon one another to be ready at that time.

Sir John Talbot *ſworn.*

Sir *John Talbot.* I ſuppoſe that the Evidence that I can give in relation to the Priſoners, is only the Conſequences of this Report, which they had rumoured about the Papiſts maſſacring the Proteſtants: the Conſequence was this, That it made a very great Diſturbance in *Worceſterſhire* and *Warwickſhire*, inſomuch that many Gentlemen that lived in the Country in very good Repute, came under a very great Suſpicion of all their Neighbours; and the Lieutenants wrote to one another to ſecure many: there were Guards ſet to ſatisfy the Fears of the Country. Friday Night, which the Riſing ſhould have been on, they would not intruſt the Catholicks to be in Arms, but other Volunteers.

Mr. Hodges *ſworn.*

Mr. *Hodges.* In *Dorſetſhire* the 23d of *October* laſt, there was a Diſcovery made by ſome of the Town, of an Intention of a general Riſing; and ſome of the Town were engaged in it: one Mr. *Harvey* a Juſtice of the Peace examined divers Perſons; four that were privy to it were ſent to the Goal, and an Expreſs ſent to Mr. Secretary *Morice*. Sir *John Weld* the younger gave ſuch an Account of *Shrewſbury*.

Stubbs. My Lord, the Occaſion of my going that Friday-Night, was by Mr. *Hill* and Mr. *Riggs* ſuggeſting the Papiſts riſing; I was never known to be a Plotter; I had not gone forth that Night, but only by their Perſuaſions: I never heard of any Arms, but only the Rumours of the People.

Sellers. I would fain know of Mr. *Riggs* what Number of Arms I told him was delivered?

Riggs. I know not the Number.

Major Thomas Bonfoy *(at his deſire) was ſworn.*

Major *Bonfoy.* I do not remember that I ever ſaw *Phillips*'s Face, but I did underſtand it was his Cuſtom to come to the *Exchange* to inſinuate himſelf into my Officers, making merry with them, and endeavouring to get the Word; and I believe it was his common Practice.

Phillips. He may remember I came on the *Exchange* and ſpoke to him, and was looking for one of his Serjeants; I asked no Man the Word, but preſently went to the *Black Lion* in the new Alley, and from thence I went home; I did not ask the Word of any one. I have confeſſed before the Council, that at the beginning of *Auguſt*, I met Mr. *Riggs* in *Cheapſide*; he then came and cloſed with me, and walking along, ſaid he, Do not you hear of a Riſing which ſhould have been on Friday? No, ſaid I; and then I asked him where? he ſaid, At *Camberwel*: and I thinking nothing of it, came home and ſpoke of it in my Family, as News from Mr. *Riggs*. On Tueſday I met Mr. *Riggs* on *Tower-Hill*, and he brought me to the Houſe of Mr. *Tonge*; *Tonge* told *Riggs* he had been at *Windſor*, and made ſome Party to ſecure the Caſtle. *Riggs* ſaid he could go down to *Kent*, and ſecure *Deal* and another Caſtle; for he had been a Preacher there. As for Mr. *Tyler*, one Night coming near Captain *Foſter*'s Door, and having not ſeen him in three Years before, he asked me, if I would not drink? I ſaid, Yes: Then came in the Carrier of *Norwich*, I never ſaw this Carrier till then: Then came Mr. *Tyler*, and there was talking of a Frigat, and the time of the launching of it, and how it was to be mann'd; but a little after Captain *Foſter* came and charged me with a Report, That I ſhould ſay he was engaged. I told him I knew it not, nor ſaid it not: I have often declared I would have nothing to do in it. It's true, Mr. *Riggs* came and thanked me that I ſent notice to the Meeting to be gone; and I told him I would do the People any good I could; but Mr. *Riggs* knows I told him it was a dangerous Buſineſs, and I would not meddle with it: I am ſure in the time of the Fifth-Monarchy Inſurrection I was faithful to the King, ventured my Life as far as any Man; Sir *William Wales* put truſt in me, and I did that Service there, that the Colonel himſelf did not venture to do. But that I was engaged in this Buſineſs, it is a Trouble to me, and I hope the King will be merciful to me; I did not think that ſuch a thing would be diſcloſed in ſo ſhort a time. For my part, I did not mind it, I knew nothing the Night I was taken, I was in Bed, and did not offer to eſcape; I hope the King will look upon me as one drawn in.

Stubbs. I never had any Meeting with any of the Council; moſt of the things I heard at Mr. *Tonge*'s Houſe, meeting with Mr. *Riggs* by chance. For thoſe Gentlemen Mr. *Tyler* ſpeaks of, the Council of Forty and of Six, I never knew them: I am

ſorry I ſhould be concerned in ſuch Diſcourſe, and I hope his Majeſty will have mercy on me.

Gibbs. My Lord, I was at a Neighbour's Houſe at that time, and went to drink a Cup of Beer alone in their Kitchin, not knowing of *Hill*, *Riggs*, or *Stubbs* coming there: I never appointed them any Meeting, they came in, and when they came in, they asked if there was not one *Gibbs* there; ſo the People of the Houſe told them there was. They came and told me, there were ſome Gentlemen would ſpeak with me; whereupon, they being ſtrange Faces, I ſtood up and ſaid, Gentlemen, what is your buſineſs with me? Said they, we would drink a Cup of Beer with you. Then ſaid I, ſit down. They had a deſire to be private, and to go up. Whereupon, not knowing their buſineſs, I went up, ſuppoſing they meant ſome Matters of my Trade; but we ſitting down, Mr. *Riggs* ſaid to me, Mr. *Gibbs*, what is the beſt News? And Mr. *Hill* alſo did urge and ask for News. Said I, Gentlemen, I know no News, nor none I can tell you. So they made inquiry then for my Brother: ſaid I, I cannot tell where my Brother is, may be your buſineſs is moſt with him; I will ſend for him: and I ſent the Maid for him, and directed her, that if he was not at home, ſhe ſhould leave word for him to come. Again they urged for News, and I told them I knew none but only this, That the Meeting was ſeized upon the laſt Sunday by armed Soldiers: But to tell them there would be any Riſing, or of any Arms delivered, or Piſtols, as Mr. *Hill* has related it, was a thing I was wholly ignorant of. I ſpeak as in the preſence of God, and I know I muſt one day give an account before the great Aſſizes of the World; and I fear that which they have ſaid, is out of ſome fear lying upon them, being guilty of ſome Fact, and ſo to ſhroud themſelves under falſe Lyes. They, nor no other can prove that ever I received or delivered any Arms, or that any were delivered by my Order; theſe Men ſpeak falſly.

Sir *Orl. Bridgman.* You miſtake yourſelf, they do not charge you with receiving or delivering Arms, but you related it: your Brother ſpeaks ſuch things had been done, and if you know of this, and do conſent and conceal it, you are equally guilty.

Gibbs. After they had asked me the News, in a ſhort time my Brother came into the Room, and I roſe from the Table, and went towards my Brother; and then my Brother asked me what thoſe Gentlemen were? I ſaid they were Strangers to me, and knew not what they came for. Says he, they are Strangers to me alſo. Immediately we aroſe, paid our Reckoning, and went away. But that ever I ſaid my Brother told me, *The Council of Six was broke up, all is ready*, Ludlow *to be General, and* Alhallow-Eve *the time*, or *that things went on well*; I deny it: my Brother ſaid no ſuch thing to me, nor I to any Man. When there was an Inſurrection by the Fifth-Monarchy Men, I was then preſently ready at Beat of Drum, went out in my own Perſon to ſerve his Majeſty at Twelve a-clock at night, tho I had Servants of my own. My Affections were ſuch, that I have always, ever ſince his Majeſty's Reſtoration, been an obedient Subject to all his lawful Commands. I belonged then to Major *Kilby*'s Company, and did continue marching in the Company till the whole Buſineſs was over, and ventured my Life, and never did contrive any Plot, or knew of any Plot, received or delivered any Arms. As to the Inhabitants among whom I have lived many Years, they have known my Converſation; I have been a peaceable Neighbour, ſubjecting myſelf under the Government that now is, whom God continue. I deſire this Certificate may be read concerning my Neighbours Teſtimony of my Converſation.

Sir *Orl. Bridgman.* If you have any of them here, they may ſpeak; but the Certificate cannot be read.

The Porter's Man of *Bridewell* ſaid, he knew nothing but that he lived very quietly among his Neighbours.

Sir *R. Forſter.* Nor I neither.

Court. Mr. *Tonge*, what have you to ſay?

Tonge. I have nothing to ſay, but that the firſt Man that brought me into this Buſineſs was *Tyler*.

Sellers. All that I am charged with, is a Report of the Delivery of ſome Arms; ſeeing that a number of Arms are mentioned, I would ask what was the number?

Mr. *Riggs.* I cannot well tell the number, but you ſaid there were ſome Arms given, and ſome to be given, and that ſeveral had come to that place, and went away without Arms, and that within two or three days there would be more given; but as to the number, I cannot remember.

Sellers. Now take notice of Mr. *Hill*'s Evidence, he hath aſſerted that there were five or ſix hundred; how do theſe agree? I can have ſufficient Teſtimony of my Life and Converſation.

Court. If you have any thing more to ſay in this Buſineſs, ſpeak in the name of God, no body hinders you, but keep to the Buſineſs.

Sellers. I intreat the Bench to take notice what I am charged withal; it's only a Report I received from one Man, and told to another, and the very Original was a Lye, there was no ſuch matter, and yet here is audacious Evidence: he ſays I named five or ſix hundred, and yet *Riggs*, to whom I ſpoke, heard me name no number.

Counſel. One ſpeaks to the Arms, but does not remember the number; they both ſpeak to the thing.

Sellers. How can Mr. *Hill* be a competent Witneſs againſt me, when he never ſaw my face before, but ſays Mr. *Riggs* told him?

Hill. I ſaid not ſo, but that I heard it from your own mouth.

Mr. Sollicitor. Mr. *Riggs*, why did you go to Mr. *Sellers* to help Mr. *Hill* to Arms?

Riggs. Becauſe Mr. *Sellers* told me the day before, that he heard there was ſome delivered, and more would be: and the next day we went to the *Exchange*, and there he told me this ſtory.

Sellers. I cannot hear him.

Sir *Orl. Bridgman.* He ſays you told him the day before there was Arms delivered, and more would be delivered; and then the next day he and Mr. *Hill* came on the *Exchange*, and then you ſpoke thoſe words which they both witneſs againſt you.

Sellers. I never ſpoke ſuch a word. It's true, what *Wapſhot* told me I told *Riggs*, which was, that there were Arms delivered; but it ſeems there was none: and I told him I would tell him the truth the next day on the *Exchange*. And ſo in the mean time ſpeaking with *Wapſhot*, he told me there was no ſuch thing, and I told Mr. *Riggs*, *Wapſhot* ſaid there was none.

Court. Pray what made you ſo buſily inquire after Arms, if you were not concern'd?

Sellers. I did not inquire after it, but accidentally meeting him in *Mark-Lane*, he told me.

Tonge. My Lord, as you are my Judge, ſo I hope you will be my Counſellor; and I pray your Advice whether Mr. *Tyler* and Mr. *Riggs* be competent

tent Witneſſes againſt me, they being in the ſame caſe.

Sir *Orl. Bridgman.* Where is the Cauſe of your Exception?

Tonge. Becauſe they are in the ſame caſe.

Sir *Orl. Bridgman.* There are four Witneſſes all againſt you, your own Confeſſion and Examination againſt you, through the whole Buſineſs you are a principal Perſon.

Tonge. I confeſs I did confeſs it in the Tower, being threatned with the Rack.

Sir *Orl. Bridgman.* There is Mr. *Hill*, Mr. *Riggs*, Mr. *Bradley*, and Mr. *Tyler*: there is *Hill* and *Bradley* without exception; *Bradley* he was not at all concerned, he went along with you to know what you ſaid; and Mr. *Hill* was not a Perſon in the Deſign, but made uſe of only to find out the Plot: they did nothing unjuſtifiable, ſo they are Witneſſes without exception.

Serj. *Glynne.* We deſire your Lordſhip to declare whether *Riggs* and *Tyler* be lawful Witneſſes.

Sir *Orl. Bridgman.* I would have you know this: Whereas you make exception againſt thoſe Perſons that are guilty of the ſame Crime, that's a miſtake to ſay they are not Witneſſes; in Caſes of Treaſon, where there are Works of Darkneſs, theſe are things Men will not do by Day-light, but in Darkneſs; and who can diſcover theſe Works of Darkneſs better than they that have to do with them, if God turn their Hearts? It's true, ſuch Perſons as theſe are, if they had been convicted, they are not Witneſſes; but tho they are in the ſame fault, it is frequent practice, they are allow'd in caſe of Felony. Beſides, they are not Witneſſes alone, and there are divers Circumſtances concurring. 1 *Edw. 6.* 5 *Edw. 6.* both Statutes ſay, There ſhall be lawful Witneſſes in Caſes of High Treaſon; but that is, ſuch Witneſſes as the Law would allow before thoſe Statutes: The meaning of the Statutes was, that Men might not be taken upon bare Surmiſes; therefore the Law ſays, there ſhall be two Witneſſes. When one is accuſed of Treaſon, another in the ſame Offence unconvicted, his Evidence is made uſe of; and tho he is not ſo upright a Witneſs as others, yet he is ſuch a Witneſs as the Jury is to take notice of. Such Teſtimony was allowable before thoſe Statutes; and the Tryal is ſtill by Jury, not Witneſſes, and the Jury are to conſider of the Credit of the Witneſſes. In King *James*'s time a † Great Perſon was condemned upon the Evidence of one in the ſame Treaſon. It is plain by ſeveral Circumſtances, you have been a principal Perſon, a Leader on of the Buſineſs: Tho a Man be but preſent when Treaſon is ſpoken, or deſigned and acted; if this Man be preſent, and ſhew any thing of Approbation, his concealing of it is as much Treaſon as he that did it, they are all Principals in Treaſon.

† *Sir* W. Raleigh.

Sir *Heneage Finch.* May it pleaſe your Lordſhips, and you Gentlemen of the Jury, you have heard the Evidence of the Priſoners at the Bar; five of them have ſtood out their Tryal, a ſixth hath confeſſed the Fact againſt thoſe Perſons that now ſtand at the Bar: Under good favour there is a clear and unqueſtionable Proof of the Crime charged againſt them, and they have not ſaid any thing that hath either taken away the Credit of the Evidence, or excuſed the Matter. If you conſider firſt *Tonge*, there is againſt him four Witneſſes, and thoſe unqueſtionable; as you heard the Direction of the Court, that he knew of the Deſign, approved of it, contrived how to ſurprize *Windſor-Caſtle*, had corrupted the head Gunner and Serjeant there; that he did contrive to ſeize *Whitehall*, and if you believe *Bradley*, adviſed, as the fitteſt way, to break into the Privy-Garden: All this againſt *Tonge*, with a world of other Evidence how active he has been, his Houſe was the place of Conſultation, he imparts the Deſign to *Phillips*, and *Phillips* undertakes to get the Word of the Trained-Bands; I think none can prove more than is proved againſt him. When you come to hear the Proof againſt *Phillips*, it is proved that he offered to betray 300 Arms in the Artillery, where he had ſome kind of Truſt, and that he was ready to endeavour the Word when the Inſurrection was to be; and but a very little before, he is the Man that diſcovers to the Congregational Meetings, that the Trained-Bands were coming to ſurprize them, that is in his own Confeſſion, as well as the Willingneſs in him to diſcover the Word. It is proved, that *Tonge* and *Stubbs* were preſent at thoſe Diſcourſes touching ſurprizing the Tower, ſecuring the King, this is proved expreſly againſt them; *Stubbs* he thinks he has ſaid fairly for himſelf, when he doth ask Mr. *Hill* whether he did not ſay he had Horſes and 200 *l.* to carry on the Work; Mr. *Hill* ſays he did ſay ſo: then it ſeems *Stubbs* was inquiſitive what Helps there were to carry it on. Mr. *Hill* goes further; That in the preſence of *Stubbs* it was ſaid there ſhould be no Quarter given, but ſuch as *Ludlow* ſhould have if he were taken. When you come to *Gibbs*, he does deny all the whole matter, and indeed ſo they would all; and they have nothing to ſay, but to cry the Witneſſes have ſworn falſly, and God is a righteous God, and he will require their Blood one day: but remember what a horrid Proteſtation was in that Letter that was ſent abroad, to alarm the whole Kingdom, as if a Maſſacre was intended by the Papiſts, and the Watch-word they ſhould all riſe by; that Letter ſays, *I call the Eternal God to witneſs, this is no Trepan, but a ſober Truth.* Do you think, that Men who are not aſhamed to call the Eternal God to witneſs to a Lye, when 'tis to raiſe Sedition, will make any ſcruple of ſuch Proteſtations at the Bar, when 'tis to ſave their Lives? And if a Man may ſcape by his own Proteſtation, who ſhall ever be found guilty? But *Gibbs* thinks he ſays a great deal for himſelf, when he ſays his Neighbours can give great Teſtimony of his good Converſation. Alas! who will deny to give a good Report of any Man till he hear Evil proved againſt him? But do you think a little demure and ſober Carriage amongſt a Man's Neighbours will ſerve to ballance an Evidence of High Treaſon? Is not the Proof clear, that he did both know the Deſign and approve it? Mark what *Gibbs* tells the Company.

My Brother, ſaith he, for his part he will not ſpeak before you; but if you be honeſt Men: This is the News that was ſpoke, like one that was not conſenting to it. Well then, what is the News? He tells them why the Council of Six are broke up, Friday is the Day of Action, *Ludlow* is to be General. Can any Man be privy to theſe things, and relate them ſo cheerfully, and yet not be conſenting? Believe it, it is a hard matter to find greater Evidence of a Knowledge and Conſent againſt any Conſpirator, until he break out into open Action. *Sellers*, he ſays that the Witneſſes do not agree; for Mr. *Hill* ſpeaks, that he ſaid there was five hundred Arms delivered, and forty Men went without Arms, but within two or three days there would be more. And when *Riggs* comes to ſpeak, he ſays, he did ſay Arms were delivered,

and

and more would be, but he did not remember what number; and becauſe they agree in the thing, but not in the number, therefore he thinks they diſagree in the matter. Obſerve what reaſon was there that *Riggs* comes to inquire of *Sellers* for Arms, becauſe *Sellers* told him the day before Arms were delivered, and more would be, he thought, therefore he came to a very proper Perſon to tell him. If you mark, *Sellers* does deny openly in the Court that ever he ſaw the face of *Hill* till he was apprehended, altho *Hill* was with *Riggs* when the Arms were ſpoken of upon the *Exchange*: And then he ſays again, that *Hill* ſpeaks by hearſay, he is out in that too; for Mr. *Hill* ſwears expreſly, he heard the words themſelves from *Sellers*. Then here are theſe before you, four Witneſſes againſt *Tonge*, two againſt *Phillips*, and his own Confeſſion: Here are two againſt *Gibbs*, with theſe Circumſtances, *If you be honeſt Men, this is the News*, &c. Here are two Witneſſes likewiſe againſt *Stubbs*, who was likewiſe preſent at all their Debates, even when the King himſelf was to have had the ſame Quarter with *Ludlow*. Now, Gentlemen, that there was a Conſpiracy, I think you have a clear Evidence: we may thank God, and the Care of the King and his Miniſters, that it went no further; but 'tis no thanks to theſe Men, they would have carried it to the extremity, had they had power. And without queſtion this was formed by other kind of Wits than theſe poor contemptible Agitators, who are now try'd for it: you ſee there was a Council of Forty, and an Under-Council of Six, a Declaration framed to ſcatter at the time of Action, and that Action directed to be both in the City and Country, juſt in effect at the ſame pitch of time; and that it might be ſo, a wicked and an impudent Letter is contrived, and many thouſand Copies diſperſed, and it wrought ſo far, that the Countries, much about the time appointed, were in great diſorder, as you have heard it proved. Is it not plain, that an evil Spirit went throughout the whole Nation, and animated the whole Party of Malecontents? Moſt evidently it was a terrible Conſpiracy. Gentlemen, 'tis true, it is a Queſtion of Blood, but 'tis Royal Blood, 'tis the Blood of Princes and Nobles, and it concerns the Peace and Security of the Kingdom, and every Man's Propriety, and of Religion; for they had left no Man of Conſcience or Reputation behind, if they had prevailed. Conſider the Maſſacre theſe Men would have committed, had they proſpered, and oppoſe that to the pretended Maſſacre which they gave out by their Letter the Papiſts would have committed. Conſider that you have the Life of the King in your hands, and I doubt not but he and the whole Kingdom ſhall always be ſafe in the Verdicts of honeſt Men.

Sir *Robert Forſter*. My Maſters of the Jury, I cannot ſpeak long to you, you underſtand the Nature of this Buſineſs, ſuch as I think you have not had the like Precedent in your time. My Speech will not give me leave to diſcourſe of it; for the Witneſſes, they are none but ſuch as may ſatisfy all honeſt Men: it is clear they all agreed to ſubvert the Government, to deſtroy his Majeſty; what can you have more? Two of the Witneſſes are without exception, but I do not ſee any way but their Teſtimony is good. For the Parties, they in themſelves are very inconſiderable; theſe are but the Out-Boughs, and if ſuch Fellows are not met withal, theſe kind of People are the fitteſt Inſtruments to ſet up a *Jack Straw* and a *Wat Tyler*: therefore you muſt lop off theſe, or elſe they will encourage others. You ſee one of their own Company hath confeſs'd the Fact, out of Remorſe of his own Conſcience. But I leave the Evidence to you: go together.

Officer was ſworn to keep the Jury.

The Jury withdraw'd, and after an hour's Conſultation, the Jury return'd.

Silence was commanded, and *James Hind* fetch'd from the Goal to the Bar.

Clerk of the Peace. Gentlemen, anſwer to your Names; *Edmond Butler*, *Clement Pung*, [and the reſt of the Jury before mentioned] are you all agreed of your Verdict?

Jury. Yes.

Cl. of the Peace. Who ſhall ſay for you?

Jury. The Foreman.

Cl. of the Peace. Set up *Thomas Tonge* to the Bar: *Thomas Tonge* hold up thy Hand; look upon him, Maſters: How ſay you, is he guilty of the Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *George Phillips* to the Bar: How ſay you, is he guilty of the High Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *Francis Stubbs* to the Bar: How ſay you, is he guilty of the High Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *John Sellers* to the Bar: How ſay you, is he guilty of the High Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *Nathaniel Gibbs* to the Bar: How ſay you, is he guilty of the High Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. Hearken to your Verdict, as the Court hath recorded it. You ſay that *Thomas Tonge* is guilty of the Treaſon whereof he ſtands indicted, and ſo all the reſt. And you ſay, that they, nor any of them had any Goods or Chattels, Lands or Tenements, at the time of committing the ſaid Treaſon, or at any time ſithence, to your knowledge; and this you ſay all.

Jury. Yes.

Cl. of the Peace. *Thomas Tonge* hold up thy Hand, thou haſt been indicted of High Treaſon, thou haſt thereunto pleaded Not guilty, and for thy Tryal haſt put thyſelf upon God and the Country, and the Country hath found thee guilty; what haſt thou to ſay for thyſelf, why the Court ſhould not proceed to Judgment, and thereupon award Execution of thee according to the Law?

Tonge. I pray Mercy from the King, I cry for Mercy from the King.

Clerk

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *George Phillips*, hold up thy Hand; thou art in the ſame caſe that *Thomas Tonge* is, what canſt thou ſay? &c.

Phillips kneeled down, and ſaid, I pray the Mercy of the King and the Honourable Bench.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *Francis Stubbs*, hold up thy Hand; thou art in the ſame caſe the two laſt Priſoners before thee are; what canſt thou ſay? &c.

Stubbs. I beg mercy, I was merely drawn in.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *John Sellers*, hold up thy Hand; thou art, &c. What canſt thou ſay? &c.

Sellers. I would intreat this Honourable Bench to conſider my Condition, and what my Charge is; I delivered no Arms, if I had known where they had been, I would have diſcovered them: I beg Mercy from the King and this Honourable Bench.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *Nathaniel Gibbs*, hold up thy Hand; thou art, &c. What canſt thou ſay? &c.

Gibbs. And pleaſe this Honourable Bench, I have ſomething to ſay, I am innocent as to my Conſcience of acting any thing treaſonable againſt his Majeſty; the Lord forgive the Witneſſes: I beg the Mercy of the King.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *James Hind*, hold up thy Hand; thou art guilty of the Treaſon whereof thou ſtandeſt indicted by thy own Confeſſion, what canſt thou ſay? &c.

Hind. I have nothing to ſay, but humbly beg the Mercy of the King.

Clerk of *Newgate*. Tye him up, Executioner.

Cryer. O Yes, my Lords, the King's Juſtices command all manner of Perſons to keep ſilence while Judgment is in giving, upon pain of Impriſonment.

Sir *Robert Forſter*. *Thomas Tonge*, *George Phillips*, *Francis Stubbs*, *James Hind*, *John Sellers*, and *Nathaniel Gibbs*, you ſix Priſoners at the Bar, you have been here indicted for one of the greateſt Crimes that can be committed upon Earth, as to this World, againſt God, our King, and your Country, and againſt every good Body that is in this Land, for that capital Sin of High Treaſon, which is a Sin inexpiable, and indeed hath no equal Sin as to this World. Upon this you have ſeverally been arraigned, and have ſeverally (except one) pleaded Not guilty, and put yourſelves upon God and the Country for your Tryals; and your Country have found you guilty: For the five that are found guilty, I muſt ſay, that in you I find little Remorſe, little Senſe of your Sin. For the little Man there, *Hind*, he hath much ſhew'd his Penitency. The Manner and Circumſtances of this, moſt Men here believe this did not originally ariſe from your particular ſelves, it muſt be put into you by ſome others: You ſpeak as if you deſired Mercy; where was your Mercy, that would have deſtroy'd King and Country, and maſſacred many Millions of Souls, no Reſpect of any Perſon, but your own Fellows? I ſpeak this, that you may be the more ſenſible of your own Crime, that you may truly, out of the Remorſe of Conſcience, be ſorry for your Sin: You know very well the old Counſel, and it is a good one, *Fear God, and honour the King, and meddle not with them that are given to Change.* Meddling with them that are given to Change, has brought too much miſchief already to this Nation; and if you will commit the ſame Sin, you muſt receive the ſame Puniſhment: for happy is he, that by other Mens harms takes heed. I ſhall not ſpend long time with you, but if you will as much as you can diſcover the Actors herein, you will do God, the King, and your Country good Service. It remains that the Court proceed to Judgment: and therefore you ſix, the one by his own Confeſſion, and other five by Conviction of Law, the Judgment of this Court is, 'That you be convey'd 'back to the place from whence you came, and 'from thence to be drawn upon an Hurdle to the 'place of Execution; and there you ſhall be 'hanged by the Neck, and being alive ſhall be cut 'down, and your Privy-Members to be cut off, 'your Entrails to be taken out of your Body, and '(you living) the ſame to be burnt before your 'eyes, and your Head to be cut off, your Body to 'be divided into four Quarters, and your Head 'and Quarters to be diſpoſed of at the pleaſure of 'the King's Majeſty: And God have mercy upon 'your Souls.'

The Tryals of John Twyn *Printer*, Thomas Brewster *Bookſeller*, Simon Dover *Printer*, Nathan Brooks *Bookbinder*; *the* 20*th and* 22*d of* February 166$\frac{3}{4}$. 15 Car. II. *Publiſhed by Authority.*

FIVE ſeveral Indictments being drawn up, *viz.* one of High Treaſon, againſt *John Twyn* Printer; and the other four for Sedition, *viz.* two againſt *Thomas Brewſter* Bookſeller, one againſt *Simon Dover* Printer, and one againſt *Nathan Brooks* Bookbinder; were preſented to the Grand Inqueſt in *London*, at the Seſſions of Goal-Delivery of *Newgate*, holden at *Juſtice-Hall* in the *Old-Baily*, the 19th Day of *February* 1663. Except that againſt *Brooks*, which was found the Day following, by the ſame Inqueſt. And after divers Witneſſes were ſworn and examin'd before the ſaid Grand Inqueſt, the ſaid Bills of Indictment were ſeverally return'd *Billa Vera*.

The

The Names of the said Grand Inquest being as followeth, *viz.*

Arthur Jourdan,	*Roger Hart,*
Arthur Browne,	*John Watson,*
Simon Rogers,	*Christopher Pits,*
James Whetham,	*Thomas Gerrard,*
Ralph Blore,	*John Cropper,*
Isaac Barton,	*Thomas Partington,*
Roger Locke,	*Ralph Coppinger,*
Thomas Cooper,	*Matthew Pelazer.*
Samuel Taylor,	

At Justice-Hall *in the* Old-Baily, *Febr.* 20. *in the Morning.*

THE Court being set, Proclamation was made: 'O Yes! All manner of Persons that 'have any thing more to do at this Sessions of the 'Peace, and Sessions of Oyer and Terminer, held 'for the City of *London*, and Sessions of Goal-'Delivery holden for the City of *London* and Coun-'ty of *Middlesex*; draw near and give your Atten-'dance, for now the Court will proceed to the 'Pleas of the Crown of the said City and County.'

God save the King.

Silence commanded.

Clerk of the Peace. Set *John Twyn* to the Bar: [who was set there accordingly.] *John Twyn*, hold up thy Hand.

Twyn. I desire to understand the meaning of it. [But being told he must hold up his Hand in order to his Tryal, he held it up.]

Clerk, &c. 'Thou standest indicted in *London* by 'the Name of *John Twyn*, late of *London* Stationer, 'for that thou as a false Traytor against the most 'Illustrious *Charles* the Second, by the Grace of 'God, of *England*, *Scotland*, *France*, and *Ireland*, 'King, Defender of the Faith, *&c.* thy supreme 'and natural Lord and Sovereign——not having 'the Fear of God in thine Heart, nor weighing 'the Duty of thy Allegiance, but being moved and 'seduced by the Instigation of the Devil; and the 'cordial Love, true Duty, and natural Obedience, 'which true and faithful Subjects towards our So-'vereign Lord the King bear, and of right ought 'to bear, altogether withdrawing; minding and 'with all thy force intending the Peace and com-'mon Tranquillity of this Kingdom to disturb; 'and Sedition and Rebellion within these his Ma-'jesty's Kingdoms to move, stir up, and procure; 'and Discord between our said Sovereign and his 'Subjects to make and move; the 27th Day of 'October, in the Year of the Reign of our said So-'vereign Lord *Charles* the Second, by the Grace 'of God, *&c.* the 15th, at the Parish of *St. Bar-'tholomews*, in the Ward of *Farringdon without*, *Lon-'don*, aforesaid, traitorously didst compose, ima-'gine, and intend the Death and final Destruction 'of our said Sovereign Lord the King, and the 'Antient and Regal Government of *England* to 'change and subvert; and our said Sovereign Lord 'the King of his Crown and Regal Government 'to depose and deprive. And these thy most wic-'ked Treasons and traitorous Imaginations to ful-'fil, thou the said *John Twyn*, the said 27th Day 'of *October*, in the Year aforesaid, in the Parish 'and Ward aforesaid, advisedly, devilishly, and 'maliciously didst declare, by imprinting a certain 'Seditious, Poisonous, and Scandalous Book, en-'titled, *A Treatise of the Execution of Justice*, &c. '——In which said Book, amongst other things, 'thou the said *John Twyn*, the 27th Day of *October*, 'in the Year aforesaid, in the Parish and Ward 'aforesaid, falsly, maliciously, and traitorously didst 'imprint, *&c.*——against the Duty of thy Alle-'giance, and the Statute in that case made and 'provided; and against the Peace of our said So-'vereign Lord the King, his Crown and Dignity.'

What say'st thou, *John Twyn*, art thou Guilty of this High Treason whereof thou standest indicted, or Not guilty?

Twyn. I desire leave to speak a few words: My Lord, I am a very poor Man; I have been in Pri-son several Months——.

Clerk. Are you Guilty, or Not guilty?

Twyn. With all due Submission to your Honours, I desire to speak a few words——

Ld Ch. Just. *Hyde.* You must first plead to your Indictment, and then you may say what you will; that's the Rule of the Law. We receive no Ex-postulations till you have pleaded to the Indict-ment, Guilty or Not guilty.

Twyn. I do not intend to answer to the Indict-ment, by what I shall now say; I am a poor Man, have a Family and three small Children, I am ig-norant of the Law, and have been kept Prisoner divers Months——

Ld Ch. Just. *Hyde.* Pray plead to the Indictment; you shall be heard, say what you will afterwards.

Twyn. I humbly thank you, my Lord.

Clerk. Are you Guilty, or Not guilty?

Twyn. I beseech you to allow me Counsel, and some Consideration; I desire it with all Submis-sion.

Ld Ch. Just. *Hyde.* You must plead first; then ask what you will.

Clerk. Are you Guilty, or Not guilty?

Twyn. Not guilty of those Crimes.

Ld Ch. Just. *Hyde.* God forbid you should.

Clerk. How wilt thou be try'd?

Twyn. I desire to be try'd in the presence of that God that is the Searcher of all Hearts, and the Dispo-ser of all things.

Ld Ch. Just. *Hyde.* God Almighty is present here; there is no other Tryal by the Law of *England*, but by God and the Peers, that is the Country, hone-st Men. You shall have all your Challenges, and all that's due to you, by the help of God; we are bound to be your Counsel, to see you have no wrong: therefore put yourself upon your Tryal, say how you will be try'd.

Twyn. I desire to be try'd in the Presence of God.

Ld Ch. Just. *Hyde.* So you shall: God Almighty is present here, looks down, and beholds what we do here; and we shall answer severely, if we do you any wrong. We are as careful of our Souls, as you can be of yours. You must answer in the words of the Law.

Twyn. By God and the Country.

Clerk. God send thee a good Deliverance.

Ld Ch. Just. *Hyde.* Now say what you will.

Twyn. I am a very poor Man.

Ld Ch. Just. *Hyde.* Nay, let me interrupt you thus far: Whatever you speak in your Defence, to acquit yourself of this Crime, that you may re-serve till by and by. This is but an Arraignment; afterwards the Evidence for the King is to be heard, then make your Defence. If you have any Witnesses on your part, let's know their Names, we'll take care they shall come in. If I did not

miſtake, you deſired to have Counſel; was that your Requeſt?

Twyn. Yes.

Ld Chief Juſtice *Hyde.* Then I will tell you, we are bound to be of Counſel with you, in point of Law; that is, the Court, my Brethren and my ſelf, are to ſee that you ſuffer nothing for your want of Knowledge in Matter of Law; I ſay, we are to be of Counſel with you. But for this horrid Crime, (I will hope in Charity you are not guilty of it, but if you are) it is the moſt abominable and barbarous Treaſon that ever I heard of, or any Man elſe: The very Title of the Book (if there were no more) is as perfectly Treaſon as poſſibly can be. The whole Book through, all that is read in the Indictment, not one Sentence, but is as abſolute High Treaſon, as ever I yet heard of. A Company of Mad-brains, under pretence of the Worſhip and Service of God, to bring in all Villanies and Atheiſm, (as is ſeen in that Book.) What a horrid thing is this! But you ſhall have free Liberty of defending your ſelf. To the Matter of Fact, whether it be ſo or no: In this Caſe the Law does not allow you Counſel to plead for you; but in Matter of Law, we are of Counſel with you, and it ſhall be our Care to ſee that you have no Wrong done you.

Clerk. Set *Simon Dover* to the Bar: [*Who being ſet, his Indictment was read to the purpoſe following.*]

Thou ſtandeſt indicted in London, *by the Name of* Simon Dover, *late of* London *Stationer, for that thou,* &c. *the 15th Day of* Febr, *in the 13th Year of the Reign,* &c. *at the Pariſh of* St. Leonard's Foſter-lane, *in the Ward of* Alderſgate, London, *falſly, maliciouſly and wickedly, didſt imprint a certain falſe, malicious, ſcandalous and ſeditious Book, intitled,* The Speeches and Prayers of ſome of the late King's Judges, *&c. and the ſame didſt ſell and utter, againſt the Duty of thy Allegiance,* &c. How ſayeſt thou, *Simon Dover,* art thou guilty of this Sedition and Offence, whereof thou ſtandeſt indicted, or not guilty?

Dover. My Lord, and the Honourable Bench, I deſire I may be heard a few Words——

Ld Ch. Juſt. *Hyde.* When you have pleaded, you ſhall.

Dover. I ſhall be willing to plead——

Ld Ch. Juſt. *Hyde.* You muſt either confeſs it, or plead Not Guilty. I hope you are not guilty of this foul Crime.

Dover. I am not, by the Laws of *England,* guilty.

Ld Ch. Juſt. *Hyde.* You ſhall be tryed by the Laws of *England,* whether you are guilty or no.

Dover. I am willing to be ſo, and I am glad I am come before you to that purpoſe, having been long a Priſoner: I am not guilty of any thing in this Indictment, neither as to Matter, Time nor Place.

Ld Ch. Juſt. *Hyde.* What do you mean by *Time* and *Place?*

Dover. I am not guilty in *Manner* or *Form.* And now, my Lord, I being altogether ignorant of the Law, I humbly beg Counſel, and a Copy of my Indictment: I hope I ſhall not be deſtroyed, becauſe I am ignorant of the Law: I have been eighteen Weeks cloſe Priſoner.

Ld Ch. Juſt. *Hyde.* What would you have?

Dover. I deſire Time, and Counſel aſſigned me, and a Copy of my Indictment.

Ld Ch. Juſt. *Hyde.* For a Copy of your Indictment, though it be for a foul Offence, yet (in favour to you, it being not made ſo Capital as the other) we cannot deny it you: For Counſel you may have what you will, we need not aſſign it. [Make him a Copy,] but I will tell you, we ſhall try it now.

Dover. I do proteſt I knew not what I came for; I never imagined what my Indictment was, I know not what there's in't——

Ld Ch. Juſt. *Hyde.* You ſhall have a Copy made preſently. If you have Counſel or Witneſſes, ſend for them; we muſt try you to-day; but you will have ſome time, for we will begin with the other.

Dover. I beg I may have a Copy of the Indictment in *Engliſh,* I cannot underſtand *Latin.*

Ld Ch. Juſt. *Hyde.* That that is againſt you, is in *Engliſh*; the *Latin* ſignifies no more, but that you did ſeditiouſly and maliciouſly print all that which is in *Engliſh.*

Dover. I hope I have done nothing, but I ſhall acquit my ſelf of.

Ld Ch. Juſt. *Hyde.* I hope you may; but we can give you nothing but a Copy of the Record: ſend for your own Clerk to underſtand it.

Clerk. Set *Thomas Brewſter* to the Bar: [*Who was ſet; and then his Indictment was read, which was;*]

That he the ſaid Thomas Brewſter, *late of* London, *Stationer, not having,* &c. [in the Form aforeſaid] *the 15th Day of* February, *&c. at the Pariſh of* Little St. Bartholomew's, *in the Ward of* Faringdon without, London, *maliciouſly,* &c. *did cauſe to be imprinted the aforeſaid Book of* Speeches and Prayers, *&c. and the ſame did ſell and utter, againſt the Duty,* &c.

Who being demanded, Whether he was guilty of that Sedition and Offence? anſwered, Not Guilty.

Clerk. How will you be tryed?

Brewſter. By God and the Country.

Clerk. God ſend thee a good Deliverance.

Ld Ch. Juſt. *Hyde.* Say what you will now.

Brewſter. May it pleaſe your Lordſhip, I am wholly ignorant of the Proceedings of the Law; I have been a cloſe Priſoner theſe eighteen Weeks, no body to adviſe with me, ſcarce my Wife ſuffered to come to me; I deſire ſome time to take advice.

Ld Ch. Juſt. *Hyde.* I doubt we ſhall not be able, if you mean till next Seſſions——

Brewſter. No, my Lord, I have had too long Impriſonment already, would I had been here the firſt Seſſions after I was a Priſoner.

Ld Ch. Juſt. *Hyde.* If you deſire a Copy of the Indictment and Counſel, you ſhall have it.

Brewſter. I humbly thank you; but I muſt have time to conſult them, or they will do me little good.

Ld Ch. Juſt. *Hyde.* If you have any Friends or Witneſſes, you may ſend for them.

Brewſter. I thank you, my Lord.

Clerk. Thomas Brewſter, *thou ſtandeſt again indicted in* London *by the Name of,* &c. *for that thou not having,* &c. *the 10th Day of* July, *in the 13th Year,* &c. *at the Pariſh of* Little St. Bartholomew's, *in the Ward of* Faringdon without, London, &c. *falſly, maliciouſly, ſcandalouſly and ſeditiouſly, didſt cauſe to be imprinted a Book, intitled,* The Phœnix, or the Solemn League and Covenant, *&c.*—— *And the ſaid Book didſt ſell*

and

and utter, againſt the Duty, &c. How ſayeſt thou? Art thou guilty of this Sedition and Offence whereof thou ſtandeſt indicted, or not guilty?

Brewſter. Not Guilty, my Lord.
Clerk. How will you be tryed?
Brewſter. By God and the Country.

Clerk. *Nathan Brooks* to the Bar.
Thou ſtandeſt indicted in London *by the Name of* Nathan Brooks, *late of* London, *Stationer; not having,* &c. [The ſame as to Make, Time and Place, with that of *Dover's*] *and knowing the ſaid Book to be ſcandalous and ſeditious, did ſell, utter and publiſh the ſame, againſt the Duty,* &c. How ſayeſt thou, *Nathan Brooks,* art thou guilty of this Sedition and Offence whereof thou ſtandeſt indicted, or not guilty?

Brooks. Not Guilty.
Clerk. How will you be tryed?
Brooks. By God and the Country.
Clerk. God ſend thee a good Deliverance.
Ld Ch. Juſt. *Hyde.* If you deſire to have a Copy of your Indictment and Counſel, you may have it.
Brooks. I am a poor Man, I have not Money to get Counſel; I hope I ſhall not want that that belongs to me by Law, for want of Money.
Ld Ch. Juſt. *Hyde.* You ſhall not, by the Grace of God.

Clerk. Set *John Twyn, Simon Dover, Thomas Brewſter* and *Nathan Brooks,* to the Bar.
Clerk. *John Twyn,* thoſe Men that you ſhall hear called, and perſonally appear, muſt paſs between our Sovereign Lord the King and you, upon Tryal of your Life and Death; if you will challenge them or any of them, you muſt do it when they come to the Book to be ſworn, before they be ſworn. And you that are for Seditions and Offences, look to your Challenges.
Dover. We deſire we may have a Jury of Bookſellers and Printers, they being the Men that only underſtand our Buſineſs.
Ld Ch. Juſt. *Hyde.* There are thoſe already that underſtand it as well as Bookſellers or Printers; beſides, half the Jury are ſuch, and they are able to make the reſt underſtand it: but you may challenge whom you will.

The Jury were,

William Samborne,	*William Hall,*
William Rutland,	*John Williams,*
Thomas Honylove,	*James Fleſher,*
Robert Lucas,	*Simon Waterſon,*
Robert Beverſham,	*Samuel Thomſon,*
Richard Royſton,	*Thomas Roycroft.*

Who were ſeverally ſworn by the Oath following:

You ſhall well and truly try, and true Deliverance make, between our Sovereign Lord the King, and the Priſoners at the Bar, whom you ſhall have in charge, according to your Evidence. So help you God.

All Four. We are all ſatisfied with the Jury.
Clerk. Cryer, make Proclamation. O Yes, If any one can inform my Lords the King's Juſtices, the King's Serjeant, or the King's Attorney, before this Inqueſt be taken between our Sovereign Lord the King and the Priſoners at the Bar, let them come forth, and they ſhall be heard; for now the Priſoners ſtand at the Bar upon their Deliverance; and all others that are bound by Recognizance to give Evidence againſt any of the Priſoners at the Bar, come forth and give Evidence, or elſe you will forfeit your Recognizance.
Clerk. *John Twyn,* hold up thy Hand. You of the Jury, look upon the Priſoner, and hearken to his Cauſe; you ſhall underſtand that he ſtands indicted in *London* by the Name of *John Twyn,* late of *London,* Stationer: [*Here the Indictment is read over again.*] Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty; and for his Tryal, hath put himſelf upon *God and the Country,* which Country you are: Your Charge is to enquire whether he be guilty of the High Treaſon, in Manner and Form as he ſtands indicted, or not guilty: if you find him guilty, you ſhall inquire what Goods and Chattels, Lands and Tenements he had at the time of committing the ſaid Treaſon, or at any time ſithence. If you find him not guilty, you ſhall inquire whether he fled for it; if you find that he fled for it, you ſhall inquire of his Goods and Chattels, Lands and Tenements, as if you had found him guilty: If you find him not guilty, nor that he did fly for it, ſay ſo, and no more, and hear your Evidence.

Mr. *North,* Barriſter of the Law. *John Twyn* ſtands here indicted, for that he as a falſe Traytor to the moſt Illuſtrious *Charles* the Second, *&c.* not having the Fear of God before his Eyes, nor weighing the Duty of his Allegiance, *&c.* [*Here was opened the Form of the Indictment*] To which he hath pleaded *Not Guilty*; if there ſhall be ſufficient Evidence given you of the Charge in the Indictment, you muſt do the King and the Nation that Juſtice, as to find him guilty, that Sentence of Law may paſs on him.

Mr. Serjeant *Morton.* May it pleaſe your Lordſhips, and you Gentlemen that are ſworn of this Jury, I am of Counſel with the King againſt *John Twyn,* the Priſoner here at Bar, who ſtands indicted of a moſt horrid and damnable Treaſon: It is, *the compaſſing and imagining the Death of the King, to deprive him of his Crown and Royal Government, and to alter and change the antient Legal and Fundamental Government of this Kingdom*; which he has endeavoured to do, and did intend to do, by printing a traytorous and ſeditious Book, which in it ſelf contains as many and as great Treaſons, as it was poſſible either for the Malice of the Devil, or the corrupt and treaſonable Thoughts of blood-thirſty Men to invent: It contains Treaſons againſt the King in his own Royal Perſon; againſt his Government, both Eccleſiaſtical and Civil; full of Treaſons, (as my Lord Chief Juſtice was pleaſed to obſerve to you) Treaſons againſt the Queen, Scandals againſt all manner of Profeſſions both in Church and Kingdom, of Magiſtracy and Miniſtry. My Lord, there are in this Indictment thirteen Paragraphs of that treaſonable Book recited; and each of them contains as many Treaſons as there be Lines in it. Nay, my Lord, this treaſonable Book was intended to ſet a Flame in this Nation, to raiſe and ſtir up Rebellion in this Kingdom againſt the King and his Government. I ſhall obſerve to your Lordſhip the Time when it was to be printed; it was in the beginning of *October,* your Lordſhip knows, and I do not doubt but the Jury have heard, that there was a great and dangerous Deſign in this Nation, ſet on foot by Men of dangerous Principles, to imbroil this Nation in a new

War, for the Deſtruction of the King and his Government. It was executed in part, as far as Time and other Circumſtances would give way and leave to the Undertakers, (the 12th of *October* laſt;) and, my Lord, it was proved upon the Execution of a Commiſſion of *Oyer* and *Terminer* at *York*, that there was a Council here in *London*, that ſat to prepare Matter for an Univerſal Rebellion all *England* over. They ſent their Agitators into the *North*, *Weſt*, all Parts, to give notice to their Party to be ready to riſe at a certain Time: ſeveral Days were appointed, but it ſeems they could not be ready till that 12th of *October*; for the ſeditious Books that were to lead on that Deſign, and the Libels and Declarations could not be printed before that Day: and truly that had been printed and publiſhed too, if there had not been great Diligence uſed by the King's Agents and Miniſters, to take them juſt as they were preparing it. This Book, Gentlemen, doth contain a great deal of Scandal upon the King's Government, diſperſing falſe and baſe Rumours, to the prejudice of it. It is a Rule in my Lord *Coke*, That *the diſperſing of falſe and evil Rumours againſt the King and Government, and Libels upon Juſtices of the Kingdom, they are the Forerunners of Rebellion.*

We ſhall now go to the Proof: We ſhall prove that this Priſoner at the Bar, to print this Book, had two Preſſes in one Room; That he himſelf did work at one of thoſe Preſſes, his Servants at the other, by his Command, and in his Preſence; That he did compoſe part of it, print the Sheets, correct the Proofs, and reviſe them all in his own Houſe, which were corrected and brought back into the Work-houſe by himſelf, in ſo ſhort a time, that they could not be carried abroad to correct, ſo that he muſt needs correct them himſelf; That this Work was done in the Night-time, (and it was proper, it was a Deed of great Darkneſs, and not fit indeed to ſee the Light; and it was well it was ſtrangled in the Birth, or elſe, for ought I know, we might by this time have been wallowing in our Blood.) We ſhall make it appear, that this Man, when Mr. *L'Eſtrange* came to ſearch his Houſe, brake the Forms, conveyed away as many of the Sheets as he could from the Preſs to other Places; yet notwithſtanding, God's Providence was ſo great in the Thing, that he left there three or four Sheets, which Mr. *L'Eſtrange* then ſeized on, and many more within a little time after: And ſomewhat of the ſame Matter remained upon part of a Form of Letter, which his Haſte would not give him leave to break. When he was charged with it by Mr. *L'Eſtrange*, he confeſſed that he had printed ſome Sheets of this ſeditious Book; and being demanded by Mr. *L'Eſtrange*, What he thought of it? He told him, He thought *it was mettleſome Stuff*: he had great Joy in it; he confeſſed he had received Money for printing of this, and much other Matter, taken upon Examination before Mr. Secretary. We ſhall call our Witneſſes; I ſhould have obſerved to you, That this Man would have it done with all the privacy that could be, and to be done forthwith; there was great Haſte of it, about the beginning of *October*, and the Deſign in the *North* was upon the 12th; ſo that it was clearly intended for that Deſign.

Several Witneſſes new ſworn.

Joſeph Walker. My Lord, whereas my Maſter is indicted for printing this Book——

Ld *Hyde.* Your Maſter! Who is your Maſter?

Walker. He at the Bar.

Ld *Hyde.* What ſay you of it?

Walker. I deſire to ſee the Book; [*it was ſhewed him*] about the four firſt Pages of this Treatiſe I compoſed.

Ld *Hyde.* Who delivered it to you to compoſe?

Walker. My Maſter delivered the Copy to me.

Ld *Hyde.* What do you mean by compoſing?

Walker. Setting the Letters.

Ld *Hyde.* Well, and you ſet the Letters to print according to the Copy; and you had it of your Maſter, had you?

Walker. Yes, my Lord; but all this Copy we did not print.

[*Part of the Copy in Manuſcript being ſhewed him, he ſaid, He compoſed by that Copy.*]

Serjeant *Morton.* How much did you print?

Walker. About three Sheets.

Serj. *Morton.* How many of thoſe did your Maſter compoſe?

Walker. Truly, Sir, I cannot tell.

Ld *Hyde.* Did he compoſe one?

Walker. As to a whole one, I cannot ſay.

Mr. Recorder. Did he compoſe the Title?

Walker. Here is no Title.

Mr. Recorder. No, read the top.

Walker. A Treatiſe of the Execution, &c. [*He reads the Title.*]

Mr. Recorder. Did your Maſter compoſe that?

Walker. No, I did.

Ld *Hyde.* Did your Maſter give you that to compoſe?

Walker. Yes.

Serj. *Morton.* Who compoſed the ſecond, third and fourth Sheet?

Walker. I compoſed ſome of them, but to particularize, I cannot.

Ld *Hyde.* Who gave you what you did?

Walker. My Maſter.

Ld *Hyde.* Can you turn to any part of that you did compoſe?

Walker. I cannot tell that.

Ld *Hyde.* You compoſed, you ſay, four Pages; there are eight in a Sheet: who compoſed the other of the ſame Sheet?

Walker. I think my Maſter did.

Ld *Hyde.* At the ſame Time, and in the ſame Room with you?

Walker. He wrought not in the ſame Room.

Ld *Hyde.* After you had ſtamp'd the Sheet, who did peruſe and over-read it, to ſee if it were right?

Walker. I carried them into the Kitchen, and laid them down upon the Dreſſer by my Maſter.

Ld *Hyde.* Who compared them?

Walker. I know not.

Ld *Hyde.* Who brought them back to you?

Walker. My Maſter brought them into the Work-houſe, and laid them down.

Ld *Hyde.* Was there any body in the Houſe that might correct it?

Walker. Not that I ſaw.

Ld *Hyde.* When you had carried a Sheet down, how long was it e'er it was brought back again?

Walker. About an Hour, or an Hour and a half.

Ld *Hyde.* Was there any body in the Houſe beſides you and your Maſter?

Walker. There was my Fellow-Apprentice and the Woman that keeps the Houſe.

Ld *Hyde.* Were there no Strangers there?

Walker. No, my Lord.

Mr. Recorder. Were they printed in your Maſter's Houſe?

Walker.

Walker. Yes.

Serj. *Morton.* What Room?

Walker. In the Preſs-Room.

Serj. *Morton.* Did your Maſter work at the Preſs about this Work, any part of the time?

Walker. Yes, I ſaw him beat ſome Sheets.

Ld *Hyde.* When you had printed one Sheet, were there not ſome Miſtakes of the Letters to be mended?

Walker. Yes, there were Literals.

Ld *Hyde.* Who made the Amendment?

Walker. Upon my Oath I cannot tell.

Ld *Hyde.* Do you believe it to be your Maſter's?

Walker. I cannot tell that.

Ld *Hyde.* Have you ſeen your Maſter write heretofore?

Walker. I have ſeen him write, but becauſe I have heard of them that could counterfeit Mens Hands, I dare not ſwear it was his Writing.

Ld *Hyde.* Were the Amendments that were brought back, like his Hand?

Walker. The Letters were ſomething like them, but I cannot ſwear poſitively that they were his.

Ld *Hyde.* No, that you cannot, unleſs you ſaw him write them; but was it like his Hand?

Walker. It was not much unlike his Hand.

Mr. Recorder. Did not your Maſter uſe to correct other Works before this?

Walker. Yes.

Mr. Recorder. Then by the Oath that you have taken, were not the Corrections of this Book like thoſe of other Corrections by his own Hand?

Walker. I know not that.

Mr. Recorder. Did any body correct Books in your Houſe but your Maſter?

Walker. No, Sir.

Serj. *Morton.* Did not you ſee your Maſter with Copy?

Walker. Yes, he had Copy before him.

Serj. *Morton.* What time was this printed? by Night or by Day?

Walker. In the Night-time.

Serj. *Morton.* What Directions did your Maſter give you about printing it, did he direct any Privacy?

Walker. He was not much deſirous of that.

Mr. Recorder. At what time did you work about it?

Walker. In the Morning, from two till four or five.

Serj. *Morton.* Pray, Sir, thus; were you in the Houſe when Mr. *L'Eſtrange* came up?

Walker. Yes.

Serj. *Morton.* Were you at work then or before?

Walker. Not when he was above, but immediately before, I was.

Mr. Recorder. You are not bound to conceal Treaſon, though you are bound to keep your Maſter's Secrets.

Serj. *Morton.* What were you then at work upon?

Walker. Upon the Signature D, the Sheet D of this Treatiſe.

Serj. *Morton.* What did your Maſter ſay, when you told him Mr. *L'Eſtrange* was below?

Walker. Very few words; I cannot be poſitive in them.

Serj. *Morton.* To what purpoſe were they?

Walker. Hearing ſome body knock at the Door, I went down into the Compoſing-Room, and looked through the Window, and ſaw People; I imagined Mr. *L'Eſtrange* was there, and I told my Maſter: whereupon he ſaid, *He was undone*, or to that effect.

Mr. Recorder. Did he not wiſh you to make haſte in compoſing it?

Walker. No, he did not.

Mr. Recorder. How long had you been at work upon it? how many Days?

Walker. I cannot tell juſtly.

Mr. Recorder. You can gueſs.

Walker. About three or four Days.

Mr. Recorder. Did not your Maſter work in that time?

Walker. He was in the Work-houſe, and did ſet Letters.

Mr. Recorder. Did he not likewiſe print?

Walker. Yes, he did.

Serj. *Morton.* Did not you, by his Direction, break the Form when Mr. *L'Eſtrange* came to ſearch?

Walker. I brake one indeed.

Serj. *Morton.* What became of the other?

Walker. My Fellow-Apprentice brake it.

Serj. *Morton.* By whoſe Direction?

Walker. I had no order for it; I brought it down, and went to ſet it againſt a Poſt, and it fell in pieces.

Serj. *Morton.* Did you ask your Maſter who delivered him this Copy to print?

Walker. I did ask him two ſeveral times; but he made no Anſwer.

Ld *Hyde.* Did he not ſay, *He would not tell you*; or that *it was no matter to you*; nor nothing?

Walker. Yes, he did afterwards ſay, *It was no matter to me.*

Mr. Recorder. Did not your Maſter nor Fellow-Apprentice tell you who brought the Copy?

Walker. No.

Mr. Recorder. And did not you know?

Walker. No.

Serj. *Morton.* Was he not uſed to tell you the Authors of Books that you printed?

Walker. The Authors he did not; but for whom they were printed he uſed to tell me. My Lord, I humbly beg pardon for what I did, I was his Apprentice.

Ld *Hyde.* How many Sheets did you print?

Walker. Two Reams on a Sheet, which makes a Thouſand.

Ld *Hyde.* The firſt Page, being the Title of it, your Maſter brought to you to compoſe; at the ſame time when you were compoſing one part, your Maſter was compoſing another part of the ſame Sheet in the next Room; and part of it your Maſter did print as well as compoſe: I think you ſaid this?

Walker. Yes.

Ld *Hyde.* Likewiſe that the Proofs were carried to him to overlook, and he brought them back within an Hour, or an Hour and half after, and laid them down in the Work-houſe; and that you ſaw the Hand of the Amendments, but you cannot ſwear it was his, only you ſay that it was not unlike it; and that he had corrected former Sheets that you had printed, and that the Hand with which he corrected others, and this, was alike; and that there was no Stranger in the Houſe to correct it?

Walker. Not that I ſaw.

Ld *Hyde.* This is the Subſtance of what you ſaid?

Walker. Yes.

Mr. Recorder. Did your other Man, or you, ever correct?

Walker.

Walker. No.

Mr. Recorder. Did he uſe other Correctors at any time?

Walker. Yes, about ſome Books.

Mr. Recorder. What Books.

Walker. Hooker's Eccleſiaſtical Policy.

Ld *Hyde.* You did riſe to work at Two of the clock in the Morning about it; and your Maſter ſaid when you told him Mr. *L'Eſtrange* was below, that he was undone?

Walker. It was ſo, my Lord.

Mr. *North.* Mr. *L'Eſtrange*, pray tell my Lord and the Jury of your taking this.

Mr. *L'Eſtrange.* My Lord, I do remember that three or four Days, or thereabouts, before the 12th of *October* laſt, I had notice of a Preſs that had been at work for ſeveral Nights in *Cloth-Fair*, and imployed a Perſon to watch the Houſe; who told me that they ſtill gave over early in the Morning, at Day-light, or ſoon after. At length Intelligence was brought me in theſe very Words, That *now they were at it as hard as they could drive*, (which was about Four in the Morning.) I aroſe, went to one of the King's Meſſengers, and deſired him to take a Printer by the way; who did ſo: and I called up a Conſtable, and ſo went to *Twyn's* Houſe, where we heard them at Work. I knocked a matter of a quarter of an Hour, and they would not open the Door; ſo that I was fain to ſend for a Smith to force it; but they perceiving that, opened the Door, and let us in. There was a Light when we came; but before the Door was opened, it was put out. When I was got up Stairs, and a Candle lighted, I found a Form broken, (that is, the Letters diſperſed) only one Corner of it ſtanding entire; which was compared by a Printer that was there, with a Corner of a Page newly printed, and appear'd to be the ſame. This Form was brought down out of the Preſs-Room into the Compoſing-Room. As yet we could not find the whole Impreſſion; but at laſt they were found thrown down a Pair of Back-Stairs. I remember they told me the Impreſſion was a Thouſand. I asked him where he had the Copy? He told me, *He knew not; it was brought to him by an unknown Hand.* I told him he muſt give an account of it. He told me at laſt, *He had it from* Calvert's *Maid.* I asked him where the Copy was? He told me, *He could not tell.* (When I ſpeak of the Copy, I mean the Manuſcript.) We ſearched near two Hours, and could not find it: And at length went thence to the Conſtable's Houſe in *Smithfield*, and ſtaid there a while with the Priſoner. I asked him, Mr. *Twyn*, ſaid I, who corrected this Sheet? *Alas*, ſaid he, *I have no Skill in ſuch Things.* Who reviſed it then? Who fitted it for the Preſs? *Truly I had no body but my ſelf; I read it over.* What thought you upon reading it? *Methoughts it was mettleſome Stuff: The Man was a hot fiery Man that wrote it.* But he knew no Hurt in it.

Serjeant *Morton.* When you had taken theſe Sheets, were they wet, or not?

Mr. *L'Eſtrange.* They were not only wet, but half of them were imperfect, printed only on one ſide. Miſſing the Copy, I told him after he was carried to *Whitehall*; Mr. *Twyn*, (ſaid I) it may poſſibly do you ſome good yet, to bring forth the Copy: If you will be ſo ingenuous to produce the Copy, and diſcover the Author, you may find Mercy for your ſelf; pray therefore get this Copy: Perchance I may make ſome uſe of it. After that, his Servant *Bazilla Winſor* brought out this part of the Copy: [producing a Sheet of Manuſcript in Court.]

Ld *Hyde. Joſeph Walker*, was the whole Copy of this Book in the Houſe at that time, when you compoſed that which you did?

Walker. I cannot tell: I ſaw it but Sheet by Sheet?

Mr. Recorder. Did not you ſee the whole entire Copy in your Maſter's Hand?

Walker. No: But [taking ſome part of the Manuſcript in his Hand, ſaid] this is the Hand that I compoſed by.

Mr. Recorder. Mr. *L'Eſtrange*, where had you the entire Copy?

Mr. *L'Eſtrange.* It was only the Copy of the laſt Sheet, that I took in the Preſs.

Mr. Recorder. Who helped you to that?

Mr. *L'Eſtrange. Bazilla Winſor*, by Direction of the Priſoner, as I conceive: For I told him, If you can help me to the Copy, it may do you ſome good; and ſoon after part of it was brought me by her. I asked Mr. *Twyn* further, How did you diſpoſe of thoſe Sheets which you had printed, thoſe ſeveral Heaps, whither are they gone? He told me, He had delivered thoſe Sheets to Miſtreſs *Calvert's* Maid, at the *Roſe* in *Smithfield.*

Mr. Recorder. You ſay he told you Miſtreſs *Calvert's* Maid received them of him; did you ſince ſpeak with that Maid?

Mr. *L'Eſtrange.* I was long in ſearching *Twyn's* Houſe, and one of his Apprentices made his Eſcape, and probably gave notice of it: For the Night I went to Miſtreſs *Calvert's* Houſe, ſhe and the Maid too were fled. I have ſince taken the Miſtreſs, and ſhe is now in Cuſtody. I have heard nothing of the Maid ſince.

Juſtice *Keeling. Twyn* owned to you that he had corrected ſome of the Sheets; that he had read them, and ſaid, It was mettleſome Stuff.

Mr. *L'Eſtrange.* I did ask him in the Houſe of the Conſtable, Who corrected this? The Corrector muſt certainly know what it was. Said he, *I have no Skill in correcting.* But when I ſpeak of *correcting*, I mean who *reviſed* it, *overlooked* it for the Preſs? *I read it over*, ſays he.

Twyn. I never ſaid ſuch a Word.

Mr. *L'Eſtrange.* He ſpake this in the Preſence of two or three here preſent. Could you read over this Book, ſaid I, and not know that it was not fit to be printed? *I thought it was a hot fiery Fellow; it was Mettle, or mettleſome Stuff:* Somewhat to that effect.

Serjeant *Morton.* What did you hear him confeſs before Sir *Henry Bennet?*

Mr. *L'Eſtrange.* He owned the Thing; that is, he acknowledged he had printed the Sheet I ſhewed there, and two other Sheets of the ſame Treatiſe.

Serjeant *Morton.* Did he acknowledge he corrected them?

Mr. *L'Eſtrange.* I know not whether before Sir *Henry Bennet* he did, or no.

Serjeant *Morton.* What know you about Money received by him?

Mr. *L'Eſtrange.* He ſaid *Calvert's* Maid paid him 40 *s.* in part for that Work.

Twyn. I ſaid I had received Money of *Calvert's* Maid for Work I had done; but named not that.

Mr. Dickenſon *ſworn.*

About the 7th Day of *October*, it being Wedneſday, as I remember, about Five a-clock, we attended Mr. *L'Eſtrange*, my ſelf and others: We came to the Houſe of the Priſoner in *Cloth-Fair*, and upon the Back-ſide of his Houſe we ſtood liſtening a good while, and heard Preſſes a working.

ing. Upon that I came to the Fore-part, by Mr. *L'Eſtrange*'s Order, and knocked; but none would anſwer: I took the Conſtable's Staff, and knocked again; and none would anſwer yet. After that Mr. *L'Eſtrange* knocked near half an Hour; and no body coming, he at laſt ſent for a Smith's Hammer to force it open. Afterwards they came down, and opened the Door. Then Mr. *L'Eſtrange* and the Printer (Mr. *Mabb*) went up Stairs: I continued below with the Conſtable and the King's Meſſenger, to obſerve whether any went in or out. After which, ſome Sheets fell down on the other ſide of the Houſe. Meeting with one of them, and perceiving they had diſcovered the Sheets they enquired after, I read ſome part of it; and finding what it was, I went up, and found the Sheets thrown behind the Door. Mr. *Twyn*, (ſaid I) I wonder you would print ſuch a Thing as this: You could not chuſe but know that it was very dangerous to do any ſuch Thing. He anſwered, That *he did not conſider what it was.* Queſtionleſs, ſaid I, you could not but know it was very dangerous; for when you reviſed it, you muſt needs know the Senſe of it. I think it was a dangerous Buſineſs; what did you think of it? Says he, *I thought he was a good ſmart angry Fellow; it was mettleſome Stuff*; or to that purpoſe. This was the Subſtance of our Diſcourſe. I did ſee ſome of the Sheets printed on one ſide, and ſome on both ſides: The Form lay diſordered; yet not ſo, but there was one Corner of it yet remaining, and I having the Sheet in my Hand did compare them together, and, to the beſt of my Remembrance, I do remember theſe very Words, *Execution of Judgment*, and *Lord have.*

Ld *Hyde.* Who did he ſay reviſed the Preſs?

Dickenſon. He ſeemed to confeſs that he had corrected it himſelf: for when I urged it to him, That he could not chuſe but know the Matter of it by reading it; Truly, ſays he, *I thought he was an angry ſmart Fellow: It was good mettleſome Stuff, indeed.*

Judge *Keeling.* The Queſtion asked by my Lord is, Whether he did confeſs he reviſed it, or whether you did collect it from his Reply?

Dickenſon. Truly, by that Anſwer I gueſſed he corrected it.

Recorder. Did he confeſs that he read it?

Dickenſon. I put that Queſtion to him; and, to the beſt of my Remembrance, he did not deny it.

Ld *Hyde.* To Mr. *L'Eſtrange* he confeſſed he read it over.

Thomas Mabb *ſworn.*

My Lord, I was with Mr. *L'Eſtrange* in this Man's Houſe; and being there, going up, we found the Preſs had been lately at work. There was at each Preſs a Sheet laid; I took them off the *Tinpin*, [ſome of the Jury underſtand that Term:] They were juſt laid upon the *Points*, printed on one ſide. I gave Mr. *L'Eſtrange* theſe two Sheets, the ſame with theſe, [ſhewing two Sheets] ſome were perfect, others imperfect. I could not find the Form a great while. I gave him the Sheet to peruſe; and in the mean while I went down, and below I found the two Forms, but broken: Somewhat indeed was ſtanding; whereof I took part in my hand, and read in the Letters. Mr. *Dickenſon* having the Sheets, he heard what I read, and looking on the Sheet, found them agree.

Twyn. What were the Words that you read?

Mr. *Mabb.* The Words were *Execution and Judgment, and [Lord have* —— There was a Back-pair of Stairs out of his Preſs-Room, partly between his Houſe and his Neighbour's, and in the Hurry they had thrown the Sheets down there; part fell behind the Door, and part at the bottom. When I queſtioned him how many was done, he ſaid five hundred; but I adjudged thoſe I ſaw to be about ſeven hundred and fifty. Looking again over the Door, I eſpied the remainder of the Sheets, about two hundred and fifty more, and I brought them together; and then he owned there was one thouſand.

Ld *Hyde.* What elſe do you know?

Mr. *Mabb.* At the Conſtable's Houſe I heard him uſe the Words, That *it was mettleſome Stuff*, and that *no body corrected it but himſelf.* Said I, I wonder you would offer to do it; you could not compoſe it, but you muſt underſtand it. Said he, *It was my bad Fortune to meddle with it.* Said I, You loſt a Preſs but a little while ſince, I wonder you would do this. He ſeemed to be ſorrowful.

Serjeant *Morton.* He did confeſs he corrected it.

Mr. *Mabb.* Yes, my Lord.

Twyn. No, my Lord, I did not.

John Wickham *ſworn.*

Upon the 7th of *October*, as I take it, about Four a-clock in the Morning, Mr. *L'Eſtrange* came to my Houſe, being one of the King's Meſſengers, and told me I muſt go immediately with him to *Cloth-Fair*, and ſent me to call one Mr. *Mabb* by the way. I met Mr. *L'Eſtrange* near Mr. *Twyn*'s Houſe between Five and Six a-clock: We had a Conſtable, and went and knocked at the Door: They knocked at leaſt half an Hour before they got in. I heard ſome Papers tumbling down, and heard a rattling above, before they went up. But I ſtood at the Back-Door, to ſecure any from running out that way; and at laſt, when they ſaid there were ſome Sheets thrown into the next Houſe, I went and looked, and there were two or three hundred, and they were wet, newly come off the Preſs. That's all I can ſay.

Serjeant *Morton.* Did you hear this Man ſay that he had corrected it?

Wickham. No: But I having him in Cuſtody at my Houſe, I asked him about it; he ſaid, *It was a very bitter Thing, that it was his unhappy Fortune to meet with it.*

Jury. Did he confeſs he printed it?

Wickham. Not to me.

Serjeant *Morton.* He ſaid, *It was a bitter Thing*; and *that it was his unhappy Fortune to meet with it*: Make the beſt of that; compare that with the reſt of the Evidence.

William Story *ſworn.*

Gentlemen of the Jury, upon the 7th of *October* laſt, early in the Morning, I was ſent for to Mr. *L'Eſtrange* into *Cloth-Fair*: We went to the Houſe of this *Twyn.* After ſome time knocking, they went up Stairs, and brought down ſeveral Papers: I know not what they were. I went into the next Houſe with Mr. *Wickham*, and there we found two or three hundred Sheets, and brought them to Mr. *L'Eſtrange.* I asked the Priſoner at my Houſe, whether he could not write or read? He ſaid, *Yes.* Did not you uſe to read what you printed? He ſaid,

ſaid, *Yes.* Did not you know Treaſon when you read it? *It was a fiery Thing; I did not mind it much: But I ſhould have got Money by it.*

Mr. *Mabb.* He owned he had but a very ſmall Price for the doing of it.

Mr. Joſeph Williamſon *ſworn.*

That which I can ſay is, That I know this [looking upon a Paper] to be my own Hand-writing, and to be the Examination taken of this *Twyn.* I took it; and he owned it after it was written.

Serjeant *Morton.* What was the Subſtance of it?

Ld *Hyde.* What did he confeſs before Mr. Secretary, when he was examined?

Mr. *Williamſon.* He ſaid, That the Copy of the Book was brought to him by one *Evans*, Maid to Miſtreſs *Calvert.* That for the Author, being asked if he knew him, he ſaid he did not; and that he had ſeen the Copy of three Sheets of the Book; that he had printed only two of thoſe Sheets, a thouſand Exemplaries of each.

Judge *Keeling.* Did he confeſs that?

Mr. *Williamſon.* Yes. And further, That he had delivered them to this *Evans* at the Sign of the *Roſe* in *Smithfield*; that he himſelf had corrected thoſe Sheets he had printed, and that he had read them after they were printed; that for his Pains and Printing of them, he had received forty Shillings in part from this Maid at the Delivery of them at the *Roſe*; that the Maid carried away thoſe Exemplaries from the *Roſe*; and that he parted with her at the Door.

Serjeant *Morton.* I hope you obſerve, Gentlemen. We have now done: We deſire the Priſoner may give his Anſwer to it; and then we ſhall make our Reply.

Ld *Hyde.* What ſay you? You have heard the Witneſſes, and what is laid to your Charge.

Twyn. I did never read a Line of it in my Life.

Ld *Hyde.* That's impoſſible. I'll tell you: Firſt, your own Man, who ſet part, ſwears you did both ſet and print part of this Book your ſelf: You gave him the Title to ſet. You compoſed one part of the Book, whilſt he was compoſing another part. Is it poſſible you could compoſe, and not read a Line of it? He tells you further, when the firſt Sheet was printed, he brought it into the Kitchin, and laid it down, knew not of any one in the Houſe but your ſelf; about an Hour, or an Hour and half after, you brought it back again corrected, laid it down; and the Hand that corrected it, was not unlike your Hand upon other Corrections of Books. Pray, Brother *Morton*, let the Jury have Books, and Mr. *Lee* read the Indictment, that they may ſee they agree.

Serjeant *Morton.* I obſerved to you there were thirteen Treaſonable Paragraphs; you ſhall find them marked out in the Margent.

Ld *Hyde.* You ſhall ſee there are Treaſons with a witneſs: See the very Title.

Mr. *Lee.* [Reads the Title of the Indictment.] 'A Treatiſe of the Execution of Juſtice: Where-'in is clearly proved, That the Execution of Judg-'ment and Juſtice is as well the Peoples as the 'Magiſtrates Duty; and if the Magiſtrates per-'vert Judgment, the People are bound by the Law 'of God to execute Judgment without them, and 'upon them.'

Ld *Hyde.* That you gave to your Man to ſet.

Mr. *Lee* reads, 'It is one of the Scarlet Sins of 'this Nation, that the People ſuffered their Rulers, *&c.*'—— The particular Paſſages are too impious to be publiſhed, and indeed too foul to be repeated, but in Subſtance. Thoſe mentioned in the Indictment are as follows:

Firſt, The Supreme Magiſtrate is made accountable to the People.

Secondly, The People are rebelliouſly incited to take the Menage of the Government into their own hands.

Thirdly, They are animated to take up Arms, not only againſt the Perſon of his Sacred Majeſty, but likewiſe againſt the Royal Family.

Fourthly, They are ſtirred up to a *Revolt* (in that very Term) as an Action honourable and conſcientious; making Publication in the next Clauſe of Encouragement to any Town, City, or Country in the three Nations to begin the Work.

Fifthly, The People are laboured not only to caſt off their Allegiance to the King, but in direct Terms to put his Sacred Majeſty to death. And to the Purpoſes before mentioned tends the whole Scope of the Treatiſe.

Serjeant *Morton.* You may judge of the reſt by this: We will not put you to any more Expence of Time; there hath been ſufficient Treaſon in that which you have read.

Ld *Hyde.* Now ſay what you will. But I muſt tell you, in thoſe Particulars that have been compared, there is as much Villany and Slander, as is poſſible for the Devil or Man to invent: It is to deſtroy the King in his Perſon; to rob him of the Love and Affections of his People; to deſtroy the whole Family, and all Government, Eccleſiaſtical and Civil. And this read by your ſelf, owned, and cauſed to be printed.

Twyn. Except it was that Sheet which Mr. *L'Eſtrange* read to me when I was taken, I never heard it before, nor read it.

Ld *Hyde.* Your Man ſwears that you did ſet and print part of it: It's impoſſible to compoſe and ſet, but you muſt read it. Nay, you did examine and correct the Sheets; brought them up again. Mr. *L'Eſtrange* ſwears you confeſſed you read it over; it was *mettleſome Stuff.* Mr. *Dickenſon* ſays you did not ſay you read it over; but he ſaying to you it was impoſſible you ſhould ſet it, and not read it, you told him alſo *it was mettleſome Stuff*: You could not judge it to be *mettleſome Stuff*, but you muſt read it. There is Mr. *Williamſon* ſays that you confeſſed before Mr. Secretary *Bennet* that you had ſeen three Sheets, printed off two Sheets, corrected thoſe two Sheets; and after printed, and delivered them; and that you had forty Shillings in part of Payment. Beſides this, when Mr. *L'Eſtrange* came firſt, you were up, (nay, at Two a-clock in the Morning:) When they came and knocked at the Door, they heard Preſſes going, you would make no Anſwer till they called a Smith, with intent to force it open. When they came in, they found a Form brought out of the Printing-Room, and broken, all but one Corner; that taken up by a Printer, and compared with the Lines of the printed Sheets, and found to agree. Some of the Sheets were printed on one ſide only, the reſt perfected, you threw them down Stairs, part into your Neighbour's Houſe; ſaid *you were undone*, when you underſtood Mr. *L'Eſtrange* was there. What needed all this, but that you knew what you were doing, and did it purpoſely to do miſchief?

Twyn. I did never read or hear a Line of it, but when Mr. *L'Eſtrange* read it when I was taken.

Judge *Keeling.* Was it printed at your Houſe, or no?

Twyn.

Twyn. I know not but that it might: Not that I did it with my own Hand.

Judge *Keeling.* The Papers were found wet with you: Who was in your Houſe?

Twyn. My two Servants.

Judge *Keeling.* Did any ſet them at work but your ſelf? Did they work of their own Heads?

Twyn. I did uſe to ſet them at Work; but I did not ſet them on that particular Work.

Ld *Hyde.* Have you any thing elſe to ſay? God forbid but you ſhould be heard; but the Jury will not eaſily believe ſuch Denials againſt ſo much Evidence.

Judge *Keeling.* Tell us to whom you carried this Copy to be corrected?

Twyn. I know not who corrected it.

Ld *Hyde.* If you have any thing to ſay, ſpeak it; God forbid but you ſhould have a full Hearing: Say what you will.

Twyn. I ſay I did not read it, nor heard it, till Mr. *L'Eſtrange* read it.

Ld *Hyde.* Have you any thing elſe?

Twyn. It's poſſible I may upon Conſideration.

Ld *Hyde.* We cannot ſpend all the Day: I muſt let the Jury know they are not to take your Teſtimony.

Serj. *Morton.* I am of Counſel for the King: I ſhall reply, if he will ſay no more.

Judge *Keeling.* You have heard your Charge; this is your Time to make your Anſwer: If you do not ſpeak now, you muſt not ſpeak after. Therefore if you have any thing to ſpeak in your Juſtification, or Witneſſes to call, now is your Time.

Ld *Hyde.* Let me give you this Caution: We cannot ſpend Time in vain; we have other Buſineſs before us, and it grows late. The beſt Counſel I can give you, is this: You ſaid at firſt, That you deſired to be tried in the Preſence of God. You are here in the Preſence of Almighty God, and I would to God you would have ſo much Care of your ſelf, and do ſo much Right to your ſelf, to declare the Truth, that there may be means of Mercy to you. The beſt you can now do towards Amends for this Wickedneſs you have done, is by diſcovering the Author of this villanous Book: If not, you muſt not expect, and indeed God forbid that there ſhould be any Mercy towards you.

Twyn. I never knew the Author of it, nor who it was, nor whence it came, but as I told you.

Ld *Hyde.* Then we muſt not trouble our ſelves. Did you never ſee the Hand before, with which this Copy was written?

Twyn. No.

Ld *Hyde.* I am very confident you would not then have been ſo mad, as to have taken ſuch a Copy: A Copy fraught with ſuch abominable Treaſon and Lyes; abuſing, in the firſt place, the late King that is dead, who was, I'll be bound to ſay it, as virtuous, religious, pious, merciful, and juſt a Prince as ever reigned, and was as villanouſly and barbarouſly uſed by his rebellious Subjects. Nay, you have not reſted here, but have fallen upon this King, who has been gentle and merciful beyond all Precedent. Since he came to the Crown, he has ſpared thoſe that had forfeited their Lives, and all they had: And he has endeavoured to oblige all the reſt of his People by Mildneſs and Clemency. And after all this, for you to publiſh ſo horrid a Book, you can never make amends: God forgive you for it.

Twyn. I never knew what was in it.

Ld *Hyde.* You of the Jury, I will ſay only this: That in Point of Law, in the firſt place, there is no doubt in the world, by the Law of the Land, the publiſhing ſuch a Book as this is as high a Treaſon as can be committed: By this he has endeavoured to take away the Life of the King, and deſtroy the whole Family, and ſo conſequently to deliver us up into the hands of Foreigners and Strangers. It is a great Bleſſing that we have the Royal Line amongſt us. But, I ſay, there is no queſtion (and my Brothers will declare the ſame, if you doubt it) that this Book is as fully Treaſon by the old Statute, as much the compaſſing and endeavouring the Death of the King, as poſſible: And he reſts not there, but he incites the People to Rebellion, to dethrone him, to raiſe War. And the publiſhing of this Book is all one and the ſame, as if he had raiſed an Army to do this. The Proof is, That he ſet part, printed part, and corrected it; by his own Confeſſion, read it over, It was *mettleſome Stuff*; confeſſed how many Sheets he printed; the Reward and Recompence, you took notice of it. And I preſume no Man among you can doubt but the Witneſſes have ſpoken true: And for his Anſwer, you have nothing but his bare Denial. And ſo we ſhall leave it to you.

Set Simon Dover *to the Bar.*

Dover. My Lord, I pray Time, till Monday Morning: I have ſent away the Copy of my Indictment.

Ld *Hyde.* The Seſſions will be done to-night: Mr. Recorder and the reſt are to go away on Monday; and therefore we muſt end to-night.

Dover. I beſeech your Lordſhip I may have Time till Night.

Ld *Hyde.* Men clamour, and ſay they are hardly uſed, their Tryals being put off: Are you content to lie in Goal till the next Seſſions?

Dover. No, my Lord, I have had enough of that: We are willing now to have it tried.

Ld *Hyde.* You have had a Kindneſs done to you, that it is not laid Treaſon; and therefore go on to your Tryal. But becauſe you ſhall not ſay you are ſurprized, if you will not go on now, you muſt lie in the Goal till the next Seſſions: We cannot bail you.

Dover. My Lord, the Indictment is full of Law, and I underſtand not the Formalities of it: I deſire but till Four a-clock.

Ld *Hyde.* We muſt do it before we go to Dinner, or not at all; for there is Judgment to be given to the Goal, and all of us Judges are commanded by the King to attend him to-night.

Dover. I am not able to plead to it.

Ld *Hyde.* Then becauſe you ſhall not ſay you had not all the Right imaginable, we will diſpatch the reſt of the Goal to-night, and adjourn the Seſſions till Monday Morning, and you ſhall then have a fair Tryal, by the Help of God. You and your Company, *Nathan Brooks* and *Thomas Brewſter*, are you all deſirous to be tried on Monday Morning?

All three. Yes.

Ld *Hyde.* Becauſe you ſhall not want Advice, or any thing elſe, you ſhall have all the Liberty you will deſire, to ſend for Perſons; but you muſt be Priſoners till then.

All three. We humbly thank you.

Then the Jury went out; and after about half an Hour's Conſultation, they returned to the Court, and took their Places.

Clerk. Are you all agreed of your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. The Foreman.

Clerk. Set *John Twyn* to the Bar: Look upon him, my Masters; how say you, is he guilty of the High Treason whereof he stands indicted, or not guilty?

Foreman. Guilty.

Cl. of *Newgate.* Look to him, Keeper.

Clerk. Hearken to your Verdict, as the Court hath recorded it: You say that *John Twyn* is guilty of the High Treason whereof he stood indicted, and that at the time of committing the said Treason, or any time since, he had no Goods, Chattels, Lands nor Tenements, to your knowledge; and so you say all?

Jury. Yes.

Clerk. John Twyn, thou hast been arraigned for High Treason, and thereunto hast pleaded Not guilty, and for thy Tryal hast put thyself upon God and the Country, and the Country hath found thee Guilty; what canst thou now say for thyself, why the Court should not proceed to Judgment, and thereupon award Execution of Death against thee, according to the Law?

Twyn. I humbly beg Mercy; I am a poor Man, and have three small Children, I never read a word of it.

Ld *Hyde.* I'll tell you what you shall do: Ask Mercy of them that can give it; that is, of God and the King.

Twyn. I humbly beseech you to intercede with his Majesty for Mercy.

Cl. of *Newgate.* Tye him up, Executioner.

Cryer. O Yes! My Lords the King's Justices command all manner of Persons to keep silence while Judgment is in giving, upon pain of Imprisonment.

Ld *Hyde. John Twyn*, and *John Dunsmore*, (*one convicted for clipping of Money*) I am heartily sorry that your Carriage and grievous Offences should draw me to give that Judgment upon you that I must. It is the Law pronounces it, God knows it is full sore against my Inclination to do it; I will not trouble myself or you with repeating what you have done; but only this in the general, *John Twyn*, for you: Yours is the most grievous and highest Treason, and the most complicated of all Wickedness that ever I knew; for you have, as much as possibly lay in you, so reproached and reviled the King, the dead King, and his Posterity, on purpose to endeavour to root them out from off the face of the Earth. I speak it from my Soul, I think we have the greatest Happiness of the World, in enjoying what we do under so gracious and good a King; yet you in the Rancour of your Heart thus to abuse him! I will be so charitable to think you are misled. There's nothing that pretends to Religion, that will avow or justify the killing of Kings, but the Jesuit on the one side, and the Sectary on the other: indeed it is a desperate and dangerous Doctrine, fomented by divers of your Temper, and it's high time some be made Examples for it. I shall not spend my time in discourse to you, to prepare you for Death; I see a grave Person whose Office it is, and I leave it to him. Do not think of any Time here, make your peace with God, which must be done by Confession, and by the Discovery of those that are guilty of the same Crime with you. God have mercy upon you; and if you so do, he will have mercy upon you. But forasmuch as you *John Twyn* have been indicted of High Treason, you have put yourself upon God and the Country to try you, and the Country have found you guilty: therefore the Judgment of the Court is, and the Court doth award, 'That you be led back to the place from whence 'you came, and from thence to be drawn upon an 'Hurdle to the place of Execution; and there 'you shall be hanged by the Neck, and being 'alive, shall be cut down, and your Privy-Mem-'bers shall be cut off, your Entrails shall be taken 'out of your Body, and you living, the same to 'be burnt before your eyes; your Head to be cut 'off, your Body to be divided into four Quarters, 'and your Head and Quarters to be disposed of 'at the Pleasure of the King's Majesty. And the 'Lord have mercy upon your Soul.'

Twyn. I most humbly beseech your Lordship to remember my Condition, and intercede for me.

Ld *Hyde.* I would not intercede for my own Father in this Case, if he were alive.

Monday, Febr. 22. 166¾.

THE Court proclaimed.

Clerk. Set *Simon Dover*, *Thomas Brewster*, and *Nathan Brooks* to the Bar: Look to your Challenges.

The same Jury sworn anew.

Clerk. Set *Tho. Brewster* to the Bar, and the rest set by. You of the Jury look upon the Prisoner; you shall understand that he stands indicted in *London* by the Name of *Thomas Brewster*, &c. [and here he reads the Indictment] for causing to be printed, and selling a Book called, *The Speeches*, *&c.* Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his, *&c.* Your Charge is to inquire whether he be Guilty of this Sedition and Offence, or Not Guilty. If you find him, *&c.*

Mr. *North.* May it please your Lordship, and you Gentlemen of the Jury, *Tho. Brewster* stands here indicted of a foul Misdemeanour; it is for causing to be printed, publishing and uttering a seditious, scandalous, and malicious Book. The Indictment sets forth, That he not having, *&c.* [Here Mr. *North* opens the Indictment] and to this Indictment he hath pleaded Not Guilty. If there be sufficient Proof of the Charge, you are to find him guilty of the Matter contained in it.

Thomas Creek, George Thresher, Thomas Loft, *and* Peter Bodvel *sworn.*

Mr. *North. Tho. Creek*, tell my Lord and the Jury what you know concerning *Brewster*, and your printing of a Book called *The Speeches*, &c. and his uttering and publishing of it.

Creek. I shall, Sir. There is a Mistake in the Time, for it was before *Christmas*, that Mr. *Brewster*, Mr. *Calvert*, and Mr. *Chapman* did come to me at the *Cock* in *Little-Britain*; and there they had some Copy of the Beginning of the Speeches of the Men that suffered, that were the King's Judges, and they spake to me to print it: and I did print part of the Book, I cannot tell you how much, without I had the Book, and then I can tell you how much I did print. [*The Book being shewed him*] If this be my printing; I suppose it was done afterwards, another Impression, and I must not own it in that. [*He was shewed one of another Impression*]

My

My Lord, thus far I own; the Printers that are of the Jury will judge [*pointing to the Page*] this is my Letter, and here I ended.

Ld *Hyde.* What Folio is that you ended at?

Creek. You ſhall ſee, it is 36.

Mr. *North.* By whoſe Order did you print that?

Creek. They all gave me Order together.

Ld *Hyde.* They all! Name them.

Creek. Mr. *Calvert*, *Brewſter*, and *Chapman.*

Mr. *North.* Did they charge you to do it privately?

Creek. With as much Privacy and Expedition as I could.

Mr. *North.* When you had printed them, what did you do with them?

Creek. I diſpoſed of them by their Order.

Mr. *North.* Did you print but one Impreſſion, or more?

Creek. Yes, my Lord, I did print part of a ſecond Impreſſion.

Mr. *North.* That we uſe as Evidence, that he had uttered the firſt, becauſe he went upon a ſecond: How many did you print at firſt?

Creek. To my beſt remembrance, the firſt Impreſſion was 3000.

Ld *Hyde.* Theſe three employ'd you to print this Book, and you printed to the 36th Folio?

Creek. Yes.

Ld *Hyde.* And who printed the other part?

Creek. I cannot ſay poſitively.

Ld *Hyde.* Theſe three did afterwards direct you to give out the Sheets to ſuch and ſuch Perſons, Bookbinders, to ſtitch up, and diſpoſe of?

Creek. Yes.

Ld *Hyde.* The firſt was three thouſand, you ſay: what number did they take?

Creek. They had all; they ſent for them of me as faſt as I did them.

J. *Keeling.* Who did you ſend the Proofs to?

Creek. They were ſent for to my Houſe.

J. *Keeling.* Sometimes by *Calvert*, ſometimes his Man, ſometimes his Maid, ſometimes by *Brewſter.*

Ld *Hyde.* Do not you know who began where you left off?

Creek. I am not able poſitively to ſay, I do believe, and I have heard, and ſpoken with them that ſaid Mr. *Dover* did; but I cannot poſitively ſay it.

Ld *Hyde.* You were not by, to ſee it done?

Creek. No.

Ld *Hyde.* What grounds have you to believe that *Dover* printed the reſt?

Creek. Grounds! Truly it is ſo long ago, to ſwear poſitively I cannot.

Ld *Hyde.* It is but three Years ago.

Creek. To the beſt of my remembrance, Mr. *Dover* in the time of printing of it did meet me, and converſe with me about it; but to expreſs Time or Place, I cannot.

Ld *Hyde.* Did you and he agree that he ſhould print the other part?

Creek. No, my Lord; I had nothing to do to agree it with him.

Ld *Hyde.* Did he declare to you that he printed the other?

Creek. To the beſt of my memory he told me he printed ſome Sheets.

Mr. *North.* Who changed Sheets with you?

Creek. Some Sheets were changed at Mr. *Dover*'s.

J. *Keeling.* Who paid for the Printing?

Creek. Mr. *Brewſter* paid me ſome, and ſome Mr. *Calvert* paid me.

Ld *Hyde.* If you deſire to ask him any Queſtions, you may.

Brewſter. By and by I ſhall, my Lord.

Dover. I deſire he may tarry till I come to my Tryal.

Serj. *Morton.* Don't doubt it.

Mr. *North.* *George Threſher*, ſpeak your Knowledge to my Lord and the Jury, whether *Brewſter* did not bring you the Book called *The Speeches*, &c. to be ſtitch'd, and what you did with them; tell the manner of it.

Threſher. May it pleaſe you, my Lord, and the Honourable Bench, it is thus: This Book it ſeems was printed, Mr. *Brewſter* came to my Houſe to know whether I could fold them, and ſtitch them in blue Paper. That night I went to ſeveral Printers, Mr. *Dover* was one of them; we had ſeveral Sheets from thence, (I did not ſee them printed) I carried them home, and went about the working them that night.

J. *Keeling.* How many Books were delivered to you?

Threſher. Firſt and laſt, about 500.

J. *Keeling.* Who delivered them to you?

Threſher. Some were brought to my Houſe.

J. *Keeling.* By whoſe Direction?

Threſher. Mr. *Brewſter*'s.

J. *Keeling.* Did you deliver them to any body?

Threſher. Yes, to *Nathan Brooks*, ready ſtitch'd.

J. *Keeling.* Who paid you for them?

Threſher. Mr. *Brewſter* for them he had, and *Brooks* for them he had.

Mr. *North.* *Thomas Loft*, tell your Knowledge in this buſineſs.

Thomas Loft. May it pleaſe you, all that I can ſay is this: There was to the number of about or near upon a thouſand, as I take it, folded and ſtitch'd in my Maſter's Houſe, one Mr. *Perry*, I was then his Apprentice; they were ſent in, as I judge, by Mr. *Brewſter*'s Order, but I cannot poſitively ſay it: my Maſter appointed us to do them; I ſaw Mr. *Brewſter* there ſometimes, but I cannot poſitively ſay that Mr. *Brewſter* paid for the doing of them.

Mr. *North.* Did not your Maſter preſs the Diſpatch?

Loft. My Maſter did ſo; but I know not whether they converſed to that purpoſe.

Mr. *North.* Who fetch'd them away?

Loft. His then Apprentice did fetch ſome of them from our Houſe.

Mr. *North.* *Peter Bodvel*, tell my Lord and the Jury what you know.

Bodvel. I did carry ſome three Years ago ſome Bundles of Books from Mr. *Creek*'s Houſe, and I think they were the Bundles of the Speeches of the King's Judges.

Ld *Hyde.* From whence had you them?

Bodvel. From Mr. *Creek*'s.

Mr. *North.* What did you do with them? Were they ſold?

Bodvel. I did ſee ſome of them ſold in the Shop.

Mr. *North.* Who ſold them?

Bodvel. Myſelf, and my Miſtreſs ſometimes.

Ld *Hyde.* Were they brought to the Shop to ſell, by his privity?

Bodvel. I do believe he knew of them.

Ld *Hyde.* By the Oath you have taken, did he ſend you for them to the Printer's?

Bodvel. He or my Miſtreſs did.

Ld *Hyde.* Has he been in the Shop when they have been ſold?

Bodvel. I cannot truly tell, it's three Years ago.

J. *Tyrrel.* To whom did you pay the Money that you received for them?

Bodvel. We put it in the Box.

J. *Keeling.* Do not Bookſellers keep account what Books they ſell, and ſet down the Money?

Bodvel. Not for Pamphlets.

Mr. *North.* Did he not ſend you to the Bookbinder's for them, when they were ſtitch'd?

Bodvel. It was by his or my Miſtreſs's Order.

J. *Keeling.* What was your Bookbinder's Name?

Bodvel. Perry.

J. *Keeling.* Where was this Book kept? Publickly, as other Books, or in other Rooms?

Bodvel. In the Shop, my Lord.

J. *Keeling.* Were they publickly to view, as other Books?

Bodvel. Not ſo publick as other Books, but publick enough, Mr. *L'Eſtrange* knows.

Ld *Hyde.* I know you uſe to let your Titles of a new Book lie open upon your Stalls; did you lay theſe open?

Bodvel. No, my Lord, they did not do ſo.

Ld *Hyde.* Who was the cauſe they did not? Did your Maſter direct the Privacy?

Bodvel. I think he did, we had ſome direction to that end.

Ld *Hyde.* Not to lay them open upon the Stall?

Bodvel. No.

Ld *Hyde.* Give the Jury ſome Books, and read the Indictment; let them be compared.

Clerk reads the Indictment: firſt the Title; 'The Speeches and Prayers of ſome of the late 'King's Judges, *viz.* Major-General *Harriſon*, 'Octob. 13. Mr. *John Carey*, Octob. 15. Mr. Juſtice 'Cook, Mr. *Hugh Peters*, Octob. 16. Mr. *Thomas Scot*, 'Mr. *Gregory Clement*, Col. *Adrian Scroope*, Col. *John* 'Jones, Octob. 17. Col. *Daniel Axtell*, and Col. *Fran-* 'cis Hacker, Octob. 19. 1660. The Times of their 'Deaths, together with ſeveral Occaſional Speeches, 'and Paſſages in their Impriſonment, till they 'came to the place of Execution. Faithfully and 'impartially collected for further Satisfaction.

Mr. *Cook*'s Letter to a Friend, *fol.* 40. 'And ſo I 'deſcend to the Cauſe, for which I am in Bonds; 'which is as good as ever it was: And I believe 'there is not a Saint that hath engaged with us, 'but will wiſh at the laſt Day that he had ſealed 'to the Truth of it with his Blood, if thereupon 'called; for I am ſatisfied, that it is the moſt 'Noble and Glorious Cauſe that has been agitated 'for God and Chriſt ſince the Apoſtolical Times; 'being for Truth, Holineſs, and Righteouſneſs, 'for our Liberties as Men, and as Chriſtians for 'removing all Yokes and Oppreſſions.' And *fol.* 41. 'It is ſuch a Cauſe, that the Martyrs would 'again come from Heaven to ſuffer for it, if they 'might: I look upon it as the moſt high Act of 'Juſtice that our Story can parallel, *&c.*'

[Not to trouble the Reader with all the Particulars mention'd in the Indictment; ſince the reſt are but more of the ſame in other words.]

Ld *Hyde.* What ſay you to this Book?

Brewſter. I deſire to ask Mr. *Creek* a few Queſtions: Mr. *Creek*, how much of that in the Indictment did you print?

Creek. The Jury may ſee if they pleaſe.

Ld *Hyde.* Truly if he ſays true, he ſays he printed no part of that with which you are charged, but the Title-Page; he left off at Folio 36. your Charge is the Title, and beginning at Fol. 40.

Brewſter. So that you ſee he printed nothing for me that is in the Indictment.

J. *Keeling.* Did you print the Title?

Creek. Yes, my Lord.

Ld *Hyde.* And you printed the reſt, by his, *Calvert*'s, and *Chapman*'s Directions.

Creek. They delivered me the Copy together to print.

Ld *Hyde.* If you have any thing to ſay, ſpeak to the Court, the Jury will hear you.

Mr. *North.* Pray, my Lord, give me leave to ask *Creek* one Queſtion: There were two Impreſſions printed, did not you print more in one, than in the other?

Creek. I am upon my Oath; to the beſt of my remembrance I printed the ſame that I did before, for I had ſome of it ſtanding, and ſo I had the ſame Sheets again.

Mr. *North.* Had you no more?

Creek. No, I had rather leſs.

Brewſter. That's uſual, he that prints the firſt, doth print the ſame of the ſecond.

Ld *Hyde.* He ſays he did ſo; what have you to ſay to the Charge?

Brewſter. I conceive that part that I ordered the printing of, is not included in the Indictment.

Ld *Hyde.* Yes, every part: he ſays in both Impreſſions he printed to the 36th Folio; and all the reſt was printed by your direction.

Creek. No, my Lord, I printed to the 36th Folio by his Direction, the reſt was printed elſewhere.

J. *Keeling.* Your Indictment was this, *For cauſing to be printed this Book, called* The Prayers, *&c. and for ſelling and uttering of it.* For the Evidence that you cauſed it to be printed, he ſwears you directed ſome, and it is not likely you would print half, and let the other half alone; we leave that to the Jury, for your uttering that, anon.

Ld *Hyde.* There are theſe two particular Charges in the Indictment, that you muſt anſwer: The firſt is, your cauſing it to be printed; and it is not eſſential, or of neceſſity, that every Particular that is in the Indictment be proved to be done by you: you cauſed this Book to be printed, with ſuch a Title; that he ſwears he did for you: then let the Jury, or any Man living judge whether you did direct the Book to be wholly perfected, or by halves. The ſecond Charge is, that you uttered them: You delivered five hundred of theſe to be ſtitch'd up, and diſpoſed of them, ſo that you are in effect both Printer and Publiſher of the whole Book.

Brewſter. He ſpeaks of one part that I ordered, there is no more Proof, and that was but to the 36th Page: he ſpeaks alſo of ſomebody elſe that was preſent with me; and where they had the reſt of the Copy printed, he tells you he knows not.

Ld *Hyde.* Have you any more to ſay?

Brewſter. Yes, my Lord: Tho he ſays I cauſed that Part to be printed, yet he doth not ſay I did it maliciouſly, or with any deſign againſt the Government.

Ld *Hyde.* The thing ſpeaks itſelf.

Brewſter. Bookſellers do not uſe to read what they ſell.

Ld *Hyde.* You have forgot what he ſwore; you brought the Proof.

Brewſter. He did not ſwear that; he ſays Mr. *Calvert*'s Man, and ſometimes others.

Ld *Hyde.* Ask him again.

Creek. I did declare, that the Proofs were ſent for, and carried away and read, ſometimes by Mr. *Calvert*'s Man and others, and ſometimes by his Servants, not by himſelf; they were wrapt up and ſent.

Ld

Ld *Hyde*. For a Man to pretend he did not know, when, he being Maſter, ſends for the Proofs by his Servant; for any Man to ſuppoſe this is not the Maſter's Act, (nay, and directing it to be done privately) you ſhall never find a Man guilty: they were ſold in his Shop.

Brewſter. The grand part of the Indictment lies, That it was done maliciouſly and ſeditiouſly, and then it ſays knowingly; though it be granted I did do it, and ſell it, yet it does not follow that I did it maliciouſly and ſeditiouſly; I did it in my Trade: we do not uſe to read what we put to print or ſell. I ſay, my Lord, ſelling of Books is our Trade, and for the bare exerciſing of it, knowing nothing of evil in it; it came out in a time too, when there were no Licenſers, or appointed Rules; ſo that whatever was done we are not accountable for, for we read very ſeldom more than the Title, that ſome of the Jury knows; ſo that I hope I cannot be ſaid to do it maliciouſly or knowingly. I can give Teſtimony I am no Perſon given to Sedition, but have been ready to appear upon all Occaſions againſt it.

Ld *Hyde*. Have you any more? if you have, ſay it.

Brewſter. My Lord, they are the Sayings of dying Men, commonly printed without Oppoſition.

Ld *Hyde*. Never.

Brewſter. I can inſtance in many; the Bookſeller only minds the getting of a Penny: that declares to the World, that as they lived ſuch deſperate Lives, ſo they died; ſo that it might ſhew to the World the Juſtice of their Puniſhment; and ſo I think it a Benefit, far from Sedition. It was done ſo long ago too, it was not done in private, it went commonly up and down the Streets, almoſt as common as a Diurnal: it's three Years and a quarter ago, or thereabouts.

Juſtice *Tyrrel*. You ſpeak of your Behaviour, have you any Teſtimony here?

Brewſter. I do expect ſome Neighbours; Major-General *Brown* knows me, Capt. *Sheldon*, Capt. *Colcheſter*, and others: I can give a very good account as to my Behaviour ever ſince.

Ld *Hyde*. Say what you will, and call your Witneſſes, and make as much ſpeed as you can.

Juſtice *Keeling*. There is another Indictment againſt you, and while that is trying, your Neighbours may come.

Brewſter. My Lord, I ſhall deſiſt for the preſent.

Serj. *Morton*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; I am of Counſel for the King againſt *Thomas Brewſter*, Bookſeller, that ſtands here indicted, for that he, contrary to the Duty of his Allegiance which he owes to our Sovereign Lord the King, did cauſe maliciouſly a ſeditious and ſcandalous Book to be printed, wherein there are divers ſcandalous Clauſes contained, that are in Diſparagement of the King's Royal Prerogative, and againſt his Government, Crown and Dignity; and likewiſe that he hath ſold and uttered the ſame Books in Contempt of his Majeſty's Laws. This is the Effect of the Indictment: It has been proved to you by four Witneſſes, that for which he ſtands indicted; Firſt, That he did cauſe part of the Book to be printed; that's clearly proved by *Creek*: likewiſe that he has ſold and uttered thoſe Books in his Shop; nay, he confeſſes that he did, and ſays they were ſold openly as a *Diurnal*; and therefore he thinks it was lawful for him to do it. He has gone about to make a Defence of this his ſeditious Behaviour; he tells you he did not print all the Book; it is not ſaid, that he printed ſuch and ſuch a Letter of the Book, but that he cauſed ſuch a Book to be printed: and it is to be preſumed, if he cauſed one part, he would cauſe the other, or otherwiſe it would be a Book of maimed Senſe and imperfect: Gentlemen, for the uttering and ſelling of them, that himſelf confeſſes: you have heard the Excuſes he hath made, whether you will not find him guilty of this Crime, that I muſt leave to you, and to the Direction of the Court.

Ld *Hyde*. You of the Jury, you ſee the Indictment is for cauſing a libellous and ſeditious Book to be printed, under ſuch a Title, that is, *The Speeches and Prayers*, &c. it is for cauſing this, ſeditiouſly, factiouſly and wickedly to be printed; and for ſelling and publiſhing it abroad to the King's People: For the Matter of Evidence, you have heard it; I will not repeat the Particulars to you, only ſomething to what he has ſaid, that you may not be miſled. Firſt, He ſays, it does not appear, that he did it maliciouſly or knowingly; there are ſome things that you that are of the Jury are not to expect Evidence for, which it is impoſſible to know but by the Act it ſelf. Malice is conceived in the Heart, no Man knows it unleſs he declares it: As in Murder, I have Malice to a Man, no Man knows it; I meet this Man and kill him; the Law calls this *Malice*. If a Man ſpeak ſcandalous words againſt a Man in his Calling or Trade, he lays his Action, *Malice*, though he cannot prove it but by the words themſelves. If I ſay a Printer or Stationer is an ignorant Perſon, has no Skill in his Trade, I would not have any Man to deal with him, he underſtands not how to ſet Letters, or the like; here is nothing of Malice at all appears, yet if you bring your Action, you muſt lay it, *maliciouſly*; it is the deſtroying your Trade, and you will have Damages. I inſtance in this Particular, that you may ſee there is *Malice* ſuppoſed to a particular private Perſon in that Slander, much more to the *King* and the *State*. The thing it ſelf, in cauſing a Book to be printed that is ſo full of Scandals and Lyes, to inveigle, miſguide, and deceive the People, this is, in Conſtruction of the Law, *Malice*; and though no Malice appear further. The next is this; *factiouſly, ſeditiouſly, knowingly*: this carries *Sedition* as well as *Malice*. Such a barbarous tranſcendent Wretch that murdered his Prince, without the leaſt Colour of Juſtice, to declare that *he rejoiced in his Bonds*; and that *the Martyrs would willingly come from Heaven to ſuffer for it*. Horrid Blaſphemy! *All the Saints that ingaged in it, to wiſh that they had ſealed it with their Blood!* What can you have more to incourage and incite the People to the killing of Kings, and murdering their lawful Prince! This they publiſh, and ſay it was ſpoken publickly; let it be upon his own Soul that did it: for in caſe he did it, no Man knew it but thoſe that heard it. But to publiſh it all over *England*, (3000 of the firſt Impreſſion, and a ſecond;) this is to fill all the King's Subjects with the Juſtification of that horrid Murder: I will be bold to ſay, *not ſo horrid a Villany has been done upon the Face of the Earth, ſince the crucifying of our Saviour*. To print and publiſh this, is *Sedition*. The next thing is your Trade. I have a Calling to uſe, and I may juſtify the uſing of it, ſo long as I uſe it lawfully; but that muſt not juſtify me in all manner of Wickedneſs againſt the King and State. As if a Lawyer (I will put it in my own Coat) pleads a Man's Cauſe, and againſt the King; this is juſtifiable, he ought to plead for his Client, but he muſt plead as becomes him. If a Lawyer in defence of his Client will ſpeak Sedition,

do

do you think he is free from being puniſhed? So of a Printer; if a Printer prints ſeditious and factious Books, he muſt look to himſelf; that's no part of his Calling to poiſon the King's People: ſo tho printing of a Book be lawful, he muſt uſe it as the Law appoints him, and not to incite the People to Faction. Writing of Letters, you know it is common and lawful; but if I write treaſonable Letters, give notice to riſe, do ſuch and ſuch unlawful Acts, I am to be puniſhed for theſe Letters. A Printer he is a publick Agent, he is to do what he is able to anſwer, or elſe he muſt take what follows. He ſays, There was no Act againſt him: it is true, you ſee he is not indicted upon the Statute, but at the Common Law, for an Offence in the nature of a Libel. If I were a Printer, and would compile a Pamphlet againſt a Man, though not in Authority, and diſparage him, this is the publiſhing of a Libel, and an Offence for which he ought to be indicted, and puniſhed by the Common Law; and he that prints that Libel againſt me, as a publick Perſon, or againſt me as Sir *Robert Hyde*; that Printer, and he that ſets him at work, muſt anſwer it; much more when againſt the King and the State. Another thing is this; he talks to you of *dying Mens Words*: if Men will be ſo vile to be as wicked at their Deaths, as they had been in their Lives; put the Caſe of that Man on Saturday convicted for printing a horrible villanous thing, if he will be ſo unchriſtian to himſelf, as to juſtify this at his Death, or to ſpeak as bad as he had cauſed to be printed, is that a Juſtification to publiſh them, becauſe they are the Words of a dying Man? God forbid. A Robber declares at the Gallows, it is for a noble Cauſe, for taking a Purſe upon the High-way, that it is an unjuſt Law to condemn to death for ſuch Crimes. Shall any Man publiſh this in print, and not be liable to be puniſhed for it? If any that were tried here upon Saturday, ſhall villify the Lord Mayor, or any of the Bench, traduce them for doing of Juſtice, ſhall this go unpuniſhed, if a Man take it up and print it? This I ſpeak to let you ſee this is without Colour of Law: He pretended he did it not knowingly; I will not repeat the Evidence; *He ſent for them, had them ſtitched, cauſed them to be kept privately*, (not upon the Stall.) And obſerve, he tells you it was done *long ago*: it is but three Years ago that they were as publickly ſold as *Diurnals*, he ſays. I ſhall repeat no more, I know you are Men of Underſtanding, and of Obedience to your King; it is high time to take notice of this diſperſing of Pamphlets: if therefore you do believe that he did cauſe it to be printed, or publiſhed it, or both, he is guilty of the Miſdemeanour laid in the Indictment; (and *he hath a great Kindneſs in that it is not made Capital:*) If you do believe that he did either cauſe it to be printed or publiſhed, that's enough to find him guilty of this Indictment.

Clerk. Hearken to the other Indictment: He ſtands indicted in *London*, &c. and this is for cauſing to be printed a certain Book called, *The Phœnix*, &c. publiſhing the ſame, [*the Indictment was wholly read.*] To this Indictment he hath pleaded Not Guilty; ſo your Iſſue is to enquire whether he be guilty of this Offence, or not guilty.

Mr. *North*, [*opened the Indictment in manner as before.*] To this he hath pleaded Not Guilty; if the Charge of the Indictment be ſufficiently proved, you are to find him guilty.

Serj. *Morton.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, here is another Bill of Indictment preferred againſt *Thomas Brewſter*; it is, that contrary to the Duty of his Allegiance to his Sovereign Lord the King, and purpoſely to incite the People to Sedition, and to withdraw them from their natural Allegiance to the King, he hath cauſed to be imprinted maliciouſly, falſly and ſcandalouſly, a certain ſcandalous Book, entitled, *The Phœnix*, &c. And this he hath done to diſturb the Peace of the Kingdom, and to withdraw the People from their Allegiance; and to the Scandal of his Majeſty's Government, he hath cauſed this Book to be printed, uttered and ſold: and this we take to be a great Offence againſt the King, and his Crown and Dignity. Gentlemen, the diſperſing of ſeditious Books is of great danger to the Kingdom; falſe Rumours, they are the main Incentives that ſtir up the People to Sedition and Rebellion, that raiſe Diſcontentments among the People, and then preſently they are up in Arms. Diſperſing ſeditious Books is very near a-kin to raiſing of Tumults; they are as like as Brother and Siſter: Raiſing of Tumults is the more maſculine; and printing and diſperſing ſeditious Books, is the Feminine Part of every Rebellion. But we ſhall produce our Witneſſes, we ſhall prove that this *Thomas Brewſter* cauſed this Book to be printed; that when it was printed he did receive three hundred; That theſe he cauſed to be ſtitch'd up; That he uttered and ſold them, part in his own Shop, and part elſewhere. It being an Offence of that great and dangerous Conſequence, which tends to the Diſturbance of the Peace of the Kingdom; I hope you will take it into your ſerious Conſideration, and if the matter ſtand proved againſt him, you will give him his due Demerit.

Creek, *Threſher*, *Loft* and *Bodvel*, ſworn again.

Mr. *North*. *Creek*, tell my Lord and the Jury what you know of the printing of the Book called, *The Phœnix*.

Creek. My Lord, it was in *May* that Mr. *Calvert*, *Brewſter* and *Chapman* brought that Book to me to print.

Ld Ch. Juſt. *Hyde*. What Book? name it.

Creek. The *Phœnix*, &c. it was printed for them three. All that I can ſay, is, That Mr. *Brewſter's* Part was delivered to me by his Direction.

Ld Ch. Juſt. *Hyde*. Who paid you for printing of it?

Creek. Mr. *Brewſter* paid for his Part.

Juſtice *Keeling*. How many was his Part?

Creek. His Part of 2000, that was 600 and odd.

Ld Ch. Juſt. *Hyde*. Theſe three Men joined to bear each Man his Share?

Creek. Yes, every Man was to have his Share.

Juſt. *Keeling*. Did he wiſh you to do it with Privacy?

Creek. Yes, with Expedition and Privacy.

Brewſter. Was the Copy written or printed?

Creek. It was all printed formerly, ſome in *Quarto*, ſome in *Octavo*, and might have been bought ſingle in any place almoſt.

Ld Ch. Juſt. *Hyde*. What do you mean by *all printed formerly?*

Creek. My Lord, they were in ſeveral Parcels printed; there was Mr. *Calamy's* Sermon, and Mr. *Douglas's* Sermon, and the reſt.

Juſtice *Keeling*. How long ago was it ſince they were brought to you to print?

Creek. It was in *May*, three Years.

Brewſter. Did I order you how you ſhould print them, or Mr. *Calvert?* Did not you hear him ſay,

that they had ſtaid two Hours for me at an Alehouſe to be his Partner?

Creek. I did hear him ſay ſo.

Juſtice *Keeling.* What made you ſo loth to be their Partner? were they two Hours perſuading of you?

Creek. No, they waited two Hours for him to be their Partner.

Serj. *Morton.* *Threſher*, did *Brewſter* deliver any of thoſe Books to you to ſtitch up?

Threſher. Yes, and pleaſe you, my Lord, and I had them by Mr. *Brewſter*'s Order to fold.

Serj. *Morton.* How many?

Threſher. To the number of 2 or 300.

Mr. *North.* Did he not enjoin you Privacy?

Threſher. Yes, I think he did.

Juſtice *Keeling.* When they were bound, had you a Note to deliver thoſe Books ſafely to any?

Threſher. Yes, from his own Hand; he deſired me to go and give them to ſuch and ſuch Perſons, Bookſellers. Said I, I ſhall hardly remember them: he thereupon gave me a Note of their Names to whom I ſhould deliver them; I judge they were to be truſted more than others.

Serj. *Morton.* Did you deliver them accordingly?

Threſher. Yes, I did.

Ld Ch. Juſt. *Hyde.* How many did you deliver in that manner?

Threſher. Two dozen and more.

Juſt. *Keeling.* If you will ask him any Queſtions, do.

Brewſter. Did I give you any Order to deliver them to any particular Bookſellers?

Threſher. Yes, you did; I believe Mr. *L'Eſtrange* and Mr. *Williams* (one of the Jury) can remember I ſhewed them the Paper you wrote to that purpoſe.

Mr. *Williams.* I did ſee the Note.

Brewſter. I do not remember I gave you any Order, they were all common things before.

Juſtice *Keeling.* You may ask him what Queſtions you will.

Brewſter. I ſhall ask him no more.

Mr. *North.* *Peter Bodvel*, ſpeak what you know concerning the ſelling or uttering the Book called, *The Phœnix*, &c.

Bodvel. I never knew of the printing of them, I never knew my Maſter ſell any of them, nor heard him give order for ſelling of them.

Juſtice *Keeling.* Did you ſell any of them for him?

Bodvel. I think I did ſell ſome.

Serj. *Morton.* Were they in the Shop to be ſold?

Bodvel. Yes, they were.

Ld Ch. Juſt. *Hyde.* Were they in the Shop publickly, with the Title-page lying open upon the Stall, as other Books do, when they are newly out?

Bodvel. We ſeldom did ſo with Bound-Books.

Juſtice *Keeling.* Where were the Books found when they were ſeized?

Bodvel. I think they were in ſome of the upper Rooms.

Juſtice *Keeling.* Where were they found, by the Oath you have taken?

Bodvel. That Mr. *L'Eſtrange* can tell better than I, I did not ſee him find any of them.

Ld Ch. Juſt. *Hyde.* By the Oath you have taken, where was the Place whence you were to fetch them, when you were to ſell them?

Bodvel. In the Hall, the Room over the Shop.

Ld Ch. Juſt. *Hyde.* Were they put up privately?

Bodvel. They were ſo.

Juſtice *Keeling.* What private place was that?

Bodvel. It was a Hole in the Wall.

Juſtice *Tirrel.* By whoſe Direction were they laid there?

Bodvel. I know not whether by his, or my Miſtreſs's.

Juſtice *Keeling.* Were not ſome found under the Bed?

Bodvel. I heard that Mr. *L'Eſtrange* found ſome of the Titles under the Bed.

Serj. *Morton.* I think it is enough; what ſay you to it, Friend?

Ld Ch. Juſt. *Hyde.* Obſerve this, and anſwer it: It appears that you and two more (*Calvert* and *Chapman*) did agree with *Creek* for printing this Book, (ſeveral Parcels drawn into one Volume) and you were to bear each of you a third Part, and to have a third Part of the Books; he ſwears you did both pay your Part, and had your Part of the Books: Theſe Books were printed before, and ſo they were common enough, and therefore you muſt needs know what was in them. The third full Part was brought to you, and delivered by your Appointment; you gave a Note how they ſhould be diſpoſed of, and you owned them not in publick: (*your own Soul told you they were not to be juſtified*) two Dozen were delivered privately to particular Perſons, by your Direction. Lay theſe things together, and now anſwer them: For the Indictment is, That *you cauſed ſuch a Book to be printed and publiſhed.*

Brewſter. In the firſt place, the Evidence does ſay, That Mr. *Calvert* did acknowledge when he gave him the Copy to print, that he ſtaid ſo long for me, in order to be their Partner, he that was the Collector of it together. They were all printed before, and printed by Licence; for the Books, I never read them: we ſeldom read the Books we ſell, being they were before printed, and with Licence ſold ſingle, (as the Gentlemen of the Jury know) I thought there was no Crime to print them all together. It was done in an Interval when there were no Licenſers, we knew not where to go: what has been printed formerly, we took it for granted it might be reprinted, till this late Act for Printing; and this was done before this Act.

Juſtice *Keeling.* Have you any more to ſay?

Brewſter. No, my Lord, I ſhall leave it to the Jury. But, my Lord, here are now ſome Neighbours to teſtify that I am no ſuch Perſon as the Indictment ſets forth, that I did *maliciouſly* and *ſeditiouſly* do ſuch and ſuch things.

Ld Ch. Juſt. *Hyde.* We will hear them, though I'll tell you it will not much matter; the Law ſays it is *Malice.*

Capt. *Sheldon* ſworn. My Lord, all that I can ſay, is, he was ready at Beat of Drum upon all Occaſions; what he has been guilty of by printing or otherwiſe, I am a Stranger to that; I know he was of civil Behaviour and Deportment amongſt his Neighbours.

Juſtice *Keeling.* It is very ill that the King hath ſuch Trained-Soldiers in the Band.

Cap. *Hanſon* and others, offered to like purpoſe.

Ld Ch. Juſt. *Hyde.* If you have a thouſand to this purpoſe only, what ſignifies it?

Juſtice *Keeling.* Are you his Captain?

Capt. *Sheldon.* No, my Lord, Capt. *Bradſhaw.*

Ld Ch. Juſt. *Hyde.* He ſhould be caſhier'd the Band; not but that he ſhould be charged with Arms. I'll tell you, do not miſtake your ſelf, the Teſtimony of your civil Behaviour, going to Church, appearing in the Train'd-Bands, going to *Paul's*, being there at Common-Service, this is well: but you are not charged for this; a Man may do all this, and yet be a naughty Man in printing abuſive Books, to the miſleading of the King's Subjects.

If you have any thing to ſay as to that, I ſhall be glad to find you innocent.

Brewſter. I have no more to ſay.

Ld *Hyde.* Then you of the Jury, there are ſome things in this Indictment (as in the other) neceſſary to be ſtated to you; my Brothers and I have conſulted here about it: the Indictment is for cauſing a factious and ſeditious Book, called, *The Phœnix*, &c. with divers other things therein, to be printed. But, pray let them ſee the Book, and compare it with the Indictment.

Clerk. [Reads the Indictment, and firſt the Title.] *The Phœnix, or the Solemn League and Covenant.* [*Edinburg*, Printed in the Year of *Covenant-Breaking.*] *A King abuſing his Power, to the Overthrow of Religion, Laws, and Liberties, which are the very Fundamentals of this Contract and Covenant, may be controuled and oppoſed. And if he ſet himſelf to overthrow all theſe by Arms, then they who have power, as the Eſtates of a Land, may and ought to reſiſt by Arms; becauſe he doth by that Oppoſition break the very Bonds, and overthrow the Eſſentials of this Contract and Covenant. This may ſerve to juſtify the Proceedings of this Kingdom againſt the late King, who in an hoſtile way ſet himſelf to overthrow Religion, Parliaments, Laws, and Liberties.* [The reſt is much at the ſame rate, only now and then a ſpice of Blaſphemy, for the Credit of the Holy League: *A greater Sin* (is the Breach of that *Scotch* Covenant, according to our Author, *pag.* 158.) *than a Sin againſt a Commandment, or againſt an Ordinance*, &c.]

Ld Ch. Juſt. *Hyde.* You of the Jury, you ſee the Indictment agrees with the Book. There's a great deal of Mercy that this Man hath not been indicted of Treaſon; for thoſe very Particulars you have heard are as high Treaſon as can be. Firſt he doth declare, *That the King abuſing his Power, the People may reſiſt, and take up Arms againſt him:* That's expreſs Treaſon, without any more ado. Then he tells you what a horrid Thing it is to break that *Solemn League* and *Covenant*; juſtifies the raiſing of Arms and Rebellion againſt the late King, unthroning and murdering of him. I tell you that *Solemn League* and *Covenant* was a moſt wicked and ungodly Thing, againſt the Law of God, and the Law of the Land. To have ſuch villanous Stuff to be publiſhed, it is a great Mercy of the King it had not been drawn higher. You ſee the Man is ſo far from acknowledging any Guilt, that he juſtifies the Fact.

Brewſter. No, my Lord, I do not juſtify myſelf.

Ld Ch. Juſt. *Hyde.* Yes, you do. The Printer ſwears he was to go ſhare and ſhare like: He had his part; he publiſhes them to ſome particular Friends: I ſay he juſtifies this. He tells you in his Defence, That it was commonly printed; that it was done by printed Copy, and that done formerly by Licence; and when Things are printed by Licence, they do not expect or need any new or ſecond Licence: They were commonly ſold aſunder; here they are only printed together. That he ſays is nothing. What is this but juſtifying the printing of it? Obſerve, weigh, and ſee what kind of Defence here is. The Title, what is it? *The Phœnix, or Solemn League and Covenant.* You all know it, and rue it. When was it printed? It was when the wicked Rebels here could not ſeduce ſufficient Numbers of the King's Subjects to ſupport their Rebellion; and then they invite their Dear Brethren (as they called them) the *Scots* to unite with them. The *Scots* were cunning; they would not do it till they had entred into a Covenant, in a League; and then they conſent to unite with the Rebels here. This League and Covenant was indeed in Defence of the King; but how long? So long as he defended them, (the Presbytery and *Scotch* Diſcipline.) When they had got this good King into their hands, they put what Terms upon him they pleaſed; and then were theſe ſeditious Sermons printed. *Douglas*'s was printed in *Scotland*; was it licenſed here? No, it was done there, and brought hither. Then for the other Sermon, by what Licence was that printed? Obſerve the Time when it was printed; *was it not to ſet forward Rebellion, to ſet up the* Scotch *Presbytery*; and this in Forty-five, when they were in Arms againſt the King, after the King put himſelf upon his Defence, and was at *Oxford*? Do you tell me of the Licence of Rebels then for your Juſtification? Now, when the King is ſo happily return'd, now to publiſh theſe Things a-freſh to the People, that they might do the ſame again! And I tell you once again, It is Mercy in the King that he was not indicted for Treaſon. I ſhall leave it to you, you have had it fully proved.

Clerk. Set *Simon Dover* to the Bar. [And here the Indictment is read.]

Mr. *North.* Opens this Indictment as the reſt:

Serjeant *Morton.* We have but two Witneſſes, and they will prove the Matter clearly. There were two Impreſſions of this Book; we will prove he had a Share in both of them.

Creek *ſworn again.*

Creek. I delivered before what I can ſay.

Judge *Keeling.* Look you, you muſt deliver all that Evidence over again, becauſe it concerns another Perſon.

Creek. I did ſay, and ſay ſtill, That, to the beſt of my Memory, Mr. *Dover* did print part of that Book, and that he and I did converſe about it in the Time it was doing; but I cannot ſwear it poſitively, becauſe I cannot remember the Time when, or the Place where.

Judge *Keeling.* Did you change Sheets with him?

Creek. With him, I cannot ſay; but ſome Sheets were changed by our Men.

Serjeant *Morton.* You ſay you think you had ſome Diſcourſe with him: Did not you ſpeak about the Danger of printing it?

Creek. We talked of making an end of it.

Serjeant *Morton.* Can you remember to what Letter you printed?

Creek. I have ſhewed the Gentlemen of the Jury.

Judge *Keeling.* Had you no Diſcourſe of the Danger of it?

Creek. I thought it could not come to any thing: I did tell Sir *R. Brown*, (then Lord Mayor) That if they hanged twenty more, I thought I ſhould print their Speeches.

Judge *Keeling.* You knew the Contents of the Book?

Creek. Yes, I did.

Judge *Keeling.* Such Men as you, the King and the Government hath a great Intereſt in your Trade: That you ſhould think it lawful to print what a Man ſays when he dies, and to ſcatter it abroad, though never ſo bad, it's a great Offence: I would not have it paſs for ſo clear a thing.

Ld Ch. Juſt. *Hyde.* If you are of ſuch Principles, to print what you liſt, you are not fit to live in a civil

civil Place; for a Printer or Bookſeller to print any thing one againſt the other, is actionable. Do you think the Preſs is open to print what you liſt?

Creek. I did ſo then.

Ld Ch. Juſt. *Hyde.* I'll deal plainly with you: For this Book, if you had had your due, you ought both to have been drawn, hang'd, and quarter'd. When did you give Mr. *L'Eſtrange* Information of this Matter?

Creek. Lately, when I was a Priſoner in *Ludgate.*

Mr. *Royſton.* [One of the Jury.] I deſire to ask him one Queſtion; Whether Mr. *Creek* ſaw this Book a printing at Mr. *Dover's* Houſe, or no?

Creek. No, I did not.

Serjeant *Morton.* They changed Sheets.

Threſher *ſworn.*

Threſher. This is all that I have to ſay, That the firſt Night that Mr. *Brewſter* ſent for me to ſtitch theſe Books, it was very late before we could get them: I went that Night to Mr. *Dover's*, and had ſome of the Sheets, the reſt at Mr. *Creek's*. I did not ſee him print any of them.

Serjeant *Morton.* What Quantity was there of them?

Threſher. I ſuppoſe there was two or three hundred Sheets.

Mr. *North.* Were they not of this Book?

Threſher. Yes, of the *Speeches.*

Mr. *North.* Where were they delivered?

Threſher. In the lower Room: I ſuppoſe ſome of them were hanging upon Lines before I had them.

Ld Ch. Juſt. *Hyde.* What ſay you to it?

Dover. I deſire to ask him ſome Queſtions. I do ſay I never ſaw the Man before: I would ask whether ever he ſaw me before in his Life?

Threſher. Not before that: I was never in his Houſe but that Night. By this Token I ſaw you, and you me; When I came for the Sheets, you asked Mr. *Brewſter* whether he and Mr. *Calvert* were agreed, or elſe you would not deliver the Sheets.

Dover. I deſire to know what Time and Place: I am charged in the Indictment on a Day and Place.

Ld Ch. Juſt. *Hyde.* That's not very material.

Dover. He fixes nothing on me.

Ld Ch. Juſt. *Hyde.* That the Jury can beſt tell: Have you any more Queſtions?

Dover. No, my Lord.

[The Indictment and Books were compared.]

Dover. My Lord, there is no Perſon ſwears that I printed it, or part of it: Nothing fixed upon me.

Ld Ch. Juſt. *Hyde.* The firſt Man ſwears that you ſet it to printing.

Creek. I do not ſwear it poſitively; I never ſaw him print a Sheet: It was the Report of the Town that he did it.

Ld Ch. Juſt. *Hyde.* You printed it: For whom?

Creek. For *Brewſter*, *Calvert*, and *Chapman.*

Ld Ch. Juſt. *Hyde.* But you ſay that you and he did converſe about it when it was printing.

Creek. I did ſay, To the beſt of my Memory we did.

Ld Ch. Juſt. *Hyde.* By the Oath you have taken, who did you change Sheets with?

Creek. I cannot ſay I did change any with him: I ſay that ſome Sheets were changed by my Men, and they told me they had them of his Men.

Dover. Where are thoſe Men that changed the Sheets? Which of my Men are they?

Juſtice *Keeling.* Look you, *Dover*, you are indicted for cauſing to be printed this wicked Book, and for publiſhing and vending of it. You are a Printer by your Trade, as well as this Man that comes againſt you: He ſays he did not ſee you print it; but he took it and believed that you printed it. I tell you how far that weighs: You are a Printer by Trade; and comes the other, and deſires the Sheets; you would not deliver them unleſs Mr. *Brewſter* and Mr. *Calvert* were agreed. How come the Sheets to your Houſe, being a Printer, and yet you not print it? Anſwer that.

Dover. I ſhall, my Lord: It is no Conſequence at all. Admit I had theſe Sheets, it is no Conſequence at all that I printed them; for Printers and Bookſellers uſually have Books they did not print themſelves.

Ld Ch. Juſt. *Hyde.* *Threſher*, by the Oath that you have taken, did you ſee thoſe Sheets hang upon the Line in his Houſe?

Threſher. My Lord, I judged theſe had lately hung up: And I ſaw other Sheets hanging there; and I knew nothing to the contrary but thoſe that hung upon the Line were the ſame with theſe.

Ld Ch. Juſt. *Hyde.* Here are Sheets upon the Lines; you delivered him to fold part of thoſe on the Lines: What would you have more plain? You would not deliver them, if they were not agreed: Then they were agreed, and you delivered them.

Dover. I ſay this; I look upon the Witneſs to be altogether invalid: He is a Perſon of no good Repute.

Ld Ch. Juſt. *Hyde.* A better Man than you, for ought appears: You are indicted for a foul Offence, ſo is not he.

Dover. I am not the Man you take me to be.

Ld Ch. Juſt. *Hyde.* You ſhall have Evidence, if you will, that you are at work at this time upon as bad as this.

Dover. If it be a Crime, I am ſorry for it.

Mr. L'Eſtrange *ſworn.*

Mr. *L'Eſtrange.* Shall I ſpeak to the whole Matter, or only to the Particular you laſt mentioned?

Ld Ch. Juſt. *Hyde.* Say your Knowledge.

Mr. *L'Eſtrange.* When I came to his Houſe, which was about the middle of *October*, to ſearch, I found at that preſent a little unlicenſed Quaking Book; and in his Pocket the Libel that was thrown up and down the Town, called, *Murder will out*, ready printed.

Ld Ch. Juſt. *Hyde.* Which was a villanous Thing, and ſcattered at *York.*

Mr. *L'Eſtrange.* Since that, I was at his Houſe, to compare a Flower which I found in the *Panther*, (a dangerous Pamphlet;) that Flower, that is, the very ſame Border, I found in his Houſe; the ſame Mixture of Letter, great and ſmall, in the ſame Caſe; and I took a Copy off the Preſs. I found over and above this Letter, [producing the Letter] dated the 7th of *February*, 1663. and directed, *For my Dear and Loving Wife*, J. Dover. Is it your Lordſhip's Pleaſure I ſhall read it all?

Ld Ch. Juſt. *Hyde.* If it be touching the printing of Things you found, do.

Mr. *L'Eſtrange.* [Reads it.] *I would fain ſee my Siſter* Mary; *therefore ſince Siſter* Hobbs *will not come, take her* Order, *and inſtead of* her *Name, put in Siſter* Mary's: *It will never be queſtioned here. However, do it as wiſely and handſomely as you can*, &c. [And then in a Poſtſcript,] *You muſt either get* Tom Porter, *or ſome*

very trusty Friend, (possibly C. D. *may help you) to get for you a safe and convenient Room to dry Books in, as soon as possibly you can.* [And again:] *Let me know what you intend to do with the two Sheets and half: I will have it published when I am certain I shall be tried.*

Ld Ch. Just. *Hyde.* Let the Jury see now, whether you are the Man you would be thought.

Dover. I desire to know whether my Name be to that Letter?

Mr. *L'Estrange.* No, it is not.

Ld Ch. Just. *Hyde.* Where did you receive or find this Letter?

Mr. *L'Estrange.* My Lord, I found it about his Wife.

Ld Ch. Just. *Hyde.* Let the Jury judge if this come from you, or no.

Judge *Keeling.* You of the Jury, you must understand this, That what is said now is only upon his Reputation, not to the Point in question at all: That Matter rests upon its own Bottom.

Ld Ch. Just. *Hyde.* I'll deal plainly with you: Had he not stood upon such Terms, I should not have spoke of this: But when a Man will be thus bold and confident, I thought it proper, to let you see how he continues now in the Goal.

Dover. I do not vindicate my self in it; but I speak against the Witness: I do conceive that the Witness does not fix any thing upon me.

Ld Ch. Just. *Hyde.* Have you any thing else to say to the Indictment?

Dover. I am indicted as a malicious and factious Man: The Witnesses say no such thing.

Ld Ch. Just. *Hyde.* You are not indicted so, but that you have maliciously and factiously caused to be printed such a seditious Book; not your Person, but the Action.

Dover. There is nothing of that proved: Admit I was guilty of it, it was done when there was no Act or Law in being touching Printing. The Witnesses do not swear positively that I did do it: One says he did not see me; the other, that he only believed it; that he did see some Sheets upon the Line, and they were the same for ought he knew; does not remember the Time or Place of our Discourse: I do not know that ever I had half an Hour's Discourse with him in my Life: I never had any Meeting with him about any such Matter, nor had any Converse with him. The Title of the Book says, *Faithfully and Impartially collected for further Satisfaction*; so that it cannot be interpreted maliciously. It's a Maxim in Law, That *the best Interpretations are to be put upon the Words of the Indictment, in favour of the Prisoner at the Bar*: And I hope this Honourable Bench and the Jury will mind that. I am a Printer by Trade; what I did was for my Livelihood: The Scripture says, *He is worse than an Infidel that takes not care for his Family.* I speak not this to justify any thing against his Majesty or his Government. Through my Ignorance I may possibly transgress: If I have done any such Thing, I am sorry for it; I hope I shall be more careful for the future. The other part of the Indictment is for selling of them: No Man swears that I sold one Book of them. Mr. *Creek* says, That some of his Men told him that he had some of those Sheets from some of my Folks; but of whom he does not say. That I did meddle with them, knowing them to be scandalous, I hope there is nothing proved of that nature: There being then *no Law*, I humbly hope there was *no Transgression.*

Ld Ch. Just. *Hyde.* Have you done?

Dover. I humbly desire your Honours, and this Jury, to take notice of what I have said.

Ld Ch. Just. *Hyde.* You of the Jury, I will not spend Time (it is too late) in repeating the Evidence: You have heard the Evidence particularly, and his Answer. He doth in part make the same Answer with his Fellows, which was, That it is his Trade. It's true, no doubt but he ought to maintain his Wife and Children by his lawful Calling; but if a Thief should tell you that he maintained his Wife by Stealing, is that lawful? Printing Books lawfully, no Man will call him to account for it; but if he prints that that is abusive to the King and his Government, that's no part of his Trade, and his Trade will not bear him out in it: He is charged for printing and publishing of these scandalous Books, That he did it *knowingly, maliciously, falsly, factiously*, and *seditiously.* I told you, That although all these Things be not proved, yet if he did it, the Law calls it *Malice, Faction*, and *Sedition.* Consider the Circumstances: You see it is done in the dark; the Sheets delivered at his House, and Discourse about Delivery of them; he would not deliver them unless *Brewster* and *Calvert* were agreed. I leave the Evidence to you in this Case: Pregnant, strong, undeniable Circumstances are good Evidence. Though a Man doth not come and tell you he declared to him he knew what was contained in this Book, yet if there be sufficient Evidence to satisfy you in your Consciences that he knew what was in it, and was privy to the printing and publishing of it; there's enough for you to find the Indictment. You are to weigh Circumstances as well as pregnant full Proof in Cases of this Nature.

Clerk. Set *Nathan Brooks* to the Bar. You of the Jury, you shall understand that he stands indicted, *&c.* Reads the Indictment.

Mr. *North* afterwards opened the Indictment.

Serjeant *Morton.* This Man, we shall only prove him guilty of stitching and dispersing the said Books.

Thresher *sworn.*

Thresher. This Man I have not seen these three Years.

Serjeant *Morton.* Did he set you to work in stitching those Books?

Thresher. He brought none to me, that I can remember: But by Mr. *Brewster*'s Order I delivered about two hundred, or thereabouts, and carried them to his House in *St. Martins*, and he took them at the Stair-foot, and paid me for stitching of them in Blue Paper.

Serjeant *Morton.* Who furnished you with Blue Paper?

Thresher. I went by Mr. *Brewster*'s Order to a Stationer in *Bread-Street*, and received some.

Brooks. I desire to know whether in those Books he said he delivered me, there were those Passages in the Indictment?

Thresher. I know not: They were the *Speeches and Prayers* that I delivered you.

Brooks. How did you deliver them to me?

Thresher. They were stitch'd; and I tied them up with a piece of Packthred, and carried them to him: He received them himself, and came afterwards to an Alehouse, and gave me a Flaggon of Beer. He knew what they were; for some being imperfect, he said Mr. *Brewster* must make them good: And Mr. *Brewster* gave Order, if he came for them, they should be delivered him.

Brooks.

Brooks. Did you know there were those Passages in them?

Thresher. No, not I.

Brooks. I knew only the Title of it.

Ld Ch. Just. *Hyde.* Let there be what there will in it, if you knew the Title, look you to it. Have you any thing else to ask?

Brooks. No, my Lord.

Henry Mortlock *sworn.*

Serjeant *Morton.* Mr. *Mortlock*, how many of those Books did you receive of this *Nathan Brooks?*

Mortlock. About forty or fifty.

Serjeant *Morton.* What talk had you about receiving them?

Mortlock. I do not remember any Discourse.

Serjeant *Morton.* Where did you receive them?

Mortlock. I am not certain whether in my Shop, or no.

Ld Ch. Just. *Hyde.* Were they open?

Mortlock. They were tied up.

Ld Ch. Just. *Hyde.* Did you speak for them?

Mortlock. I cannot tell; he brought them to me.

Ld Ch. Just. *Hyde.* How came he to bring them to you?

Mortlock. May be I might speak for them; I paid him for them.

Ld Ch. Just. *Hyde.* You and he knew what Book it was?

Mortlock. I think we did.

Ld Ch. Just. *Hyde.* Did you not open them? They might have been *The Devil of Edmonton*, for ought you knew. Did you open them afterward? And did they appear to be this Book?

Mortlock. Yes.

Mr. L'Estrange *sworn.*

Mr. *L'Estrange.* I came to the House of *Nathan Brooks* about *October* last, and knocking at the Door, they made a difficulty to let me in: At last, seeing not how to avoid it, *Brooks* opened the Door. I asked him, what he was? He told me he was the Master of the House. By and by comes one that lodged in the House, and throws down this Book [shewing the Book] in the Kitchin, with this Expression, *I'll not be hang'd* (says he) *for ne'er a Rogue of you all: Do you hide your Books in my Chamber?* This Book had the *Speeches* in it, with other Schismatical Treatises. After this I searched the next House; and there I found more difficulty to get in. But after a long Stay, I saw the second Floor in a Blaze; and then with a Smith's Sledge I endeavoured to force the Door. At length the Fire was put out, and one comes down and opens the Door. I went in, and up Stairs, where I found about two hundred of the *Prelatick Preachers*, and certain Notes of *Nathan Brooks*, wherein he mentions the Delivery of several of these *Speeches*, and other seditious Pamphlets. There is one Particular, wherein he records, That *Thomas Brewster* did in the Presence of Captain *Hanson* undertake to bear his Charges of Imprisonment; this *Nathan Brooks* having been formerly imprisoned for a Crime, wherein *Brewster* was to bear him out.

Ld Ch. Just. *Hide.* What was it that burnt above?

Mr. *L'Estrange.* My Lord, they had burnt, I suppose, some of the *Prelatick Preachers*, (a desperate Book:) I found one Bundle untied, and I suppose (as the Man told me after) that it was a part of that which was burnt.

Ld Ch. Just. *Hyde.* You say this was in the next House to *Brooks*; what had *Brooks* to do there? Had he conveyed those Books thither?

Mr. *L'Estrange.* The Owner of the House said he knew nothing of them: But a Man and his Wife, lodging in the Chamber where the Fire was, said, That *Nathan Brooks* had delivered with his own Hands to them those Parcel of Books that were there found.

Ld Ch. Just. *Hyde.* You hear what he says, That one of your Guests came down, said *he would not be hanged for ne'er a Rogue of you all*; throws down the Book ——

Brooks. What's that to me, if a Man have a Book in his House, and throw it down, and say so, doth that concern me? He did not bring it out of my Chamber.

One Mercer *sworn.*

Mercer. My Lord, [having the Book in his Hand] this is the Book that I did find in a Room, brought up by *Nathan Brooks*; and I brought it down: I had it in a Room where two Boys and my Sister lay. He came first, and knocked at our Chamber-Door: Said I, Who is there? Says he, *A Friend.* Who are you? Brooks, *your Landlord*, says he: *Pray open the Door, and lay up this Book for me.* No, said I, if you were my Father or Brother, I will not receive it; I will not meddle or make with you. After I had denied the Book, he flings it into the next Room.

Ld Ch. Just. *Hyde.* How came you by the Book?

Mercer. After Mr. *L'Estrange* had enquired there for Books, I knew nothing; but my Wife called to my Sister, and asked her if she heard Mr. *Brooks* in the Room? She said, *Yes, and he had left a Book with her.* Having notice, I went up Stairs, took the Book, and brought it down presently.

Brooks. Is that the Book, the very individual Book, that I brought up there?

Ld Ch. Just. *Hyde.* He swears this, That you knocked, and prayed him to take in a Book; he refused it: You went up to the next Chamber, and there you left it. And his Wife asking afterwards if you had been there, his Sister said, *Yes, you had left a Book.* He brought it down; and this appears to be the very individual Book, nothing can be more clear.

Mercer's *Wife sworn.*

That Morning they knocked at *Brooks*'s Door, we were a-bed; I heard a Noise of Thieves. Upon that, I being awake, and my Husband asleep, I awaked him, and desired him to go to the Window. He asked who was there? One said to him, Rise, and open the Door. Said my Husband, I am but a Lodger; let my Landlord open it, if he will. Who is your Landlord? Mr. *Brooks.* That's the Man I look for, says the other. So with that, after some time, Mr. *Brooks* went down, and opened the Door. Mr. *L'Estrange* coming up to my Husband, says he, *Are you sure there is nothing in your Rooms?* There is nothing, said he. When my Husband went down, I called to my Sister: Said I, Did you hear Mr. *Brooks* there? *Yes*, said she, *he has left a Book here.* Said I, Do you know what's in it? It may bring us all into Trouble. And my Husband having confidently denied any such thing, fearing he might be troubled, I called him up, and told him of it. Said my Husband, *I'll call up the Gentleman;*

thoman, and give it him. No, said I, go take the Book, and carry it him.

Mercer's *Sister Sworn.*

Thomazin Mercer. It is very true that that is the very Book I received from Mr. *Brooks.*

Ld Ch. Just. *Hyde.* Now the individual Book is brought to light.

Brooks. What was the Title of it?

T. Mercer. I know not; but there was the *Speeches of the ten Men that were executed.*

Brooks. Did you see that Book, that very Book?

T. Mercer. Yes.

One Mr. Merridale *Sworn.*

Mr. *Merridale.* My Lord, this very Book did *Mercer* bring down, told us, *He would be hang'd for never a Rogue of them all: Did he think to lay his Books at my Door?* I know this is the very Book: I took notice of the Picture of Sir *Henry Vane* in it; and he there owned it.

Mercer. I can tell that he owned it, and said it was brought to him to be bound.

Ld Ch. Just. *Hyde.* Here are two hundred of these Books delivered to you to sell; fifty you deliver to another. When Mr. *L'Estrange* comes to search, you open not your Doors: When you see you could not stay longer, you run up to deliver it to *Mercer*, your Guest: He would not receive it; you deliver it to his Sister: She keeps it in her Hands. When her Husband had denied Books to be there, and his Wife understanding afterwards you had left it, she was afraid of her Husband for denying it, calls him, and gives him the Book; and then he said, *He would be hanged for never a Rogue of you all*; throws down the Book: And that was the very Book she received from you; and your self did own it, and confess it.

Brooks. As for Mr. *L'Estrange*, it is not so; he says, when first he knocked at the door, I did not hear him: afterwards I called out, Who's there? said one, Which is Mr. *Brooks?* said I, Here. I told them, if they would be civil, I would open the door, give me but leave to put on my Breeches. I went and opened it. He doth not swear positively they are my Books. My Lord, this *Mercer* was a Lodger in my House; I have often desired him to pay his Rent, and since I have been taken, I have sent several Messengers: I told him I would seize his Goods, and thereupon he speaks against me maliciously. I desire you to consider, I being only a Workman, how can I be guilty of Sedition and Scandalous Things? I never printed any thing, I am only a Bookbinder, that's my Trade: I hope you will consider, that I am only a bare Workman. My Lord, I desire when they go out, that somebody may stand at the door, that no body may go in to the Jury.

Ld Ch. Just. *Hyde.* We will take care of that: Have you any more to say?

Brooks. No, my Lord.

Ld Ch. Just. *Hyde.* You of the Jury, you have heard so much of the other Indictments of the same nature, I need not say much to this. That which he speaks touching his Trade, I must repeat the same as before; he is not questioned for using, but abusing of his Trade; for publishing and dispersing seditious and scandalous Books, printing and publishing, but the Evidence is only for publishing. If you be satisfied that he published it, that's the Crime; printing alone is not enough, for if a Man print a Book to make a fire on, that's no Offence, it is the publishing of it which is the Crime. You have heard the Evidence, how far forth it is proved, two hundred delivered to him, fifty by him delivered to another: This Book you see his own Conscience tells him what it was; when Mr. *L'Estrange* came, he would have slipt it into his Guest's Chamber; he refused it: then he carries it to another. Lay your Evidence together; if you find him guilty of the publishing, it is enough.

Jury. We desire to know upon what Statute Law this Indictment is grounded?

Ld Ch. Just. *Hyde.* Upon none; but it is an Offence at Common Law, I told you so at first.

[The Jury went forth, and after near an hour's Consultation, returned to the Court, and took their places.]

Clerk. Are you all agreed of your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. The Foreman.

Clerk. Set up the Prisoners to the Bar: How say you, is *Tho. Brewster* guilty of the Offence whereof he stands indicted, for printing the seditious Book called *The Speeches*, &c. or not guilty?

Foreman. Guilty of selling and uttering the said Books.

Clerk. What say you, is he guilty of the Offence of printing and publishing the Book called *The Phœnix*, &c. or not guilty?

Foreman. Guilty of publishing it.

Clerk. How say you, is *Simon Dover* guilty of the Offence for printing and publishing *The Speeches*, *&c.* or not guilty?

Foreman. Guilty.

Clerk. How say you, is *Nathan Brooks* guilty of the Offence for printing and selling the said Book?

Foreman. Guilty of selling it.

Clerk. Hearken to your Verdicts as the Court hath recorded them: You say, that *&c.* and so you say all?

Jury. Yes.

Mr. *North.* My Lord, we humbly pray Sentence against the Prisoners.

Ld Ch. Just. *Hyde.* You three, *Thomas Brewster*, *Simon Dover* and *Nathan Brooks*; you have been severally indicted for a heinous and great Offence: *Brewster*, you have been indicted for two several Books, as full of Villany, and Slander, and Reproach to the King and Government, as possibly can be: And I will tell you all three, *it is the King's great Mercy you have not been indicted capitally*; for every one of those Books are filled with Treason, and you for publishing of them, by strictness of Law, have forfeited your Lives and All to the King: It is his Clemency towards you. You may see the King's Purpose; he desires to reform, not to ruin his Subjects. The Press is grown so common, and Men take the Boldness to print whatever is brought to them, let it concern whom it will; it is high time Examples be made. 1. I must let you and all Men know, by the Course of the Common Law, before this new Act was made, for a Printer, or any other, under pretence of Printing, to publish that which is a Reproach to the King, to the State, to his Government, to the Church, nay to a particular Person, it is punishable as a Misdemeanour. He must not say, *He knew not what was in it*; that is no Answer in Law. I speak this, because I would have

Men

Men avoid this for time to come, and not think to ſhelter themſelves under ſuch a Pretence. I will not ſpend time in diſcourſing of the Nature of the Offence, it hath been declared already; it is ſo high, that truly the higheſt Puniſhment that by Law may be juſtly inflicted, is due to you. But, *Thomas Brewſter*, your Offence is double; therefore the Judgment of the Court is,

'That you ſhall pay to the King, for theſe Offences committed, an hundred Marks: And for you, (the other two) *Simon Dover* and *Nathan Brooks*, you ſhall pay either of you a Fine of forty Marks to the King.

'You ſhall either of you ſeverally ſtand upon the Pillory from Eleven to One of the Clock in one Place at the *Exchange*, and another Day (the ſame ſpace of time) in *Smithfield*; and you ſhall have a Paper ſet over your Hats, declaring your Offence, *For printing and publiſhing Scandalous, Treaſonable, and Factious Books againſt the King and State.*

'You ſhall be committed till the next Goal-delivery without Bail; and then you ſhall make an open Confeſſion and Acknowledgment of your Offences in ſuch Words as ſhall be directed you.

'And afterwards you ſhall remain Priſoners during the King's Pleaſure: And when you are diſcharged, you ſhall put in good Security by Recognizance, your ſelves 400 *l.* a-piece, and two Securities each of you of 200 *l.* a-piece, not to print or publiſh any Books, but ſuch as ſhall be allowed of. And this is the Judgment of the Court.'

The Tryal of Mary Moders, *alias* Stedman, *ſtiled the* German Princeſs; *at the Seſſions in the* Old-Bailey, *on Wedneſday the third of* June 1663. 15 Car. II.

THE Court being ſat, a Bill of Indictment was drawn up againſt *Mary Moders*, alias *Stedman*, for having two Husbands now alive, *viz. Tho. Stedman* and *John Carleton*. The Grand Jury found the Bill, and was to the effect following, *viz.*

'THAT ſhe the ſaid *Mary Moders* late of *London* Spinſter, otherwiſe *Mary Stedman*, the Wife of *Tho. Stedman*, late of the City of *Canterbury* in the County of *Kent* Shoemaker, *May* 12. in the Reign of his now Majeſty the ſixth, at the Pariſh of *St. Mildred's* in the City of *Canterbury*, in the County aforeſaid, did take to Husband the aforeſaid *Thomas Stedman*, and him the ſaid *Thomas Stedman* then and there had to Husband. And that ſhe the ſaid *Mary Moders*, alias *Stedman*, *April* 21. in the fifteenth Year of his ſaid Majeſty's Reign, at *London*, in the Pariſh of *Great St. Bartholomews*, in the Ward of *Farringdon within*, feloniouſly did take to Husband one *John Carleton*, and to him was married, the ſaid *Tho. Stedman* her former Husband being then alive, and in full Life: againſt the Form of the Statute in that caſe provided, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, *&c.*

Afterwards the ſaid *Mary Moders*, alias *Stedman*, was called to the Bar; and appearing, was commanded to hold up her Hand: which ſhe accordingly did, and her Indictment was read to her as followeth.

Clerk of the Peace. Mary Moders, alias *Stedman*, thou ſtandeſt indicted in *London* by the Name of *Mary Moders* late of *London* Spinſter, otherwiſe *Mary Stedman*, the Wife of, *&c.* [And here the Indictment was read, as above] How ſayſt thou, art thou guilty of the Felony whereof thou ſtandeſt indicted, or not guilty?

Mary Moders. Not guilty, my Lord.

Cl. of the Peace. How wilt thou be try'd?

Priſoner. By God and the Country.

Cl. of the Peace. God ſend thee a good Deliverance.

And afterwards ſhe being ſet to the Bar in order to her Tryal, ſhe pray'd time till the morrow for her Tryal; which was granted, and all Perſons concerned were ordered to attend them at Nine of the clock in the Forenoon.

[The Reader is deſired to take notice of the following Paſſage:]

After ſhe was arraigned, and going back to the Goal, her Husband the young Lord told her, He muſt now bid her Adieu for ever. To which ſhe replied,

Nay, my Lord' 'tis not amiſs,
Before we part, to have a Kiſs.

And ſo ſaluted him, and ſaid, *What a Quarter and Noiſe here's of a Cheat! You cheated me, and I you: You told me you were a Lord, and I told you I was a Princeſs; and I think I fitted you.* And ſo ſaluting each other, they parted.

June 4. 1663.

THE Court was ſat; Proclamation was made.

Cl. of the Peace. O Yes, all manner of Perſons that have any thing more to do, *&c.* Set *Mary Moders* to the Bar: Where ſhe accordingly ſtood.

Cl. of the Peace. Mary Moders, alias *Stedman*, hold up thy Hand: which ſhe did. Thoſe Men that you ſhall hear called, and perſonally appear, are to paſs between our Sovereign Lord the King and you for your Life: if you will challenge them, or any of them, you muſt do it when they come to the Book

Book to be ſworn, before they are ſworn. And then were called,

William Rutland,	*Simon Driver,*
Arthur Vigers,	*Robert Kerkham,*
Arthur Capel,	*Hugh Maſſon,*
Tho. Smith,	*Tho. Weſtley,*
Fran. Chaplin,	*Richard Clutterbuck,*
Robert Harvey,	*Randolph Tooke.*

And ſhe challenged none; but they were ſeverally ſworn by the Oath following:

Look upon the Priſoner: You ſhall well and truly try, and true Deliverance make, between our Sovereign Lord the King and the Priſoner at the Bar, whom you ſhall have in charge, according to your Evidence. So help you God.

Cl. of the Peace. Cryer make Proclamation: 'O 'Yes! if any one can inform my Lords the King's 'Juſtices, the King's Serjeant, or the King's At- 'torney, before this Inqueſt be taken between our 'Sovereign Lord the King and the Priſoner at the 'Bar, let them come forth, and they ſhall be 'heard, for now the Priſoner ſtands at the Bar 'upon her Deliverance: and all others that are 'bound by Recognizance to give Evidence againſt 'the Priſoner at the Bar, come forth and give Evi- 'dence, or elſe you'll forfeit your Recognizance.'

The Witneſſes being called ſeveral times, and not appearing, young *Carleton* came into the Court in a rich Garb trimmed with ſcarlet Ribbands, and pray'd that in reſpect his Father and the reſt of the Witneſſes were not all ready, the Tryal might be deferred for half an hour; and he going back, and paſſing the Priſoner his Princeſs, who ſtood there in a black Velvet Waſtcoat, dreſſed in her Hair, trimmed alſo with ſcarlet Ribbands, ſhe (veiling her Face with her Fan) laugh'd at him, to the great Obſervation of the Court: and ſo the young Lord left the Court (by Advice of his Friends) and betook himſelf to an adjoining Houſe, where he ſtood the whole Tryal.

After ſome ſtay, the Witneſſes came into the Court, and the Priſoner was ſet to the Bar, and Silence being commanded, the Indictment was again read.

Cl. of the Peace. Upon this Indictment ſhe hath pleaded Not guilty, and for her Tryal hath put herſelf upon God and the Country; which Country you are. Your Charge is to inquire whether ſhe be guilty of the ſaid Felony, or not guilty: if you find her guilty, you ſhall inquire what Goods and Chattels ſhe had at the time of the Felony committed, or at any time ſithence: if you find her not guilty, you ſhall inquire whether ſhe did flee for it; if you find that ſhe fled for it, you ſhall inquire of her Goods, *&c.* as if ſhe had been guilty: if you find ſhe be not guilty, nor that ſhe did flee for it, ſay ſo, and no more, and hear your Evidence.

Several Witneſſes were ſworn by the Oath following:

The Evidence that you ſhall ſwear between our Sovereign Lord the King and the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

James Knot. My Lord, and Gentlemen of the Jury, I gave this Woman in Marriage to one *Thomas Stedman*, which is now alive in *Dover*, and I ſaw him laſt Week.

Court. Where was ſhe married?

Knot. In *Canterbury*.

Court. Where there?

Knot. In *St. Mildred's*, by one Parſon *Man*, who is now dead.

Court. How long ſince were they married?

Knot. About nine Years ago.

Court. Did they live together afterwards?

Knot. Yes, about four Years, and had two Children.

Court. You gave her in Marriage, but did the Miniſter give her to her Husband then?

Knot. Yes, and they lived together.

Jury. Friend, did you give this very Woman?

Knot. Yes.

Court. What Company was there?

Knot. There was the married Couple, her Siſter, myſelf, the Parſon, and the Sexton.

Court. Where is that Sexton?

Knot. I know not, my Lord.

Court. You are ſure they were married in the Church, and this is the Woman?

Knot. Yes, I am ſure of it.

Court. How long ago?

Knot. About nine Years ago.

Court. Did you know this Woman before the Marriage, and how long?

Knot. Yes, I knew her a long time, I was an Apprentice ſeven Years near her Mother's Houſe in *Canterbury*.

Court. Then ſhe's no foreign Princeſs? Of what Parentage was ſhe?

Knot. I did not know her own Father, [and in that he might be believed] but her Father-in-Law was a Muſician there.

Court. You ſee her married: what Words were uſed at her Marriage, and in what manner?

Knot. They were married according to the Order of the Land, a little before the Act came forth touching Marriages by Juſtices of the Peace.

Court. Was it by the Form of Common-Prayer, any thing read of that Form?

Knot. I did not take notice of that, I was but a young Man, and was deſired to go along with them.

William Clark being ſworn, ſaid, My Lord, I was laſt Week in *Dover*, in company with this *James Knot* and *Thomas Stedman*; and he the ſaid *Stedman* did own that he did marry one *Mary Moders*, a Daughter of one in *Canterbury*, and that *Knot* gave her, and that he had two Children by her, and declared his Willingneſs to come up to give Evidence againſt her, but wanted Money for his Journey: And I have underſtood that a Perſon here in Court was of a Jury at *Canterbury*, at a Tryal between *Day* and *Mary Stedman* at the Bar, for having two Husbands.

Court. Was ſhe cleared?

Clark. I cannot tell.

Young *Carleton*'s Father ſworn: My Lord, I was at *Dover* the laſt Week, on Wedneſday; I ſaw the Husband of this Woman, and the Man acknowledged himſelf to be ſo, and did ſay that *James Knot* was the Man that gave her in Marriage to him.

Court. Where is this Man her Husband? Hearſays muſt condemn no Man: what do you know of your own knowledge?

Carleton the Elder. I know the Man is alive.

Court. Do you know he was married to her?

Carleton. Not I, my Lord.

Sarah

Sarah Williams. My Lord, this Woman was bound for *Barbadoes*, to go along with my Husband, and ſhe deſired to lodge at our Houſe for ſome time, and did ſo; and when the Ship was ready to go, ſhe went into *Kent* to receive her Means, and ſaid ſhe would meet the Ship in the *Downs*; and miſſing the Ship, took Boat and went to the Ship. After ſeveral days remaining there, there came her Husband with an Order, and fetch'd her aſhore, and carried her to *Dover*-Caſtle.

Court. What was his Name that had an Order to bring her on ſhore again?

Sarah Williams. His Name was *Thomas Stedman.*

Court. Have you any more to prove the firſt Marriage?

Carleton the Elder. No, none but *Knot*; there was none but three, the Miniſter dead, the Sexton not to be found, and this *Knot* who hath given Evidence.

Court. What became of the two Children, *Knot?*

Knot. They both died.

Carleton the Elder. *Stedman* ſaid in my hearing, that he had lived four Years together, had two Children by her, and both dead; five Years ago laſt *Eaſter* ſince ſhe left him.

Court. Mr. *Carleton*, what have you heard this Woman ſay?

Carleton. My Lord, ſhe will confeſs nothing that pleaſes him.

Court. Mr. *Carleton*, did you look in the Church-Regiſter for the firſt Marriage?

Carleton. I did look in the Book, and he that is now Clerk, was then Sexton, (juſt now not to be found;) he told me, that Marriages being then very numerous, preceding the Act before-mention'd, the then Clerk had neglected the Regiſtry of this Marriage. If ſhe intended this Trade, ſhe likewiſe knew how to make the Clerk miſtake regiſtring the Marriage.

Young *Carleton*'s Brother ſworn; who ſaid, My Lord, and Gentlemen of the Jury, I was preſent at the Marriage of my Brother with this Gentlewoman, which was on or about *April* 21. 1663. They were married at *Great St. Bartholomew's*, by one Mr. *Smith*, a Miniſter here in Court, by Licence.

Mr. *Smith* the Parſon ſworn: My Lord, all that I can ſay, is this; That Mr. *Carleton* the younger told me of ſuch a Buſineſs, and deſired me to marry them: they came to Church, and I did marry them by the Book of Common-Prayer.

Court. Mr. *Smith*, are you ſure that is the Woman?

Parſon. Yes, my Lord, it is; I believe ſhe will not deny it.

Priſoner. Yes, my Lord, I confeſs I am the Woman.

Court. Have you any more Witneſſes?

Carleton. We can get no more but *Knot* to prove the firſt Marriage, the laſt is clear.

Judge *Howel.* Where is *Knot?* Remember yourſelf well what you ſaid before. You ſay, you know that Woman at the Bar, that you had known her a great while, that ſhe was born near you in *Canterbury*, that you were preſent at her Marriage, that Parſon *Man* married them, that none were preſent but yourſelf, the married Couple, Parſon, Sexton, and her Siſter.

Knot. Some others came into the Church, but none that I knew; I am ſure none went with her, but thoſe I named.

Court. Who gave her in Marriage?

Knot. I did.

Court. How came you to do it?

Knot. I was *Stedman*'s Shop-Mate, and he deſired me to go along with him.

Court. Were her Parents then living, or no?

Knot. Her Mother was.

Jury. How old are you?

Knot. Two or three and thirty Years.

Jury. How long ago was this Marriage?

Knot. About nine Years ſince.

Court. Then he was twenty three, and might do it: What is your Trade of Life?

Knot. I am a Cordwainer, otherwiſe a Shoemaker; *Stedman* was ſo too; we wrought both together.

Jury. We deſire to know whether ſhe had a Father and Mother then living?

Knot. She had a Father-in-Law.

Court. Did you know her Mother?

Knot. Yes.

Court. How long before that Marriage did her own Father die?

Knot. I did not know him. [He ſaid ſo before indeed.]

Court. What Age was ſhe when married?

Knot. I ſuppoſe about nineteen or twenty.

Priſoner. May it pleaſe your Honours, and Gentlemen of the Jury, you have heard the ſeveral Witneſſes, and I think this whole Country cannot but plainly ſee the Malice of my Husband's Father againſt me; how he cauſleſly hunts after my Life. When his Son, my Husband, came and addreſſed himſelf to me, pretending himſelf a Perſon of Honour, and upon firſt ſight preſſed me to Marriage; I told him, Sir (ſaid I) I am a Stranger, have no Acquaintance here, and deſire you to deſiſt your Suit. I could not ſpeak my mind, but he (having borrow'd ſome thredbare Compliments) replied, Madam, your ſeeming Virtues, your amiable Perſon, and noble Deportment, renders you ſo excellent, that were I in the leaſt intereſted in you, I cannot doubt of Happineſs: And ſo with many words to the like purpoſe, courted me. I told him, and indeed could not but much wonder, that at ſo ſmall a Glance he could be ſo preſumptuous with a Stranger, to hint this to me: but all I could ſay, would not beat him off. And preſently afterwards he having intercepted my Letter, by which he underſtood how my Affairs ſtood, and how conſiderable my Means were, he ſtill urged me to marry him: and immediately by the Contrivance of his Friends, gaping at my Fortune, I was hurried to Church to be married, which the Parſon at firſt did without Licence, to ſecure me to my Husband, and ſome time after had a Licence.

And my Husband's Father afterwards conſidering I had a conſiderable Fortune, preſſed me, that in reſpect I had no Relations here, and becauſe, ſays he, we are mortal, you would do well to make over your Eſtate to my Son your Husband; it will be much for your Honour, Satisfaction of the World, and for which you will be chronicled for a rare Woman. And perceiving he had not baited his Hook ſufficient (with ſome fair Pretences) to catch me then, he and his Son, who were both willing to make up ſome of their former Loſſes in circumventing me of what I had, they robb'd me of my Jewels, and Clothes of great value; and afterwards pretended they were counterfeit Jewels, and declared that I had formerly been married to one at *Canterbury*, which Place I know not: and this grounded on a Letter (of their own framing) ſent from *Dover*, with a Deſcription of me; that I was a young fat Woman, full-breaſted, that I ſpoke ſeveral Languages; and therefore they imagined

gined me the Perſon, and ſo violently carried me from my Lodging before a Juſtice of Peace, only to affright me, that I might make my Eſtate over to them. The Juſtice having heard their ſeveral Allegations, could not commit me, unleſs they would be bound to proſecute me; which my Huſband being unwilling to, the Juſtice demanded of his Father whether he would proſecute me, ſaying, they muſt not make a Fool of him: and ſo after ſome Whiſperings, the Father and his Son were both bound to proſecute, and thereupon I was committed to Priſon. And ſince that, theſe People have been up and down the Country, and finding none there that could juſtify any thing of this matter, they get here an unknown Fellow, unleſs in a Priſon, and from thence borrow'd, you cannot but all judge, to ſwear againſt me. My Lord, were there any ſuch Marriage as this Fellow pretends, methinks there might be a Certificate from the Miniſter, or Place; certainly if married, it muſt be regiſtred: but there is no Regiſtry of it, and ſo can be no Certificate, no Miniſter nor Clerk to be found. And if I ſhould own a Marriage, then you ſee that great Witneſs cannot tell you whether I was lawfully married, or how; but it is enough for him (if ſuch a paltry Fellow may be believed) to ſay, I was married. I was never yet married to any but *John Carleton*, the late pretended Lord: But theſe Perſons have ſought all ways to take away my Life, bring Perſons to ſwear againſt me, one hired with Five Pounds, and another old Fellow perſuaded to own me for his Wife; who came to the Priſon, and ſeeing another Woman, owned her, and afterwards myſelf, and indeed any body. If ſuch an old inconſiderable Fellow had heretofore woo'd me, it muſt have been for want of Diſcretion, as *Carleton* did for want of Money; but I know of no ſuch thing. Several Scandals have been laid upon me, but no mortal Fleſh can truly touch the leaſt Hair of my Head for any ſuch like Offence; they have framed this of themſelves. My Lord, I am a Stranger and a Foreigner; and being informed there is Matter of Law in this Tryal for my Life, my Innocence ſhall be my Counſellor, and your Lordſhips my Judges, to whom I wholly refer my Cauſe. Since I have been in Priſon, ſeveral from *Canterbury* have been to ſee me, pretending themſelves (if I were the Perſon as was related) to be my School-Mates; and when they came to me, the Keeper can juſtify, they all declared they did not know me.

Court. Knot, you ſaid ſhe lived near you at *Canterbury*; what Woman or Man there, have you to prove ſhe lived there? Have you none in that whole City, neither for love of Juſtice nor Right, will come to ſay ſhe lived there?

Knot. I believe I could fetch one.

Court. Well ſaid! Are they to fetch! ſtill?

Priſoner. My Lord, I deſire ſome Witneſſes may be heard in my behalf.

Elizabeth Collier examined. My Lord, my Huſband being a Priſoner in the *Gatehouſe*, I came there to ſee my Husband, and did work there on days; and there came in an old Man, his Name was *Billing*, he ſaid he had a Wife there: ſays Mr. *Baley*, Go in and find her out; and he ſaid I was his Wife, turned my Hood, and put on his Spectacles, looks upon me, and ſaid I was the ſame Woman his Wife; and afterwards ſaid I was not, and ſo to others: I can ſay no more.

Jane Finch examined. My Lord, there came a Man and Woman one night, and knock'd at my door; I came down, they asked to ſpeak with one *Jane Finch*. I am the Perſon, ſaid I. We underſtand, ſaid they, you know Mrs. *Carleton* now in Priſon. Not I, ſaid I, I only went to ſee her there. Said they, be not ſcrupulous; if you will go and juſtify any thing againſt her, we will give you 5 *l*.

Court. Who are thoſe two?

Finch. I do not know them, my Lord.

Mr. *Baley* examined. My Lord, there has been at leaſt five hundred People have view'd her; ſeveral from *Canterbury*, forty at leaſt that ſaid they lived there: and when they went up to her, ſhe hid not her Face at all, but not one of them knew her.

Court. What Country-woman are you?

Priſoner. I was born in *Cologn* in *Germany*.

Court. Mr. *Carleton*, how came you to underſtand ſhe was married formerly?

Carleton Elder. I received a Letter from the Recorder of *Canterbury* to that purpoſe.

Priſoner. They that can offer 5 *l*. to ſwear againſt me, can alſo frame a Letter againſt me: They ſay I was nineteen Years of Age about nine Years ago, and am now but twenty-one.

Court. Mr. *Carleton*, you heard what *Knot* ſaid; he ſaid ſhe lived near him four Years a Wife, why did not you get ſomebody elſe from thence to teſtify this?

Carleton. Here was one *Davis* that was at her Father's Houſe, and ſpoke with him——

Court. Where is he?

Carleton. I know not; he was here.

Court. You were telling the Court of a former Indictment againſt her, what was that for?

Carleton. She was indicted for having two Huſbands, *Stedman* of *Canterbury* her firſt Husband, and *Day* of *Dover* Chirurgeon, her ſecond Husband. The Indictment was traverſed the Year before his Majeſty came to *England*, ſhe was found not guilty.

Court. Who was at that Tryal?

Carleton. One here in Court was of the Jury; but that Party ſaid there was ſuch a Tryal, but knows not that this is the Woman.

Judge *Howel*. Gentlemen of the Jury, you ſee this Indictment is againſt *Mary Moders*, otherwiſe *Stedman*, and it is for having two Husbands, both at one time alive; the firſt *Stedman*, afterwards married to *Carleton*, her former Husband being alive. You have heard the Proof of the firſt Marriage, and the Proof doth depend upon one Witneſs, that is *Knot*; and he indeed doth ſay, he was at the Marriage, gave her, and he names one *Man* the Parſon that married her, that he is dead; none preſent there but the married Couple that muſt needs be there, the Parſon, this Witneſs, her Siſter, and the Sexton; that he knows not what is become of the Sexton. All the Evidence given on that ſide to prove her guilty of this Indictment, depends upon his ſingle Teſtimony. It is true, he ſays ſhe was married at *Canterbury*, but the Particulars, or the Manner of the Marriage, he doth not ſo well remember, whether by the Book of Common-Prayer, or otherwiſe; but they lived together for four Years, had two Children. If ſhe were born there, married there, had two Children there, and lived there ſo long, it were eaſy to have brought ſomebody to prove this: that is all that is material for the firſt Marriage.

For the ſecond, there is little Proof neceſſary; ſhe confeſſes herſelf married to *Carleton*, and owns him; the queſtion is, Whether ſhe was married to *Stedman* or not?

You

You have heard what Defence ſhe hath made for herſelf, ſome Witneſſes on her behalf: If you believe that *Knot*, the ſingle Witneſs, ſpeaks the Truth ſo far forth to ſatisfy your Conſcience that that was a Marriage, ſhe is guilty. You ſee what the Circumſtances are, it is penal, if guilty, ſhe muſt die; a Woman hath no Clergy, ſhe is to die by the Law, if guilty. You heard ſhe was indicted at *Dover* for having two Husbands, *Stedman* the firſt, and *Day* the ſecond. There, it ſeems by that which they have ſaid, ſhe was acquitted; none can ſay this was the Woman: that there was a Tryal, may be believed; but whether this be the Woman try'd or acquitted, doth not appear. One here, that was of that Jury, ſays there was a Tryal, but knows not that this is the Woman. So that upon the whole, it is left to you to conſider of the Evidence you have heard, and ſo to give your Verdict.

[The Jury went forth, and after ſome ſhort Conſultation returned to their places.]

Their Names were called, and all anſwered.

Cl. of the Peace. Are you all agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. The Foreman.

Clerk. *Mary Moders* alias *Stedman*, hold up thy Hand: Look upon her, Gentlemen; what ſay you, is ſhe guilty of the Felony whereof ſhe ſtands indicted, or not guilty?

Foreman. Not guilty.

[And thereupon a great number of People being in and about the Court, hiſſed and clapped their hands.]

Clerk. Did ſhe fly for it?

Foreman. Not that we know.

Afterwards ſhe deſired, that her Jewels and Clothes taken from her, might be reſtored to her. The Court acquainted her, that they were her Husband's, and that if any detained them from her, he might have his Remedy at Law: She charging old Mr. *Carleton* with them, he declared they were already in the cuſtody of his Son her Husband.

The Tryals of Col. James Turner, John Turner, William Turner, Mary Turner, *and* Ely Turner, *Confederates; at Juſtice-Hall in the* Old-Bailey, London, *the* 15*th*, 16*th*, *and* 19*th of* January 1663.

JAMES TURNER the Titular Colonel, *William Turner*, *Mary Turner*, and *Ely Turner*, were brought to the Bar.

Clerk of the Peace. *James Turner*, hold up thy Hand: which he did. *John Turner*, hold up thy Hand.

Col. *Turner.* He is not here, but he is hard by, and I will ſend for him. My Lord, it has been reported he was fled; it was a miſtake, he is in *Fleetſtreet*, where he has been ever ſince this Buſineſs.

[And thereupon he ſent one for him, and then the Court proceeded to ſome other Buſineſs. About half an hour after, the ſaid *John* came into the Court, and was ſet among the other Priſoners at the Bar.]

Cl. of the Peace. *James Turner*, hold up thy Hand; *John Turner*, hold up thy Hand; *William Turner*, hold up thy Hand; *Mary Turner*, hold up thy Hand; *Ely Turner*, hold up thy Hand: which they all did, and then the ſaid Clerk read their Indictment; which was as followeth:

'YOU ſtand indicted in *London* by the Names 'of *James Turner* late of *London* Gentleman, '*John Turner* late of *London* Labourer, *William Tur-* 'ner late of *London* Labourer, *Mary Turner* late of 'London Spinſter, (otherwiſe *Mary Turner* the Wife 'of the ſaid *James Turner*) and *Ely Turner* late of 'London Labourer; for that you the ſaid *James* 'Turner, *John Turner*, and *William Turner*, the 7th 'Day of *January*, in the fifteenth Year of the 'Reign of our Sovereign Lord *Charles* the Second, 'by the Grace of God, of *England*, *Scotland*, 'France, and *Ireland*, King, Defender of the Faith, 'about Ten of the clock in the night-time of the 'ſame Day, with Force and Arms, &c. at *London*, 'that is to ſay, in the Pariſh of *St. Dyonis Back-* 'church, in the Ward of *Limeſtreet*, *London*, afore- 'ſaid, in the Dwelling-Houſe of one *Francis Tryon* 'Merchant, there feloniouſly and burglarly you 'did break and enter; and on him the ſaid *Francis* 'Tryon, againſt the Peace of God, and of our ſaid 'Sovereign Lord the King, in his Dwelling-Houſe 'aforeſaid, then and there being and reſting, fe- 'loniouſly and burglarly did make an Aſſault, and 'him the ſaid *Francis Tryon* in corporal Fear of his 'Life feloniouſly and burglarly you did put; and 'one Pendant Pearl ſet in Gold, and a precious 'Stone fix'd thereto, of the Value of 150 *l.* Two 'Pendant Pearls with Half-moons, ſeven Dia- 'monds, and eight Rubies fix'd to every of them, 'of the Value of 80 *l.* One Topaz and Pendant Pearl 'at the bottom thereof, of the Value of 20 *l.* One 'Emerald Jewel, and 5 Diamonds, of the Value of '150 *l.* One Gold Ring, and Diamonds ſet therein, 'of the Value of 30 *l.* One other Gold Ring, and '9 Diamonds fix'd in the ſame Ring, called an Agar 'Ring, of the Value of 5 *l.* One Jewel, and thirty 'ſeven

' ſeven Diamonds of the Value of 30 *l.* One Gold ' Chain of the Value of 30 *l.* One Gold Ring and ' nine Diamonds ſet therein, of the Value of 6 *l.* ' Another Gold Ring and a Jacinth-ſtone faſtened ' therein, and two Diamonds ſet in either of them, ' of the Value of 3 *l.* One other Gold Ring of the ' Value of 20 *s.* One Necklace of Pearl, of the Va- ' lue of 500 *l.* One Knot of Diamonds and pen- ' dant Pearls faſtened thereto, of the Value of 300 *l.* ' One Sprig and three blue Saphires, nine pendant ' Pearls, and fifty-ſix Diamonds faſtened thereto, of ' the Value of 300 *l.* One Gold Ring and thirteen ' Diamonds ſet therein, of the Value of 50 *l.* One ' other Gold Ring and Diamonds ſet therein, ' of the Value of 50 *l.* One Knot and ſeventy- ' five Diamonds ſet therein, of the Value of ' 100 *l.* One Necklace of Pearls, containing one ' hundred ſeventy-two Pearls, of the Value of 11 *l.* 10 *s.* ' One Necklace of Pearl containing two hundred ' ſeventy ſix Pearls, of the Value of 18 *l.* 10 *s.* One ' Jewel and forty-ſix Diamonds ſet therein, of the ' Value of 300 *l.* One Jewel and fifty-three Dia- ' monds ſet therein, of the Value of 200 *l.* One ' Gold Ring and one Diamond ſet therein, of ' the Value of 50 *l.* One Locket and thirty-ſix ' Diamonds ſet therein, of the Value of 70 *l.* Two ' Lockets and one Ruby, and twenty Diamonds ' ſet in either of them, of the Value of 60 *l.* One ' pendant Pearl ſet in Gold, and four Diamonds ſet ' therein, of the Value of 40 *l.* One other Gold ' Ring, and with one Diamond, of the Value of ' 35 *l.* Six Bracelets ſet with precious Stones, of ' the Value of 20 *l.* One blue Saphire, twenty- ' four Diamonds, of the Value of 40 *l.* One Loc- ' ket and nine yellow Diamonds ſet in Gold, of the ' Value of 30 *l.* One Locket and eight Diamonds ' ſet therein, of the Value of 8 *l.* One Jewel and ' twelve Diamonds ſet therein, of the Value of 15 *l.* ' One Gold Ring and Diamond, of the Value of 5 *l.* ' One Jewel and Saphire, Ruby and Emerald ad- ' jacent, and four Ophirs ſet therein, of the Value ' of 12 *l.* Twelve *Scotch* Pearls, of the Value of 3 *l.* ' Sixty-two Pearls, of the Value of 12 *l.* One O- ' riental Amethiſt, ſix Diamonds ſet therein, of ' the Value of 20 *l.* Two other Gold Rings, nine ' Diamonds in either of them, of the Value of 15 *l.* ' One other Gold Ring and thirteen Diamonds ſet ' therein, of the Value of 8 *l.* One Jewel and ten ' Diamonds, and ſeven Emeralds, of the Value of ' 15 *l.* Sixteen Gold Rings and ſeven Diamonds ' in every of them, of the Value of 754 *l.* One ' Bracelet and thirteen great Rubies ſet therein, of ' the Value of 100 *l.* Six Two and Twenty Shil- ' ling Pieces of Gold, five other Pieces of Gold, ' called *Five Shillings Six Pence a-piece*; three other ' Pieces of Gold of two Shillings Nine-pence a- ' piece; another Piece of Gold of Twenty Shil- ' lings; two other Pieces of Gold of Five Shillings ' a-piece; Four Eleven-ſhilling Pieces of Gold; ' Five Pieces of *French* Gold of ſixteen Shillings ſix- ' pence a-piece, and 1023 *l.* in Money, (particular- ' ly named in the ſaid Indictment) of the Goods and ' Chattels of the ſaid *Francis Tryon*, then and there ' being found, then and there feloniouſly and bur- ' glarly you did ſteal, take and carry away. And ' that you the ſaid *Mary Turner* and *Ely Turner* ' knowing the ſaid *John Turner* the Felony and Bur- ' glary aforeſaid, to have committed; the ſaid *John* ' *Turner* afterwards, that is to ſay, the 8th Day of ' *January* in the Fifteenth Year aforeſaid, at *London* ' aforeſaid, that is to ſay, in the Pariſh of *St. An-* ' *drew Undershaft*, in the Ward of *Aldgate*, feloni- ' ouſly did receive, comfort and maintain, againſt ' the Peace of our ſaid Sovereign Lord the King, ' his Crown and Dignity.

How ſayeſt thou, *James Turner*, art thou Guilty of the Felony and Burglary whereof thou ſtandeſt indicted, or Not Guilty?

Col. *Turner*. My Lord, and the honourable Bench, I ſhall no way be refractory, nor do any thing that doth not become a Gentleman; but I humbly beſeech your Honours that you will ſtand my Friend, that I may have Juſtice, and your Honours Opinion——

* Ld *Hyde*. You are to plead now to your Indictment.

* *Chief Juſtice of the* King's-Bench.

Col. *Turner*. I do not refuſe it; my Lord, I beg your Honour to hear me a word——

Ld *Hyde*. Plead to the Indictment, and then ſay what you will; till that be done, all you can ſay will ſignify little: we are to receive your Anſwer to your Plea firſt, afterwards ſay what you will; you muſt now ſay Guilty or not Guilty.

Turner. I ſhall not refuſe to plead, but I beg my own Goods may be reſtored to me; my Houſe, my Lord, is locked up, and Children turned out of doors, and I have nothing to ſupport us.

Ld *Hyde*. Are you Guilty or Not Guilty? You ſhall have right done you.

Turner. I will take your Honour's word for it; I am not Guilty.

Clerk. How will you be tried?

Turner. By God and the Country.

Clerk. How ſayeſt thou, *John Turner*, art thou Guilty of the Felony and Burglary whereof thou ſtandeſt indicted, or Not Guilty? [And ſo *William Turner* and likewiſe *Mary Turner*, and *Ely Turner*, as Acceſſaries, being demanded the like Queſtions, ſeverally pleaded Not Guilty, and put themſelves on God and the Country to be tried.]

Ld *Hyde*. Now, Mr. *Turner*, let us know who has ſeized any thing of yours.

Turner. The Sheriffs, Sir *Richard Ford* and Sir *Richard Rives*, and they are in poſſeſſion of my Houſe; I have none but a Child of 7 and 9 at home, and have not a Shirt to command. It's true, the Sheriff, Sir *Richard Ford*, was ſo civil yeſterday as to give me ſome Linen.

Sir *Richard Ford*. I ſhall give your Lordſhip an account of this: I ſuppoſe, my Lord, we have done nothing but what was cuſtomary; a Seizure we have made now, but after we had heard this Gentleman was committed for Felony and Burglary, and that none but Children were in the Houſe, my Lord, we thought it our Duty, both for his Good, to ſecure his Eſtate, if acquitted, and ſo for the King, if convicted, that ſo the ſame might not be imbezel'd; and thereupon cauſed an Inventory to be taken thereof: But, my Lord, we diſpoſſeſſed none: it is true, we have left a Servant or two, for whom we are, and muſt be reſponſible; whatever they would diſpoſe or had occaſion for, they had it without Contradiction. We offered him, that if he had any Friend of his own that would undertake them to be forth-coming, in caſe he were convict, we would leave them in poſſeſſion of them; we have made no Seizure, what we have done, is according to Cuſtom; if we have not done that which your Lordſhips approve of, we beg your pardon.

Ld *Hyde*. We are to look to that which is according to Law; the Goods of a Man that is accuſed of Felo-

Felony (he is but only ſo yet) he forfeits none of his Goods, till convict, more than that he is to live upon them during his Tryal; but on the other hand, where a Man is accuſed of Felony, and indicted for it, it is but Prudence, and agreeable to Law, to take care the Goods be not imbezel'd; becauſe, if a Conviction follow, they are forfeited to the King; therefore the Sheriffs have done but what they ought to do: they are not taken from you, what you have occaſion for, either for Money (or Goods to turn into Money) for your preſent Supply, till your Tryal be over, God forbid but you ſhould have it, and you ſhall have it, if you have any Friend that will undertake the Goods ſhall be forth-coming for the King, in caſe you be convicted, or for your ſelf, if acquitted, it ſhall be done. In the mean time what you have occaſion for your ſelf, Wife or Children, God forbid but you ſhould have it: and this is as much as by Juſtice you ought to claim.

Turner. I ſubmit to your Honour, and I beg of your Honour and the Bench to be of Counſel for me; for though the World looks on me as a Sollicitor, it is a miſtake, my Lord, it is not in Law, I am a Stranger to it; it has been only in Dealings for Monies, by Purchaſes and the like. But, my Lord, I am informed your Lordſhip may reſtore me theſe Goods without Security; if the Law directs Security, I am ready to give it.

† *Chief Juſtice of the* Common-Pleas.

† Ld Ch. J. *Bridgman.* For that, that you may not miſtake the Law, it is very true, the words of the Statute of *Richard* III. ſay, A Man's Goods ſhall not be ſeized before indicted. You muſt underſtand the Difference of the Law, that has made the Miſtake; it was then good, but not now; then a Man's Courſe was to indict them and proceſs againſt them before committed, but now it is altered; for when it remained indifferent, whether Guilty or Not Guilty, he was to be maintained out of his Goods; ſo ought you and your Family: for the Town being anſwerable for the Goods of ſuch a Felon, that they might not be amerced, in ſuch Caſes ſufficient Sureties were given: the Statute of *Philip* and *Mary*, that gives the Power of Commitment by Juſtices of Peace, and ſo now it is quite altered; and though they cannot ſeize the Goods, yet they being reſponſible for them, they ought to have good Security.

Sir *Richard Ford.* I do aſſure your Lordſhips, that from the very firſt Hour we put our People into the Houſe, none of his Family there then or now have been denied any thing in the Houſe: if I be not miſinformed, that very Night that he was committed, there was conveyed out of his Houſe for his Uſe and his Occaſions, ſome ſay 200 *l.* they that ſay leaſt, ſay 100 *l.* they have had a free Diſpoſal of what was in the Houſe; and then, my Lord, could we do leſs than what we have done?

Turner. I would have made a ſhort buſineſs of this, I tendred Security of 5000 *l.* to their own Content, they accepted of the Perſons, but one ſtanding by, ſaid, By no means; and ſo it is ſtill undone. If you pleaſe, I have Security now.

Ld *Hyde.* There need not much a-do for Security; if your Tryal were not to be preſently, then there were Cauſe for you to inſiſt on this; but now there is but one Night: if you want any thing for this Night, the Sheriffs here offer you what you will, to-morrow will determine the Queſtion, whether theſe Goods are yours, or no.

Turner. I will ſubmit to the Court, I will not be refractory; here is Security, if you pleaſe; if not, I am content.

Ld *Hyde.* If you want any thing, either Money or Clothes, or any thing elſe, you may have them.

Turner. My Lord, the greateſt thing will be ſome Writings and Papers, which will concern me at my Tryal to clear me then.

Ld *Hyde.* Do this; nominate one Perſon, the Sheriff another to go with him, and what Writings you will have brought, they ſhall take a Note of them, and bring them to you.

Turner. I have divers Writings of Gentlemens Eſtates, Bonds and Things in my Hands, and the Papers are amongſt them; and I do beg I may, with the Keeper, go my ſelf now.

Ld *Hyde.* I cannot, nor the Court, give you leave; you ſtand indicted for Felony and Burglary.

Turner. Let my Sons go, my Lord.

Ld *Hyde.* They are indicted too, and are not bailable; if Mr. Sheriff (who is anſwerable for you) will ſend any with them, he may.

Sir *Rich. Ford.* I ſhall be willing to ſerve you, Gentlemen, ſo far my ſelf, if your Lordſhip will ſpare me from further Service here, to go with ſuch Perſon as he ſhall appoint.

Ld *Hyde.* We leave that to Mr. Sheriff's Civility, we can give no Rule for it.

Turner. I may be cut off of my Life, if I want my Papers.

Ld Ch. Juſt. *Bridgman.* Doth your Life depend upon this Evidence in Matter of Fact?

Turner. My Lord, I heve been ſo ſtrangely handled in this buſineſs, I know not where it depends.

Sir *Rich. Ford.* If he will ſay in what Trunk or Cheſt they are in, they ſhall be brought to the Court. [Thereupon Mr. *Turner* offered to ſend a Pillowbeer, and the Sheriff ſaid he ſhould have the Writings.]

Ld *Hyde.* Provide your ſelf for to-morrow, Mr. *Turner*, we will then go on.

Turner. I have an humble Requeſt to your Honours and honourable Bench; I would beg an Order to bring in ſome Witneſſes who are Mr. *Tryon's* Friends now, though mine lately; divers would come in, but ſend me word they dare not, except they are ſummoned by an Order of your Lordſhips.

Ld Ch. Juſt. We will help what the Law will do, but this cannot be done; thoſe that will come in voluntarily, may; the Law will not admit us to ſummon any Witneſſes: you ſee when any come againſt the King, we cannot put them to their Oaths, much leſs can we precept them to come.

Turner. Pray, my Lord, let ſome of the Sheriff's Officers wiſh them to come, not from the Bench.

Ld Ch. Juſt. We cannot direct any thing in't.

Turner. I deſire the Party himſelf may be here.

Ld Ch. Juſt. We cannot compel him.

Turner. Then I have no Witneſs in the World; this is a ſad thing, that the Proſecutor, being able, will not come; I hope you will adviſe him to come.

Ld Ch. Juſt. The Law is open, the ſame to every Man, you ſhall have that that is due to any Man, you cannot have more, and leſs you ſhall not have; if he be bound, we will call him.

Turner. What if he will forfeit his Recognizance?

Ld Ch. Juſt. We cannot help that, but we think you need not fear his not coming, he intends to be here.

And afterwards the Priſoners were conveyed back to the Goal.

16 January, *in the Morning.*

THE Court being ſet, and Proclamation made, the Jury was call'd, *viz.*

William Bookey,	*Thomas Hickſon,*
Thomas Seawell,	*John Andrews,*
William Allen,	*John Jacob,*
John Port,	*David Bolger,*
Francis Coles,	*Henry Hague,*
Robert Maſters,	*Lewis Tayte.*

Who ſeverally anſwered to their Names.

Clerk. Set up *James Turner, John Turner, William Turner, Mary Turner* and *Ely Turner*; [Who (with ſome Felons) were accordingly ſet to the Bar.] You, the Priſoners that were laſt called to the Bar, thoſe Men that you ſhall hear called and perſonally appear, muſt paſs between our Sovereign Lord the King and you for your ſeveral Lives and Deaths. If you, or any of you will challenge them or any of them, you muſt challenge them when they come to the Book to be ſworn, before they be ſworn.

Silence commanded twice.

Clerk. *William Bookey,* look upon the Priſoner: 'You ſhall well and truly try, and true Deliverance 'make between our Sovereign Lord the King and 'the Priſoners at the Bar, whom you ſhall have in 'Charge according to your Evidence. So help you 'God.'

And ſo all the reſt were ſworn, ſave only *Lewis Tayte,* againſt whom he excepted, there being ſome little Difference at preſent between them; but my Lord Chief Juſtices told him he need not give any reaſon for it, he was free to except any without Cauſe. Thereupon Capt. *Edward Micoe* was ſworn in his room. Count theſe, Cryer.

William Bookey, &c. Twelve good Men and true, ſtand together and hear your Evidence.

Clerk. Cryer, make Proclamation. O Yes! If any Man can inform my Lords the King's Juſtices, the King's Serjeant, or the King's Attorney, before this Inqueſt be taken between our Sovereign Lord the King and the Priſoners at the Bar, let them come forth, and they ſhall be heard; for now the Priſoners ſtand at the Bar upon their Deliverance: and all others bound by Recognizance to give Evidence againſt any the Priſoners at the Bar, come forth and give Evidence, or elſe you will forfeit your Recognizances.

Clerk. Cryer, call *Francis Tryon, William Hill, Fred. Ixam, John Garret, Jacob Watcher, Eliz. Fry, Ann Ball, John Guerney, Francis Millington, John Alſop, Peter Culley, Ralph Tasker, William Daws, John Rouſe, Richard Roberts, Nath. Clarke, Robert Cole, Edward Cole.* They all came into the Court.

Clerk. *James Turner,* hold up thy Hand: And ſo the reſt.

[Here the Indictment was read again.] Upon this Indictment they have been arraigned, and thereunto have ſeverally pleaded Not Guilty, and for their Tryals have put themſelves upon God and the Country, which Country you are. Your Charge is to enquire whether the ſaid *James, John* and *William Turner,* or any of them, be Guilty of this Felony and Burglary in Manner and Form as they ſtand indicted, or Not Guilty: And whether the ſaid *Mary* and *Ely Turner,* are guilty of the Felony, as Acceſſaries to the ſaid *John.* If you find them Guilty, you ſhall enquire what Goods and Chattels, Lands and Tenements, they or any of them had at the Time of the committing this Felony or Burglary, or at any time ſince: If you find them Not Guilty, you ſhall enquire if they fled for it; if you find that they did fly for it, you ſhall enquire, *&c.* as if you had found them guilty. If you find them not guilty, and that they did not fly for it, ſay ſo and no more, and hear your Evidence.

But if you acquit *James, John* and *William Turner* of the Felony and Burglary, then you ſhall not enquire after *Mary* and *Ely* as Acceſſaries.

Sir Thomas Aleyn *ſworn.* The Evidence that you ſhall give, *&c.*

Ld Ch. Juſt. *Hyde.* Pray, Sir *Thomas Aleyn,* tell your knowledge to the Jury.

Sir *T. A.* May it pleaſe your Lordſhips, and you Gentlemen of the Jury; upon Friday-Morning laſt was ſevennight, I heard of this Robbery at *Guild-Hall,* and the Perſon robbed being my Acquaintance, I went to viſit him in the Afternoon; and coming there, not thinking but the Buſineſs had been already examined, ſeveral Perſons with Mr. *Francis Tryon* put me upon the Buſineſs to examine it. I went and examined the two Servants, the Man and the Maid: upon their Examination I found they had ſupped abroad at a Dancing-School, and had been at Cards, and came home afterwards; but before they came home, they heard that an antient Gentleman, one Mr. *Tryon,* was robbed, and then they haſtned home. I examined them further, whether they uſed to go abroad after their Maſter was in Bed? The Man confeſſed he had been abroad twenty or thirty times at Col. *Turner*'s Houſe at Supper, about a Year ſince. The Maid denied they had been there at all: but it is true the Man's ſaying he ſupped there (though it was falſe) was the firſt Occaſion of Suſpicion of Col. *Turner.* When I had examined theſe two, I went to the Examination of *Turner,* Where he was all that Day, where at Night? he told me, At ſeveral Places and Taverns, and in Bed at Nine of the clock, and was called out of his Bed: but having my ſelf ſome Suſpicion of him, I wiſhed him to withdraw. I told Mr. *Tryon,* that I believed if he was not the Thief, he knew where the things were. The old Gentleman ſaid, He could not miſtruſt him, he had put a great Confidence in him: But I deſired him to give me leave to charge him with it; and thereupon I called him in, but he denied it; but not as a Perſon of his Spirit, which gave me ſome Cauſe of further Suſpicion. I deſired to ſearch his Houſe; nay, told him I would whether he would or no. He deſired to go home; I told him, if he would go with them (ſome Perſons there) he ſhould: but you ſhall not ſpeak with your Sons or Daughters, or Servants, they ſhall be examined by me. They ſearched his Houſe, the Marſhal and Conſtable, they ſaid they could find nothing. The old Gentleman was very unwilling to charge him with Felony; ſome Friends there were as well ſatisfied as I was, that he was guilty of it; and they brought me a Paper that he would charge him: and thereupon I wiſhed him to read that Paper, told him I could do no leſs than ſend him to *Newgate.* Says he, you will not undo a Family, will you? Will you not take Bail? No, I cannot. What Proof have you material againſt me? I will give you as good Bail as any Man; give me leave to ſpeak with Mr. *Tryon.* I did give him leave: He had no ſooner ſpoke with him, but Mr. *Tryon* would not charge him, he promiſing to endeavour

deavour to find the Thief. I took Mr. *Turner* on one ſide, and told him, I did as verily believe if he was not the Thief, he could find him out, as I believed I ſhould go home to my Wife and Children; and I ſaid, That if an Angel from Heaven ſhould come and tell me otherwiſe, I could hardly believe it. This paſſed on this Night: I could not ſleep all the Night, ſtill it was in my Thoughts that this Man was the Man that had done the Robbery. Next Morning, after Nine, there came a Gentleman to me, a Perſon of Quality, a Merchant; if your Lordſhip deſires, I ſhall name him.

Ld Chief Juſtice. Pray name him.

Sir *T. A.* It was Alderman *Love*, my Lord: He told me that he thought I was a Friend to Juſtice: If I would go preſently into the *Minories* my ſelf, I might diſcover the Perſon that robbed Mr. *Tryon*; if I ſtaid, or ſent others, the Birds would be flown: Mr. *Turner* has this Morning removed ſeveral hundred Pounds. I went preſently with a Footboy. When I came to *Biſhopſgate*, meeting with Major *Tasker*, knowing not whether I went without the Liberties, ſaid I to him, Are you in haſte? Pray go along with me: And he went with me.

This Gentleman, Alderman *Love*, told me I ſhould meet with a Maid-Servant of his that knew me, though I knew not her: She will meet you at ſuch a Corner, and go with you. When I came without *Aldgate*, I met with two Maids that were the Perſons to ſhew me the Place: The Maid told me theſe were the Maids. I bid them come behind me. At the further End of all the *Minories* I went into a Shop, and found Colonel *Turner* with his Hands in a Cheſt: I charged him to take nothing out, and not to ſtir himſelf. There was two Wallets, one of 100 *l.* and the other 200 *l.* I took the Keys from him, laid them upon the Compter: I went with him into the next Room, which was the Kitchin; and in another Cheſt was two Wallets more: and now the Gentleman was ſpeechleſs. I told him it was juſt as I told him the laſt Night, that your Roguery would come out; What (ſaid I) is become of the reſt of the Money? Says he, Your haſte will ſpoil all. I called in the Maid, to examine her: But ſhe was fearful, and ſo trembled there was no examining her before Colonel *Turner*. But in concluſion, ſaid I, Colonel *Turner*, if you will tell me whether this be Mr. *Tryon*'s Money, I will do you all the Favour I can. Says he, I cannot ſay it is his Money. I called for a Conſtable, and made a *Mittimus* to ſend him to *Newgate*, thinking he would diſcover the Truth. Said I, Will you give me your Examination? He did: It is in Court. I asked him whence this Money came? He told me it was removed by himſelf, his Wife, and Children this Morning.

Turner. My Son and I, I told you.

Sir *T. A.* I asked him where he had received it? He told me at a Goldſmith's, fourteen Days ſince: He did not remember his Name. I asked why he ſhould remove his own Money? His Anſwer was, He did remove it for two or three Days, till this Foolery was over.

When I ſaw I could get nothing further from him, I diſcourſed with him touching the Remainder of the Money and the Jewels. Says he, Sir *Thomas*, do not trouble your ſelf, you will loſe the Jewels and the reſt of the Money by this Courſe; and, ſays he, I am now in purſuit of them: If you will give me leave to go to the old Gentleman, I know all will be well. I was not content to let him go: But preſently we called a Hackney-Coach, and my ſelf, and him, and Major *Tasker* went, and carried that Money to Mr. *Tryon*. When we came there, I told Mr. *Tryon* I thought we had brought 500 *l.* of his Money; and I did not doubt but I had brought a Perſon that could tell of the reſt of his Money and Jewels. Colonel *Turner* deſired to ſpeak with Mr. *Tryon* himſelf in private. I gave him leave. He calls me a little after: Sir, ſays he, Mr. *Tryon* and I am agreed; I muſt have this Money delivered to me again: I have aſſured him he ſhall have all his Money and Jewels again by Three of the clock this Afternoon. I told him I could not agree that he ſhould have the Money back again, preſs'd him that he would ſtay there, and ſend for the reſt of the Money and Jewels. But he would (if I did not) truſt him: Mr. *Tryon* would have the reſt of his Money and all his Jewels again.

Turner. I ſaid, I would endeavour it.

Sir *T. A.* If he had ſaid he would have endeavoured it, I would not have parted with him; but he ſaid he ſhould have the Money and Jewels, *&c.* I told him I would meet him at that Time at Mr. *Tryon*'s. Then I took Mr. *Tryon*, and ſaid, Whatever Promiſe you have made in private, you muſt excuſe my aſſenting to any thing againſt the Law: But do not tell him of it, leſt you loſe the Jewels: I muſt commit him to *Newgate*, and I muſt bind you to proſecute him. He deſired me I would not come ſo ſoon as Three, not till Four or Five of the clock, and all would be brought thither. I ſtaid till about Four. In the interim I heard ſome Particulars, what theſe Maids would teſtify; which Teſtimony had I received before I had parted with him, I would not have parted with him for any Conſideration. But when I came thither in the Afternoon, I heard Colonel *Turner* was arreſted, and was then at the *Hoop*-Tavern with the Officers. I ſent immediately the Marſhal and his Men to bring him to me. The Officers and he came; and then Colonel *Turner* told me, I had brought all theſe Things, but the Officers prevented me; I was a very unfortunate Man: Give me but leave till to-morrow Morning at Nine of the clock, and you ſhall have all. Said I, I have now heard more; and you muſt produce the Money and Jewels, if you expect any Favour from me, or I know what to do. He preſſed very hard an Hour, or almoſt two, that he might be truſted to go for them; if he did not go, Mr. *Tryon* would loſe the reſt of his Money and Jewels. I told him I had rather they ſhould be all loſt, than I ſhould forfeit my Diſcretion and Reputation. And thus he kept us till Seven or Eight at night. At laſt he would have gone with one Perſon. I told him no: If there were enough to ſecure you, I might give leave. Saith he, the Party will not ſee more than one; for his Life would be in danger. Whither would you go? I would go, ſaith he, (to my beſt Remembrance) to *Tower-Hill* or *White-Chappel*. I ſhould have met him at Five of the clock; and now I muſt meet him about Nine. I will call in the Officers: They will tell you, your being upon a Judgment, they will not part with you without the Liberties: Nor will I give leave, becauſe the Sheriffs will blame me. The Officers ſaid they could not go without the Liberties, for it would be an Eſcape in Law. Pray give me leave to go near thoſe Places, and I will ſend. Nay, then you may as well ſend from hence. He begged leave to go to the *Hoop*-Tavern, and ſend for his Wife; which I did grant. And there he did ſend for his Wife. They brought me word he had ſent his Wife for the Jewels and the reſt of the Monies. He ſent to me not to think the Time too long, for he had

had notice his Wife was coming. I directed the Marſhal, when his Wife came, he would ſecure her. About Eleven of the clock they brought his Wife; who told me ſhe had delivered the Jewels: They thought they were in two Bags. Then he came to me, and deſired to ſpeak with Mr. *Tryon* in private, and told me Mr. *Tryon*'s Soul was pawned to him, and his to the Thief, that no Diſcovery ſhould be made. But when I examined his Wife what Money went from her Houſe that Morning, ſhe ſaid ſhe knew of none. Where had you the Jewels? She knew of none: But ſhe had a Couple of Bags that ſhe was ſent for: Near *White-Chappel* or the *Tower* a Perſon ſhould meet her, and ask what ſhe did there, and ſhe ſhould ſay ſhe walked up and down for ſomething that ſhould be given her by a Perſon; which, if he did, ſhe was to bring it to him that ſent her. He did deliver the two Bags, which ſhe delivered to her Husband; but what was in them, ſhe knew not. There was Sir *Thomas Chamberlane*, Mr. *Millington*, my ſelf, and Colonel *Turner*, with Mr. *Tryon*. The two Bags was laid upon a Dreſſer. He told us they were now come; and having performed his part, he hoped Mr. *Tryon* would perform his. Have you performed your part? Have you brought the Jewels and the Remainder of the Money? He told us the Money was not brought: For the 600 *l.* I ſhall give Mr. *Tryon* my Bond, to pay him at ſix Months. We preſs'd to ſee the Jewels: We run them all over. But I ſhould have told you one Thing: She brought a Cat's-Head-Eye-Ring upon her Finger. This the Gentleman was like to forget: He delivered it to me, to deliver that with the reſt. When we had told out the Jewels, we croſſed them out upon the printed Paper as they were called. She ſaid all that was in the Paper, except one Carcanet of Diamonds and Jewels, valued at 200 *l.* that is fallen behind the Cheſt, or aſide. You have 2000 Pounds worth of Jewels over what is in the Paper; but that Carcanet ſhall be forth coming. He now preſſed that no Proſecution might be, for two Souls were pawned, (as I ſaid before) and deſired an End of the Buſineſs. I told him further, and preſſed him: Said I, I have ſtaid a great while, and would ſtay longer, if he might have the 600 *l.* and the Carcanet. But when I ſaw there was nothing more to be got from him, now (ſaid I) what would you have this poor Gentleman to do for you? What he hath promiſed you, I know not; he is a Stranger to the Law: If there had been but you two had it, and it had not been publiſhed to the World, and the Neighbours publick Examination taken, ſomewhat might have been between your ſelves. But would you have this Gentleman bring himſelf into danger? He will loſe all his Goods again; for he will be indicted himſelf. What will he be the better for Diſcovery, when he muſt loſe his Jewels and Money, and be liable to a Proſecution, as you will be, were he ſo ignorant? Do you think that I underſtand the Law no better, being a Juſtice of Peace, to bring my ſelf into danger? All the Kindneſs I can do for you, is, (to be ſhort) I muſt ſend you and your Wife to *Newgate*.

How ſay you, Maſter Alderman? Then I had better to have kept the Jewels. Thoſe were his Words; to the beſt of my Remembrance he ſaid ſo.

My Lord, I asked him ſeveral Queſtions: Why he ſhould give a Bond for ſix hundred Pounds, if he was not concerned in this Buſineſs? But he knew not what to anſwer. Saith he, Will you not take Bail? Said I, I can take no Bail: I muſt ſend you to the common Goal, and then I am diſcharged. Pray ſend me to the *Compter*. No, I cannot. Do you think I would make an Eſcape? I cannot tell; but I would not bring my ſelf into danger. He prayed me I would give him leave to go home. I muſt make my Warrant: If the Marſhal and Conſtable will do any thing, I ſhall not direct them.

He deſired his Wife might go and fetch ſome Linen.

Ld Ch. Juſt. *Bridgman.* What Day were the Jewels delivered?

Sir *T. A.* Saturday.

Ld Ch. Juſt. *Bridgman.* Thurſday was the Robbery, Friday he was examined, Saturday the Money was removed, and that Night the Jewels were brought, and he committed.

Sir *T. A.* If I have ſaid any thing that he is not ſatisfied wherein I have not true ſpoken, let him ask me; I ſhall not do him the leaſt Wrong.

Ld Ch. Juſt. *Hyde.* Do ſo, Mr. *Turner.*

Turner. Do your Honours underſtand of Sir *Thomas* the Time the Robbery was committed? I ſhall ask him ſome Queſtions.

Sir *T. A.* I have only one Word more to ſay to you: That before he went to the *Hoop*-Tavern, nay, ſaid I, Colonel *Turner*, be ingenuous whether this was not Mr. *Tryon*'s Money that he removed? And he confeſſed it was.

Ld Ch. Juſt. *Hyde.* That Money was removed from his own Houſe.

Sir *T. A.* Yes; but his Wife, Children, and Maid denied it.

Ld Ch. Juſt. *Hyde.* Mr. *Turner*, will you ask him any Queſtions? What are they?

Turner. I would ask all this back again: You are upon your Oath, Mr. Alderman.

Ld Ch. Juſt. *Hyde.* You need not tell him that he is ſworn; the Court and Jury underſtand it ſo.

Ld Ch. Juſt. *Bridgman.* Go on, Mr. *Turner*; ask your Queſtions.

Turner. My Lord, I demand of Sir *Thomas Aleyn* whether I did not tell him at the firſt there was a wicked young Man had belyed my Houſe and Family, ſaying that he ſupped there that Night, when he had not ſupped at my Houſe theſe twelve Months.

Sir *T. A.* I think I have done him that Right already. He deſired me to examine that young Man, who ſaid he ſupped at Colonel *Turner*'s; but I found he had not been, nor was not there.

Turner. Upon Friday Night, when the Alderman preſſed me concerning the Thing, I told him I had ſome Suſpicion of ſome Perſons, who formerly ſhould have robbed Mr. *Tryon* a Year ago, and I employed *Moſely* the Conſtable and Mr. *Tryon*'s Man to go to *Ratcliff*, and I went another Way. Pray ask Sir *Thomas* whether I did not promiſe him to do all I could.

Sir *T. A.* I preſſed him hard; he ſaid he would endeavour it.

Turner. Whether did not I tell him that that Money was carried there on purpoſe to gain the other Fellows that had the Jewels? Said I, If this Money be taken away, he that hath the Jewels will not bring them, and the Remainder of the Money; but that this Money muſt bring him to it, that they might ſhare it.

Sir *T. A.* There was not one Word of this: His Examination was contrary. He told me 400 *l.* was received of a Goldſmith, he knew not his Name, and 200 *l.* was in his own Houſe; and that he removed it for two or three Days, till this Foolery was over. He ſaid it was his own Money.

ney. I ſaid, an honeſt Man need not thus remove his own Money.

One thing I have omitted: When I was examining of him in the *Minories*, word was brought me his Son was fled away at the Back-door. I bid them run after him, but they ſaid they ſaw him leap over a great Ditch; he was not heard of till yeſterday, tho I ſent out my Warrants for him.

Ld Ch. Juſt. *Hyde.* Yourſelf (as Sir *Thomas Aleyn* ſwears) ſaid you knew not of whom you had part of the Money, but the other was your own, and yet afterwards that the Money was *Tryon's*; why did you ſay ſo?

Turner. I will tell you the reaſon; I would not have my buſineſs ſpoiled, and did feign thoſe Anſwers. My Lord, I do demand of him whether Mr. *Tryon* and I had not made a bargain in the Morning, whether or no if he might have his Goods the Perſon ſhould be free, and that he had agreed no Blood ſhould be ſpilt; that he had rather loſe all his Money and Jewels, than to forfeit ſuch an Aſſeveration which the Thief had bound me that I ſhould ſwear to him, That by the Blood of Jeſus Chriſt that was ſhed for him and all Sinners, his Life ſhould be free.

Ld Ch. Juſt. *Hyde.* You are beſide the buſineſs.

Turner. My Lord, I ask Alderman *Aleyn* whether I did not tell him this?

Sir *T. A.* I told your Lordſhips two Souls were pawned, as he ſaid before.

Ld Ch. Juſt. *Hyde.* Do not ſpend your time thus; the Queſtion's ſhort, whether you are guilty of robbing, or breaking the Houſe of Mr. *Tryon*, or no?

Turner. I am as free as any Man here.

Ld Ch. Juſt. *Hyde.* They will not believe your own words.

Sir *T. A.* I think I have done him no wrong by this Evidence.

Turner. I hope, my Lord, I ſhall have the benefit to call him again for a Witneſs for me.

Ld Ch. Juſt. *Hyde.* You may ask him now.

Turner. No, when I come to my Defence.

Ld Ch. Juſt. *Hyde.* Yes, yes.

Turner. Oh your Honours moſt humble Servant, I am very ſorry I have put him to this trouble.

Mr. Tryon, *his Servant, and Mr.* Garnet *ſworn.*

Ld Ch. Juſt. *Hyde.* Mr. *Tryon*, pray (as you are able) give an account of this Buſineſs.

Tryon. My Lord, about Eleven of the clock, or ſomething paſt, upon Thurſday Night laſt was a Seven-night, two Men came into my Chamber when I was faſt aſleep, one on the one ſide, and another on the other ſide of the Bed; one had a Lanthorn that opened on one ſide, and waked me: when I ſaw him, I was much aſtoniſhed (as I might well) knew them not, ſaid, My Maſters, who are you? I was newly out of my Sleep; being an antient Man, I apprehended another Man for the Party I ſpoke to, but was not the Man, and named him by his Name, What do you do here at this time of night? What is your buſineſs? Said nothing to me: one took both my Hands, the other with a little Cord bound me very hard, inſomuch here yet is the dents of it; and bound my Feet, gagg'd me, and uſed me barbarouſly, moſt inhumanly: I muſt ſuffer it, becauſe I could not tell how to avoid it. When they had done, they told me this withal, You ſhall not loſe a Hair of your Head. I knew not their Intentions, I fear'd what it was, for when they had done this, they left me; I had no body could come to me in my Houſe, my Servants I knew not upon what grounds they were forth at Supper when I a-bed, which was of ill conſequence. After I had been an hour in this manner, I rolled myſelf out of my Bed, and fell down; and, ſaving your Lordſhips Preſence, a Chamber-pot fell, broke, and I fell upon it, and very much hurt myſelf upon the pieces of the Pot: and ſo with much ado, it pleaſed God, I know not how myſelf, I got to the Chamber-Window which lay to the Street; I called out, *Murder!* and *Thieves!* My Neighbours ſaid, I call'd with ſo ſtrong a Voice, they wondred to hear me. Quickly after, many of my Neighbours came in, and one Mr. *Peter Vanden-Anchor* a *Dutchman*, that ſelleth *Rheniſh* Wine, he came in and unbound me; and ſo after I was unbound, I went down to the Ware-houſe as I was, without Clothes about me, only my Waiſtcoat and Shirt, and ſaw that they had been there. I conſidered thoſe that had done the thing, were very privy to my Houſe; they knew where to fetch the Key of my Caſh, in a Drawing-Box, taking the Mony there, which was about One Thouſand and odd Pounds: ſome Plate there was they did not meddle with it.

Ld Ch. Juſt. *Hyde.* How came they by the Jewels?

Tryon. I forgot ſomething concerning ſome Jewels, theſe Jewels were in a Drawer under my Table in the Compting-houſe, he was privy to that, becauſe he did frequent my Houſe very long, and was very familiar.

Ld Ch. Juſt. *Hyde.* Who was privy to all this?

Tryon. James Turner.

Ld Ch. Juſt. *Hyde.* Mr. *Turner*, would you ask Mr. *Tryon* any Queſtions?

Turner. By and by, when I come upon my Proof.

William Hill, *Mr.* Tryon's *Man, ſworn.*

All that I can ſay, is this: When I went out, I locked the Door double, and thoſe things were there then.

Ld Ch. Juſt. *Hyde.* About what time?

Hill. Seven or Eight of the clock.

Ld Ch. Juſt. *Hyde.* Was he a-bed then?

Hill. Yes, my Lord. When I came home again, I found all theſe things gone: going down into the Compting-houſe, we found ſome Jewels gone, and ſome left, and thoſe were inconſiderable to thoſe that were gone; the beſt were cull'd and gone. On Saturday Col. *Turner* was arreſted with two Serjeants, and ſent the Boy at the *Hoop*-Tavern for me: I took two Friends with me, Mr. *Gurney* and Mr. *Pilkington*; he pray'd me to ſpeak to my Maſter that he would give Bond for him, that the Serjeants might diſcharge him, and he haſte about his buſineſs, or elſe it would be ſpoiled. Proceeding into ſome Diſcourſe, I was ſaying to him, it was a great Providence that I and the Maid was not then at home, for if we had, we ſhould have been killed. He anſwered, Saith he, No; they would only have bound you and the Maid. I asked him, how it was poſſible to get in? He anſwered, One went through the Entry in the day-time, and there lay till night, went up ſtairs, found a Candle, lit it, went up to his Chamber, took the Key, and went down and let in others.

Turner. This Story I was informed I told him.

Hill. I asked him how he came to know it? He ſaid he examined them.

Ld *Bridgman.* Did he never tamper with you about making Mr. *Tryon*'s Will?

Hill.

Hill. Yes, my Lord; he came to me about a Year ago, I went with him to the *Cock* behind the *Exchange*, it was in a morning, he took me privately aſide, told me the old Gentleman your Maſter is very ſickly, cannot live long, had a good Eſtate, or to that purpoſe, and it was pity he would never make a Will, and ſuch an Eſtate ſhould go to the building of *Paul's*. Saith he, I have preſs'd him ſeveral times touching making his Will; he ſaid he had done it, when we both knew he had not, and I believe he will not make one. He told of one that could counterfeit a Hand.

Ld *Bridgman.* Was it not *Grainger?*

Hill. Yes, my Lord; that that Man could counterfeit a Will, and I and Mr. *Garret*, and another Good-fellow ſhould be the three Executors, and a third Perſon Overſeer, and that would pleaſe the Old-man. I anſwered, I would not have to do in ſuch an unjuſt thing for all the world.

Ld Ch. Juſt. *Hyde.* Did you go to *Turner*'s to Supper that night this Robbery was committed?

Hill. No, my Lord, to Mr. *Starkey*'s in *Fanchurch-ſtreet*; the Maid went along with me.

Ld *Bridgman.* One Queſtion more: You ſaid you came in and found the Doors open, did you come in before the Neighbours?

Hill. No, my Lord, I had not known of it but that one Gentleman at Supper went home with a Gentlewoman in *Leadenhall-ſtreet*, and hearing there was ſuch a Robbery in *Lime-ſtreet*, I run with a great fright, came in and found the Doors open, and found the Neighbours within.

Turner. The thing underſtood touching the Will, hath another face: his Uncle was an Acquaintance of Mr. *Grainger*, his Uncle that bound him Apprentice, that lived in *Cripplegate*, now in *Cornhill*. This *Grainger* had counterfeited a Will touching my Lord *Gerrard*, and ſomebody elſe about an Eſtate. Said I to this young Man, You have an Uncle acquainted with a notable Fellow, one *Grainger*, and your Maſter making no Will (ſpeaking merrily) this Fellow is able to make it for him. Ask him if I did not tell him his Uncle was acquainted with ſuch a Perſon.

Hill. You told me ſo indeed.

Ld *Bridgman.* *Hill*, by the Oath you have taken, did he not perſuade you to endeavour that you and he and *Grainger* ſhould counterfeit a Will?

Hill. He did, my Lord: he told me, That I, Mr. *Garret*, and another Good-fellow, ſhould be the three Executors, and another Perſon Overſeer, and that this *Grainger* could do it undiſcernibly. I anſwered him, I would not meddle with it for all the world.

Turner. Go, go, go, this is Malice; for it was mere jeſting with him.

Elizabeth Fry *ſworn.*

Mrs. *Turner* came to my Houſe on Saturday morning laſt, at Six a-clock in the morning: ſhe knocked me out of my Bed. I asked, who was there? She ſaid, A Friend. Who are you, ſaid I? Come and ſee, ſays ſhe. I ſaid, Who, Mrs. *Turner?* She ſaid, Yes. I went and dreſſed me, and let her in. She ſaid, There was a Friend of hers, a Merchant newly broke, he had a Wife, and ſeven or eight Children; they deſired to ſecure the Money till they had taken their Oaths the Money was not in their Houſe. She ſaid, Her Husband and her Son *Ely* was coming with it. I went and lighted a Candle, there was ſhe and her Son *Ely* with the Money. She asked me, if I had a ſpare Cheſt? I ſaid, Yes, there was one within. She went in, opened the Cheſt, and ſhe put in the Wallets of Money, I know not how much, my Lord. I asked her if there was any more to come? She ſaid, Yes, her Husband was coming with more. She went to the door and let it in, but I know not who brought that.

Ld *Bridgman.* Did not Mr. *Turner* come in?

Fry. Yes, my Lord, he opened the Bags, and asked his Wife touching the Seals. She ſaid, the Gentlewoman that owned the Money had deſired me to pull them off. They offered me twenty Shillings for my Kindneſs in it, told me they had power to give it from the Gentlewoman; deſired me if my Siſter or any ſhould ask about it, bid me conceal it, becauſe the Diſcovery would ruin the poor Gentlewoman and her Children, but rather to ſay that they deſired me to let ſome Linen lie there.

Ld Ch. Juſt. *Hyde.* Were the Bags ſealed?

Fry. I ſee none ſealed.

Ld *Bridgman.* How many Wallets were in the Shop?

Fry. I ſaw but three, and they put one into a Cheſt in the Shop, and two in the Kitchin.

Ld Ch. Juſt. *Hyde.* At that time when the Money was brought, was there any diſcourſe of Eleven Hundred Pound?

Fry. To my beſt remembrance it was ſo.

Turner. Not a word of the Sum.

Fry. There was five Wallets brought into my Houſe, three in the Shop, two in the Kitchin.

Ld Ch. Juſt. *Hyde.* Had they Bags at each end?

Fry. Yes, my Lord.

Sir *T. Aleyn.* You hear what the Wench ſays; ſhe ſays, there was five Wallets, three in the Shop, two in the Kitchin: I took two in the Shop, and only one in the Kitchin.

Fry. My Lord, I have two Apprentices, little Girls, when all the People were in the Shop, ſaid out aloud, That they ſaw Mrs. *Turner* go out of the Shop with ſomething in her Apron, covered with a red Cloth, while I was above, my Lord.

Turner. Who ſhould convey it away?

Ld Ch. Juſt. *Hyde.* Your Son was there.

Turner. Pray, my Lord, ask her which is *Ely*.

Fry. That is, (pointing to *Ely*.)

Turner. It was falſe, this *Ely* carried none, the Boy knew nothing of it; both my Sons are dear to me, and if either more than the other, it muſt be my eldeſt, and yet I muſt ſay, it was *John* my eldeſt Son that carried the Money, this Boy was at home: ſhe hath forſworn herſelf.

Fry. Your Wife told me, that *Ely* was to bring ſome.

Mr. Gurnet *ſworn.*

My Lord, I met with Colonel *Turner* on Saturday Morning after the Robbery; he told me, ſays he, I have been as good as my word, I ſent my Son to make ſome diſcovery of this Buſineſs, and I did not doubt but to clear myſelf of it, and make a diſcovery: this was on the *Exchange*. Says he, I have met with them. With what? With the Jewels and Money. Where are they? I have brought Five Hundred Pound; the reſt, with the Jewels, I ſhall have at Three a-clock this Afternoon; will you be there? Yes, ſaid I, who were they? They were Friends. Friends! what and uſe him ſo barbarouſly! O, ſays he, they were two Strangers, they went beyond their Commiſſion.

Major

Major Ralph Tasker *sworn.*

On Saturday Morning I met Sir *Thomas Aleyn*; passing by, he called me; says he, there is a business in hand, pray go along with me. We went along through *Aldgate*, and into the *Minories*, and passing along the *Minories*, these two Maids we overtook, and asked them where the House was; they shew'd us, we went in, Mr. *Turner* was there, his Hand in the Chest, Sir *Tho. Aleyn* staid it: we seized the Money; there was two Bags of Buckram, I conceived there was Two Hundred Pound in either of them, and another in the Kitchin, Sir *Tho. Aleyn* desired me to secure them. I saw a Fellow play bo-peep in a Back-Room, and presently was a noise, he was fled and gone; his Son they said it was. Sir *Thomas Aleyn* pressed very hard to Mr. *Turner*, and desired to know whose Money that was. Says *Turner*, By the Eternal God it is my own Money, with many other Protestations. A Constable was sent for, and we carried the Money and *Turner* in a Hackney-Coach to Mr. *Tryon*, and there left the Money on a Table with Mr. *Tryon*: they had some discourse; *Turner* came forth and said, The old Gentleman and I are agreed, I will trust the Money no longer with you, but with the old Gentleman himself. Said I, let me be discharged of it, do what you will with it.

Ld *Bridgman.* Did you see the Bags out of the Wallets?

Sir *T. Aleyn.* We saw one which was sealed, I think, with the Bishop of *Chichester*'s Seal.

Ann Ball *sworn.*

On Saturday Morning Mrs. *Turner* came to this Maid's House, and desired to come in; she stept out of Bed, and asked who was there? she said, a Friend. She went to the door, and asked who was there? Mrs. *Turner* said, Open the door, and you shall see. Opening of it, she came in: who is it, Mrs. *Turner?* Yes, says she. What would you have? I have a little Money I would leave here: This she came and told me. She lighted a Candle, I saw Mr. *Turner* and his Wife come in, I heard a great noise and a quarter, I lay still, heard not what they said. When they were gone, the Maid told me what they had brought into the House. Said I, I thought it had been Pewter: said I, if you keep this Money, we shall be utterly undone, if you do not tell some People of it. She went to her Sister to make her acquainted with it.

Ld *Bridgman.* You saw Mr. *Turner* and his Wife come in?

Ball. I did, but knew not what they did there: she did go to her Sister, and so it came to Sir *Thomas Aleyn* by accident.

Ld *Bridgman.* Now for the Seal, who were those that saw the Seal?

Frederick Ixam *sworn.*

My Lord, and Gentlemen of the Jury, being at the House of Mr. *Tryon* on Saturday in the Evening, I was desired, with others there present, to see the Bags taken out of the several Wallets; three, I think. I saw them taken out, three had no Seals on, one was very much defaced, and the other had a Seal, which being questioned to be the Seal of the Bishop of *Chichester*, it was compared with the Seal of a Letter which Mr. *Tryon* brought down, and declared to be a Letter received from the Bishop of *Chichester*, and those two Seals agreed: the Bags being here in Court, will be a further Evidence. The Letter was produced by Mr. *Tryon*, and owned by him to be the Bishop of *Chichester*'s, and they agreed.

Mr. Hanson *the Goldsmith sworn.*

[The Bag sealed was shewn him.]

Ld *Bridgman.* Have you seen the Letter?

Hanson. Yes.

Ld *Bridgman.* Doth that Seal and the Seal of the Bag agree?

Hanson. Yes.

Ld *Bridgman.* Mr. *Tryon*, whose Letter was that?

Mr. *Tryon.* Dr. *Henry King*'s, Bishop of *Chichester.*

Ld *Bridgman.* Open the Letter, and see whether that be the Letter you received from the Bishop of *Chichester.*

Tryon. Shall I read it?

Ld *Bridgman.* No.

Tryon. It is his Hand and Seal.

Ld *Bridgman.* Shew the Bag and Letter to the Foreman of the Jury: [which was done, and most of the Jury view'd it.]

Ld *Bridgman.* You observe this Evidence; this was one of the Bags that was taken in the *Minories*, that Colonel *Turner* was then removing: Mr. *Tryon* had Six Hundred Pounds of the Bishop of *Chichester*'s in Bags sealed; it appears by the Letter to be his Seal, and these Gentlemen swear this was one of the Bags then pulled out of the Wallet, and Sir *T. A.* has had it in his custody since.

Ld Ch. Just. *Hyde.* One thing more observe, he asked his Wife when the Money was brought into this Woman's House, Have you taken off the Seals? His Wife said, The Gentlewoman directed her to take them off.

Ld *Bridgman.* Some were taken off, but it seems this was left on.

[*Here* Turner *spoke somewhat to the Jury.*]

Ld Ch. Just. *Hyde.* Pray Mr. *Turner* discourse not with the Jury, your whispering will do you little good: tho I think they are honest Men, and will not be guided by you, yet we expect the same Carriage from you as from other Prisoners; you shall have all the Justice that may be.

Cole *the Serjeant sworn.*

Ld Ch. Just. *Hyde.* Speak your Knowledge.

Cole. On Saturday in the Afternoon about Three a-clock, my Brother and I arrested Colonel *Turner* in an Action of Seven Hundred Pounds.

Ld Ch. Just. *Hyde.* At whose Suit?

Cole. At the Suit of *Thomas Lyon*, who with others was Bail for him.

Turner. It was only hearing of this Foolery that caused it.

Cole. My Lord, we went to the Hoop-Tavern, he sent for Mr. *Tryon*'s Man, that he should engage for this Account, that he might have his Liberty to look after Master *Tryon*'s Business. Soon after came the Constable, and he charged us to assist him to go before Sir *Thomas Aleyn*. By and by I was saying, Colonel *Turner*, how could this House be robb'd, and none of the Doors broke? O, said he, I took a Man in the *Minories*, who has discovered it to me: he told me, that one going into the Cellar in the day-time, lay there till night, then went up stairs, found a Candle and lit it,

went up to the old Gentleman's Chamber, took the Key from his Bed-side, and went down, and let all the reſt of the Thieves in. The Young-man being there, ſaid, It was well the Maid and I was not at home, we ſhould have been killed. No, ſays he, you would not have been killed, only bound.

Turner. As the Fellow told me.

Ld Ch. Juſt. *Hyde.* Did he not ſay nothing touching Mr. *Tryon*'s Tooth?

Cole. He ſaid, that the Fellow putting his Finger in his mouth to gagg him, the old Gentleman bit him; and he ſtruggling to get out his Finger, pull'd out his Tooth.

Ld Ch. Juſt. *Hyde.* You are very perfect at it, Mr. *Turner*, every way.

Turner. Ay, my Lord, I examined him every way.

Cole *the Yeoman ſworn.*

My Lord, I can ſay only what my Brother ſaid before.

Ld Ch. Juſt. *Hyde.* Tell it.

Cole. I arreſted him, *&c.* [And ſo related in the ſame manner his Brother did.]

Ld *Bridgman.* Mr. *Hill*, what do you know about breaking your own Desk?

Hill. My Desk was ſafe lock'd, and the Key in my pocket; I loſt out of that Desk about forty-five Pound of my own.

Ld *Bridgman.* Where did it ſtand?

Hill. Upon a Table in the Ware-houſe; the Jewels were in a Drawer under the Table in the Counting-houſe.

Ld *Bridgman.* How did you leave Mr. *Tryon*'s Door?

Hill. Double lock'd.

Ld *Bridgman.* Who had the Key?

Hill. I had.

Ld *Bridgman.* Was there more than one Key?

Hill. Always two.

Ld *Bridgman.* Who had the other?

Hill. The other Key was in my Maſter's Chamber.

Ld *Bridgman.* Mr. *Tryon*, how was your own Door open'd?

Tryon. I called ſome of my Neighbours, and Mr. *Vanden-Anchor* came up to me: it ſeems they had forced open the Door with a Crow of Iron.

Ld *Bridgman.* The Door of your Chamber, do you mean?

Tryon. No, the Street-Door.

Ld *Bridgman.* How was your Chamber-Door open'd?

Tryon. I never lock my Chamber-Door, but pull it to.

Ld Ch. Juſt. *Hyde.* Mr. *Hill*, the Counting-houſe where the Jewels were, was that lock'd?

Hill. Yes, and the Drawer I think was lock'd; ſometimes he does, and ſometimes he does not lock it.

Ld Ch. Juſt. *Hyde.* Was the Houſe-Doors open, or no?

Hill. Before I came, the Neighbours had broke open the Door.

Ld Ch. Juſt. *Hyde.* Mr. *Tryon*, were your Counting-houſe and Till, where the Jewels lay, lock'd?

Tryon. Ever, my Lord.

Ld Ch. Juſt. *Hyde.* That Night?

Tryon. Yes, my Lord.

Ld Ch. Juſt. *Hyde.* Was it opened with a Key, or broken open?

Tryon. I know not how it was opened, my Key was among a Bunch of Keys.

Peter Vanden-Anchor *ſworn.*

Ld *Bridgman.* When Mr. *Tryon* cry'd out, you came in, did not you?

Vanden-Anchor. Yes, my Lord.

Ld *Bridgman.* How did you find him?

Vanden-Anchor. I was lately come home, my Daughter heard a great Voice of Murder and Robberies: I went out, and ſome of the Neighbours were breaking open the Door, and I was the firſt that went into the Houſe; and ſo I went preſently up to Maſter *Tryon*'s Chamber, and found him bound with this Rope; and put it into my pocket, and ſearched about the Houſe, and ſeveral Neighbours came in.

Chaplain ſworn.

I was at the door with Maſter *Vanden-Anchor*, we went into the Ware-houſe and Counting-houſe, and all open, Caſh was taken away without any breaking. Says Maſter *Tryon*, All my Money is gone, a Thouſand and odd Pounds: ſeveral Pieces of Plate were there left. We went up with Maſter *Tryon*, and ſent for a Chirurgeon to dreſs his Thigh: By this time his Man came in; I asked him where he had been? ſays he, I have been at Colonel *Turner*'s at Supper. Where is the Maid? ſays he, She is fallen into a Swoon. Some Maids came home with her; I asked her where ſhe had been? ſhe ſaid, at one *Chamberlin*'s a Goldſmith's. Said I to her, The Man ſays one thing, and you another. A little after comes in Colonel *Turner*, with his Lanthorn, and his Hair turned up under a Cap, and there he made a great buſtle. I went to *Chamberlin*'s to inquire touching the Maid; he ſaid, they had been there with a Dancing-Maſter. I went to Maſter *Tryon*'s again: we asked him, who he thought bound him? he named one *Chriſtmas*, but I knew him not.

Lord Mayor. Did you not find any Door, that you obſerved, to be broken?

Chaplain. No, but all open'd with Keys.

Mr. Chriſtmas *ſworn.*

My Lord, I know little of the buſineſs. About Two a-clock on Friday Morning there comes a Conſtable and other People, and knock'd at my Ware-houſe Doors: the Man's Servant of the Houſe roſe up, and asked them who they would ſpeak with? they ſaid, they would ſpeak with one *Chriſtmas*. Hearing my Name, I roſe up, I asked what was the matter? They ſaid, they muſt have me to Maſter *Tryon*, he was robb'd. If he was, ſaid I, it doth not concern me. They told me, I muſt go to Maſter *Tryon*. I ſaid, he was not a civil Man to ſend for any at this time of night out of their Beds. Then another Conſtable came, and ſaid he would break open the Doors. Said I, I am not afraid to come to you, I am not the Man you take me to be. Nothing would ſatisfy, but I muſt go; I told them I would: and then they took me into their charge, and carried me to the *Exchange*.

Ld Ch. Juſt. *Hyde*, Who beſides the Conſtable?

Chriſtmas. Two Young-men that I know, one *Bagnall*'s Man, and *Browning*'s Man: they told the Conſtable, I was a Man of Repute, and an honeſt Man, and my Word would be taken at the *Exchange* for many hundred Pounds. After that, they intended to carry me to Maſter *Tryon*; and the Conſtable

ſtable of *Broadſtreet* carry'd me to the Counter: There I was till Ten a-clock, and then the Conſtable and *Turner* came to me. *Turner* asked me, what Juſtice I would go before: I told him, it was indifferent to me; Sir *John Frederick*, or the next, Sir *Richard Brown*, or before Sir *Thomas Aleyn*, Sir *John Robinſon*, all one to me whom I go before; but I think it moſt convenient to go before Sir *Thomas Adams*, becauſe he lives in the ſame Pariſh with Mr. *Tryon*. We went there, and no Man charging me, Sir *Thomas* diſcharged me, but deſired me I would go over to Mr. *Tryon*.

Ld *Bridgman*. I obſerve this Gentleman was of a pretty Bulk, ſomewhat corpulent, and ſo is Mr. *Turner*.

Turner. My Lord, I humbly beg I may have a Stool to ſit down, I am troubled with the Gout.

Ld *Bridgman*. You may have one.

Mr. Millington *ſworn*.

My Lord, I came to Mr. *Tryon*'s on Saturday in the Afternoon, about the Evening; and being ſent for to come with Mr. *Turner*, he told me of the Arreſt that was made upon him, and ſaid, that he ſhould not comply with his words, in bringing the Jewels and Remainder of the Money. He deſired me I would go and intercede, that he might have his liberty to go about the Jewels: but I did not think it convenient to make myſelf concerned in it. He alledged, that if he did it not preſently, the Thief would be gone. It was hinted, that they that were with him, might go along with him, the Marſhal and Serjeants: He ſaid, if ſo many came, they would fright him away; for he ſaid, he was walking about *Tower-Hill* or *White Chappel*. But it was deny'd, and could not be granted that they ſhould go, it being out of their Liberties. He deſired to go near thoſe places, keeping within the Liberties, and to ſend for them. Sir *Thomas Aleyn* told him, he might as well ſend for them thither. He deſired to go to the *Hoop*-Tavern, and then ſome went with him to his Houſe: his Wife was private with him behind a Partition; then he came out, and ſpoke publickly to his Wife, ſays he, There is a Man will be walking all alone, either at *White-Chappel*, or on *Tower-Hill*, do you go there; if he ſees you, he will ask you whether you want any thing, and will deliver you what I told you. We went to the *Hoop*-Tavern again, and about two hours after, the Jewels were brought by his Wife. That being done, we went to Mr. *Tryon*'s, Mr. *Turner* carried the Jewels; being at Mr. *Tryon*'s, the Jewels were there opened: we found by peruſal, that there was only a Carcanet Jewel wanting, of the Value of about Two Hundred Pounds; and Mrs. *Turner* ſaid, the Man told her, that that Carcanet was fallen behind a Cheſt, but did not doubt to procure it to-morrow. Afterwards Sir *Thomas Aleyn* told him, now he could do no leſs than commit him to *Newgate*. Mr. *Turner* told him, then he had better have kept the Jewels. The Remainder of the Money being asked for, he ſaid he would be bound for it.

Mr. Mannock *ſworn*.

Ld *Bridgman*. What Diſcourſe paſſed between you and Mr. *Turner* at *Newgate*?

Mannock. My Lord, he told me Mr. *Tryon* was to give him 500 *l.* to get the Jewels and Money, and that he had got him 500 *l.* and moſt of the Jewels; and that if Sir *Thomas Aleyn* had not ſecured him, he did believe that he ſhould have had them all: but *Newgate* was not a place to find them out.

Ld *Bridgman*. Did he tell you of bringing any Money from his own Houſe? that the 500 *l.* he delivered Mr. *Tryon*, was procured from his own Houſe?

Mannock. He did tell me ſo, my Lord.

Turner. My Lord, I own it, I ſhall unfold the Riddle by and by.

Sir Thomas Chamberlain *ſworn*.

Ld Ch. Juſt. *Hyde*. What know you, Sir *Thomas*, of this buſineſs? Pray let the Jury hear you.

Sir *Thomas Chamberlain*. My Lord, on Friday Morning I was at the *Eaſt-India* Houſe, keeping Court there for that Company; afterwards I went to the *Exchange*, and being tired, I called in at the Coffee-houſe, and there heard that Mr. *Tryon* was robb'd. I went directly home, and dined: About Three a-clock I went to Mr. *Tryon*'s Houſe, an old Friend of mine, my Father's Servant heretofore, I went to viſit him, and found a great many People about him; Sir *Thomas Aleyn*, Lady *Garret*, and the Counteſs of *Carliſle* was there. I told him, Mr. *Tryon*, I underſtand you have been robb'd. Yes, ſays he, I have a great loſs. I found him very ſtaggering what he ſhould do. I ſaid, you muſt now do like a Man, or you will loſe all; ſaid I to Sir *Thomas Aleyn*, If you do not help the poor Man, being antient, he will quite loſe all. With that I went up above in the Houſe, Sir *Thomas Aleyn* was pleaſed to call me along with him, I was by at all the Examinations; I did miſtruſt, and told Mr. *Tryon* in *French*, that no doubt but that Gentleman was in the Robbery: the reaſon was, that he being a frequent Man in the Houſe, knew every thing; he was there continually, coming for Jewels and things, and no Man could do it but himſelf; that was my Judgment. I told Sir *Thomas Aleyn*, aſſuredly he had a hand in it. My Lord, the while we were examining the Servants, word was brought in, that he was harkning at the Door, and in the Yards, which made me more and more miſtruſt him. We heard that the Maid had been gadding abroad ſeveral times; I deſired Sir *Thomas Aleyn* to examine the Maid how often ſhe had ſupp'd at *Turner*'s, ſhe denied any time. The Young-man was examined, who ſaid, they had been thirty or forty times feaſted at Colonel *Turner*'s. My Lord, Sir *Tho. Aleyn* has given you a juſt Account, but he omitted one thing: he had a Note ſent him, which he had in his pocket, touching Mr. *Turner*'s going about Removal of the Money into the *Minories*; and before *Turner* came in, he examined Miſtreſs *Turner* upon that Note: ſays he, you were there too, and carried the Money. Says ſhe, She is a Lyar and a Whore for ſaying ſo. Col. *Turner* came in and ſaid, Why do you torment and vex my Wife? and falling a curſing, and ſwearing, and banning, ſaid ſhe was with child, you will make her miſcarry, let her alone. Sir *Tho. Aleyn* examined him where he had been that day, and that night; he told him of many Taverns, and going to ſee his Horſe, and I know not what, but we found him faultering. When the Jewels were brought, there being two Notes, Sir *Thomas Aleyn* had one, and I another. The old Gentleman was ſo joyful to ſee them again, that lying by him, and handling them, he pull'd two or three down with his ſleeve. Says Mr. *Turner*, Come, I know what belongs to them better than any of you, and read them over, and I will ſhew them

them you. There wanting one Jewel, says he, That Rogue that has the other Money, hath this Jewel, but I do not doubt but I shall find that out too. We put them all together, and Sir *Thomas Aleyn* sealed them with his Seal. For the Bags of Money, I saw them taken out, and one being sealed with a small Seal, I put on both my Spectacles, I found a Lion Rampant at top in one of the Quarters; said I, This is a Seal of some great Person: And then a Letter was brought down, and being compared, I was satisfied in my Conscience they were alike. Sir *Thomas Aleyn* told him he must make a Mittimus for him and his Wife: said she, Do you send me of your Errands? you shall send somebody else another time; I thought it would come to this. After much ranting and swearing (I thought the Devil would have fetch'd him out of the Room) he said, that he had better have kept the Jewels, than to bring them forth, and to suffer for it himself, for he had pawned his Soul, and would not reveal it; and said, that Mr. *Tryon* had likewise engaged the like to him. For the Six Hundred Pound, he offered his Bond.

Lord Mayor. Pray repeat one part of your Evidence again; that was, that somebody came to Mr. *Tryon*'s House, from the House in the *Minories*, charging Mrs. *Turner* to have been at that House.

Sir *T. Chamberlain.* I said, that before *Turner* came in with the Jewels, Sir *Thomas Aleyn* had received a little Note, wherein was affirmed, that *Turner* and his Wife had been there; with which she was acquainted, and swore and took on, she was a Whore, for she was not there.

Sir *T. Aleyn.* When I examined Mrs. *Turner*, she would own nothing. Why, said I, will you deny this which is so apparent? That you were there (the Maid told you so now) you deny'd it when I charged you with it.

Mrs. *Turner.* I did not, it's false; what did——

Turner. Prithee be patient, dear *Mal*, come sit thee down.

Sir *T. Aleyn.* I asked Mrs. *Turner* whether she knew of any Money carried to the *Minories* that day; she said, she knew of no Money at all, and said she was a Whore that said it.

Mrs. *Turner.* They put it to me, that I knew who brought the Money to my House, and that a Woman acquainted them so; I said she was a lying Whore that said so.

Ld Ch. Just. *Bridgman.* Mr. *Hill*, what time of night did you go out that night?

Hill. It was Seven or Eight a-clock.

Ld Ch. Just. *Bridgman.* Was the Door lock'd?

Hill. Yes.

Ld Ch. Just. *Bridgman.* Did you carry the Key with you?

Hill. Yes.

Ld Ch. Just. *Bridgman.* Was there any more Keys?

Hill. There was another above in the Chamber by my Master's Bed.

Ld Ch. Just. *Bridgman.* Did you find that other Key when you came back?

Hill. Yes.

Ld Ch. Just. *Bridgman.* In the same place?

Hill. I know not that.

Ld Ch. Just. *Bridgman.* Mr. *Hill*, you have been acquainted with some Transactions between Mr. *Tryon* and *Turner*; was he not employ'd about a Mortgage?

Hill. Two or three.

Ld Ch. Just. *Bridgman.* Was not the Names of some Persons given to you to that purpose?

Hill. We have two or three Mortgages my Master lent him so much Money upon: We heard of one Man, but whether he gave order to Mr. *Turner* to take so much Money upon the Land, we know not.

Ld Ch. Just. *Bridgman.* Mr. *Tryon*, have you inquired after the Persons?

Tryon. No, my Lord; I did believe all was true.

Garret. I have inquired after Sir *Theophilus Gilpin*, but cannot find that he has any Estate in *England*.

Turner. My Lord, *Gilpin* only assigns a Judgment of *Wescott*'s.

Ld Ch. Just. *Bridgman.* Then if *Wescott* be good, it is sufficient; you should inquire after him.

Sir *T. Aleyn.* My Lord, *John Turner*, his Son there, fled away from me, when I came to the House in the *Minories*.

Ld Ch. Just. *Bridgman.* Why did you fly away?

John Turner. I did not, Sir.

Sir *T. Aleyn.* No! You ran away as fast as you could; you got over a Ditch.

John Turner. My Lord, a Woman cry'd out, *Get away and save your Life!* And I not knowing what the matter was, I went away.

Col. *Turner.* Poor Boy! he thought Thieves had been coming, and affrighted him.

Sir *T. Aleyn.* As to *Ely Turner*, I examined him upon the Sunday, the day after his Father was committed; he would not confess the carrying of any Money, and the Maid swearing it, I committed him also.

Col. *Turner.* What's that of *Ely?* Upon my Soul, the Boy carried none.

John Turner. I carried what was carried.

Col. *Turner.* My Lord, one Son is as dear to me as the other, but if either be more, it must be my eldest; but yet I must say, it was *John* my eldest Son that carried the Money.

Sir *T. Aleyn.* My Lord, *William Turner* was brought before me on Tuesday or Wednesday: Sir *Richard Brown* sent out his Warrant for him, being a Person of evil Name, and likely to do such a Fact; being taken, he was brought before me. My Lord, when Mr. *Tryon* looked upon him, he suspected him: I examined him when he saw Col. *Turner*; he said, not these three Years, not to speak to him; and yet one at the *Cock* behind the *Exchange* said, this *William Turner* staid for Col. *Turner* at his House two hours; that Col. *Turner* came in, paid for the Pot of Drink, and for ought he knew they both went together: thereupon I committed him.

In the Afternoon I ordered this Person to send his Servant; one came and made Oath that he came in, and inquired for Col. *Turner*, asked for him, staid two hours for him; that they went both out of the House together: and this was on the Wednesday, the day before the Robbery.

William Dawes *sworn.*

All that I can say, is this: *William Turner* was at my House on Wednesday was seven-night last; comes in, and called for a Flaggon of Beer; there comes in a Customer of mine, says he to me, What do you with such a Fellow in your House? Have a care of him, he is a dangerous Fellow. Presently after Col. *Turner* came in, and paid for a Flaggon of Beer, and went away.

Col. *Turner.* I drank not with him, did I?

Dawes. Not that I saw.

Ld

Ld Ch. Juſt. *Bridgman.* Sir *Thomas Aleyn*, did not this *William Turner* deny that he had ſeen Col. *Turner* lately?

Sir *T. Aleyn.* He ſaid poſitively he had not ſeen him theſe three Years, ſo as to ſpeak to him; ſaid, he was grown too high for him.

John Rouſe (Dawes's *Servant*) *ſworn.*

Ld Ch. Juſt. *Bridgman.* Do you remember when *Will. Turner* was at your Maſter's Houſe? Which is he?

Rowſe. That's he (pointing to *William*) he was there upon Wedneſday the 6th of this Month.

Ld Ch. Juſt. *Hyde.* Did *James* (called Colonel) *Turner* come there then?

Rowſe. William came, and ſaid he ſtaid for the Colonel; and by and by the Colonel came.

Ld Ch. Juſt. *Hyde.* When he came, what did they?

Rowſe. He went to the Bar, and paid the Reckoning.

Ld Ch. Juſt. *Hyde.* What time of the day?

Rowſe. About Twelve or One a-clock.

Ld Ch. Juſt. *Bridgman.* Did you ever ſee them both there before?

Rowſe. No, I never ſee them together before, but ſeveral others have inquired for Col. *Turner* at our Houſe.

Ld Ch. Juſt. *Hyde.* By the Oath you have taken, did *William Turner* ſay he ſtaid for Col. *Turner*, and that after Col. *Turner* came, he paid for the Drink, and they both went away together, and this on the Wedneſday?

Rowſe. Yes, Sir, it was ſo.

Col. *Turner.* My Lord, I left him there; he follow'd me to the *Exchange* about his Arrears, as twenty poor Gentlemen do.

Mr. Garret, *Mr.* Watcher, *Mr.* Pilkinton, *and Mr.* Peter Cully, *ſworn.*

Mr. *Cully.* My Lord, and Gentlemen of the Jury, I was at Mr. *Tryon*'s this day ſeven-night; as I came from him, I met Sir *Thomas Aleyn*, Col. *Turner*, and Major *Tasker* coming up ſtairs: they asked who was there with Mr. *Tryon?* I told them nobody. *Turner* deſired earneſtly they would ſtay a little; for (ſays he) before God you will ſpoil all the buſineſs by and by. After he had been a little time with Mr. *Tryon*, he comes forth again, he takes up the Bags of Money, ſays he, theſe belong to me, this is not Mr. *Tryon*'s Money: he carries it to the old Gentleman; he comes into the Room, ſays he, Gentlemen you may be all gone, the old Gentleman is ſatisfied, his Money and Jewels ſhall be forth-coming by Five a-clock this Night; Perſons of Quality are concerned in the buſineſs, and the old Gentleman will not proſecute. I asked Col. *Turner*, why was the Money carried from your Houſe to the *Minories?* He ſaid there was none, and did affirm it with an Oath. When the Bags were taken out of the Wallets, upon comparing of a Seal of one of the Bags with the Seal of a Letter produced, I found them the ſame. That's all I can ſay.

Mr. *Watcher.* My Lord, laſt Saturday between Twelve and One of the clock came Col. *Turner* on the *Exchange*, and ſaid that Mr. *Tryon* ſhould have all his Money and Jewels by Three of the clock that Afternoon; and if any Man could ſay, that he loſt Sixpence of his Money, or Sixpenny-worth of his Jewels, he had two Fellows in cuſtody that ſhould ſuffer for it. And asking him why the Money was that Morning removed from his Houſe to the *Minories*, he ſaid with a great Oath, the Money was never in his Houſe.

Mr. *Garret.* When Col. *Turner* brought home the Money, he took up one of the Wallets, and ſaid, Jack *take notice this is my Money.*

Ld Ch. Juſt. *Hyde.* Where was this?

Garret. In my Couſin *Tryon*'s Houſe; and that he only left it with my Couſin *Tryon.* When we looked over this Money in the Evening, we found that Seal that this Gentleman (pointing to Mr. *Cully*) hath ſpoke of; it was a little defaced, but yet apparent enough.

Turner. I did ſay ſo, my Lord; he ſpeaks Truth.

Mr. Pilkinton *ſworn.*

I can ſay no more than hath been ſaid already: I ſhall repeat it. Being at the *Hoop*-Tavern with Mr. *Tryon*'s Man, and others, with the Officers, we were diſcourſing of his Robbery; and I was ſaying, That I admired, he being ſo antient a Gentleman, they would uſe him ſo barbarouſly as hath been related. Said Colonel *Turner*, In that they went beyond their Commiſſion, they had no Order for it. And being asked how they got into the Houſe, he ſaid one got into the Cellar in the Day-time: [And ſo related it in the ſame manner as ſeveral Witneſſes before.] Being asked how his Tooth came to be beaten out? Says he, It was not with a Blow; but the Man's Finger being in his Mouth, he cloſed his Teeth, and ſtruggling to get out his Finger, his Knuckle thruſt out the Tooth. And then Mr. *Tryon*'s Man ſaying, If he and the Maid had been at home, they ſhould have been killed: No, ſaid *Turner*, you would only have been bound.

Ld Ch. Juſt. *Hyde.* Now Mr. *Turner* you have heard your Charge; you will do well to make an Anſwer to it; you ſee what is laid to your Charge.

Turner. Ay, my Lord: I ſhall clear it all, every Syllable of it.

Mr. Martin's *Coachman was called, and ſworn.*

Ld Ch. Juſt. *Bridgman.* Tell the Jury what you know: Did you ſee any People about Mr. *Tryon*'s Houſe upon Thurſday Night?

Coachman. I did, my Lord: I was come by from the Playhouſe with my Coach; I ſaw four Men, two on one Side of the Door, and two on the other Side; every one had a Handkerchief tied about his Neck, and every one of them had a good Cudgel in his Hand.

Ld Ch. Juſt. *Bridgman.* What Time a-night was that?

Coachman. About Eight or Nine a-clock at Night.

Lord Mayor. Was their Faces turned towards Mr. *Tryon*'s Door, as if they were to go in, or to knock?

Coachman. No, Sir, two ſtood towards *Fenchurch-Street*, and two ſtood toward *Leaden-Hall-Street.* I did ſuſpect ſuch a Buſineſs; for they pulled down their Hats over their Faces.

Ld Ch. Juſt. *Hyde.* What kind of Cudgels had they?

Coachman. Sticks ſomewhat bigger then Walking-Staves.

Mr. *Tryon*, looking upon *William Turner* at the Bar, ſaid, This Man, whoſe Name is (as I underſtand) *William Turner*, I do ſuppoſe to be one of

the two that was in my Chamber at the Bed's-side, and that indeed did strike out my Tooth. I asked him, Why do you use me so inhumanly, like a Beast, and not like a Man? I am quiet; what would you have? Says he, Be still, you shall not lose a Hair of your Head.

Ld Ch. Just. *Hyde.* You believe that to be the Man.

Tryon. I would be loth to charge him; but he is as like him as any ever I saw.

Ld Ch. Just. *Hyde.* Had they either Vizors or Masks on?

Tryon. Nothing, my Lord; bare-faced. One said to the other, It's but past Eleven of the clock; else I had not known it: I was asleep, with Surprize amazed, being an antient weak Man.

Ld Ch. Just. *Hyde.* As near as you can conjecture, is that the Man?

Tryon. Yes, both of Face and Pitch.

Lord Mayor. Mr. *Tryon*, did you observe those Persons that were at your Bed-side, whether they had Handkerchiefs or Crevats about their Necks?

Tryon. My Lord, I did not take notice of that; I do not remember it.

Ld Ch. Just. *Hyde.* You hear your Indictment: That you, and *William*, and *John*, are indicted for the Felony and Burglary, for breaking and entring into the House of Mr. *Francis Tryon*, and stealing the particular Goods and Money, as you have heard: I would propose this to you, to make your Defence touching your Charge: Which is, first, that you and *William* met the Day before; he came in first, and said he staid there till you came; you came, and paid the reckoning, and went away: You two were together the Day before; what your Business was, you can better tell than I. The Night he was robbed, his Servant being gone, the Door was double locked: You knew all the private Places, where the Keys lay, all the Rooms wherein Cash, Jewels, where every thing was: And it was not possible this Burglary could be committed but by one that knew those Things.

Turner. There are about twenty People that knew as much as I; his Servants, and such as had been his Servants.

Ld Ch. Just. *Hyde.* It falls out that the self-same Night after this House was robbed in the Morning early, you, your Wife, and Son, go to remove store of Money out of your House.

Turner. It was two Nights after the Robbery: Pardon me, my dear Lord.

Ld Ch. Just. *Hyde.* When you carry this, you go with a false Story, That a Merchant was broke, and you must needs have some of the Money for his Wife and eight Children; and this Money was to be set aside for them. ——

Turner. It was so, my good Lord. ——

Ld Ch. Just. *Hyde.* You will do well to hold your peace a while: Your Wife and you disowned you removed any Money; yet afterwards, when the Money was brought there, and taken upon Suspicion, (you taken in the very Place removing the Money) you owned it to be your own: That then it appeared that one of those Bags was sealed with the Bishop of *Chichester*'s Seal; and at the Time of the Burglary, there was 600 *l.* in Bags left with Mr. *Tryon*, sealed with the said Seal; and one of those Bags you brought back was taken with you, and owned to be your own, and had the same Seals. That's proved by four or five Witnesses, compared with the Seal of a Letter of the Bishop. Your Son, on their coming thither, he takes footing, and leaps over the Ditch to escape, which is a good just Ground of Suspicion that he is guilty of somewhat that he would not abide to answer. Your self and Wife take upon you to know every Thing: You know how the Usage was; that there was a purpose they should not be killed; that he was gagged; that they exceeded their Commission; if the Man and Maid had been at home, they should have been but bound. All Particulars you take upon you to know, and to confess the whole and the manner of it; nay, tell the Story how they came in. ——

Turner. As I was informed. ——

Ld Ch. Just. *Hyde.* Lay all this together, unless you answer it, all the World must conclude that you are one that did this Robbery.

Turner. I shall answer it; and I hope to give all the World Satisfaction. Pray call

Mr. *Vandeputt*,
Mr. *Covell*,
Mr. *Esnow*,
Mr. *Cook*,
My Maid,
And the Lord Marquis of *Dorchester*'s Servant.

Ld Ch. Just. *Hyde.* Tell us to what purpose.

Turner. To clear every Particular.

Ld Ch. Just. *Hyde.* Open it.

Turner. I shall first prove that upon Thursday Night, the Time of this supposed Burglary, that my self, my Wife, and all my Family, were in Bed, fast asleep, and innocent, not knowing any thing of this Business. This I shall prove; if not, let me hang and all my Family.

Ld Ch. Just. *Bridgman.* All this may be true, and yet this not to the purpose.

Turner. Then I cannot be guilty of the Burglary.

Ld Ch. Just. *Bridgman.* If you will lay and plot such a Robbery, though you are not there, yet you are guilty of it; for it is ordinary that the main Setter will not be present at such Times, but will be then in Bed, that People may take notice thereof. But satisfy the Court by what Means you came by this Money and Jewels, and then call your Witnesses.

Turner. I shall go on by degrees, and certify the whole.

Ld Ch. Just. *Hyde.* My Lord *Bridgman* hath put you upon the right Business: Do that in the first place; make it appear how you came to know so exactly the whole Carriage of this Business, and how you came by the Money and Jewels.

Turner. I shall do it, my Lord. The Constable coming for me, by Direction of Mr. *Tryon*, to assist him, I came to him; saith he, Some Villains have been here, and have robbed me this Night; which made me weep. Said I, These are wicked People: I gave you notice how you should have been robbed about a Year since; but that was prevented. And saith Mr. *Tryon*, For God's sake assist me in this, and I shall be thankful to you. Sir, said I, did you see the Faces of them? Said he, It run in my Mind very strongly that one of them is *Christmas*. Said I, Who is he? Saith he, 'Twas *Hanson* the Grocer's Man. I know *Hanson*, said I. *Mosely*, go and knock up *Hanson*, and know where *Christmas* is, and bring him to Mr. *Tryon*. *Mosely* took two or three Men, and went to *Thomas Hanson*, in *Mark-Lane*, and there found at a Bricklayer's House where *Christmas* lay: He was a little refractory to rise. Another Constable coming, he came down; and then they sent *Christmas* to the *Compter*. *Mosely* came and told us he was in the *Compter*. I sat with Mr. *Tryon* that Night. But, my Lord, pray observe how

how my Name came into queſtion: The young Man and Maid being out, came home late, the Conſtable was there then: Friends, ſaith he, where have you been? Saith he, I have been at Colonel *Turner's* at Supper; which was a notorious Lye, and brought me here in queſtion; God forgive him for it. Away comes the Conſtable, by Direction of Mr. *Tryon*, and *Hill's* Lye together. He came to my Houſe; we were all aſleep. I aroſe, and asked, Who is there? It is I, ſaid Mr. *Moſely*: Mr. *Tryon* is robbed; pray come down. I came down, and opened my Door. Saith he, Was Mr. *Tryon's* Man and Maid here at Supper? When? ſaid I. To-night, ſaid he. I have had no Suppers theſe nine Months, ſaid I: This *William* is a very Rogue. Whereupon the Conſtable replied, Are your Sons within? Yes, in Bed theſe two Hours. Do you ſuſpect any thing by my Sons? He went and looked, and ſaw my Wife, he finds my Sons faſt aſleep; the one indeed was awake. Pray, ſaid I, ſee that you know them again. Upon my Honour, my Lord, this (pointing to *Ely*) was aſleep.

Ld Ch. Juſt. *Hyde*. Upon your Honour, Sir! pray ſpeak by your Honeſty.

Turner. *Lapſus Linguæ*, my Lord: It is my uſual Phraſe. I hope I ſhall appear to be a good Man. This Child was awake: He ſaw the Maid, my Daughters; ſearched every Room, ſearched every Place that was to be imagined to be ſearched. Saith the Conſtable, I am very glad that your Servants, your Children, and you are in this Condition: I will acquaint Mr. *Tryon* what a Rogue this *Hill* is, how he hath belyed you. Nay, ſaid I, pray take me with you; and ſo I went with my Hair put under my Cap. When I came to Mr. *Tryon's*, I asked him who had been there? Pardon me, my dear Lord, if I were guilty, I ſhould not ſpeak any thing to excuſe it. When I had underſtood this, I gave the Conſtable five Shillings, and deſired him to ſearch about this Buſineſs. I went to Mr. *George Day* the Goldſmith, and gave him a Note of thoſe Things, to be printed, that they ſaid they had loſt. Friday came; and at Night Sir *Thomas Aleyn* was pleaſed to argue it with me. I told him and the Gentleman theſe muſt be ſome Rogues that know the Houſe; which put me in mind of a former Crew that was to rob him a Year ſince.

Ld Ch. Juſt. *Bridgman*. He would be glad you would ſpeak to the purpoſe.

Turner. I did charge the Conſtable and Mr. *Pilkinton* that they would get up before Day; and that they would go to ſuch and ſuch Places, where the Conſtable and I had privately ſpoken of, to *Ratcliff*, or *Ratcliff-Croſs*. The Conſtable and Mr. *Tryon's* Man had been there; but the Man and his Wife was gone into *London*: But afterwards, by Inquiry, the Boy ſaid they were gone into *Hertfordſhire* a Week before. This Boy is in two Tales: Here is ſome, pray God theſe People be honeſt.

Ld Ch. Juſt. *Bridgman*. Go on.

Turner. Your Honour's Servant, my Lord. Afterwards I went beyond the little Poſtern between the two *Tower-Hills*, near the *Tower-Ditch*: There is one *John Wild*, who had been formerly here in *Newgate*; he ſhould have been tranſported. This Fellow coming into my Mind, I having before been to take him in *Eaſt-Smithfield*, I had News he uſed *White-Chappel*, *Eaſt-Smithfield*, and *Tower-Hill*, and had Lodgings by the *Blue-Boar* by the little Poſtern, and at *Noah's-Ark*, and at the *Lion in the Wood*, the Corner-houſe at *Tower-Ditch*. This Houſe about *Tower-Ditch* and the *Nag's-Head* at *White-Chappel* were the two Places where I found thoſe Perſons about a Twelvemonth ſince, that ſhould have robbed him. Going now from Houſe to Houſe, I paſſed a Fellow in Black, in a large Coat, ſuch another Man as this, (pointing at one that ſtood by:) He was in a black Looſe Coat, and he was trimmed with Ribband at the Knees. This Perſon I paſſed him, and he paſſed me; and then I out-went him: And meeting him on the other Side, I was confirmed it muſt be one of theſe Fellows I looked for, one *Wild* or *White*. Paſſing the ſecond time, I ran to him, thruſting to him. What mean you, Sir? ſaid he. Said I, I mean to lay flat Felony to your Charge: Do not you know me? No, ſaid he, with a great Oath. Then I know you. Who is it, Colonel *Turner?* ſaid he. I ſaid, Ay. Saith he, What do you mean? Said I, Mr. *Tryon's* Houſe was robbed, and you are the Perſon that I will lay flat Felony to; you ſhould have been one of them that were to rob him a Year ſince, when Colonel *Aſhton* betrayed you all. He began with ſome hard Oaths: Be quick, ſaid I, I will call out; you are an undone Man; I will lay this Felony to you.

Ld Ch. Juſt. *Bridgman*. What Night was this?

Turner. The Friday Night following, about Twelve a-clock at Night. I ſhifted my Hold from his Collar to the Waiſtband of his Breeches: I thought I had him ſecure. Said I, *Wild*, do not deceive your ſelf, play not the Fool; if you will ſave your Life, let me ſee where thoſe Goods and Moneys are, elſe you will go to pot. Saith he, Pray ſpeak lower; we ſhall be heard. Well, I will ſpeak lower. We walked to the Hill. I had faſt hold of his Breeches all this while; and yet I was afraid he might have ſome Dagger, and ſtab me: Said I, Be brief, you are not alone; either reſolve me, or I will call out. Then I will tell you, ſaith he: Colonel *Turner*, I underſtand you are a Perſon of Honour, and a Gentleman that will keep your Word; and if you will upon a ſerious Vow and Promiſe ſave my Life, I will unfold the Buſineſs: But if you will not, with a great Oath, ſaith he, you ſhall hang me, and loſe all the Jewels. Said I, What will you have of me? Saith he, You ſhall ſwear to me, *That by the Blood of that Jeſus Chriſt that died for you, and I, and all Sinners, that I ſhall have my Life free, in caſe I diſcover the Thing to you*; and then I will tell you more: If you will not, I will tell you nothing, do with me what you will. Saith I, *Wild*, I ſhall ſtand with you ſo long, that I ſhall have my Throat cut. Upon my Salvation, ſaith he, ſtooping down upon his Knees, ſaith he, Let me never riſe up, if I am not juſt to you; and not a Hair of your Head ſhall be touched. Said I, Come, ſtand up: I do declare to you that I will endeavour with old Mr. *Tryon*: Tell me where the Things are. They are not far off. Where are they? They are at two Places: But do you ſwear to me. He did, in ſhort, make me ſay the ſame Words that I have repeated, and that I would get Mr. *Tryon* to engage himſelf too by the ſame Oath I did ſwear to him; thinking my Life in danger, and thinking my Friend's Goods likely to be loſt; and did and do intend by the Help of God to make good my Oath. Saith he, Walk with me. He whiſtled once, the ſecond time, and at a pretty diſtance a third time; and within a little while came another Fellow to him, at the further End, by the *Horſe-Shoe*-Tavern. He comes: Saith he, Art thou come, *Tom*? I think he called him *White*. Ay, ſaith he. What ſhall we do? We are all undone; my Face is known. But I have lit in the Hands of a Gentleman who will ſave my Life;

Life; but for you, he knows you not. Saith he, the Money must be returned; go and fetch that Money. Said I, Shall not I go with them? No, said he. And truly, my Lord, I was very glad to take him at his Word: If I had gone, I might have had my Throat cut. There was this 500 *l.* brought at twice, three and two. They went again, and brought, as I take it, two and one; so there was three and two, and two and one.

Ld Ch. Just. *Bridgman.* Who brought it?

Turner. *White.* All this while I had the Fellow by the Breeches, and would not part with him. It was from a little past Twelve till Four bringing, and was left on the Causey, and went away and fetched the other. This Fellow and I, all alone together, had this Discourse: Said I, What desperate Villains were you to go and use the old Gentleman in this manner, fourscore Years of Age: You beat and abused him; you are strange mad Fellows: Why could you not let him sleep in his Bed? he was asleep when you came in: You were the maddest Fellows that ever was. Saith he, Some of you have stabb'd him. I think you deserve ten thousand Deaths for laying your Hands on him, tho you did not take Six-penny worth of his Goods. Saith he, There was no Intention of hurting him: Upon my Soul there was no Order or Commission. Saith I, How got you in? Saith he, The Door stands open half a Day together, almost: One got into the Cellar, and stood till all was a-bed: He went into the Kitchin, found a Candle standing lighted, and went up into the old Gentleman's Chamber, and there he found the Key of the Door, came down, opened the Door, and let the rest in. How many was there of them? Saith he, Three or four. Said I, What did you do; and what would you have done? We would only have bound them. How got you the Treasure? By a Key out of the old Gentleman's Pocket: I think there is no hurt to the old Gentleman; I would not for all the World there should. You shall have the Things again: And pray keep your Word with me. About Four a-clock in the Morning they brought the Money. Now, said I, what shall we do with it? I can do nothing with it: You must carry it home to my House. These two Fellows carried one three, and the other two Bags.

We went through *Aldgate* with the Money, and so to my House: My Wife, nor Sons, nor no Soul, God is my Witness, knew any thing of this Business but my self. I knocked at the Door: This young Man (pointing to *John*) came down, and he unbolted, unlocked, and unlatched the Door. My Parlour and Kitchin is all of one Floor: They followed me in, and threw down the Money. He bringing the Candle to me; No, said I, do not bring it. Said I, *Wild*, what shall I do for the Jewels and the rest of the Money? You shall have them brought you where you will appoint to-day. I will have them brought hither. Saith he, That cannot be. I have forgot my self: This Money must not lie here; you must remove it from hence: For the other Youths that have the rest of the Money and Jewels, will never be brought into the City. If you will remove it into the *Minories*, my Life for it, you will have it all. I will pretend there we will share it. You must not let it lie at all, but carry it presently thither. I will tell what I will do: Have you any Acquaintance about *Tower-Hill*, where you will leave it? No, said he. Nor I neither, said I. I went up Stairs to my Wife; *Mall*, said I, have you any Acquaintance about the further *Tower-Hill*? I durst not trust my Wife nor Sons; for I thought their Tongues might be too long, and left them in perfect Ignorance: Truly, I must clear them. *Mall*, said I, there is a Gentlewoman, whose Husband is failed, (this was a feigned Story, my Lord) it must be secured about *Tower-Hill*: She was pretty well awake. Saith she, There is the Commissary-General of the King, his Daughter *Betty Fry* keeps a Shop of Linen at the lower End of the *Minories*. Do you think she will be private, and let it lie for four or five Hours? Undoubtedly she will, saith she. Prithee get up, and put on thy Clothes, and go thither. *Wild*, where shall I find you about Eight or Nine a-clock? I will lodge this at the Seamstress's Shop, upon the Right-hand at the farther End of the *Minories*: Tell me where I shall meet you, and we will have this Money carried there; my Son and I, we will have it lodged. Saith he, You shall have me walking within three Doors of the *Blue-Pig*; so he called it. Saith I, What mean you? Saith he, It is a little Sign, no bigger than a Pig, but it is called the *Blue-Boar*: There you shall have me walking in the under or upper Causey. My Lord, I took this Boy, (pointing to *John*) who knew nothing: I told him it was a Friend's Money. I raised my Wife: *Mall*, said I, come away. My Wife went before; the Boy and I took the Money: I carried two, and he three. My Wife went and knock'd up the Maid, the Door was open when we came; God forgive this Maid that swears it was this Son, she is mistaken, upon my Salvation this Boy was abed and asleep. When the Money was there, I staid by my Wife; said I, what have you done with this Money? I did not tell my Wife any thing. I came home; coming home, there was my Son and Wife. I drank a Cup of Syder, (for I kept a Hogshead of Syder in my House) as soon as I drank it, I went out of doors immediately: said I to this youngest Son, Stay at home, I shall have occasion to use you by and by. I went to Mr. *Tryon's*; coming there, I found Mr. *Gurney* the Merchant: said I, Mr. *Gurney*, I have Good News, I have some hopes of strong Presumptions, that Mr. *Tryon* will not lose one penny-worth of his Goods. Marry, said he, I am glad of that. We went up to Mr. *Tryon's*, we found him sitting by a little Charcoal Fire, as much as you may cover with your hands: he told us he had been up ever since Three of the clock. We asked him, what he would have to comfort him: he told us, he had something. Mr. *Gurney* after some discourse took his leave of him, so I sat down. (*Jesus! what a noise is here in the Court, my Lord! I can hear but with one Ear.*) I say, I sat down at the Bed-side of Mr. *Tryon*, he on the Stool: Mr. *Tryon*, said I, I have Good News for you. Saith he, Hast thou! I am glad of it with all my Soul. Sir, said I, I am informed you will not lose any of your Goods or Money, there is but thirty-eight Shillings spent of all your Money, the Rogues took but forty Shillings out, and *Wild* told me there was two Shillings saved: I dare boldly say, by Three of the clock in the Afternoon you will be master of them again. I would be glad of that, and will give you five hundred Pounds. But, Sir, said I, there is a Tale hangs by this: You know you should have been robbed about a Year since; and I have apprehended *Wild*, who was one of the intended Thieves. Then he hath made me swear, *By the Blood of Jesus Christ, &c.* that he shall have his Life, if you have your Goods: He hath engaged me that you shall likewise swear by the like Oath, or else you shall

hang him, and so lose your Goods. Said I, I have a great part of your Money, but the Jewels and the rest of your Money is wanting. The old Gentleman was almost overjoy'd: This is not true, said he. Said I, I do declare this is true in the presence of God, make no words of it; if the business be discovered, we shall lose the Jewels. Well, said he, I will be ruled by you, Colonel; and the Lord God make me thankful I have such a Friend in the world that hath done this for me, I shall never make you amends: and thereupon he entred into the same Oath, *That by the Blood*, &c. the Blood of the Man should not be spilt, tho he lost both Money and Jewels. I discoursed with him, I told him over and over again, left him satisfied that I would be with him again, and bring him more tidings, but by Three a-clock I doubted not but he should have all. Then it was almost Eight at Night; away went I to *Tower-Hill* to look my Merchant *John Wild*, he was here in *Newgate* formerly: there found I him walking by the *Blue-Boat*, carelesly walking there, with his Coat under his Arms. Said I, How now, what News? I think I have now pleased you, saith he. What have you done? said I. I have lodged the Money hard by, and all is right. What have you done? Is all right on the other side? All shall be well: but where have you lodg'd it? Here at a Seamstress's, at the corner of the *Minories*: said he, The Money must be removed, there are Salesmen thereabouts, and the Fellow that hath the Jewels he is known, he will not come thither; remove it towards the Water-side, any where, and the things shall come, my Life for it. They had a Cat's-Eye Ring, they were such wise Lapidaries, they called this a Hundred-Pound Ring, when it was not worth Five Pound. He gave order that the Money might be again removed to the other end by the *Horseshoe*-Tavern. I run home, fetch'd my Son; said I, Wife, we must have away the Money. My Lord, he told me he would have away the Money to the *Half-Moon* Tavern in *St. Katherine's*, or the corner Tavern at the *Iron-gate*; said I, Are not you resolved? Well, said he, it shall be carry'd to *St. Katherine's*, he would meet my Son at the *Noah's-Ark* at *Tower-Ditch*: let my Son but hand the Money over that Path, and he would hand it to the other. We did carry it, carry'd again. At his second carrying, comes Sir *Thomas Aleyn*, he had heard some Cry of Money left, he comes with a great Company of People after him, and the foolish Wench said to my Son, *Mr.* John, *fly for your Life.* *John* being surprized and affrighted, he went out of the Back-door, went over the Ditch, and went to my House. Sir *Thomas Aleyn* had also sent to secure my House. When the Lad came home into the street, my Doors were shut up: (Gentlemen of the Jury, do you understand?) the Boy seeing such a Rout at the Door, saith the People, *Mr.* John, *your Father's House is shut up about Mr.* Tryon's *Money*. He walked by the street, and went into *Bishopsgate-street*, and *Cheapside*, into *Paternoster-Row*, and so into *Fleet-street*: I did not hear of him till Saturday in the Afternoon.

When Sir *Thomas Aleyn* came, saith he, Mr. *Turner*, here we have catch'd you and the Money. Said I, If you be hasty and passionate, as you were last night, you will spoil all the whole business. Tell me, saith he, whose Money it is. Said I, It is my Money. The truth is, the old Gentleman hath promised me 500 *l.* it is the naked truth; I would not have Sir *Thomas Aleyn* have the honour of gaining it, but I would have the honour of gaining it my way.

Sir *Thomas* would know whether it was my Money, I told him I had received part of it at a Goldsmith's; so I put Sir *Thomas* off. Come, come, said he, we will carry this Money to Mr. *Tryon*. Said I to Mr. *Tryon*, Here is part of your Money, you know what I told you even now. Ay, saith he, God be thanked, before Sir *Thomas Aleyn*. I asked him, what his Promise was, and told him how the Passage was in short; and the old Man did acknowledge that such a Promise was made, and would have down upon his knees. I passed my word to him, that by Three a-clock I doubted not but he would have his Jewels, and the rest of the Money. Saith Sir *Thomas Aleyn*, Go, (whether he said live and prosper, I know not) Go, God bless you; and upon my honour (I think that was his word) the old Man shall make good his Word. Ay, but Sir *Thomas*, what will become of me and you, by this Business, for I understand the Law? How will this Business be daubed up? You will be fined; Sir *Thomas*, I must break my Word, he must be apprehended, or I must suffer. Saith Sir *Thomas*, Do not trouble me with that, get but the Goods, and the old Man's Word shall be made good, leave that to me. More than that, he said, He would make up the Business, or he would smother it. My Lord, you have a great deal of Patience, I am humbly bound to you, here is nothing but the naked Truth, step by step, as I trod it. Afterwards *Wild* came and said, All will be well. Said I, What have you done? Are you sure, saith he, the Jewels nor nothing shall be stirred? Said I, You see all is spoiled; Sir *Thomas Aleyn* is come where we had lodged the Money, the thing is known, do not they hear of it? Yes, they hear as well as you, and know what is done, and some have eyes upon you. Said I, They will run away with the Jewels. No, you shall meet about Three a-clock; nobody knows me but you, your Wife, and your Son, who saw me this Morning at Three a-clock, either by the *Blue-Pig* at *Tower-Hill*, or *Nags-Head* over against *White-Chappel* Church.

It is agreed, for God's sake look to it, your Life and mine is concerned; if the Jewels be lost, I will persecute you to the Death, look they are preserved, and not purloin'd. Saith he, The Bags were never opened. I parted with him, he was to look for me at Three of the clock: coming home about Change-time, who should I meet with but Mr. *Stubbs*, who told me that it was all the News upon the *Exchange*, that you have been in the Robbery. Said I, Do not trouble your head, I have discovered the business. Then said *Stubbs*, You know I and *Thomas Lyon* are Bail for you. At that time I satisfied him. Afterwards that day I met with Mr. *Cole* the Officer; said he, Colonel, I arrest you. For what? for more Fooleries yet? *Thomas Lyon* will not be satisfied. By Six of the clock this business will be all over; nothing will serve your turn but Violence, Violence, no Force, no Law, I was forced to go to the *Hoop*-Tavern. I got them to send for Mr. *Stubbs* and *Lyon*; they came: said I, What will you have? I am in prosecution of a Business for Mr. *Tryon*, you will undo it with this sixpenny Business: say what Security you will have, and you shall have it: said I, Mr. *Tryon* and Sir *Thomas Aleyn* shall give you their Security, to save you harmless for being my Bail. Said, they, Hold Mr. *Tryon*, we'll do it; we are content: they went away, and told me they

would get a Bond, and come presently; but what was this presently? I will warrant you they staid two hours; it was Seven a-clock at night before I parted with them. I was fain to send the little Boy for Mr. *Hill*, Mr. *Pilkinton*, Mr. *Millington*; this was either a Curse from God sent upon me, or a Plot of Roguery that the Money should be lost. They came not back till Seven of the clock, and then without a Bond; and I fell a little violent: But I was telling them how these Rogues told me the whole Carriage of this Robbery; when it came that Mr. *Tryon* and Sir *Thomas Aleyn* heard that I was in custody, he sent a Constable with a Warrant to bring us all before him. When we came there, I desired Sir *Thomas* to let a Gentleman go with me; I will break my Oath with the Fellow, and we will apprehend him, and make him bring the Jewels. Sir *Thomas Aleyn* told them, if they would all go together, they might; but to go out of the Liberties, he could not let them go: I have you, and I will keep you, and do find him if you will. How now, Sir *Thomas*, said I, are you come to that? Have you fooled me all this while? I'faith, I thank you, for you have trapanned me very fairly; if any thing miscarry in my Honour and Reputation, or Blood, you are in the fault: Here I do declare, said I, if you will let me go, I will take him. Then Sir *Thomas* did incline to let me: what say you, Officers, will you go out of your Liberties with this Gentleman? Sir *Thomas*, said I, there is no Liberty or Privilege for Felons; I will seize a Felon myself in any ground in *England* without Warrant. I do remember this *Wild* did condition, that in case I could not come, I should trust no Man living but myself, because he had had my Soul pawn'd to him. I asked him whom he would trust: He said, if I could send my Wife, describing her to him, that she was a full short Woman about forty or fifty Years old, she had a long black Scarf on; then let him alone, if I cannot come, I will send such a Woman, and send the things by her, and preserve your Life. I told Sir *Thomas* this Story. My Wife came to me publickly, I did not whisper with her——

Mrs. *Turner*. Nay, look you, Husband——

Col. *Turner*. Prithee, *Mall*, sit down: you see, my Lord, my Wife will interrupt me with Nonsense. Prithee sit thee down quickly, and do not put me out; I cannot hold Womens Tongues, nor your Lordship neither.

Ld *Bridgman*. This is not a May-game.

Turner. My Lord, it is a serious Business, and I hope God will bless it—— Pray, said I, *Mall* go, as you love and honour my Life and Credit, or any thing that concerns me, I beg you to go. Then I will go, saith she; whither must I go? You must go to the further *Tower-Hill*, six doors beyond the little Postern: now it is so much of the clock, from Five to Seven he will walk there. A Fellow will come to you in black, that Man that in the Morning took the Money from *Jack*, he will know you, and once in a quarter or half an hour he will come to you. If you do not find him in half an hour, stay no longer, but pack away to *White-Chappel*, ask for the *Nags-Head* in *White-Chappel*, and once in a quarter of an hour you will have a Man come to you, and take notice of you, and ask you who you are; and you must say, that you walk for one to give you somewhat: he will deliver you somewhat, and whatever he delivers you, bring it hither. Said I to them, You may send if you will, and dodge my Wife, and catch him that way; they would not. I sent my poor Wife away, and, saving your Lordship's presence, she did all bedirt herself, a thing she did not use to do, poor Soul: She found this *Nags-head*, she sat down, being somewhat fat and weary, poor Heart! I have had twenty-seven Children by her, fifteen Sons, and twelve Daughters. Seven or eight times this Fellow did round her——

Mrs. *Turner*. Let me give that Relation.

Col. *Turner*. You cannot, it is as well: prithee sit down, dear *Mall*, sit thee down, good Child, all will be well. When she came back, she came with something in her Apron: What are you sped, saith he? I know not what: a Man came to me, and asked me who I look'd for; I told him, I look'd for any Man that would give me any thing. Are you Colonel *Turner's* Wife? And upon her Answer he gave her these Bags into her Apron, and was gone a matter of a yard from her: Step back again, that is not all, here is a Diamond Ring worth a Hundred Pound, give that to your Husband. And this Diamond Ring proves a Cat's-Eye Ring, and worth but Four Pound.

Mrs. *Turner*. Well, and did not I bring these——

Col. *Turner*. Look you, my Lord, this Woman will put me out. My Lord, she did deliver all these things, and went home. I did take out these Goods: Now, said I, Mr. *Tryon*, you see all is come, (Sir *Thomas Chamberlain* was there) I have perform'd all in my part, look to the rest, that you perform yours. Some People report, that there is other Jewels of my own; my Lord, they are all his own, and he will not disown it, and I do not expect my Five Hundred Pounds for what I have done, according to his Promise, *That as Jesus died, &c.* that the Man should not be prosecuted, nor lose a Hair of his Head, if he lose his whole Estate: and I do expect my Money, not such a Reward as this. After which I was committed by Sir *Thomas Aleyn*, and so was my Wife. Now pray let me call my Witnesses, and if I cannot make it good that I am clear, let me be hang'd. My Lord, I shall humbly intreat that Mr. *Vandeput* may be called, Mr. *Cowel*, and the others.

Ld *Bridgman*. What do you prove by them?

Turner. To prove part of this business, That I did assure Mr. *Tryon* of his Goods; and to my Reputation. I forgot one chief thing, I am not a Man in debt, take notice of that, no Man in the world hath my Bill for 5 *l.* There is only this Contest between Mr. *Vanburgh* and myself, which is left to Arbitrators, and the Lord Mayor is Umpire: It is known I have an Estate, and there is one thing remarkable; Gentlemen of the Jury, I could have had all these Jewels at any time in Trust; I could have broke as well as others, and paid 5 *s.* in the Pound: I lately made payment of 2600 *l.* for Goods, and I can have 20000 *l.* Credit any day upon the *Exchange*: Why I that had this Credit, that might break for so much Money, why should I put my Neck in a Halter? These are very strong Arguments for me, that I am not such a Person.

Ld *Bridgman*. I will tell you what you have done: You have made a very long Story, and have taken up the time of the Court these two hours in a Narrative; and when all is done, answer me, Have you any Witness to prove all this Discourse between you and *Wild*?

Turner. I have by, Witnesses to prove I said this, that there was such Discourses between us.

Ld

Ld *Bridgman.* No doubt of it; and ſo will many a Man at *Newgate* frame ſuch a Story as this.

Ld Ch. Juſt. *Hyde.* You have told a long Story about *Wild*, that you took him by the throat, and that you were alone; what Weapons had you?

Turner. None, my Lord.

Ld *Bridgman.* Had you a Lanthorn with you?

Turner. No, my Lord.

Ld *Bridgman.* What time of the Night was it?

Turner. Twelve a-clock, my Lord.

Ld *Bridgman.* You ſtaid till Four, ſo they were four hours a bringing of the Money.

Turner. Yes, my Lord.

Ld Ch. Juſt. *Hyde.* You took a Man in the dark by the throat, that Man that was guilty of ſuch a thing, as when that you did let him go to call his Companions, to bring the Money, bring Fellows to you ſingle; I would be glad to know, whether in this caſe they would not have knock'd you on the head, and killed you?

Turner. My Lord, *Wild* had engaged his Soul, and I my Soul to him, that if I would not diſcover him, I ſhould go away free.

Ld *Bridgman.* Great Security indeed!

Col. *Turner* called ſeveral Witneſſes, *viz.* Mr. *Vandeput*, Mr. *Cowel*, Mr. *Legooſe*, Mr. *Snow*, and Mr. *Moſely* the Conſtable. I deſire my Maid may be called: pray ask Sir *Thomas Aleyn* what he hath done with my Maid, he took her up with Sir *Richard Brown* and two Marſhal's Men: (pray Gentlemen make not a laughing buſineſs of this) Sir *Thomas*, pray where is my Maid?

Sir *Tho. Aleyn.* I had this Maid upon Examination, I found cauſe of further Examination, and thereupon directed an Officer to take her, and ſhe is now in the Garden.

Mr. Moſely *the Conſtable examined.*

When I came firſt to Mr. *Tryon*, at Mr. *Tryon*'s Houſe, he was bound; then he asked where his Man and Maid was? he ſaid he could not tell. By and by the Man came in, and being asked where he was, he anſwered he was at Col. *Turner*'s at Supper. Preſently after we went to Col. *Turner*'s, he came to the Window, his Wife and two Sons were in bed.

Ld *Bridgman.* Did Mr. *Tryon* give you order to come to him?

Moſely. Yes, my Lord, he did.

Ld Ch. Juſt. *Hyde.* *Moſely*, you were Conſtable, were you not? What diſcourſe had you with Mr. *Turner* about a dangerous place that you did ſuſpect, where ſome People may be to do ſuch a Feat?

Moſely. I never heard of any ſuch thing ſpoken.

Ld *Bridgman.* You ſay Mr. *Tryon* he wiſhed you to call *Turner* to him; did he give you any Order or Direction to ſearch his Houſe? Who wiſhed you to go up to the Houſe to ſee whether his Sons and Daughters were in bed?

Moſely. Mr. *Turner* did, my Lord.

Turner. He doth not ſay true, my Lord: pray ask him, when he came to my door and I opened it, whether Mr. *Tryon*'s Servant were there at Supper that night? I ſaid no. Is your Sons within, ſaid he? I ſaid, Ay. Pray let me ſee them.

Moſely. I came to Mr. *Turner*'s Houſe, and knock'd at the door with ſome others with me; at laſt the Colonel came out of his Bed. I ſuppoſe he came out of his Bed; being partly naked, he came down to the door; I asked him, where are your Sons? They are in bed, ſays he. Said I, Mr. *Tryon* is robb'd, he would have you come to him.

Ld *Bridgman.* Did he deſire you to go up?

Moſely. No, my Lord; but I asking him whether his Sons were in bed, he ſaid, I prithee go up and ſee.

Turner. My Lord, I would prove where my Sons were on Thurſday Night at Ten a-clock.

Lord Marquiſs of Dorcheſter*'s Servant examined.*

My Lord, till Nine a-clock they were with me at my Lord Marquiſs's Houſe.

Ld *Bridgman.* What time came they thither?

Marq. Servant. Between Seven and Eight at night.

Col. Turner*'s Maid examined.*

Turner. Come, Maiden, pray tell my Lord and the Court when my Sons came home this night.

Maid. Between Nine and Ten a-clock.

Ld *Bridgman.* Were your Maſter and his Sons in bed all Friday Night, or no?

Maid. Yes, my Lord, they were.

Ld Ch. Juſt. *Hyde.* Did your Maſter go forth on Friday Night?

Maid. No, he was at home and in bed all that Night till Eight a-clock in the Morning, and Thurſday Night before.

Turner. A ſilly Soul, ſhe knows not what ſhe ſays.

Ld Ch. Juſt. *Hyde.* I will ask you again, was your Maſter at home on Friday Night?

Maid. No, I think he was not.

Ld Ch. Juſt. *Hyde.* Why did you ſay ſo before?

Maid. I cannot remember, Sir.

Ld *Bridgman.* She knows her Maſter's Mind.

Turner. No, upon my Soul, my Lord.

Ld *Bridgman.* My Maſters of the Jury, this is the Uſe that is made of this Maid's Teſtimony; ſhe will ſay any thing, ſhe is no fit Witneſs, no Truſt to be given to her either one way or other.

Turner. Pray call Mr. *Cowel*, Mr. *Legooſe*, Mr. *Cook* the Goldſmith.

Ld *Bridgman.* What do you call theſe for?

Turner. To prove my Condition, my Credit and Reputation.

Ld *Bridgman.* The Jury knows that already.

Mr. *Cook.* Thus much I can ſay, that I have known him ſome twenty Years, I have had dealing with him to the value of ſeveral hundred Pounds, I have truſted him, and have found him very faithful; I have ſeen in his poſſeſſion Jewels to the value of eight or ten thouſand Pounds: by which I ſuppoſe, if he had been ſuch a Perſon, he might have done himſelf a kindneſs by breaking.

Mr. *Legooſe.* All I can ſay, is, I have an acquaintance with this Perſon, he was a Sollicitor, dealt honeſtly and faithfully in a Buſineſs wherein I was concerned; he hath lived very well.

Sir *Richard Brown.* Where you have heard one Man ſay he is an honeſt Man, have you not heard a hundred ſay otherwiſe?

Mr. *Legooſe.* There hath been an ill Report, that he hath been a Perſon that lived high.

Turner. Sir *Richard Brown*, no Man in *England* can ſay black is my Eye.

Sir *Rich. Brown.* Mr. *Turner*, you ſay you were upon *Tower-Hill* all Friday Night; whither went you in the Morning?

Turner. I came home between Four and Five in the Morning.

Sir *Rich. Brown.* Your Maid offered to depoſe even now, that you did not riſe all that Morning before Eight of the clock.

Turner. *Lapſus Linguæ*, if the Girl be miſtaken.

Ld *Bridgman.* Do not trouble yourſelf with that, her Evidence is of no force.

Mr. *Jefferies.* Col. *Turner*, I cannot ſay any thing that will be advantageous to you; my Lord, and Gentlemen of the Jury, I have heard Mr. *Tryon* hath truſted him with Jewels to a good value, and that Mr. *Tryon* had a very good Repute of him.

Sir *Rich. Brown.* Pray what Report hath he upon the *Exchange?*

Turner. I owe nothing there, Sir *Richard*, nor none there can lay any thing to my charge, except it be that I am a Cavalier.

Ld Ch. Juſt. *Hyde.* Mr. *Turner*, have you any more?

Turner. My Lord, I do want theſe Goldſmiths, they do not appear, they promiſed me they would.

Ld Ch. Juſt. *Hyde.* How can we help it?

Turner. I do humbly beg your Honour and this Honourable Bench, that the old Gentleman, my old Friend, may declare what paſſed between us on Saturday Morning.

Ld *Bridgman.* Conſider what you do, for here would you have Mr. *Tryon* ſwear againſt himſelf: hear what you would put him to, take it as you put it, tho I do not believe a word of it. As you put the Caſe, here is *Wild* commits a Robbery, you come and truck with *Wild*, and agree with him that Mr. *Tryon* ſhall let him go, ſhall not meddle with him, there ſhall be no Proſecution, ſo the Jewels and Money may be brought: Would not you get Mr. *Tryon* to conceal a Felony and Felon, and he confeſs againſt himſelf he made this Agreement with you? that Mr. *Tryon* did conſent to it, that he promiſed you five hundred Pound to ſhuffle up this Buſineſs?

Turner. Hear me, pray; you put me out: I had not let this Man go; I begged that they would go with me, Sir *Thomas Aleyn* would not let us go, we would have taken him, I was ſenſible of the Danger; it may be we might have had the Felon and the Goods too.

Ld Ch. Juſt. *Hyde.* No doubt, upon your own Story, all this while you had no poſſibility of having the Goods, unleſs the Life of this Fellow may be given you; ſo you were fain to agree, and plight your Word to him, pawn your Soul that he ſhould be free, untouch'd, ſo he would diſcover the Goods and Moneys. Sir *Thomas Aleyn*, ſpeak to that Particular again.

Sir *Tho. Aleyn.* My Lord, and Gentlemen of the Jury, he tells a long Story, that he was kept abroad till Seven a-clock at night; I do verily believe he was brought to Mr. *Tryon's* at Five a-clock, and there he kept us till Seven, and all he would do, was, he deſired to go himſelf, or with one Perſon at the moſt, or elſe we ſhall loſe all the Jewels, ſaith he, for two Souls are pawned: he did not in the leaſt argue the taking of the Thief. I muſt ſay this, when I came to him on Monday, he ſaid if I had ſent a good Guard, we might have taken the Thief. Said I, a Lyar had need have a good Memory. Then you muſt only go yourſelf, or with one Perſon; he hath told you, that I ſaid there ſhould be no Proſecution. I ſaid only this, whatever Mr. *Tryon* had promiſed you, I knew not; but if you expect Favour, let the old Gentleman have his Jewels again.

Sir *Tho. Chamberlain.* I heard no ſuch thing.

Ld *Bridgman.* What did he tell you?

Sir *Tho. Chamberlain.* He would have gone with one with him, and pretended he could find out the Jewels only.

Mr. *Millington.* There were ſome Propoſitions made, he deſired firſt I ſhould go with him ſingly; I told him there would be no Security, but if he would get a ſufficient Guard, I would go with him: but he went home to his Wife, and never made mention of any Party's Name, but that there was a Party he expected the Jewels of.

Ld *Bridgman.* Did he propoſe any thing touching the taking that Man?

Millington. Nothing but that he had pawned his Soul there ſhould be no diſcovery of it?

Ld *Bridgman.* Did he deſire that you ſhould go and take the Man?

Millington. No, but that we might go and ſecure the Jewels.

Serj. *Cole.* My Lord, there was a great deal of danger; we are Bail for Eight Hundred Pounds; if he had been taken away, we are all undone: he only propounded of having the Jewels, and nothing of the Man.

Mr. *Gurney.* I underſtood you, Col. *Turner*, only for the Jewels, and not for the Man.

Mr. *John Marſhal.* My Lord, he did move Sir *Thomas Aleyn* that I might go with him to *White-Chappel* and about *Tower-Hill.* I told Sir *Thomas*, it was very unſafe for me to go, being late, and out of the Liberties, tho I was a Conſtable, I could not command Aſſiſtance there; and intreated Sir *Thomas* to excuſe me: I thought it not ſafe for him. He did then repeat the Engagement of his Soul to the Thief, and of *Tryon's* to him.

Ld *Bridgman.* Did you ever hear him ſay, deſire or propoſe, that you ſhould go and take the Thief?

Marſhal. No, my Lord, it was to get the reſt of the Jewels.

Alderman *Smith.* Do not you know that I ſpake to you again and again, and adviſed you by all means to let us know where this Man is; that I would go myſelf, or any of theſe Perſons preſent? you utterly refuſed it, and ſaid there was two Souls pawned, and you would not diſcover it.

Turner. That was at firſt, afterwards I mention'd them all.

Ld *Bridgman.* For what?

Turner. To take the Thief.

Ld *Bridgman.* You ſee not any Man teſtify any ſuch thing.

Yeoman *Cole.* Sir *Thomas Aleyn* called my Brother and I both in the Room to him, and the Marſhal and his Man; and ſaid, Col. *Turner* would have us go without the Liberties for theſe Jewels: I think, ſaith Sir *Thomas Aleyn*, it is not ſafe to go out of the Liberties, Mr. Marſhal ſaid the ſame. He deſired us to go with him, but Sir *Thomas* refuſed it.

Ld *Bridgman.* This is a notable piece of Cunning; when he was moved by Alderman *Smith* and others, all this while he names no Man; but now he was under an Action, he would have them go with himſelf out of the Liberties, and yet never ſaith a word to take the Man: he knew very well it was out of the Liberties. Truly I think, if Sir *Thomas Aleyn* had done it, I ſhould not have taken him to be Sir *Thomas Aleyn.* Did you deſire any of them to go with your Wife?

Marſhal. He deny'd us to go with his Wife; his token was this, the Thief would meet no Man.

Turner. My Lord, to the Buſineſs now. I am here indicted for Burglary: it appears to your Honours and the Bench, that it was Ten of the clock when my Sons came from my Lord the Marquiſs of *Dorcheſter's* Houſe; ſaid I, You Knaves you, what do you out ſo late? Said they, It was paſt Nine

before

before we had done, and my Lord's Gentlemen made us ſtay Supper. They were all in their beds at a little paſt Ten of the clock. You hear what *Moſely* the Conſtable ſaith, he finds us ſleeping in the Houſe; how ſhould this Burglary be laid on me? I am indicted here for Burglary, and that I cannot be, for that I was at home.

Ld Ch. Juſt. *Hyde.* Have you done?

Turner. Ay, my Lord.

Ld Ch. Juſt. *Hyde. William Turner,* what ſay you? You ſee what is laid to your charge; firſt, you are a Perſon of looſe Life: there were two at his Bed-ſide, he believes you to be the Perſon that gagg'd him, and help'd to bind him.

William Turner. I was never in his Houſe in my life, till with Sir *Thomas Aleyn.*

Ld Ch. Juſt. *Hyde.* Where were you?

Will. Turner. At home.

Ld Ch. Juſt. *Hyde.* Make that appear.

Will. Turner. I have none here.

Ld Ch. Juſt. *Hyde.* He ſaith it was a Man as like you as can be.

Will. Turner. And I am as innocent as may be.

Ld Ch. Juſt. *Hyde. John Turner,* that which is againſt you is this: You on Saturday Morning very early was buſy with your Father and Mother in the removing the Money; and then when you had notice that you would be apprehended, you got away.

John Turner. Sir, I did not know who it was that was come, whether to apprehend, or upon any other ſcore; but the Woman ſpeaking to me, *Flee for your Life,* or ſuch Expreſſions, made me go away I know not how.

Ld Ch. Juſt. *Hyde.* Did not you bring ſome Money?

John Turner. I did, my Lord.

Ld Ch. Juſt. *Hyde.* How much was brought at that time?

John Turner. I carried away two Bags to *Wild.*

Ld Ch. Juſt. *Hyde.* Did you know him?

John Turner. Yes, my Lord.

Ld Ch. Juſt. *Hyde.* Did you carry theſe to *Wild* on Saturday-Morning? Did not you carry them to *Fry*'s Houſe?

John Turner. We took them afterwards from the Houſe where *Wild* appointed us to meet.

Ld *Bridgman.* At what time of the day did you carry them back to *Wild?*

John Turner. Before Sir *Thomas Aleyn* came that day, I was coming for more.

Ld *Bridgman.* To what Place?

John Turner. At *Tower-Ditch.*

Ld *Bridgman.* At what Houſe?

John Turner. No Houſe, but I delivered them at *Tower-Ditch.*

Ld *Bridgman.* At what time of the day?

John Turner. It was before Sir *Thomas Aleyn* came, about Eight or Nine of the clock in the Forenoon.

Ld *Bridgman.* Was there no People there? Who was there?

John Turner. I cannot tell; I ſaw ſeveral other Perſons.

Ld *Bridgman.* Did *Wild* ſtand in the ſtreet?

John Turner. Yes.

Ld *Bridgman.* How came you to know him?

John Turner. By my Father's Direction; and I had ſeen the Man at our Houſe that Morning when he brought in the Money.

Ld *Bridgman.* Whereabouts? Was it near the Queſt-houſe? that is, the great Houſe that ſtands in the middle of the way?

John Turner. It was hard by the Sign of *Noah's-Ark.*

Ld *Bridgman.* This is a likely Story to be believed, that you ſhould in the day-time, between Eight and Nine in the Morning, meet in the *Tower-Ditch* that Man that was a noted Thief, that had been in *Newgate;* that you ſhould tarry for this Man to receive two Bags of Money: ſee how it hangs together!

Ld Ch. Juſt. *Hyde.* How often did you go?

John Turner. Twice.

Ld Ch. Juſt. *Hyde.* How much at a time?

John Turner. A ſingle Bag.

Ld Ch. Juſt. *Hyde.* Had you a Coat or Cloke?

John Turner. Juſt as I am now.

Ld Ch. Juſt. *Hyde.* Had *Wild* a great black Coat? And what did he do with the Money?

John Turner. I know not; but I delivered one in the ſtreet, and then went and fetch'd another, and he ſtaid ready for it.

Ld Ch. Juſt. *Bridgman.* Was this all the Money that was brought in the Morning, ſave that that Sir *Thomas Aleyn* brought away?

John Turner. It was all, to my Knowledge.

Sir *Tho. Aleyn.* Colonel *Turner* confeſſed to me on Thurſday Morning that more came unto his Houſe, but that Rogue *Wild* took it away.

Ld Ch. Juſt. *Bridgman.* How much?

Sir *Tho. Aleyn.* About 200 *l.*

Ld Mayor. How many Turns did you make when the Money was carried from your Father's Houſe to the *Minories?*

John Turner. Twice.

Ld Mayor. Who went firſt?

John Turner. We went both together.

Ld Mayor. How much was carried between you both?

John Turner. The firſt time I carried 200 *l.* as I can judge.

Ld Mayor. Who carried any more?

John Turner. My Father.

Ld Ch. Juſt. *Bridgman.* What did you bring the ſecond time?

John Turner. Three hundred Pound.

Ld Ch. Juſt. *Bridgman. William,* one thing more: What was the Occaſion of meeting you and *James Turner* at the Alehouſe?

William Turner. I did not meet him, my Lord.

Ld Ch. Juſt. *Bridgman.* You came thither, and called for a Pot of Ale, and ſaid you ſtaid for Colonel *Turner.*

W. Turner. It is not right: I only asked if Colonel *Turner* uſed the Houſe. By and by he came, and paid for the Pot.

Ld Ch. Juſt. *Bridgman.* You two went together: What was the Occaſion of your meeting together?

Col. *Turner.* Finding him there, I ſaid I could not drink with him; and ſo we parted.

W. Turner. I called for a Pot of Drink; and having no Money to pay for it, Colonel *Turner* coming by, I called him in, and deſired him to pay for it; which he did.

Ld Ch. Juſt. *Bridgman.* The Boy ſwore you ſaid you ſtaid for Colonel *Turner:* Can you juſtify you were at home, or in any other Place? It is a great Suſpicion: The old Gentleman charged you to be very like the Man; and you can give no account where you were; and *Turner* and you met together the Day before.

W. Turner. I was at home.

Ld Mayor. William Turner, when did you ſhave your Beard laſt?

W.

W. Turner. Before *Chriſtmas.*

Ld Mayor. Who ſhaved it for you?

W. Turner. A Barber in *Golden-Lane.*

Ld Mayor. When his Hair is ſhaved off his Chin, the other Man, whoſe Name is *Chriſtmaſs*, being a ſmooth-chinn'd Man, it's very poſſible that might beget the Miſtake in Mr. *Tryon.*

Ld Ch. Juſt. *Hyde.* You of the Jury, it is high time to let you go together to conſider your Verdict: We will trouble you no more in this Buſineſs to-day. Here is an Indictment againſt *James Turner*, *John Turner*, and *William Turner*, for a Burglary in breaking the Houſe of Mr. *Francis Tryon* in the Night-time, and taking away a great deal of Money and Jewels; you have heard it particularly named. It is likewiſe charged, That *Mary* and *Ely* knowing of *John* to have committed this Felony and Burglary, did comfort and abet him afterwards. I ſhall ſpeak to them two firſt: *Mary*, the Wife of *James Turner*, though it appears all along that ſhe had a hand in this Buſineſs, yet nothing appears at all but doing only that which her Husband had directed; then by Law ſhe cannot be Acceſſary for committing of Felony. For *Ely*, the other Acceſſary, I did not obſerve in the whole Courſe of the Evidence any thing at all againſt him, that he was privy to any thing at all; for that of the carrying of the Money, it appears to be *John*: For them two, *Mary* and *Ely*, nothing is faſten'd upon them. Then the Matter is to *James*, *John*, and *William Turner*: I hope, and I am ſure you are nearer, and you take Notes of what hath been delivered: I have not your Memories; you are young, and no Perſons better; you are Men of Underſtanding, I need not repeat Particulars to you. Thus much I muſt ſay in general, That it is not always neceſſary: But for that I ſhall deſire my Lord *Bridgman* to declare it to you. A Man may be guilty of a Burglary, tho he be not in the Place, in the Room where it was committed: Or thus, If three or four Men come together with purpoſe to rob a Houſe; two go in and do the Feat, and the reſt ſtay without, to ſee no body comes to prevent, or to receive, one or other coming to that purpoſe; thoſe that are without the Houſe are as guilty of the Burglary as the other that went in. No Man will deny the Law to be ſo. Then weigh your Evidence: It appears by the Coachman that he ſaw four Men, that had Handkerchiefs about their Necks; two upon one ſide, the other two upon the other ſide of the Door. Though there were but two appeared to Mr. *Tryon*, yet there being four in Company, and Mr. *Turner* himſelf tells ye, that by the Story from his Intelligencer there was three or four. Whom they were, or whether there was any or no, God knows; but rather ſuppoſe it to be a Story of his own framing: He walk'd up and down on *Tower-Hill*, took the Thief by the Throat, and there kept him about two Hours, and paſt Four a-clock before they brought the ſecond Bags. Then weigh that particular Knowledge that Mr. *Turner* had of all theſe Things: That upon Wedneſday before he met with this *William Turner*, a Perſon you ſee, of what Quality I ſhall not repeat, he cannot give account of himſelf what he is; and that Night, when this Robbery was committed, he ſays he was at home; they are his own Words: He might have had Witneſs to have proved this as well as Mr. *Turner*. But for *James Turner*, it's true it appears, and no doubt he was that Night at home: The Conſtable went to his Houſe upon the occaſion of *Tryon*'s Man's ſaying he ſupp'd there, went to find whether he ſupp'd there; that was indeed falſe: But the Conſtable and thoſe that went there, found them a-bed. But then take the time when this Robbery was done: It was between Eight and Nine, and he was found in bed at paſt Ten, tho indeed the Thieves ſaid it was Eleven, as you might underſtand by Mr. *Tryon*: It muſt be left to you upon the Proof. You ſee when he comes the next Day, he undertakes to find out the Thieves, and that only upon a Suſpicion; that there being a Purpoſe to rob Mr. *Tryon* a Year before, he goes to the ſame Place now, he found *Wild* out then: He had very good Luck; that becauſe he lodged there a Year before, he muſt have the ſame Lodging now: It's a likely Matter that Thieves, as *Wild* is, ſhould keep their Lodgings thus conſtantly. There he finds him, takes him by the Throat, and there they were playing a while: There one comes, goes, and brings ſome part of the Money. After all this, the next Day he muſt take his Word to come again, and to bring the Jewels. Obſerve but this: After which time as the Money was received, yet by a Token, though he never ſaw the Woman before, deſcribing her a ſhort fat Woman, with a long black Scarf, he muſt meet her, asked her what ſhe wanted, and muſt give her Jewels of that Value: 'Tis one of the fineſt fram'd Stories that I have heard, that this Man ſhould come to be thus privy after himſelf ſtood charged, and the Jewels brought for all this; and yet he muſt know nothing of it. You obſerve the Evidences, and their Circumſtances themſelves: The Witneſſes he called in point of Reputation, that I muſt leave to you. I have been here many a fair Time: Few Men that come to be queſtioned, but ſhall have ſome come and ſay, He is a very honeſt Man; I never knew any Hurt by him: But is this any thing againſt the Evidence of the Fact? But you have here the whole; I ſhall leave it to you.

Ld Ch. Juſt. *Bridgman.* Gentlemen of the Jury, my Lord hath repeated to you the Evidence: I ſhall repeat nothing of that; only one or two Things I ſhall obſerve to you. Firſt, In point of Law: And I muſt agree in Opinion with what my Lord ſays. But in this Caſe there will be ſomething more conſidered; that is, Whether or no (for this is the Law) if a Man have a falſe Key, (we are now upon the point of Law) and we ought to be of Counſel with him and you, to direct that which is right: If he appear plainly to be an Acceſſary, you muſt find him guilty of this Indictment: For that you muſt conſider Circumſtances, whether he broke open the Houſe or no. Then you muſt obſerve Mr. *Tryon*'s Door was ſhut; it was not broken open by a Crow: Therefore you may conclude that it is very probable they had a Picklock: But that I muſt leave to you. Either they muſt come in by one being in the Houſe, or by a Picklock. But to ſay by one in that Houſe, you have no Reaſon to preſume on that: If by a Picklock, whoſoever they were, they muſt be known, not Strangers to the Houſe: Not *William Turner* alone, but he that knew the Houſe, and all the Paſſages and Doors; knew where the Keys and Jewels were. Then who probably ſhould be in the Houſe? It was not for a Stranger to be in the Houſe, only one that muſt know all. If that *James Turner* ſhall appear to you to have a Hand in it, if you think he was Acceſſary, you muſt find him guilty as Principal.

Col. *Turner.* God forbid.

Ld Ch. Juſt. *Bridgman.* If he were amongſt them, if the Door be opened by a Picklock, it is a direct

Burglary,

Burglary, as if broke open by an Iron Bar: But that must be left to you. In the next place, to prove the Burglary, you see what a Story he tells you, with all the Circumstances, as if he had been there: He tells you from this *Wild* (if there be any such, you must take it upon his Word) how the Man's Tooth came out, what he meant to do with the other Persons, and all other Things about that Affair. Observe another Thing of Sir *Thomas Chamberlain:* Says he, We suspected him from the first: We could not examine any, but he would be thrusting in, and listening. I say, admit that you should be by the Evidence perswaded he had a hand in the Business, you must find him a Principal: For nothing in the World more ordinary, if a Man intend to commit such a Felony or Burglary, he will be sure to have Witness to prove he was here, or in such a Place, at the Time when this Robbery was committed. By all that I can guess, and I believe that I guess right, this Robbery was between Eight and Nine a-clock at Night. When the Constable came to Mr. *Turner*, no doubt, as it was his wisest Way, he was then in bed; but can prove nothing at all else. The Truth is, upon all that he hath said himself, if it be true as he hath said, he hath made himself a direct Accessary to a Felony: For first of all, being examined before a Justice of Peace, Sir *Thomas Aleyn*, he said himself that the Money he carried, was the Money he had of a Goldsmith: Truly his whole Story is a direct Romance. This Man must go upon the Friday Night, about Eleven or Twelve a-clock: And there is a Proverb of *a Blind-Man's catching a Hare*; if it can be applicable to any thing, it must be to this. He must go between Eleven and Twelve a-clock at Night, without a Lanthorn, a good way above his own House, and there he must walk and think some *Mephistophilus* should come and tell him who is the Man: That he should take him by the Throat, though he could call two more with one Whistle, and there get him to deliver the Money: Truly he was a very noble and ingenious Thief. But all this you must take upon his own Word. Now he knows the Money was discovered, then it was a Merchant's that had failed, and must be secured for the Use of his Wife and Children. If you do believe all this that he hath said, he was neither Principal nor Accessary to this Felony, but Accessary enough to *Wild*; but that's not the present Business. It is whether upon all these Circumstances, the Money having been found with them, he being the Man that brought the Money, and his Wife the Jewels, whether you do believe the rest of the Story he hath made for himself? If you believe he had a hand in the Business, you must find him as Principal. I shall desire a little further Direction: Suppose it were as he says, That one was within, and he opens the Door, and lets in others, if he himself was one that did come in, I take it to be Burglary in them all; it was an unlawful coming in. So that upon all these Circumstances, first, whether you do believe that he had a hand in it, or no, or this fine Story that is made; next, whether you do believe this was one that was there; you must believe him guilty as Principal. But I leave it to you.

Ld Ch. Just. *Hyde*. To the last I say, If one comes in by Day, with a purpose before-hand to rob the House by Night, if he opens the Door, which is almost impossible here, because the Man swears it was double-lock'd, it must be opened with a Key; if he opened the Door, and the rest comes in and robs him, that is Burglary in them all.

Thereupon the Jury withdraw'd; and after near an Hour's Consultation, they returned to the Court, and took their Places: Their Names being called, they severally answered:

Cl. of the Peace. Are ye all agreed of your Verdict?

Jury. Yes.

Clerk. Who shall speak for you?

Jury. Foreman.

Clerk. Set *James Turner* to the Bar. Look upon him: How say you? Is he guilty of the Felony and Burglary whereof he stands indicted, or not guilty?

Foreman. Guilty.

John Turner, *William Turner*, *Mary Turner*, and *Ely Turner*, were by the said Jury severally acquitted.

January the 19th.

In the Morning the said *William Turner* was again arraigned and indicted for the felonious stealing of 45 *l.* of the Moneys of *William Hill*, Servant to the said Mr. *Tryon*, and stolen in the said Robbery of Mr. *Tryon*; but the Tryal thereof was deferred till the next Sessions.

Afterwards, some of the Justices of the Bench having received Intimation that Lodgings were lately taken in *Duke's-Place* by the said Col. *Turner*, *William Turner*, and others, for the carrying on of the aforesaid Robbery; the said Col. *Turner* and *William Turner* were severally examined by that worthy Gentleman Sir *Thomas Aleyn*, who with great prudence had managed this Affair, who pressed several Questions to the said Prisoners; who finding their said Design fully discovered, declared as followeth:

The Examination and Confession of Colonel James Turner *and* William Turner, *two of the Persons in the Robbery of Mr.* Tryon, *taken by Sir* Thomas Aleyn *Knight and Baronet, in the Presence of the Right Honourable Sir* Anthony Bateman *Knight, Lord Mayor of the City of* London, *Sir* Richard Brown *Knight and Baronet, Sir* John Robinson *Knight and Baronet, Sir* Rich. Ford *and Sir* Rich. Rives *Knights, Sheriffs of the City of* London, *the* 19*th of* Jan. 1663.

THAT the contriving and setting of this Robbery was wholly acted by Col. *James Turner*; and that it was in agitation about *Christmas* last, and should have been put in execution a Week sooner, but that the other Friend, whom Col. *Turner* brought, was drunk, and one *White*, who was one of the Actors, would not venture his Life with him: That there were four Persons that robbed him, Col. *James Turner*, *William Turner*, *White* a Sollicitor, and *White*'s Friend, whose Name they knew not; That upon Thursday the 7th Day of *January* instant, Col. *James Turner*, *William Turner*, *White*, and the other Person, whose Name they knew not, met at the *Red-Lion* in *Bishopsgate-Street*, near to *St. Helen's*, about Three of the clock in the Afternoon, where they dined: Col. *Turner* fetched a Neck of Veal from the Cook's for their Dinner; and then they agreed to rob Mr. *Francis Tryon* (who lives in *Lime-Street*) that Night, and went to meet again at the same House by Six of the clock that Evening: But the Room where they were to meet being taken up, they went over to the *Four Swans*, or the *Green Dragon*, and there they all

staid

ſtaid till Eight of the clock. Col. *Turner* did then aſſure them that the Doors ſhould be opened; for that by his own Confeſſion he had got the Impreſſion of the Key of the Door in Wax, and had another Key made by it; but knew not the Smith that made the Key. From that Place Col. *Turner* carried them to the new Market in *Leadenhall*, where they ſat upon the Stalls for the ſpace of half an Hour; and then he came unto them, and told them the Man and Maid were now gone out, and that now was their Time. Thereupon Col. *Turner* opened the Door with his Key, and let them in. Then they went up the Stairs, Col. *Turner* leading the way. He lit a Candle in the Kitchin, and went up into Mr. *Tryon*'s Chamber, all four of them. Col. *Turner* went near the Bed's-feet, the Curtains being drawn cloſe. *White* and the other Perſons put a Cloth into Mr. *Tryon*'s Mouth, ſtopp'd it, and bound his Feet and his Hands. Col. *Turner* brought down the Key of the Ware-Houſe and the Counting-Houſe out of his Pocket, opened the Ware-Houſe Door and the Counting-Houſe, and took the Keys of the Iron Cheſt, and took out the Money and the Jewels. *William Turner* carried two Wallets with four Bags of Money, as he conceives: And Col. *Turner* ſaid that the ſaid *William Turner* carried four hundred Pounds, and *White* carried two Wallets more, ſuppoſed to be four Bags of ſome hundred Pounds. Col. *Turner* and the other Perſon carried the reſt of the Money, only Col. *Turner* carried away the Jewels in his two Bags. That *William Turner* did not ſee any Money, but as they ſaid it was Money. They did not ſtay in Mr. *Tryon*'s Houſe above an Hour. That they carried all the aforeſaid Money and Jewels into a Lodging in one *Nicholas Hickenſon*'s Houſe in *Louſy-Lane* in *Duke's-Place*, which they hired ſome Days before, pretending it for the Uſe of a Maſter of a Ship, his Mate, Purſer, and Boatſwain. They carried the Money in about Ten a-clock at Night: When the Maid let them in, they blew out the Candle, carry'd up the Money and Jewels, *William Turner* going under the Name of Purſer. Colonel *Turner* and *William Turner* came away that Night, and left the Money and the Jewels there. The next Morning Col. *Turner* fetch'd away the Money and Jewels at five Turns to his own Houſe. And ſaith, That *William Turner* was to have a hundred Pounds of the Money for his Pains, *White* and his Friend twenty Pounds a-piece for their Pains, and Colonel *Turner* was to have the reſt. That *William Turner* knew not of any of the Jewels, nor *White*, none but Col. *Turner*. That after that Night *William Turner* never ſaw Col. *Turner*, nor the other Perſons in the Robbery, till himſelf with Col. *Turner* and others were arraigned for the Fact at *Newgate*. Neither did the ſaid *William Turner* ſee any Money or Jewels opened; neither did he receive one Penny of the Money; neither was he in the Counting-Houſe of Mr. *Tryon*. That neither Col. *Turner*'s Wife nor Sons knew of this Robbery; only that they helped him to remove the Money away on Saturday Morning. That the Money was in the Houſe on Friday at Night, when the Conſtable and Marſhal ſearched his Houſe; but they had hid them. That Col. *Turner* being asked where the Jewels were on Saturday Morning, ſaid, He did deliver them at Six of the clock to *White* in both the Bags. That the Carcanet of Rubies was not in thoſe Bags. That Col. *Turner*, in the concluſion, confeſſed, That he had not done that he did; but that he did lately underſtand that another Perſon was made Executor, and that he was reſolved to have ſomewhat.

After Colonel *Turner*'s Examination, Sir *Thomas Aleyn* told Colonel *Turner*, that the firſt part of Repentance was Confeſſion, the ſecond Reſtitution; and he being a convict Perſon, and in all probability not likely to continue long in this World, it were much better for him to reſtore what was another Man's, than to think to enrich his Wife and Children, by leaving them that which he knew was none of his; and that one Penny of his own Eſtate left him, would continue longer with him than a Pound of another body's: and thereupon he was preſſed to reſtore Mr. *Tryon* the reſt of his Money, and the Carcanet of Rubies and Diamonds yet in his cuſtody. This had ſuch a preſent Influence upon Mr. *Turner*, that he ſaid he would immediately go and fetch the Carcanet; which he accordingly did, and delivered the ſame into the hands of Sir *Richard Rives*, one of the Sheriffs.

January 19. *in the Evening.*

Clerk. Set *James Turner* to the Bar. *James Turner*, hold up thy Hand: Thou ſtandeſt here convicted of Felony and Burglary, for the felonious ſtealing of the Goods and Money of *Francis Tryon*; what canſt thou ſay, why the Court ſhould not give thee Judgment to die according to Law?

Col. *Turner.* My Lord, I humbly deſire your Honour, and the Honourable Bench, you would be pleaſed to grant me a Reprieve.

J. *Howel.* That we cannot do; the Court muſt give Judgment upon you: If you can by any means prevail with his Majeſty to do it, you may uſe your Intereſt; but the Court cannot do it.

Col. *Turner.* I deſire your Honours I may be tranſported.

J. *Howel.* That likewiſe is in the power of his Majeſty; That he may do, if he pleaſe. It is not in the power of the Court: We have nothing to do but to give Judgment.

Col. *Turner.* You do it with others.

J. *Howel.* No, not in this Caſe of Burglary; but leave that to his Majeſty's mere Mercy and Grace.

Col. *Turner.* My Lord, I ſhall humbly deſire that my Wife and the two Youths may be diſcharged.

J. *Howel.* She is found not guilty; and therefore ſhe ſhall have her Acquittal upon the Diſcharge of the Goal. Thoſe that are acquitted, they muſt be diſcharged, if the Court do not ſee Cauſe for their further Detention.

Col. *Turner.* I pray the young Man and my Wife may be diſcharged.

J. *Howel.* Whoſoever are found not guilty, muſt have their Diſcharge according to Law.

Col. *Turner.* My Lord, I hope the Bench is ſatisfied about the young Man.

J. *Howel.* Say no more.

Col. *Turner.* Your Honour's humble Servant.

Clerk. Set *James Turner* to the Bar.

J. *Howel.* I muſt pronounce the Judgment of the Court, which is, *That you go to the Place from whence you came, and ſo to that Place of Execution which ſhall be appointed to you by Authority, there to be hanged by the Neck till you be dead; and the Lord have Mercy on your Soul.*

Accordingly the ſaid Col. *James Turner* was drawn in a Cart from *Newgate* to *Lime-Street*-End in *Leadenhall-Street*, the 21ſt of *January*, and was there executed on a Gibbet erected for that purpoſe.

The Tryal of Mr. Benjamin Keach, *at the Aſſizes held at* Ailsbury *in* Buckinghamſhire, October 8, *and* 9. 1664. 16 Car. II.

Benjamin Keach of *Winſlow*, in the County of *Bucks*, having wrote a little Book, entitled, *The Child's Inſtructor; or, A New and Eaſy Primmer:* In which were contained ſeveral Things contrary to the Doctrine and Ceremonies of the Church of *England*; as, That Infants ought not to be baptized; That Laymen may preach the Goſpel; That Chriſt ſhall reign perſonally upon the Earth in the latter Day, *&c.* He had no ſooner got it printed, and ſome of them ſent down to him, but one Mr. *Strafford*, a Juſtice of the Peace for that County, received Information of it. Whereupon, taking a Conſtable with him, he went himſelf in queſt of the ſaid Books; and coming to the Houſe of Mr. *Keach*, found and ſeized ſeveral of them, bound Mr. *Keach* over to anſwer for it at the next Aſſizes in a Recognizance of an hundred Pounds, and two Sureties with him in fifty Pounds each.

The next Aſſize holden for the ſaid County was at *Ailsbury* on the 8th and 9th Days of *October*, 1664. Lord Chief Juſtice *Hyde* being Judge. On the firſt of which Days, in the Forenoon, Mr. *Keach* was called upon; who anſwering to his Name, was brought to the Bar, and examined as follows:

Judge. Did you write this Book? [Holding out one of the *Primmers* in his Hand.]

Keach. I writ moſt of it.

Judge. What have you to do to take other Mens Trades out of their hands? I believe you can preach as well as write Books. Thus it is to let you, and ſuch as you are, have the Scriptures to wreſt to your own Deſtruction. You have made in your Book a new Creed: I have ſeen three Creeds before; but I never ſaw a fourth till you made one.

Keach. I have not made a Creed, but a Confeſſion of the Chriſtian Faith.

Judge. Well, that is a Creed then.

Keach. Your Lordſhip ſaid you had never ſeen but three Creeds; but Thouſands of Chriſtians have made a Confeſſion of their Faith.

After this the Judge obſerved to the Court ſeveral Things which were written in the ſaid Book, concerning Baptiſm and the Miniſters of the Goſpel; which were contrary to the Liturgy of the Church of *England*, and ſo a Breach of the Act of Uniformity.

Keach. My Lord, as to thoſe Things ——

Judge. You ſhall not preach here, nor give the Reaſons of your Damnable Doctrine, to ſeduce and infect his Majeſty's Subjects. Theſe are not Things for ſuch as you are to meddle with, and to pretend to write Books of Divinity: But I will try you for it before I ſleep.

After this he gave Directions to the Clerk to draw up the Indictment; and the Witneſſes were ſworn, and ordered to ſtand by the Clerk till the Indictment was finiſhed, and then to go with it to the Grand Inqueſt.

Judge. Gentlemen of the Grand Jury, I ſhall ſend you preſently a Bill againſt one that hath taken upon him to write a new *Primmer* for the Inſtruction of your Children: He is a baſe and dangerous Fellow; and if this be ſuffered, Children by learning of it will become ſuch as he is. And therefore I hope you will do your Duty.

The Indictment being long, took ſo much time to draw it up, that the Tryal did not come on till the next Day.

The next Day, the Court being ſet, the Grand Jury found the Bill, and brought it in indorſed *Billa vera.*

Clerk. Benjamin Keach come to the Bar.

Mr. *Keach* comes to the Bar.

Clerk. Hear your Charge. 'Thou art here indicted by the Name of *Benjamin Keach*, of the 'Pariſh of *Winſlow*, in the County of *Bucks*: For 'that thou being a Seditious, Heretical, and Schiſmatical Perſon, evilly and maliciouſly diſpoſed, 'and diſaffected to his Majeſty's Government, and 'the Government of the Church of *England*, did'ſt 'maliciouſly and wickedly, on the 1ſt Day of *May*, 'in the 16th Year of the Reign of our Sovereign 'Lord the King, write, print, and publiſh, or 'cauſe to be written, printed, and publiſhed, one 'Seditious and Venomous Book, entitled, *The 'Child's Inſtructor, or, A New and Eaſy Primmer;* 'wherein are contained, by way of Queſtion and 'Anſwer, theſe Damnable Poſitions, contrary to 'the Book of Common Prayer, and the Liturgy 'of the Church of *England*: That is to ſay, in 'one Place you have thus written; Q. *Who are 'the right Subjects of Baptiſm?* A. *Believers, or 'godly Men and Women only, who can make Confeſſion 'of their Faith and Repentance.* And in another 'place you have maliciouſly and wickedly written 'theſe Words; Q. *How ſhall it then go with the 'Saints?* A. *O very well. It is the Day that they 'have longed for: then they ſhall hear that Sentence,* 'Come ye Bleſſed of my Father, inherit the Kingdom prepared for you; *and ſo ſhall they reign with 'Chriſt on the Earth a thouſand Years, even on Mount* 'Sion, *in New* Jeruſalem; *for there will Chriſt's 'Throne be, on which they muſt ſit down with him.* 'Then follows this Queſtion, with the Anſwer 'thereto, in theſe plain *Engliſh* Words; Q. *When 'ſhall the Wicked and the fallen Angels, which be the 'Devils, be judged?* A. *When the thouſand Years*

'*ſhall be expired, then ſhall the reſt of the Devils be raiſed, and then ſhall be the general and laſt Judgment, then ſhall all the reſt of the Dead and Devils be judged by Chriſt and his glorified Saints; and they being arraigned and judged, the Wicked ſhall be condemned, and caſt by the Angels into the Lake of Fire, there to be burned for ever and ever.*

'In another place thou haſt wickedly and maliciouſly written theſe plain *Engliſh* words: Q. '*Why may not Infants be received into the Church now, as they were under the Law?* A. *Becauſe the fleſhly Seed is caſt out: Tho God under that Diſpenſation did receive Infants in a lineal way by Generation, yet he that hath the Key of* David, *that openeth and no Man ſhutteth, that ſhutteth and no Man openeth, hath ſhut up that Way into the Church; and hath opened the Door of Regeneration, receiving in none now but Believers.* Q. *What then is the State of Infants?* A. *Infants that die are Members of the Kingdom of Glory, tho they be not Members of the Viſible Church.* Q. *Do they then that bring in Infants in a fleſhly lineal way, err from the way of Truth?* A. *Yea, they do; for they make not God's Holy Word their Rule, but do preſume to open a Door that Chriſt hath ſhut, and none ought to open.* And alſo in another place thou haſt wickedly and maliciouſly compoſed *A ſhort Confeſſion of the Chriſtian Faith*; wherein thou haſt affirm'd this concerning the ſecond Perſon in the Bleſſed Trinity, in theſe plain *Engliſh* words: *I alſo believe that he roſe again the third Day from the Dead, and aſcended into Heaven above, and there now ſitteth at the right hand of God the Father; and from thence he ſhall come again at the appointed time of the Father, to reign perſonally upon the Earth, and to be Judge of the Quick and Dead.* And in another place thou haſt wickedly and maliciouſly affirmed theſe things concerning true Goſpel-Miniſters, in theſe plain *Engliſh* words following: *Chriſt hath not choſen the wiſe and prudent Men after the Fleſh, not great Doctors and Rabbies*; Not many Mighty and Noble, *ſaith* Paul, are called: *but rather the Poor and Deſpiſed, even Tradeſmen and ſuch-like, as was* Matthew, Peter, Andrew, Paul, *and others. And Chriſt's true Miniſters have not their Learning and Wiſdom from Men, or from Univerſities, or human Schools for human Learning. Arts and Sciences are not eſſential to the making of a true Miniſter, but the Gifts of God, which cannot be bought with Silver and Gold; and alſo as they have freely received the Gift, ſo they do freely adminiſter: They do not preach for Hire, for Gain and filthy Lucre: They are not like the falſe Teachers, who look for Gain from their Quarter; who eat the Fat, and clothe themſelves with the Wool, and kill them that are fed; thoſe that put not into their mouths, they prepare War againſt: Alſo they are not Lords over God's Heritage, they rule them not by Force and Cruelty, neither have they power to force and compel Men to believe and obey their Doctrines, but are only to perſuade and intreat; for this is the Way of the Goſpel, as Chriſt taught them*——

'And many other things haſt thou ſeditiouſly, wickedly, and maliciouſly written in the ſaid Book, to the great Diſpleaſure of Almighty God, the Scandal of the Liturgy of the Church of *England*, the Diſaffection of the King's People to his Majeſty's Government, the Danger of the Peace of this Kingdom, to the evil Example of others, and contrary to the Statute in that caſe made and provided.' How ſay you, *Benjamin Keach*, are you guilty, or not guilty?

Keach. The Indictment is ſo very long, that I cannot remember half of it, nor have I been accuſtomed to plead to Indictments: therefore I deſire a Copy of it, and liberty to confer with Counſel about it, in order to put in my Exceptions, and then I ſhall plead to it.

Judge. 'Tis your Intention, I perceive, to delay your Tryal to the next Aſſize.

Keach. No, my Lord, I have no deſign by this to delay my Tryal.

Judge. I will not deny you what is your Right, but you muſt firſt plead to your Indictment, and afterwards you ſhall have a Copy of it.

Keach. I deſire I may have a Copy of it before I plead, in order to put in my Exceptions againſt it.

Judge. You ſhall not have it, before you plead Guilty or Not Guilty.

Keach. 'Tis what has been granted to others.

Judge. You ſhall not have it firſt; and if you refuſe to plead Guilty or Not Guilty, I ſhall take it *pro confeſſo*, and give Judgment againſt you accordingly.

Keach. Not Guilty, my Lord.

Judge. Now you may have a Copy of your Indictment, and I will give you an Hour's time to conſider of it.

Keach. If I may have no longer time, I don't deſire one.

Judge. I have ſomething elſe to do than wait upon you; you are not a Perſon fit to go abroad till next Aſſize, and you will think it hard if I ſhould commit you to Goal till then: but becauſe you ſhall not ſay but that you were offered fair, if you will find ſufficient Sureties for your Appearance at the next Aſſize, and for your good Behaviour till then, you ſhall not be try'd till then.

Keach. My Lord, I am content to be try'd now.

Judge. Go on then, a God's Name.

Clerk. Gentlemen of the Jury, anſwer to your Names. *&c.*

Then the Jury were ſworn, well and truly to try the Traverſe between the King's Majeſty and the Priſoner at the Bar.

Judge. Clerk, read the Indictment. [He reads it.]

Gentlemen of the Jury, the Priſoner at the Bar has pleaded Not Guilty, and your Charge is to inquire whether he be guilty or not.

Then the Witneſſes were ſworn, who were *Neal* and *Whithall*.

Neal depoſed, That Juſtice *Strafford* ſent for him to his Houſe; when he came there, the Juſtice ſent him back again for his Staff of Authority: which being done, he went with the Juſtice to one *Moody*'s Stall, and asked for ſome of the Primmers which he had: he anſwered, that he had none. That from thence they went to Mr. *Keach*'s Houſe, where firſt they ſaw his Wife, who told them he was in an inward Room. They asked her, if there were not ſome Primmers in the Houſe? ſhe ſaid, there was; and about thirty were brought forth, and delivered to them.

Then Juſtice *Strafford* himſelf was alſo examined: he ſaid, That he found the Primmers now before the Court in *Benj. Keach*'s Houſe, and ſeized them; and that the Priſoner at the Bar had confeſſed before him, that he writ and compoſed the ſaid Book.

Then a Copy of the Priſoner's Examination before the ſaid Juſtice, ſigned with his own Hand, was produced and read; wherein was contained, That the Priſoner being asked whether he was the Author or Writer of the ſaid Book? anſwered, Yes he was. And further declared, That he delivered a part of the Copy to one *Ouiat* a Printer at *London*, ſince dead; and that the reſt of the Copy

he ſent up by another Hand, but that he knew not who printed it: That about forty of them were ſent down to him, of which he had diſperſed about twelve, and that the Price was Five-pence each Book.

After this the Judge called for a Common-Prayer-Book, and laid it before him; and ordered one of the Primmers to be given to the Gentlemen of the Jury, and bid them look on thoſe parts where the Leaves were turn'd down.

Judge. Clerk read thoſe Sentences in the Indictment, which are taken out of the Book, that the Jury may turn to them, and ſee that the ſaid Poſitions are contained in the Book.

Clerk. Q. *Who are the right Subjects of Baptiſm?* *A.* Believers or Godly Men and Women only, who can make Confeſſion of their Faith and Repentance.

Judge. This is contrary to the Book of Common-Prayer, for that appoints Infants to be baptized, as well as Men and Women. [Here he read ſeveral places in the Liturgy, wherein the baptizing of Infants is enjoined and directed.]

Clerk reads. Q. *How ſhall it then go with the Saints?* *A.* Oh very well! it is the Day that they have long'd for: then they ſhall hear that Sentence, *Come ye bleſſed of my Father, inherit the Kingdom prepared for you:* And ſo ſhall they reign with Chriſt on the Earth a thouſand Years, *&c.*

Judge. This is contrary to the Creed in the Book of Common-Prayer, and is an old Hereſy, which was caſt out of the Church a thouſand Years ago, and was likewiſe condemned by the Council of *Conſtance* about five hundred Years ago, and hath lain dead ever ſince, till now this Raſcal hath revived it.

Clerk reads. Q. *Why may not Infants be received into the Church now, as they were under the Law?* *A.* Becauſe the fleſhly Seed is caſt out, *&c.* Q. *What then is the State of Infants?* *A.* Infants that die, are Members of the Kingdom of Glory, tho they be not Members of the Viſible Church. Q. *Do they then that bring in Infants by a fleſhly lineal Way, err from the Truth?* *A.* Yea, they do; for they make not God's Holy Word their Rule, but do preſume to open a Door that Chriſt hath ſhut, and none ought to open.

Judge. This alſo is contrary to the Book of Common-Prayer, which appoints Infants to be received into the Church, and directs the Prieſt to ſay, when he hath ſprinkled the Child, *We receive this Child into the Congregation of Chriſt's Flock.* And whereas he ſays that Infants that die are Members of the Kingdom of Glory, tho not of the Viſible Church, he ſpeaks this of Infants in general, and ſo the Child of a Turk or Heathen is made equal with the Child of a Chriſtian: But the Church hath otherwiſe determined; that is, if an Infant die after Baptiſm, and before it hath actually ſinned, it is ſaved, becauſe Original Sin is waſh'd away in Baptiſm. Read on.

Clerk. Alſo in another place thou haſt wickedly and maliciouſly compoſed *A ſhort Confeſſion of Faith*, in which thou haſt affirmed thus, concerning the ſecond Perſon in the Bleſſed Trinity, in theſe plain *Engliſh* words; *I alſo believe that he roſe again the third Day from the Dead, and aſcended into Heaven, and there now ſitteth at the right hand of God the Father; and from thence he ſhall come again at the appointed time of the Father, to reign perſonally upon the Earth, and to be the Judge of the Quick and the Dead.*

Judge. This is contrary to our Creed: for whereas he ſaith, *From thence he ſhall come again at the appointed time of the Father, to reign perſonally upon the Earth, and to be Judge both of the Quick and the Dead;* our Creed only ſaith, *From thence he ſhall come to judge both the Quick and the Dead.*

Clerk. And in another place thou haſt wickedly and maliciouſly affirmed theſe things concerning true Goſpel-Miniſters, in theſe plain *Engliſh* words following: *Chriſt hath not choſen the wiſe and prudent Men after the Fleſh, not great Doctors and Rabbies;* Not many Mighty and Noble, *ſaith* Paul, are called, *&c.* as above.

Judge. This alſo is contrary to the Book of Common-Prayer: for whereas the Poſition in the Indictment ſaith, Chriſt hath not choſen great Rabbies and Doctors, but rather the Poor and Deſpiſed, and Tradeſmen; the Book of Common-Prayer doth admit of ſuch. [Here he read ſome Paſſages concerning the Qualification of Miniſters, and their Manner of Conſecration.] Becauſe Chriſt, when he was upon the Earth, made choice of Tradeſmen to be his Diſciples, therefore this Fellow would have Miniſters to be ſuch now; Taylors, and Pedlars, and Tinkers, and ſuch Fellows as he is: But it is otherwiſe now, as appears from the Manner in which the Church has appointed them to be choſen, ordained, and conſecrated.

The Judge having thus gone through the Indictment, the Priſoner began to ſpeak in his Defence.

Keach. As to the Doctrines ——

Judge. You ſhall not ſpeak here, except to the Matter of Fact; that is to ſay, whether you writ this Book or not.

Keach. I deſire liberty to ſpeak to the Particulars in my Indictment, and thoſe things that have ——

Judge. You ſhall not be ſuffered to give the Reaſons of your damnable Doctrine here, to ſeduce the King's Subjects.

Keach. Is my Religion ſo bad, that I may not be allow'd to ſpeak?

Judge. I know your Religion, you are a Fifth-Monarchy-Man; and you can preach, as well as write Books; and you would preach here, if I would let you: but I ſhall take ſuch order, as you ſhall do no more miſchief.

Keach. I did not write all the Book, for there is an Epiſtle to it written by another Hand; neither can it be proved that I writ all that is put into the Indictment.

Judge. It is all one whether you writ it yourſelf, or dictated to another to write it: but it appears by your Examination under your own Hand, that you wrote it all.

Keach. Becauſe I writ the major part of it, I was contented to let it go with the word *all* in my Examination before Juſtice *Strafford*; but I cannot in Conſcience ſay I wrote it all: nor is it proved that I publiſhed it.

Judge. Yes, you did; for *Moody* had ſix Books of you.

Keach. I did neither ſell them, nor deliver them to him.

Judge. He had them at your Houſe, and it is not likely he ſhould take them without your Conſent.

Keach. I do not ſay he had them without my Conſent.

Judge. It is all one then, as if you delivered them.

Here the Judge ſumm'd up the Evidence, and gave his Charge to the Jury; but this the Amanuenſis has omitted.

The Jury being withdrawn, ſtaid for ſome hours; at length one of the Officers who attended them came in.

Officer.

Officer. My Lord, the Jury about the Primmers cannot agree.

Judge. But they muſt agree.

Officer. They deſire to know whether one of them may not come and ſpeak with your Lordſhip, about ſomething whereof they are in doubt.

Judge. Yes, privately: [And then ordered one to come to him on the Bench.]

Then the Officer called one, and he was ſet upon the Clerk's Table, and the Judge and he whiſpered together a great while; and it was obſerved, that the Judge having his hands upon his ſhoulders, would frequently ſhake him as he ſpake to him. Upon this Perſon's returning, the whole Jury quickly came in, and being according to Cuſtom called over by their Names, the Clerk proceeded.

Clerk. Are you agreed in your Verdict?

Jury. Yes, yes.

Clerk. Who ſhall ſpeak for you?

Jury. Our Foreman.

Clerk. How ſay you, is *Benjamin Keach* guilty of the Matters contained in the Indictment againſt him, or not guilty?

Foreman. Guilty in part.

Clerk. Of what part?

Foreman. There is ſomething contained in the Indictment, which is not in the Book.

Clerk. What is that?

Foreman. In the Indictment he is charged with theſe words, *When the thouſand Years ſhall be expired, then ſhall all the reſt of the Devils be raiſed*; but in the Book it is, *Then ſhall the reſt of the Dead be raiſed.*

Clerk. Is he guilty of all the reſt of the Indictment, that Sentence excepted?

One of the Jury. I cannot in Conſcience find him guilty, becauſe the Words in the Indictment and the Book do not agree.

Judge. That is only through a Miſtake of the Clerk's, and in that Sentence only; and you may find him guilty of all, that Sentence excepted: but why did you come in before you were agreed?

Foreman. We thought we had been agreed.

Judge. You muſt go out again, and agree: and as for you that ſay you cannot in Conſcience find him guilty, if you ſay ſo again, without giving Reaſons for it, I ſhall take an Order with you.

Then the Jury withdrew, and in a little time returned again.

Clerk. Are you agreed in your Verdict?

Jury. Yes.

Clerk. How ſay you, is *Benjamin Keach* guilty of the Matters charged in the Indictment againſt him, or not guilty?

Foreman. Guilty of the Indictment; that Sentence, wherein *Devils* is inſerted inſtead of *Dead*, only excepted.

Upon this, *Benjamin Keach* was called to the Bar, and the Judge proceeded to paſs Sentence upon him as follows.

Judge. Benjamin Keach, you are here convicted of writing and publiſhing a ſeditious and ſcandalous Book, for which the Court's Judgment is this, and the Court doth award, That you ſhall go to Goal for a Fortnight, without Bail or Mainpriſe; and the next Saturday to ſtand upon the Pillory at *Ailsbury* for the ſpace of two Hours, from Eleven of the clock to One, with a Paper upon your Head with this Inſcription, *For writing, printing, and publiſhing a ſchiſmatical Book, intitled,* The Child's Inſtructor, or a New and Eaſy Primmer. And the next Thurſday to ſtand in the ſame manner, and for the ſame time, in the Market of *Winſlow*; and there your Book ſhall be openly burnt before your face by the common Hangman, in diſgrace of you and your Doctrine. And you ſhall forfeit to the King's Majeſty the Sum of 20 *l.* and ſhall remain in Goal until you find Sureties for your good Behaviour and Appearance at the next Aſſizes, there to renounce your Doctrine, and make ſuch publick Submiſſion as ſhall be enjoined you. Take him away, Keeper.

Keach. I hope I ſhall never renounce thoſe Truths which I have written in that Book.

Clerk. My Lord, he ſays he hopes he ſhall never repent.

But the Judge taking no notice, the Goaler took him away.

According to the Sentence paſſed upon him, he was kept cloſe Priſoner till the Saturday following, and then about Eleven a clock was carried to the Pillory at *Ailsbury*; where he ſtood full two hours to a minute, was deny'd the liberty of ſpeaking to the Spectators, and had his Hands as well as his Head carefully kept in the Pillory the whole time.

On the Thurſday following he ſtood in the ſame manner and for the ſame time at *Winſlow*, the Town where he lived, and had his Book burnt before him.

After this, upon paying his Fine, and giving ſufficient Security for his good Behaviour, he was ſet at liberty; but was never brought to make a Recantation.

The End of the Firſt Volume.

